



# TOWN COUNCIL AGENDA

## REGULAR MEETING

March 21, 2017 @ 6:30 p.m.

**\*Asterisks indicate documentation is included in agenda packet**

Call to Order – Mayor Swearingen

Invocation & Pledge of Allegiance – Pastor Dan Keck, Kure Memorial Lutheran Church

### APPROVAL OF CONSENT AGENDA ITEMS

1. \*Approve contract with Engineering Services in the amount of \$116,000 for surveying and engineering services for the replacement of pump station No.1.
2. \*Approve travel to NCBIWA annual meeting in Nags Head, NC, from 4/2-4/4/17 for Mayor Swearingen and MPT Bloszinsky, at a cost of approximately \$1,450 from the Council Travel and Training Budget
3. Renew three-year term for Harry Humphries on Board of Adjustment
4. \*Accept Dennis Moore's resignation from the Cape Fear Disability Commission
5. \*Appoint Pat Triplett to the SLABPP committee as per committee's recommendation
6. \*Building Inspections Report – February 2017
7. \*Fire Department Report – February 2017
8. \*YTD Finance Report Meeting
9. Minutes:
  - \*February 21, 2017 regular meeting
  - \*March 10, 2017 public hearing

*Consent agenda items are voted on as one item. If a member of Council wishes to discuss an individual item, a motion must be made and approved to move the item to the agenda.*

### ADOPTION OF THE AGENDA

### DISCUSSION AND CONSIDERATION OF PERSONS TO ADDRESS COUNCIL

Sign up at podium (3-minute limit)

### DISCUSSION AND CONSIDERATION OF COMMITTEE BUSINESS

1. Board of Adjustment
2. Community Center Committee
3. Marketing Committee
4. Parks & Recreation Advisory Board
  - a. Status Update (Swearingen)
5. Planning & Zoning Commission
6. Shoreline Access, Beach Protection and Parking Committee
7. Non-town Committee Reports
  - a. \*Cape Fear Disability Commission January 2017 Meeting Minutes



# TOWN COUNCIL AGENDA

**REGULAR MEETING**

**March 21, 2017 @ 6:30 p.m.**

## DISCUSSION AND CONSIDERATION OF DEPARTMENT HEAD BUSINESS

1. Administration and Recreation
2. Finance Department
3. Building Department
4. Fire Department
5. Police Department
6. Public Works Department

## DISCUSSION AND CONSIDERATION OF OLD BUSINESS

1. \*Request approval for amendments to Code of Ordinance Chapter 5 Buildings and Building Regulations, Article II Administration, Division 4 Permits, Section 5-61 Prerequisite to construction, demolition, remodeling and impervious surfaces, etc.; for Development Line (Batson)
2. \*Approve CAMA contract No. 7136 in the amount of \$53,827 for paving of the parking area and installation of solar lighting on the beach crossover at the E Avenue access with work to occur in the fall of 2017, and authorize the finance officer to include a cash match of \$11,257 in the proposed FY17-18 budget. (Avery)
3. \*Approve CAMA contract No. 7135 in the amount of \$65,283 for paving of the parking area and installation of solar lighting on the beach crossover at the I Avenue access with work to occur in the fall of 2017, and authorize the finance officer to include a cash match of \$14,121 in the proposed FY17-18 budget. (Avery)
4. Consideration of project manager for town facility expansion and new fire station project (Swearingen)

## DISCUSSION AND CONSIDERATION OF NEW BUSINESS

MAYOR UPDATES (no action required)

COMMISSIONER ITEMS (no action required)

CLOSED SESSION, if needed

ADJOURNMENT



# MEMO

TO: Town Council  
FROM: Nancy Avery, Town Clerk  
RE: Consent Agenda item – Agreement with Engineering Services  
DATE: 3/1/17

## *Background*

On September 29, 2016, a contract with Engineering Services for the new pump station in the amount of \$116,000 was signed by Council. Unfortunately, for some reason, this contract never came to Council for approval before it was signed. The attorney did review it.

I bring this to Council's attention in case you are wondering why I would put a contract signed last year on your agenda for approval.

Because this contract is part of a larger project that we have to finance and receive approval from the Local Government Commission (a branch of the state treasurer's office), we have to submit a paper trail showing we have followed our policies and complied with state statutes. Minutes need to reflect Council approved this contract.

We have already started making payments against this contract to Engineering Services for this project.

## *Action requested by staff*

Vote by Council as part of the consent agenda to approve the contract with Engineering Services in the amount of \$116,000 for surveying and engineering services for replacement of pump station No. 1.

## *Funding required*

Budgeted item

## *Comments for consideration*

None

## AGREEMENT FOR ENGINEERING SERVICES

This agreement, made this 22nd day of September, 2016, by and between the Town of Kure Beach, North Carolina, hereafter referred to as the OWNER, and Engineering Services, P.A., hereinafter referred to as the ENGINEER.

The OWNER intends to utilize both surveying and engineering services to be provided by the ENGINEER for the **Pump Station No. 1 Replacement Project for the Town of Kure Beach**. These improvements are as funded by the OWNER. The scope of work and budget for this project is as described in the Funding Cost Comparison and Opinion of Probable Cost, dated August 25, 2016 (see attached). The ENGINEER agrees to perform the various professional services as described in this Contract and in the attachments.

### WITNESSETH:

That for and in consideration of the mutual covenants and promises between the parties hereto, the following is hereby agreed:

### SECTION A - ENGINEERING SERVICES

The ENGINEER shall furnish engineering services as follows:

1. The ENGINEER will conduct preliminary investigations, prepare preliminary drawings, provide a preliminary itemized list of probable construction costs effective as of the date of the preliminary design (attached). Note that such probable construction costs will be ENGINEER'S professional opinion, but that such costs are an estimate only and subject to change.
2. The ENGINEER will furnish one copy of the final design plans and specifications to the OWNER.
3. The ENGINEER will attend conferences with the OWNER or other interested parties as may be reasonably necessary, but not to exceed more than 2 such conferences per calendar month. Conferences over 2 per month will be chargeable to OWNER at ENGINEER'S rates as set forth in Section D.
4. After the preliminary facilities plan has been reviewed and approved by the OWNER and the necessary State approval agencies, the OWNER will direct the ENGINEER to proceed. The ENGINEER will perform the necessary design surveys, accomplish the detailed design of the project, prepare construction drawings, specifications and contract documents, and prepare a final cost estimate based on the final design for the entire system. It is also, understood that if subsurface explorations (such as borings, soil tests, rock soundings and the like) are required, the ENGINEER will furnish coordination of said explorations without additional charge, but the costs incident to such explorations shall be paid for by the OWNER as set out herein.

5. Prior to the advertisement for bids, the ENGINEER will provide for each construction contract, not to exceed 5 copies of detailed drawings, specifications, and contract documents for use by the OWNER, appropriate Federal, State, and local agencies from whom approval of the project must be obtained. The cost of such drawings, specifications, and contract documents shall be included in the basic compensation paid to the ENGINEER.
6. The ENGINEER will furnish additional copies of the drawings, specifications and contract documents as required by prospective bidders, material suppliers, and other interested parties, but may charge them a reasonable cost of such copies. Upon award of each contract, the ENGINEER will furnish to the OWNER five sets of the drawings, specifications and contract documents for execution. The cost of these sets shall be included in the basic compensation paid to the ENGINEER. Original documents, survey notes, tracings, and the like, except those furnished to the ENGINEER by the OWNER, are and shall remain the property of the ENGINEER.
7. The drawings prepared by the ENGINEER under the provisions of Section A-4 above shall be in sufficient detail to permit the location of the proposed improvements on the ground. The ENGINEER shall prepare and furnish to the OWNER three (3) copies of a map(s) showing the general location of needed construction easements. The ENGINEER shall be additionally compensated at rates set out in Section D for the preparation of easement maps for any acquired property. Property surveys, property plats, property descriptions, abstracting and negotiations for land rights shall be furnished by the OWNER, unless the OWNER requests, and the ENGINEER agrees to provide those services as an amendment to this Agreement. In the event the ENGINEER is requested to provide such services, the ENGINEER shall be additionally compensated as set in Section D hereof.
8. The ENGINEER will attend one bid opening and tabulate the bid proposals, make an analysis of the bids, and make recommendations for awarding contracts for construction. If re-bidding is requested or required, such will be at ENGINEER's rates set out in Section D.
9. The ENGINEER will review and approve, only for general conformance with the design concept, any necessary shop and working drawings furnished by contractors.
10. The ENGINEER will interpret the intent of the drawings and specifications to endeavor to protect the OWNER against defects and deficiencies in construction on the part of the contractors. The ENGINEER will not, however, guarantee the performance by any contractor.
11. The ENGINEER will establish baselines for locating the work together with a suitable number of benchmarks adjacent to the work as shown in the contract documents. Construction layout for any project will be the responsibility of the successful Contractor.
12. The ENGINEER will provide general engineering review of the work of the contractors as construction progresses to ascertain that the contractor is, in general, conforming to the design concept. Such review is not exhaustive, nor does such review guarantee Contractor's performance.

13. Unless notified by the OWNER in writing that the OWNER will provide for construction observation, the ENGINEER will provide construction observation under this Agreement. In the event that the Owner does provide construction observation, additional compensation to the ENGINEER will be required to accommodate the final inspection and sign-off required by the necessary regulatory agencies. The ENGINEER'S undertaking hereunder shall not relieve the contractor of contractor's obligation to perform the work in conformity with the drawings and specifications and in a workmanlike manner; shall not make the ENGINEER an insurer of the contractor's performance; and shall not impose upon the ENGINEER any obligation to see that the work is performed in a safe manner.
14. The ENGINEER will review the contractor's applications for progress and final payment and, when approved, submit to the OWNER for payment.
15. The ENGINEER will prepare necessary contract change orders for approval of the OWNER and others on a timely basis.
16. The ENGINEER will make a final review prior to the issuance of the statement of substantial completion of all construction and submit a written report to the OWNER. Prior to submitting the final pay estimate, the ENGINEER shall submit a statement of completion to and obtain the written acceptance of the facility from the OWNER.
17. The ENGINEER will provide the OWNER with one set of record (as-built) drawings at no additional cost to the OWNER. Such drawings will be based upon construction records provided by the Contractor during construction and reviewed by the resident construction observer and from the resident observer's construction data. ENGINEER will also provide OWNER with the record drawings in digital (.pdf) format.
18. The ENGINEER will be available to furnish engineering services and consultations necessary to correct unforeseen project operation difficulties for a period of one year after the date of statement of substantial completion of the facility. This service will include instruction of the OWNER in initial project operation and maintenance but will not include supervision of normal operation of the system. Such consultation and advice shall be furnished without additional charge except for travel and subsistence costs. The ENGINEER will assist the OWNER in performing a review of the project during the 11th month after the date of the certificate of substantial completion.
19. The ENGINEER further agrees to obtain and maintain, at the ENGINEER'S expense, such insurance as will protect the ENGINEER from claims under the Workman's Compensation Act and such comprehensive general liability insurance and professional liability as will protect the OWNER and the ENGINEER from all claims for bodily injury, death, or property damage which may arise from the performance by the ENGINEER or by the ENGINEER'S employees of the ENGINEER'S functions and services required under this Agreement.
20. The services called for in the Section A-1 of this Agreement are complete. Upon authorization from the OWNER, the ENGINEER will complete final plans, specifications and contract documents and submit for approval of the OWNER and all State regulatory agencies.

**SECTION B - COMPENSATION FOR SURVEYING, PLANNING, DESIGN, and BIDDING ASSISTANCE SERVICES**

The OWNER shall compensate the ENGINEER for surveying services in the Lump Sum amount of Four Thousand dollars (\$4,000.00). The OWNER shall compensate the ENGINEER for Planning Services to include the Preliminary Engineering Report and Environmental Assessment in the Lump Sum amount of Five Thousand dollars (\$5,000.00 - if required, in writing, by the OWNER). The OWNER shall compensate the ENGINEER for Preliminary and Final Engineering Design services in the Lump Sum amount of Forty Seven Thousand dollars (\$47,000.00). The OWNER shall compensate the ENGINEER for Bidding Assistance services in the Lump Sum amount of Six Thousand and Five Hundred dollars (\$6,500.00). The ENGINEER will render to OWNER for such services an itemized bill, once each month, for compensation for such services performed hereunder during such period, based on the ENGINEER'S estimate of the percentage complete of the design process, the same to be due and payable by the OWNER to the ENGINEER on or before the 15th day of the following period.

If the Project is suspended for more than three months or abandoned in whole or in part, the Engineer shall be paid for services performed prior to receipt of such notice from the OWNER together with all termination expenses. If the Project is resumed after being suspended for more than three months, the Engineer's compensation shall be subject to renegotiations.

**SECTION C - COMPENSATION FOR CONSTRUCTION ADMINISTRATION and RESIDENT CONSTRUCTION OBSERVATION AS SET FORTH IN SECTION A-9 thru A-18 -**

The ENGINEER shall provide resident construction observation and construction administration, which shall consist of one full-time employee to maintain a physical presence on the Project for 40 hours per week. The construction observation and construction administration services shall be to generally observe the work to see that it is progressing in general compliance with the design intent of the documents; it is not, however, to supervise any trade's work or to otherwise guarantee the work of any trade.

The OWNER agrees to compensate the ENGINEER for such services in the Lump Sum amount of Twenty Eight Thousand and Five Hundred dollars (\$28,500.00) for Resident Construction Observation, and Twenty Five Thousand dollars (\$25,000.00) for Construction Administration. The ENGINEER will render a bill to OWNER for such services based on the dollar percentage complete of the construction contract, once each month, for compensation for such services performed hereunder during such period, the same to be due and payable by the OWNER to the ENGINEER on or before the 15th day of the following period.

## SECTION D - COMPENSATION FOR ADDITIONAL ENGINEERING SERVICES

In addition to the foregoing being performed, the following services may be provided UPON PRIOR AUTHORIZATION OF THE OWNER, subject to compensation as set forth below.

1. Site surveys for water treatment plants, sewage treatment works, dams, reservoirs, ponds, and other similar special surveys as may be required.
2. Laboratory tests, well tests, borings, specialized geological, soils, hydraulic, or other studies recommended by the ENGINEER.
3. Property surveys, easement surveys, detailed description of sites, maps, drawings, or estimates related thereto; assistance in negotiating for land and easement rights.
4. Necessary data and filing maps for water rights, water adjudication, and litigation.
5. Redesigns ordered by the OWNER after the OWNER has accepted final plans.
6. Appearances before courts or boards on matters of litigation or hearings related to the projects.
7. Preparation of environmental impact assessments or environmental impact statements.
8. Performance of detailed staking necessary for construction of the project in excess of the control staking set forth in Section A-11.
9. Provide maintenance and operation manuals or shop drawings, where appropriate.

Payment for extra services specified herein shall be as agreed to between the OWNER and ENGINEER prior to the commencement of work. The ENGINEER will render to OWNER for such extra services an itemized bill, separate from any other billing, once each month, for compensation for services performed hereunder during such period, the same to be due and payable by OWNER to the ENGINEER on or before the 15th day of the following period.

The following rates apply to these extra services:

Principal Engineer	\$85/per hour
Managing Engineer	\$85/per hour
Project Engineer	\$85/per hour
CADD Operations	\$60/per hour
Computations	\$60/per hour
Engineering Technician	\$60/per hour
2-Man Survey Crew	\$100/per hour
3-Man Survey Crew	\$120/per hour
Construction Observer	\$60/per hour
Secretary	\$45/per hour



## **SECTION E - PAYMENT AND INTEREST ON UNPAID SUMS**

All invoices are due and payable 30 calendar days from the date of the invoice. If an OWNER fails to make any payment due ENGINEER within the allowable 30 days for services and expenses, and funds are available for the projects, then the ENGINEER shall be entitled to interest at the rate of 12 percent per annum from said 30th day, not to exceed an annual rate of 12 percent. If the invoice is not paid within 30 days, the ENGINEER may, without waiving any claim or right against the OWNER, and without liability whatsoever to the OWNER, terminate the performance of the service. In the event that any portion or all of an account remains unpaid 60 days after billing, the OWNER shall pay all costs of collections, including reasonable attorney's fees.

## **SECTION F - INDEMNIFICATION**

To the fullest extent allowed by law, the OWNER/ENGINEER shall indemnify and hold harmless each other, and each others' personnel from and against any and all claims, damages losses and expenses (including reasonable attorney's fees) arising out of or resulting from the performance of any obligations contained in this Agreement, provided that any such claim, damage, loss or expense is caused by the negligent act, omission, and/or strict liability of the OWNER/ENGINEER, anyone directly or indirectly employed by the OWNER/ENGINEER, or anyone for whose acts any of them may be liable. In no event, however, shall any party be indemnified for its own negligence. Claims and disputes under this Section are subjected to arbitration as defined by this Contract in Section H.

## **SECTION G - TERMINATION OF AGREEMENT**

This Agreement may be terminated by either party upon thirty (30) days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination. It is furthermore understood and agreed upon that the OWNER may decide not to complete the design or enter into the construction mode should the applied for grant/loan not be made available. In the event of termination due to the fault of parties other than the Engineer, the Engineer shall be paid his compensation for services performed to termination date, including Reimbursable Expenses.

## **SECTION H - ARBITRATION**

All claims, disputes and other matters in question between the parties to this Agreement, arising out of, or relating to this Agreement or the breach thereof, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect unless the parties mutually agree otherwise. No arbitration arising out of, or relating to this Agreement shall include, by

Agreement except by written consent containing a specific reference to this Agreement and signed by all the parties hereto. Any consent to arbitration involving an additional party or parties shall not constitute consent to arbitration of any dispute not described therein or with any party not named or described therein. This Agreement to arbitrate and any agreement to arbitrate with an additional party or parties duly consented to by the parties hereto shall be specifically enforceable under the prevailing arbitration law. In no event shall the demand for arbitration be made after the date when such dispute would be barred by the applicable statute of limitations or statute of repose. All arbitration shall be carried out in the City of Wilmington, North Carolina, and the arbitration shall be held pursuant to the laws of the State of North Carolina. The award rendered by the arbitrators shall be final and binding, and subject to enforcement by the Superior Courts of North Carolina. The prevailing party shall be entitled to its attorney fees in the discretion of the arbitration panel. The arbitration panel shall consist of three arbitrators. Each party shall choose an arbitrator, and the two arbitrators shall appoint a third as a neutral arbitrator.

## **SECTION I - CIVIL RIGHTS ASSURANCES**

During and in connection with the associated loan and/or grant agreement between the United States Government and the OWNER, relating to the Federally assisted program, the Engineer, its successors and assigns; (i) will comply, to the extent applicable as contractors, subcontractors, lessees, suppliers, or in any other capacity, with the applicable provisions of the Regulations of the United States Department of Commerce (Part 8 of Subtitle A of Title 15 of the Code of Federal Regulations) issued pursuant to Title VI of the Civil Rights Act of 1964 (P.L. 88-352), and will not thereby discriminate against any person on the ground of race, color, or national origin in their employment practices, in any of their own contractual arrangements, in all services or other business operations, (ii) they will provide the information required by or pursuant to said Regulations to ascertain compliance with the Regulations and these assurances, and (iii) their noncompliance with the nondiscrimination requirements of said Regulations and these assurances shall constitute a breach of their contractual arrangements with the Recipient of Federal financial assistance whereby said arrangements may be canceled, terminated or suspended in whole or in part or may be subject to enforcement otherwise by appropriate legal proceedings.

## **SECTION J – E-VERIFY REQUIREMENTS**

Engineer shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if Engineer utilizes a subcontractor, Engineer shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes.

**SECTION K - EXTENT OF AGREEMENT**

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

In WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate on the respective dates indicated below. This Agreement is entered into the day and year first written above.

(SEAL)

OWNER: Town of Kure Beach, NC

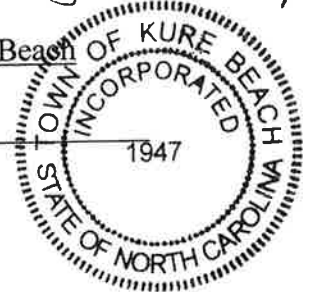
By: Craig Bloszinski

Type

Name: ~~Emilie Swearingen~~ Craig Bloszinski

Title: ~~Mayor~~ <sup>Pro Tem</sup> Town of Kure Beach

Date: 9/29/16



ATTEST: Nancy Hewitt

Type Name: Nancy Hewitt

Title: Deputy Clerk

(SEAL)

ENGINEER: Engineering Services, PA

By: Todd S. Steele

Type Name: Todd S. Steele, PE

Title: President

Date: September 22, 2016



ATTEST: Brian G. Cox

Type Name: Brian G. Cox, PE

Title: Vice-President

**Kure Beach Pump Station No. 1 Replacement  
Funding Cost Comparison  
August 25, 2016**

<u>Opinion of Cost for PS #1 Replacement</u>	<u>Town Funds</u>	<u>Local Bank Funds</u>	<u>State/Federal Funds</u>
Estimated Construction Cost	\$ 500,000	\$ 500,000	\$ 500,000
Land Surveying & Legal Fees (Lump Sum)	\$ 4,000	\$ 4,000	\$ 5,000
Engineering Planning (PER and EA) (Lump Sum)	\$ 5,000	\$ 5,000	\$ 24,000
Engineering Design Fees (9.4%)	\$ 47,000	\$ 47,000	\$ 47,000
Bidding Assistance (Lump Sum)	\$ 6,500	\$ 6,500	\$ 9,000
Construction Inspection Fees (5.70%)	\$ 28,500	\$ 28,500	\$ 28,500
Construction Administration Fees	\$ 25,000	\$ 25,000	\$ 30,000
Project Sub-Total:	\$ 616,000	\$ 616,000	\$ 643,500
Local Bank Interest (3%, 15 Yr Term)	\$ -	\$ 158,000	\$ -
State/Federal Funding Interest (1.5%, 20 Yr Term)	\$ -	\$ -	\$ 106,100
<b>TOTAL PS #1 PROJECT COST ESTIMATE:</b>	<b>\$ 616,000</b>	<b>\$ 774,000</b>	<b>\$ 749,600</b>

<b>ESTIMATE CONST. COMPLETION DATE:</b>	June 1, 2017	June 1, 2017	October 1, 2017
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**Kure Beach Pump Station No. 1 Replacement  
Opinion of Probable Cost  
August 25, 2016**

Item #	Item Description	Quantity	Units	Unit Price	Cost
1	18" Gravity Sewer (10'-12')	50	LF	\$ 175.00	\$ 8,750.00
2	10" DIP Force Main	100	LF	\$ 125.00	\$ 12,500.00
3	Select Backfill	100	CY	\$ 25.00	\$ 2,500.00
4	NCDOT #57 Washed Stone	100	TN	\$ 35.00	\$ 3,500.00
5	8 ft. Dia. Precast Wet Well for Pumps	1	LS	\$ 65,000.00	\$ 65,000.00
6	Rehab Existing Wet Well	1	LS	\$ 12,000.00	\$ 12,000.00
7	Precast Valve Vault	1	LS	\$ 12,000.00	\$ 12,000.00
8	Sewage Pumps (2-Pumps at 700 gpm)	1	LS	\$ 65,000.00	\$ 65,000.00
9	Comminuter/Grinder Equipment	1	LS	\$ 65,000.00	\$ 65,000.00
10	Electrical Controls	1	LS	\$ 50,000.00	\$ 50,000.00
11	Miscellaneous Piping	1	LS	\$ 15,000.00	\$ 15,000.00
12	By-Pass Pumping and Wet Well Connection	1	LS	\$ 25,000.00	\$ 25,000.00
13	Dewatering Well Point System	1	LS	\$ 10,000.00	\$ 10,000.00
14	Emergency Standby Generator w/ATS Connect to PW	1	LS	\$ 80,000.00	\$ 80,000.00
15	Security Fence	1	LS	\$ 5,000.00	\$ 5,000.00
16	Asphalt Repair	100	SY	\$ 55.00	\$ 5,500.00
17	Demolition of Existing PS Building & Equipment	1	LS	\$ 5,000.00	\$ 5,000.00
18	Mobilization (3% Maximum)	1	LS	\$ 12,787.50	\$ 12,787.50
<b>Estimated Total For Construction</b>					<b>\$ 454,538</b>
<b>Plus 10% Contingency</b>					<b>\$ 45,454</b>
<b>Estimated Construction Total</b>					<b>\$ 499,991</b>

**2016 NC COASTAL LOCAL GVTS ANNUAL MEETING**  
**JENNETTE'S PIER IN NAGS HEAD**

<b>4/3 - 4/4/17</b>	<b>Amount</b>	<b>Quantity</b>	<b>Total</b>
<b>Registration Fee*</b>	\$105	2	\$210
<b>Hotel 4/2-4/4/17 @ 137.50/nt</b>	\$275	2	\$550
<b>Meals Per Diem (3D)</b>	\$87	2	\$174
<b>Gas Allow: 482 miles, roundtrip @ .535/mile</b>	\$258	2	\$516
<b>TOTAL ESTIMATED COST</b>			<b>\$1,450</b>

**Mayor Swearingen and MPT Bloszinsky requesting to attend**

**\*Registration fee includes two breakfasts and two lunches**

## Nancy Hewitt

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**From:** Dennis Moore <dennismoore368@gmail.com>  
**Sent:** Monday, February 27, 2017 3:02 PM  
**To:** Nancy Hewitt  
**Subject:** Re: Dennis: Still Alternate on Cape Fear Disability Commission?

I guess you should take my name off. I honestly have done nothing to help her, although I wish I could have. I have some major family issues I'm dealing with, very sick family member. I feel terrible I couldn't help more but it couldn't be avoided. Sorry I should have been quicker in letting her and the board know. Thanks Dennis Moore.

On Feb 27, 2017 2:48 PM, "Nancy Hewitt" <[n.hewitt@townofkurebeach.org](mailto:n.hewitt@townofkurebeach.org)> wrote:

Hi Dennis:

I'm checking to see if you are interested in continuing as an alternate Kure Beach representative on the Cape Fear Disability Commission. I haven't heard from you in a while, and Deborah McKenna said she hasn't been able to get in touch with you. Please let me know if you'd like to continue in that capacity or if you want me to take your name off of the roster. I'd like to hear back from you by March 15<sup>th</sup>, so I can let council know your status.

Thanks!

Nancy Hewitt, CMC, NCCMC

Deputy Town Clerk

Town of Kure Beach

117 Settlers Lane

Kure Beach, NC 28449

[910.458.8216](tel:910.458.8216)/Fax [910.458.7421](tel:910.458.7421)

<http://www.townofkurebeach.org>

*BE YOURSELF; everyone else is taken!*



TOWN OF KURE BEACH  
REQUEST FOR APPOINTMENT  
 Board/Commission/Committees

cc: Chairperson  
 orig → App Book

MUST BE A FULL-TIME RESIDENT TO SERVE ON TOWN COMMITTEES

Request for Appointment to: Beach Protection  
 Name PAT Triplett  
 Address 102 Leeward Ct  
 Telephone 828-729-8258 Cell \_\_\_\_\_  
 Email pntriplett@gmail.com (You will receive the majority of correspondence via email)  
 Length of permanent residence in Kure Beach 6 years  
 Employment Education Foundation Inc. of Caldwell Co  
 Job Title Executive Director

Professional Activities see attached

Volunteer Activities see attached

Other committee work, past or present see attached

What is your understanding of the purpose of this committee?  
To report to the mayor and commissioners concerns from our community members to enhance our town  
 Why are you interested in serving on this committee?  
and environment. I am interested in improving environmental issues.

What specific concerns or areas are you interested in?  
Beach Issues, Parking Issues

Are there any time blocks from 8am-8pm, Monday through Friday, when you cannot attend meetings?  
NO

Any misrepresentation of fact on this application will subject the applicant to legal proceedings as prescribed by law.

Signature Pat Triplett Date 1-3-2017

Thank you for your interest in serving the Town of Kure Beach

Please return ORIGINAL to: Town Clerk - Town of Kure Beach 117 Settlers Lane, Kure Beach, NC 28449

<b>Town Use Only</b>		
Date Received <u>1/3/17</u>	Initials <u>PTH</u>	Utilities Current <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Interview Date <u>3/7/17</u>	(If applicable)	Appointment Date <u>3/21/17</u>
Term Length _____		Term Expiration _____



**KURE BEACH-Building Permits Issue Date: 2/1/2017 - 2/28/2017**

PermitNo	Issue Date	Owner	Project Addr	ParcelID	Est Cost	Fee
<b>Building</b>						
<b>New Construction</b>						
<b>Active</b>						
170014	2/13/2017	WHITE ROGER LYNN	130 S SIXTH AVE	R09217-001-005-000	\$230,000.00	\$11,010.00
	New SFD					
170013	2/3/2017	TAYLOR TRENT T AMY C	1302 FORT FISHER BLV S	R09316-001-004-000	\$330,000.00	\$11,910.00
	New SFD					
<b>Total New Construction 2</b>					<b>\$560,000.00</b>	<b>\$22,920.00</b>
<b>Total Building 2</b>					<b>\$560,000.00</b>	<b>\$22,920.00</b>
<b>Total Permits: 2</b>					<b>\$560,000.00</b>	<b>\$22,920.00</b>

**Kure Beach Inspections Dept.-Building Permits Issue Date: 2/1/2017 - 2/28/2017**

PermitNo	Issue Date	Owner / Descript	ParcelID	Project Addr	Est Cost	Fee	Status	Final
<b>Building</b>								
170013	2/3/2017	TAYLOR, TRENT T AMY C	R09316-001-004-00	1302 FORT FISHER BLV S KURE BEACH, NC 28449	\$330,000	\$11,910.00	Active	
170014	2/13/2017	WHITE, ROGER LYNN New SFD	R09217-001-005-00	130 S SIXTH AVE KURE BEACH, NC 28449	\$230,000	\$11,010.00	Active	
<b>Total Building 2</b>					<b>\$560,000</b>	<b>\$22,920.00</b>		
<b>Total Permits: 2</b>					<b>\$560,000</b>	<b>\$22,920.00</b>		

# KURE BEACH FIRE DEPARTMENT

## FIRE CHIEF'S REPORT FEBUARY, 2017

DATE	PURPOSE
02/01/17	BRUSH FIRE
02/04/17	MUTUAL AID Cbfd
02/05/17	EMS
02/06/17	EMS
02/06/17	EMS
02/07/17	FALSE ALARM
02/07/17	FALSE ALARM
02/08/17	POWER POLE FIRE
02/11/17	EMS
02/11/17	FALSE ALARM
02/13/17	MUTUAL AID Cbfd
02/13/17	DRILL
02/14/17	EMS
02/15/17	WIRE DOWN
02/15/17	POWER WIRE DOWN
02/18/17	EMS
02/19/17	MUTUAL AID Cbfd
02/20/17	DRILL
02/21/17	FALSE ALARM
02/22/17	EMS

All equipment checked and found to be in working order

Harold Heglar  
Chief

**TOWN OF KURE BEACH  
REVENUE AND EXPENDITURE SUMMARY  
JULY 1, 2016 TO MARCH 14, 2017**

**REVENUES**

	2017 Initial Bud.	2017 Amend. Bud.	Actual 3/14/2017	% Collected
<b>GENERAL FUND</b>				
Property Taxes (Cur. & PY)	\$ 2,328,500	\$ 2,328,500	\$ 2,313,811	99.4%
Local Option Sales Tax	\$ 800,075	\$ 800,075	\$ 550,030	68.7%
Franchise & Utility Tax	\$ 249,000	\$ 249,000	\$ 120,612	48.4%
TDA Funds	\$ 204,517	\$ 204,517	\$ -	0.0%
Garbage & Recycling	\$ 343,375	\$ 343,375	\$ 241,330	70.3%
ABC Revenue	\$ 12,300	\$ 12,300	\$ 12,339	100.3%
Bldg. Permit & Fire Inspect. Fees	\$ 56,800	\$ 56,800	\$ 63,200	111.3%
Communication Tower Rent	\$ 77,408	\$ 77,408	\$ 59,360	76.7%
Motor Vehicle Tags	\$ 12,000	\$ 12,000	\$ 10,955	91.3%
Com Ctr/Parks & Rec/St Festival	\$ 26,350	\$ 26,350	\$ 13,334	50.6%
Town Facility Rentals	\$ 11,000	\$ 11,000	\$ 11,378	103.4%
Beer & Wine Tax	\$ 10,000	\$ 10,000	\$ -	0.0%
OPP - Bluefish Purchases	\$ 13,200	\$ 13,200	\$ 6,260	47.4%
Sales Tax Refund	\$ 47,500	\$ 47,500	\$ 48,902	103.0%
CAMA & Impact Fees	\$ 3,200	\$ 3,200	\$ 3,715	116.1%
All Other Revenues	\$ 3,145	\$ 69,217	\$ 108,237	156.4%
Other Financing Sources	\$ 290,000	\$ 290,000	\$ 280,123	96.6%
<b>Total Revenues</b>	<b>\$ 4,488,370</b>	<b>\$ 4,554,442</b>	<b>\$ 3,843,586</b>	<b>84.4%</b>

**EXPENDITURES**

	2017 Initial Bud.	2017 Amend. Bud.	Actual 3/14/2017	% Spent
<b>GENERAL FUND</b>				
Governing Body	\$ 35,517	\$ 35,517	\$ 28,864	81.3%
Committees	\$ 4,300	\$ 12,280	\$ 11,505	93.7%
Finance	\$ 151,889	\$ 151,889	\$ 117,104	77.1%
Administration	\$ 397,192	\$ 397,192	\$ 273,733	68.9%
Community Center	\$ 23,300	\$ 23,300	\$ 12,173	52.2%
Emergency Management	\$ 100	\$ 100	\$ 9	9.0%
Tax Collections	\$ 25,000	\$ 25,000	\$ 18,343	73.4%
Legal	\$ 28,900	\$ 28,900	\$ 17,754	61.4%
Police Department	\$ 1,265,716	\$ 1,265,716	\$ 832,846	65.8%
Fire Department	\$ 685,845	\$ 685,845	\$ 400,640	58.4%
Lifeguards	\$ 192,217	\$ 200,309	\$ 104,764	52.3%
Parks & Recreation	\$ 146,114	\$ 146,114	\$ 83,790	57.3%
Bldg Inspection/Code Enforcement	\$ 124,763	\$ 124,763	\$ 77,468	62.1%
Streets & Sanitation	\$ 988,011	\$ 988,011	\$ 702,008	71.1%
Debt Service	\$ 316,626	\$ 316,626	\$ 284,400	89.8%
Transfer to Other Funds	\$ 50,000	\$ 100,000	\$ 100,000	100.0%
Contingency	\$ 52,880	\$ 52,880	\$ -	0.0%
<b>Total Expenses</b>	<b>\$ 4,488,370</b>	<b>\$ 4,554,442</b>	<b>\$ 3,065,401</b>	<b>67.3%</b>
<b>WATER &amp; SEWER FUND</b>				
Governing Body	\$ 15,017	\$ 15,017	\$ 9,732	64.8%
Legal	\$ 28,900	\$ 28,900	\$ 17,754	61.4%
Finance	\$ 178,238	\$ 178,238	\$ 122,593	68.8%
Administration	\$ 248,806	\$ 248,806	\$ 188,665	75.8%
Operations & Transfer	\$ 1,748,714	\$ 1,748,714	\$ 1,348,150	77.1%
<b>Total Expenses</b>	<b>\$ 2,219,675</b>	<b>\$ 2,219,675</b>	<b>\$ 1,686,894</b>	<b>76.0%</b>
<b>STORM WATER FUND</b>				
<b>Total Expenses</b>	<b>\$ 690,373</b>	<b>\$ 692,305</b>	<b>\$ 533,580</b>	<b>77.1%</b>
<b>POWELL BILL FUND</b>				
<b>Total Expenses</b>	<b>\$ 65,050</b>	<b>\$ 65,050</b>	<b>\$ 11,616</b>	<b>17.9%</b>
<b>SEWER EXPANSION RESERVE FUND (SERF)</b>				
<b>Total Expenses</b>	<b>\$ 180,000</b>	<b>\$ 180,000</b>	<b>\$ 180,000</b>	<b>100.0%</b>
<b>BEACH PROTECTION FUND</b>				
<b>Total Expenses</b>	<b>\$ 50,440</b>	<b>\$ 50,440</b>	<b>\$ -</b>	<b>0.0%</b>
<b>FEDERAL ASSET FORFEITURE FUND</b>				
<b>Total Expenses</b>	<b>\$ 50,000</b>	<b>\$ 50,000</b>	<b>\$ 17,286</b>	<b>34.6%</b>

**TOWN OF KURE BEACH  
CASH AND INVESTMENTS  
AS OF FEBRUARY 28, 2017**

<u>FUND</u>	<u>CASH IN BANK</u>	<u>INVESTMENTS</u>	<u>TOTAL CASH &amp; INVESTMENTS</u>
General	\$3,141,660	\$342,601	\$3,484,261
Water/Sewer	\$1,397,017	\$586,174	\$1,983,191
Storm Water	\$457,219	\$240,855	\$698,074
SERF	\$190,386	\$91,464	\$281,850
Powell Bill	\$288,796	\$19,970	\$308,766
Beach Protection	\$111,640	\$175,717	\$287,357
Federal Asset Forfeiture	\$78,433	\$0	\$78,433
Capital Project Funds	\$40,750	\$0	\$40,750
TOTAL	<u>\$5,705,901</u>	<u>\$1,456,781</u>	<u>\$7,162,682</u>
<u>INSTITUTION</u>			
BB&T	\$5,705,901	\$0	
First Bank - Certificates of Deposit	\$0	\$963,979	
NCCMT Term Portfolio	\$0	\$483,450	
NCCMT Cash Portfolio	\$0	\$9,352	
TOTAL	<u>\$5,705,901</u>	<u>\$1,456,781</u>	

**TOWN OF KURE BEACH  
SUMMARY OF CONTINGENCY FUND AND COMMITTEE  
EXPENDITURE ACTIVITY  
07/01/2016 - 03/14/2017**

**CONTINGENCY FUND**

Fiscal Year 2017 Budget	\$52,880.00
Less:	
No activity	<u>\$0.00</u>
Remaining Budget as of 03/14/2017	<u><u>\$52,880.00</u></u>

**COMMITTEE (Shoreline Access, Beach Protection & Parking) EXPENDITURES**

Amended Fiscal Year 2017 Budget	\$12,280.00
Less Expenditures:	
Grant Writer Fees (E & I Avenue)	\$525.00
H Ave. Beach Access Solar Lighting	\$7,980.00
E Ave. Parking 60% of Design & Eng.	\$1,500.00
I Ave. Parking 60% of Design & Eng.	<u>\$1,500.00</u>
Total Expenditures	\$11,505.00
Projects Approved By Council But Not Yet Expended:	
No activity	<u>\$0.00</u>
Total Approved, Not Expended	<u><u>\$0.00</u></u>
Remaining Budget as of 03/14/2017	<u><u>\$775.00</u></u>

**TOWN OF KURE BEACH  
DEBT LISTING  
MARCH 21, 2017**

LOAN PURPOSE/DESCRIPTION	FUND	LENDER	DATE OF LOAN	AMOUNT FINANCED	INTEREST RATE	LOAN TERM (YRS)	DATE PAID OFF	BALANCE AT 03/21/17	PAYMENT FREQUENCY	PAYMENT AMOUNT	NEXT PAY DATE	INT. EXPENSE LIFE OF LOAN
Sewer Rehabilitation Project (a)	W/S	Fed Gov	5/1/2010	\$432,660	0.00%	20	5/1/2030	\$147,780.03	Annual	\$10,555.72	5/1/2017	\$0.00
Ocean Front Park (development)	G	BB&T	7/12/2011	\$347,000	4.39%	17	7/12/2028	\$244,941.20	Annual	\$31,164.68	7/12/2017	\$137,099.64
Ocean Front Park (acquisition)	G	BB&T	12/19/2007	\$3,600,000	4.28%	20	12/19/2027	\$713,942.41	Annual	\$95,460.60	12/19/2017	\$690,135.16
334 S. 4th, 402 H & 406 H Ave. Water Tower & Well House & Town Hall Expansion (b)	G, W/S	BB&T	3/12/2015	\$409,471	2.49%	10	3/12/2025	\$327,576.91	Annual	\$49,103.79	3/12/2018	\$56,077.07
2016 John Deere Backhoe (c)	W/S, SW	BB&T	4/11/2007	\$1,187,187	3.92%	15	5/7/2022	\$517,106.22	Semi-annual	\$52,716.71	5/7/2017	\$394,314.33
2017 Freightliner Garbage Truck	G	BB&T	11/9/2016	\$105,273	1.87%	5	11/9/2021	\$105,273.00	Annual	\$22,250.35	11/9/2017	\$5,978.75
(2) 2016 Police Dodge Chargers	G	1st Bank	8/23/2016	\$179,756	1.70%	5	8/23/2021	\$179,756.00	Annual	\$37,805.31	8/23/2017	\$9,270.57
O'Brien 7065 Hydroletter (c)	W/S, SW	1st Bank	11/9/2016	\$63,500	1.60%	4	11/9/2020	\$63,500.00	Annual	\$16,515.04	11/9/2017	\$2,560.16
2016 Chevrolet Silverado	G	1st Bank	8/13/2015	\$81,485	1.70%	5	8/13/2020	\$65,732.71	Annual	\$17,149.28	8/13/2017	\$4,202.44
Cutter Court Drainage Project	SW	B of A	7/26/2016	\$36,867	1.60%	4	7/26/2020	\$36,867.00	Annual	\$9,593.55	7/26/2017	\$1,486.39
FY 2016 Equipment & Vehicles (d)	G, W/S	BB&T	9/14/2015	\$186,000	2.01%	4	9/14/2019	\$140,878.73	Annual	\$48,859.87	9/14/2017	\$9,439.48
(2) 2015 Police Cars	G	BB&T	3/27/2015	\$48,359	2.19%	4	3/27/2019	\$24,703.23	Annual	\$12,758.83	3/27/2018	\$2,676.33
2015 Ford F-250 Utility Truck	W/S	BB&T	10/24/2014	\$32,216	2.19%	4	10/24/2018	\$16,456.90	Annual	\$8,499.73	10/24/2017	\$1,782.92
Downtown Improvement Project	G	BB&T	1/17/2014	\$117,000	1.93%	4.5	6/17/2018	\$48,308.45	Annual	\$24,719.00	1/17/2018	\$6,595.00
2013 Ford F-150 Police Truck	G	BB&T	1/15/2014	\$32,000	2.18%	4	1/15/2018	\$8,260.62	Annual	\$8,440.70	1/15/2018	\$1,762.80
2013 Ford Police Utility	G	BB&T	6/28/2013	\$29,836	2.17%	4	6/28/2017	\$7,700.88	Annual	\$7,867.99	6/28/2017	\$1,635.96

**FUND CODES**

G - General Fund  
W/S - Water/Sewer Fund  
SW - Storm Water Fund

**TOTAL OUTSTANDING DEBT AT 03/21/2017:**

General Fund \$ 1,847,507.76  
Water/Sewer Fund \$ 715,773.67  
Storm Water Fund \$ 327,485.08  
Total \$ 2,890,766.51

**NOTES**

- (a) - Total amount borrowed was \$432,660. As part of ARRA, the unpaid balance was immediately reduced by one-half of the loan amount.
- (b) - 78% of loan is Water/Sewer Fund and 22% is General Fund.
- (c) - 50% of loan is Water/Sewer Fund and 50% is Storm Water Fund.
- (d) - 55.5% of loan is General Fund and 44.5% is Water/Sewer Fund.

**LOAN PAYMENTS DUE (Next 12 Months):**

03/22/2017 - 06/30/2017 \$ 91,173.70  
07/01/2017 - 09/30/2017 \$ 164,605.97  
10/01/2017 - 12/31/2017 \$ 215,475.71  
01/01/2018 - 03/21/2018 \$ 115,055.60  
Total \$ 586,310.98

**TOWN OF KURE BEACH**  
**TOWN HALL EXPANSION AND NEW FIRE STATION**  
**CAPITAL PROJECT BUDGET STATUS**  
**AS OF 03/14/2017**

	APPROVED BUDGET	ACTUAL AS OF 03/14/17
<b><u>EXPENDITURES</u></b>		
Architectural Services	\$28,500	\$28,500.00
Topographical Survey & Other Planning Costs	\$21,500	\$3,250.00
Total Expenditures	\$50,000	\$31,750.00
<b><u>PROJECT FINANCING SOURCES</u></b>		
Transfer From General Fund	\$50,000	\$50,000.00



**TOWN OF KURE BEACH  
KURE BEACH PUMP STATION #1  
CAPITAL PROJECT FUND  
AS OF 03/15/2017**

	APPROVED BUDGET	ACTUAL AS OF 03/15/17
<b><u>EXPENDITURES</u></b>		
<b><u>ENGINEERING SERVICES, PA</u></b>		
Land Surveying Fees	\$4,000	\$4,000.00
Engineering Planning	\$5,000	\$0.00
Engineering Design	\$47,000	\$23,500.00
Bidding Assistance	\$6,500	\$0.00
Construction Administration	\$25,000	\$0.00
Construction Inspection	\$28,500	\$0.00
Total Engineering Services, PA	\$116,000	\$27,500.00
<b><u>T&amp;H CONSTRUCTION OF HAMPSTEAD, NC</u></b>		
Construction	\$589,731	\$0.00
<b><u>GRAND TOTAL EXPENDITURES</u></b>	<b>\$705,731</b>	<b>\$27,500.00</b>
<b><u>PROJECT REVENUE SOURCES</u></b>		
Transfer From Water/Sewer Fund to H Avenue Lift Station Capital Project Fund	\$80,731	\$50,000.00
Transfer From Sewer Expansion Reserve Fund (SERF) to H Avenue Lift Station Capital Project Fund	\$150,000	\$0.00
Installment Financing	\$475,000	\$0.00
<b><u>GRAND TOTAL PROJECT REVENUE SOURCES</u></b>	<b>\$705,731</b>	<b>\$50,000.00</b>



# TOWN COUNCIL MINUTES

## REGULAR MEETING

February 21, 2017

The Kure Beach Town Council held their regular meeting on Tuesday, February 21, 2017 at 6:30 p.m. The Town Attorney was present and there was a quorum of council members.

### COUNCIL MEMBERS PRESENT

Mayor Emilie Swearingen  
Mayor Pro Tem (MPT) Craig Bloszinsky  
Commissioner David Heglar  
Commissioner Joseph Whitley  
Commissioner Jim Dugan

### STAFF PRESENT

Finance Officer – Arlen Copenhaver  
Town Clerk – Nancy Avery  
Deputy Clerk – Nancy Hewitt

### CALL TO ORDER

Mayor Swearingen called the meeting to order at 6:30 p.m., and Pastor Cathy Chester from the Carolina Coast Vineyard Church delivered the invocation and led everyone in the Pledge of Allegiance.

### APPROVAL OF CONSENT AGENDA ITEMS

1. Renew John Ellen's appointment as the town's representative on the MPO Citizens Advisory Committee
2. Approve Budget Amendment 17-03 to increase the Storm Water Fund budget for grant writer fees
3. Approve Budget Amendment 17-04 to increase the Lifeguard budget for the proceeds received (\$8,092) from the sale of surplus ATVs
4. Adopt Resolution R17-04 to permit the use of absentee ballots in municipal elections per N.C.G.S. 163-302
5. Board of Adjustment – 2016 Annual Report
6. Fire Department Report – January 2017
7. Building Inspections Report – January 2017
8. YTD Finance Report
9. Meeting Minutes:
  - January 17, 2017 regular meeting
  - January 24, 2017 council retreat

MOTION – Commissioner Heglar moved to approve the Consent Agenda Items, as presented.

SECOND – Commissioner Dugan

VOTE – Unanimous



# TOWN COUNCIL MINUTES

## REGULAR MEETING

February 21, 2017

Said budget amendments are herein incorporated as part of these minutes.

### ADOPTION OF THE AGENDA

Mayor Swearingen asked to add Easement Conveyance under Department Head Business, Administration and Recreation.

MOTION – Commissioner Heglar moved to approve the meeting agenda with the change requested by Mayor Swearingen.

SECOND – Commissioner Whitley

VOTE – Unanimous

### DISCUSSION AND CONSIDERATION OF PERSONS TO ADDRESS COUNCIL

1. David Sack – 720 N. Fort Fisher Blvd & member of the Community Center Committee  
Mr. Sack said a discussion took place during the committee's last meeting about how the town looked. He said the Community Center was recently, nicely landscaped and the committee members take responsibility to maintain it. He presented council with photos of overgrown shrubbery and weeds at the town's Dow Road and Fort Fisher Boulevard entrances and stated that the disheveled landscape makes the town look like its poor, which doesn't represent the town favorably. He pointed out the overgrown landscape and broken storm fencing along the boardwalk, as well. He said he would like to see the town's landscaping be taken care of more like the community center or Carolina Beach's landscaping.

Mayor Swearingen said that Carolina Beach hires a landscaper to maintain its landscaping and Kure Beach doesn't have that kind of money to hire a landscaper; and she added that Public Works doesn't have time to maintain it with all of their regular responsibilities, as well as trying to get the storm water system and water system fixed after last year's heavy rains and Hurricane Matthew.

Mr. Sack said the entrances to the town aren't huge areas and should be able to be fixed up and maintained by the town.

MPT Bloszinsky said there needs to be a community beautification process.

Commissioner Heglar said that he understands Mr. Sack's concerns but, for every person who says the town's money should be spent on better landscaping, there is another person who says the town's money shouldn't be spent on it. He said he will ask the public works director to put town landscaping in his next budget and council can decide if it's affordable at that time.

### DISCUSSION AND CONSIDERATION OF COMMITTEE BUSINESS

1. Non-town Committee update from appointees
  - a. Cape Fear Council of Governments (COG)



# TOWN COUNCIL MINUTES

## REGULAR MEETING

February 21, 2017

- Commissioner Dugan, member, said the town sometimes uses COG to assist when it can't get help from the state. He said that he and Commissioner Whitley will be attending COG's annual dinner at the end of March.
- b. Cape Fear Disability Commission
  - As the town's representative, Deborah McKenna, was not in attendance, the mayor asked the clerk to contact her to find out if the commission is still active and if she is still involved with it.
  - MPT Bloszinsky asked the clerk to get the minutes from their last meeting to give to council.

Mayor Swearingen pointed out that the official name of the MPO is the Wilmington Urban Area Metropolitan Planning Organization.

- c. MPO Bicycle and Pedestrian Committee (Allen Oliver)
  - Allen Oliver, representative, stated the committee meets monthly, and he gave a slide presentation that reviewed the committee's responsibilities. He reviewed their 2017 work plan, a map of the island showing the project areas suggested for Kure Beach. He said they want to try to use crash data for the last three years to help with plan bicycle and pedestrian safety.
  - Mayor Swearingen said the DOT did a speed study of Dow Road that has been passed along to the police chief, if Mr. Oliver would like to see it.
- d. MPO Board of Directors
  - Mayor Swearingen, member, said the board consists of mayors and other officials who meet monthly. She said they are beginning to look at the 2045 MPO Transportation Plan which is a federally funded mandate to update the 2040 plan. She explained the MPO's responsibilities, goals and modes of transportation that are represented in the plan. She said the MPO sets aside certain transportation grant funds that Kure Beach can apply for at any time.
- e. MPO Citizen Advisory Committee
  - Mayor Swearingen said John Ellen, representative, is currently out of the country on a trip, but council has renewed his seat on the committee for another year. She said this committee discusses much of the same things the MPO board discusses, but looks for citizen input.
- f. MPO Technical Coordinating Committee
  - Town Clerk Avery, member, said that her committee is a sub-committee of the MPO board and meets monthly. She reviewed their responsibilities and goals, stating there are currently five projects on which they are working; four in Wilmington and one in Leland.
- g. Tourism Development Authority (TDA)
  - Mayor Swearingen, member, said the TDA meets monthly and Anne Brodsky is also a representative for Kure Beach. She said the board decides how the money received through Room Occupancy Tax (ROT) is to be spent. She said the state legislature is trying



# TOWN COUNCIL MINUTES

## REGULAR MEETING

February 21, 2017

to figure out how to collect ROT from entities like B&B's and from people who rent out their properties on a short-term basis.

### h. Wilmington Ports, Waterway and Beach Commission

- MPT Bloszinsky, representative, said the commission meets every month. He said federal senate teams, county commissioners, engineers, retired members of the Corps of Engineers, and representatives from all beach communities attend. He said the main focus is protection of the beaches and the permitting and funding required to protect them.

## 2. Miscellaneous Committees

Mayor Swearingen updated everyone on other committees of which she is a member, stating they are always looking for people on this side of the county to participate on them.

### a. New Hanover County Library Advisory Board, appointed by the NHC Board of Commissioners

- She said the Myrtle Grove Library will close in about two years and a new library will be built directly behind Fulton Station measuring about 16,000 square feet and costing about \$5.5 million.
- She said that participation at the Pleasure Island Library since it moved to the shopping center at the bridge has increased by 20 percent. She said the library system will be looking for a permanent location other than the shopping center in about two years, once the one at Myrtle Grove closes.

### b. WAVE Connect Advisory Committee, appointed by the MPO Board

- She said this committee provides federal grants to local entities who serve the elderly and people with disabilities. She said they worked on two grants this year, the main one being for the Senior Resource Center to provide curb-to-curb service for elders who need transportation to services they cannot get to on their own.

### c. WAVE Transit Short Range Planning Committee, appointed by Albert Eby, Executive Director of WAVE Transit

- She said WAVE Transit is required to put a five-year plan together outlining how to better serve the community to become more efficient. She said they selected a consultant last Friday to help them put together the plan which will include information derived from community input.

## DISCUSSION AND CONSIDERATION OF DEPARTMENT HEAD BUSINESS

### 1. Administration and Recreation

#### a. Review of beach access improvements and possible grant application

Town Clerk Avery reviewed the beach access parking, signage and crossover improvement projects SLABPP has either completed or recommended. She said one of the projects was for N Avenue's travel lane to be narrowed to 10-feet, to make it one way from Atlantic Avenue and to add five parking spaces.



# TOWN COUNCIL MINUTES

## REGULAR MEETING

February 21, 2017

Mayor Swearingen asked if the fire department had been consulted about narrowing the travel lane and making it one way.

Town Clerk Avery said she doesn't think they discussed this with the fire department, but the SLABPP Committee hasn't been able to get a quorum to have a meeting since October.

Commissioner Heglar asked the town clerk to forward this recommendation to the fire department since that is where one of the emergency accesses is located, north of the pier.

Town Clerk Avery reviewed the grants the town received for some of the beach accesses. She asked council if they would like to have more of the parking lots paved, stating that Director Beeker thinks they will be easier to maintain if they are paved. She asked council if they wanted to proceed with any of SLABPP's recommendations so she can apply for a CAMA grant, since they are due by March 31<sup>st</sup>.

Mayor Swearingen said council shouldn't take on anything big until after the Town Facilities Improvement project is completed.

MPT Bloszinsky said it should be a goal to eventually pave and mark all of the access parking lots, but they can wait until after the town's bigger projects are completed.

**CONSENSUS** – After all council members weighed-in, they agreed to not proceed with applying for a CAMA beach access grant at this time.

Town Clerk Avery explained that the town applied for a Clean Water Management Trust Fund Planning Grant on February 2<sup>nd</sup> to pay for a feasibility study to see if there is space in town to put another storm water infiltration system. She said NC State University has said, if there isn't room under the dunes, it could be put under a beach access parking lot, but it would have to be paved over to protect it. She said she will know later this year the grant has been awarded. She said the planning grant budget is \$36,740 with a \$4,348 match from the town; part cash and part in-kind.

Commissioner Dugan said Kure Beach is one of the top two towns in the state for having so many outfalls on its beach, next to the Outer Banks.

Town Clerk Avery said this is not going to replace the outfalls, but it will treat the storm water and may cut down a little on the amount that goes through the outfalls.

### b. Town Facility Improvement project

Consideration of RFQs for architectural services received and selection of a firm to submit a contract for approval



# TOWN COUNCIL MINUTES

## REGULAR MEETING

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Town Clerk Avery said the only firm to submit an RFQ for the Town Facilities Expansion project was Oakley Collier Architects PA, so she asked them to send her their contract. She said council can consider awarding the contract now or at their March meeting, but they should stipulate it is dependent on the review and approval of the contract by Commissioner Dugan, Inspector Batson, Attorney Canoutas and her, or someone else that council wants to appoint.

MOTION – Commissioner Heglar moved to approve awarding the Town Facilities Improvement project to Oakley Collier Architects PA, pending the review and approval of the contract by Commissioner Dugan, Inspector Batson, Attorney Canoutas and Town Clerk Avery who will meet together to review it.

SECOND – Commissioner Whitley

VOTE – Unanimous

Mayor Swearingen said she would like to attend all of the meetings pertaining to the project. She said the town needs to hire a project manager to oversee the project since there are a lot of things the architect isn't responsible for. She said Inspector Batson doesn't want to be the project manager because he doesn't feel qualified to be one, nor does he have the time to be it. She said she'd like anyone who is interested in being the project manager to come to the March meeting.

Commissioner Heglar said we should have a project manager, but we shouldn't just invite anyone. He said the architect should recommend someone who is appropriately trained and who has worked on this type of project before, not just any kind of project.

Mayor Swearingen said that council should be able to make recommendation to the architects who they'd like to hire as a project manager.

Commissioner Whitley commented that a separate project manager will be an added expense.

Mayor Swearingen said the contract says that Oakley Collier Architects will come to the job site a maximum of once every two weeks.

Town Clerk Avery said that the contract says Oakley Collier Architects they will assist the town and, as you read the contract regarding the bidding process, it says assisting means that they will prepare the plans and the specs.

Commissioner Dugan said that, in their headings, they say they give that type of service as project manager but, in the fine print, there is no definition of what a project manager is and what services they offer.

Mayor Swearingen said that she doesn't think Oakley Collier Architects should be the project manager. She said, under "additional services" on their contract, they indicate specifically a lot of



# TOWN COUNCIL MINUTES

## REGULAR MEETING

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things they don't do; but if we want them to do those things, they'll do it at an added cost. She said the contracts states they don't evaluate the qualifications of the bidding contractors as well as many other things that a project manager should do.

Town Clerk Avery said suggested holding off on approving the contract and hiring a project manager, first, to handle negotiations with the architectural firm.

Mayor Swearingen said they need to talk to the architects about it first, not hire a project manager, and she said there is no reason why we can't go ahead and approve the contract. She said the project manager works with the contractors and they won't even be hired until August.

Town Clerk Avery asked if council didn't want the project manager to manage the architect.

Mayor Swearingen said they project manager doesn't manage the architect, but he/she manages the contractors and works with the architects. She said it's not like the Ocean Front Park where council or staff is going to tell them what to do; this will be one person to manage construction and work with the architects.

Commissioner Heglar explained the architect was contracted to draw up the plans and then we need to hire a project manager to implement those designs with the construction contractor. He said, in between the architects hiring the contractors is when the project manager should be hired, so he/she is involved with the hiring and supervising of the construction contractor. He said the architects can start the bidding process but, soon after that, council needs to select the project manager, in conjunction with the architectural firm, so he/she is in place when they start talking to the contractor. He agreed that it is okay to approve the contract with the architectural firm, now, but warned everyone not to think that they're going to change the contract for the architectural firm to do the project manager's job because that's not what they signed up for.

Commissioner Dugan said he agrees that it's not a job for staff to manage the project. He said, having the architectural firm as project manager, even though they offer the services, isn't a good idea because there will be divided loyalties.

Town Clerk Avery reviewed the timeline of the project with council stating, once the architectural contract is awarded, it will be at least four months before we go out for bids, then it will be another two months before a construction contractor is awarded the job at which time the financing part begins. She said Mr. Oakley told her he thinks the project can be finished in twelve months instead of two years.

### c. Easement Conveyance

Town Clerk Avery explained that two property owners granted easements to the town a few years ago to allow their properties to be accessed to fix storm water issues. She said those issues have been





# TOWN COUNCIL MINUTES

## REGULAR MEETING

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addressed, and she asked council to adopt Resolution R17-05 to approve conveying the easements back to the property owners.

Commissioner Heglar added that this was in conjunction with the storm water work done for the Beachwalk properties.

MOTION – Commissioner Heglar moved to adopt Resolution R17-05, to remove the town’s easements granted to the town on two properties, and convey them back to the property owners.

SECOND – MPT Bloszinsky

VOTE – Unanimous

Said resolution is herein incorporated as part of these minutes.

### d. Pump Station #1

Town Clerk Avery said there was a pre-construction meeting held at Town Hall last week for the Pump Station #1 project and about eight firms showed up. She said sealed bids will be opened at Town Hall on February 28<sup>th</sup>, and then the mayor needs to call a special meeting of council sometime during the first week in March to award the contract.

## 2. Finance

- a. Adoption of Resolution R17-01, Notice of Intent to Finance a portion of the Kure Beach Pump Station #1 project, not to exceed \$475,000, and Adoption of Resolution R17-03 a Declaration of Official Intent to Reimburse expenditures for the same project

Finance Officer Copenhagen said about 70 percent of the Pump Station #1 project is going to be financed, so he needs council to approve Resolution R17-01 which he will give to the Local Government Commission (LGC). He said Resolution 17-03 is just a formality in case we need to expend money up front and then reimburse the town from the loan proceeds. He said it keeps the loan tax exempt from whoever we borrow the money from.

Commissioner Heglar explained that the pump station is at the end of its life and replacing it has been on public works’ five-year plan; it’s the perfect time to do it.

MOTION – Commissioner Heglar moved to support the project and adopt Resolution R17-01, Notice of Intent to Finance a portion of the Town of Kure Beach Pump Station #1 project, not to exceed \$475,000, and to adopt Resolution R17-03, Declaration of Official Intent to Reimburse expenditures relating to the project.

SECOND – Commissioner Dugan

VOTE – Unanimous

Said resolutions are herein incorporated as part of these minutes.



# TOWN COUNCIL MINUTES

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- b. Authorization to Finance Officer to issue a Request for Proposal to financial lenders for the pump station project

MOTION – Commissioner Heglar moved to authorize the finance officer to issue a Request for Proposal to financial lenders for the Kure Beach Pump Station #1 project.

SECOND – MPT Bloszinsky

VOTE – Unanimous

Finance Officer Copenhaver said he will issue it tomorrow.

3. Vote to schedule a public hearing regarding the Notice of Intent to Finance new pump station during the week of March (6-10)

MOTION – Commissioner Heglar moved to schedule a public hearing to be held at Town Hall on Friday, March 10, 2017 at 6:00 p.m., for the purpose of receiving public comments on the Notice of Intent to Finance a new pump station for the town.

SECOND – Commissioner Whitley

VOTE – Unanimous

Finance Officer Copenhaver told council the letter from the state came confirming that the town should get a little over \$18K in reimbursement for debris removal due to Hurricane Matthew.

## 4. Police Department

Mayor Swearingen announced a public safety day to be held at the Fort Fisher Air Force Recreation Area on March 25<sup>th</sup>, in conjunction with Carolina Beach police and the sheriff's department. She said it will be a good time to bring the kids and grandkids.

## DISCUSSION AND CONSIDERATION OF OLD BUSINESS

### 1. Kure Beach/Carolina Beach Water & Sewer Authority Update

Commissioner Heglar said he and Commissioner Dugan attend an annual meeting with Carolina Beach representatives to set the rates for the upcoming year for the sewer plant in Carolina Beach. He said the rates are based on the previous year's audit results from Carolina Beach. He said that Kure Beach uses about 25 percent of their facility, but sewage has decreased because we're maximizing the town's plant. He said Carolina Beach should have noticed that they've been getting less load from Kure Beach, which is good for our town, and our rates are very good.

## DISCUSSION AND CONSIDERATION OF NEW BUSINESS

### 1. MOTSU (Sunny Point) Land Use Study

Mayor Swearingen said she and MPT Bloszinsky attended a meeting with the Department of Defense (DOD). She said the DOD works with counties and municipalities that are adjacent to military facilities to do a Land Use Study that will lead to a Land Use Plan. She said they need to know by



# TOWN COUNCIL MINUTES

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March 1<sup>st</sup> if Kure Beach is on board with the study, and council will work with the DOD to say what we need to do to protect our people and property. She said they are talking more about blast zones when it comes to Kure Beach.

MPT Bloszinsky said the DOD realizes that the country needs MOTSU for the safety of our country and that they make demands on us that will probably need to be sustained, and the DOD is coming to the table with some funding to help us in areas of hardship created by the things we have to do for MOTSU.

### 2. Resolution R17-02, to Support the Development of a Joint Land Use Study for MOTSU and Surrounding Local Governments

MOTION – MPT Bloszinsky moved to adopt Resolution R17-02, to support the development of a Joint Land Use Study with Sunny Point and the Department of Defense, and the Council of Governments will take the lead position with in-kind or cash for our portion of the requirement and the communities that we support.

SECOND – Commissioner Heglar

VOTE – Unanimous

Said resolution is herein incorporated as part of these minutes.

### 3. Online Travel Companies and Room Occupancy Tax (ROT)

Attorney Canoutas apologized for not giving council a heads up about his request, but certain online travel companies have agreed with the county to report and remit ROT to the hotels used in their travel packages. He said that Kure Beach doesn't have any hotels of the type used by these companies, but agreeing to this would be a "good neighbor" gesture. He asked council for permission to allow him to enter into the resolution with the entities listed in the agreement.

MOTION – Commissioner Heglar moved to approve a Resolution Agreement, entered into by and between a list (spelled out in the agreement) of Online Travel Companies (OTCs), and New Hanover County and its cities and towns. The OTCs agree to report and remit occupancy tax payments to the retailers of travel accommodations used by the OTCs, to be further remitted to the county.

SECOND – Commissioner Whitley

VOTE – APPROVED FOUR TO ONE, as follows: Mayor Swearingen and Commissioners Heglar, Whitley and Dugan FOR; and MPT Bloszinsky AGAINST.

Said resolution agreement is herein incorporated as part of these minutes.

## MAYOR UPDATES

### 1. NCBIWA's Local Governments Meeting agenda items



# TOWN COUNCIL MINUTES

## REGULAR MEETING

February 21, 2017

Mayor Swearingen asked council to approve her travel to Raleigh for an NCBIWA breakfast on March 9<sup>th</sup> at a total estimated cost of \$325, which includes hotel accommodations on March 8<sup>th</sup>. She also asked council to approve her travel to Raleigh for Town Hall Day on March 29<sup>th</sup> at a total estimated cost of \$232.

MOTION – Commissioner Heglar moved to approve the following travel by Mayor Swearingen. 1) travel to NCBIWA Legislative Breakfast in Raleigh on 3/9/17 at an estimated cost of \$325; and 2) travel to Town Hall Day in Raleigh on 3/29/17 at an estimated cost of \$232; both to be expended from council's Travel and Training budget.

SECOND – MPT Bloszinsky

VOTE – Unanimous

## 2. Town Mission Statement

Mayor Swearingen showed council the mission statements for New Hanover County (NHC) and for the NHC Library system. She said they are both brief and succinct. She said she would like to talk to the finance officer about putting together a mission statement for the town during the budget planning session so that council has something by the end of June.

## COMMISSIONER ITEMS

MPT Bloszinsky said they met with the town's committee chairpersons to talk about the need for volunteers. He said that a table will be put out during the 70<sup>th</sup> Anniversary Celebration to try and recruit volunteers for the committees.

Mayor Swearingen gave information on the dates of the celebration and activities planned. She said that she might challenge her council members to a game of disc golf on Saturday.

## ADJOURNMENT

MOTION – Commissioner Heglar moved to adjourn.

SECOND – Commissioner Dugan

VOTE – Unanimous

The meeting adjourned at 8:20 p.m.

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Emilie Swearingen, Mayor

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ATTEST: Nancy Hewitt, CMC, NCCMC  
Deputy Clerk

NOTE: These are action minutes reflecting items considered and actions taken by Council. These minutes are not a transcript of the meeting.



# TOWN COUNCIL MINUTES

## **PUBLIC HEARING**

**March 10, 2017**

The Kure Beach Town Council held a Public Hearing on Friday, March 10, 2017 at 6:00 p.m. for the purpose of receiving public comments on the notice of intent to finance an amount not to exceed \$475,000 for the construction of a new pump station. Notice of the public hearing was posted at Town Hall and on the town's website February 23<sup>rd</sup> at 10:16 am, and was published as legally required by N.C.G.S. 160A-20 in the Star News newspaper on February 28, 2017. The Town Attorney was present and there was a quorum of council present.

## **COUNCIL MEMBERS PRESENT**

Mayor Emilie Swearingen, Mayor Pro Tem (MPT) Craig Bloszinsky, Commissioner David Heglar, Commissioner Joseph Whitley and Commissioner Jim Dugan

## **STAFF PRESENT**

Town Clerk – Nancy Avery

## **CALL TO ORDER**

Mayor Swearingen called the public hearing to order.

## **PUBLIC COMMENTS**

Ruthie Bloszinsky, 509 N. Fort Fisher Boulevard, stated she had no problem with the Town financing the project.

## **CLOSING OF PUBLIC HEARING**

MOTION – Commissioner Whitley made the motion to close the public hearing at 6:01 pm.

SECOND – Mayor Pro Tem Bloszinsky

VOTE - Unanimous

## **DISCUSSION AND CONSIDERATION**

Commissioner Heglar asked if we would take the difference in financing and the higher bid from cash. The Town Clerk stated that was correct.

## **SPECIAL MEETING TO AWARD CONTRACT**

MOTION – Commissioner Heglar moved to hold a special meeting on Wednesday, March 15<sup>th</sup> at 5:30 pm to award a contract for construction of the new pump station.

SECOND – Commissioner Dugan

VOTE – Unanimous



# TOWN COUNCIL MINUTES

**PUBLIC HEARING**

**March 10, 2017**

**ADJOURNMENT**

MOTION – Commissioner Heglar moved to adjourn the meeting at 6:09 p.m.

SECOND – Commissioner Whitley

VOTE – Unanimous

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Emilie Swearingen, Mayor

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ATTEST: Nancy Avery, Town Clerk

NOTE: These are action minutes reflecting items considered and actions taken by Council. These minutes are not a transcript of the meeting.

## CFDC MEETING MINUTES

### January 18, 2017

Call to order @ 10:36 by David Morrison

Good morning everyone and thanks for being here. We are now going to move right into the meeting since we all know each other. We will now have the approval of the December minutes that were sent out to you on Monday Via Email. John Edge made a motion to approve minutes. David Todd made a second. Minutes passed.

Our first report will be with Vanessa. The same things to report as last month, new shelters are going up, we did 5 and we are working on finishing up lighting. Two new constructions have started. There is a super stop going in in monkey junction. We have a couple of initiatives that are coming up. Our new website will launch this month. Wave connect will launch which is a way for anyone who wants to use our services can do so.

Questions or comments for Vanessa.

Outreach from David Todd. Nothing really to report. I am looking for people to bring in, if you have any ideas please bring them to me, I'd love to reach out. I am going to try and reach out to the owners of Bitty and Beaus to see if they can come in.

David M. Miracle league of Wilmington asked if I could send out some promotional materials for their 5k that will take place next month. They also asked if we would like to have a table at this event but, we will need a volunteer to man this table, I will be unable to do so because I will be running in the race. If anyone has any material that they would like to have at this table, please let me know.

David Todd: What's the date?

David M.: Saturday, 25<sup>th</sup> February @ 11, Miracles in Motion 5K

Vanessa: I would like to do a table, who do I contact?

David M. Contact Jennifer bell.

Vanessa: If I have a table I would be willing to share information about CFDC while I am there.

David m.: If you do have a table, I will pass along information that you can share at the event

Vanessa: IS there any Material

David: We have one brochure

David M: John do you have a city report?

Jonathan: We did receive yesterday three bids for the inland greens project, it will go to the council in February for approval. This is the park and the golf course at inland greens. The trail for the park side is already in. They are adding some boche courts. They are trying to make the trail for the golf course as accessible as they can by making a hard surface to go on. They are still looking for input so please pass it along to me.

I don't understand why Joey isn't here. I looked at our agreement and it goes through June.

John Edge: Reason for missing last month?

Jonathan Batts: He did not think that we were meeting in December

David M. Questions for Jonathan?

Vanessa: Do you have an update on the construction on Kerr Ave at the intersection of Cinema drive by DRC

Jonathan: that is NCDOT

Vanessa: that is a location that we would like to look at for a bus stop and we just need to know what is going on

Jonathan: I know that Chris Hawkins had trouble at Kerr Ave and Market, I reached out but again that is NCDOT

Vanessa: Thanks, if you have any information can you pass it along

David M: can you both keep me in the loop? Does anyone have any old business that they want to bring forward?

Vanessa: What about the community relations commission and their desire to have members from this organization?

David M: they have established their membership but I don't know if they have met yet. They have chartered themselves and are moving forward. It has been difficult to get information because I am an outsider looking in, so I can't see their progress. As far as I know though, these are public meetings and we should be receiving more information soon

David M: New Business?

John Edge: I saw you in the paper David M., and that you are helping people start non-profits.

David M. I work at the CIE and it is open to the public to come and get information on how to get one started

John Batts: I need to come see you, "haha".

David M.: Any other announcements

John Edge: March 4<sup>th</sup> Saturday, and to continue for 8 weeks the Miracle league will begin out at Olsen Park. They have a game at 10, 11, 12, 1. It is non-competitive baseball and for anyone that would like to come and join you are welcome

Johnathan Batts: Saturday February 11. 5k @9. Polar Plunge Kure beach. I would love for Jennifer to have a table at this event.



David Schultz: I know that David and John have been to our community appreciation night in the past. We will be having an opportunity for people to come and celebrate and this will be in Jacksonville @ the coastal community college January 27<sup>th</sup> 5-7 PM.

David M. Anything else, if not, is there a motion to Adjourn?

John Batts: Joey just called and said that he moved his calendar over and got his Wednesdays mixed up. He is feeling bad about it and said that he would do what he could to make it up.

David Todd: he can provide our next meeting free or refreshments.

John Edge: Sorry for not having the interpreter here.



# MEMO

To: Members of Town Council  
From: John Batson  
CC: Nancy Avery  
Date: March 21, 2017  
Re: Request for approval to amend ordinance regarding Development Line

Approval requested for amendments to Chapter 5 *Buildings and Building Regulations*  
Article II *Administration* Division 4 *Permits* as follows:

## Sec. 5-61

- Add item 5-61(1) to provide two definitions; one for Development and one for Development Line
- Amend first paragraph to be titled 5-61(2), with changes
- Amend first sentence in second paragraph to be titled 5-61(3) with change
- Amend second sentence in second paragraph to be titled 5-61(4), with changes
- Amend third sentence in second paragraph to be titled 56-1(5) with change
- Add item 5-61(6)

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John Batson  
Building/Code Enforcement Officer



## CURRENT ORDINANCE

### Chapter 5 *Buildings and Building Regulations*, Article II *Administration*, Division 4 *Permits*

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Sec. 5-61. - Prerequisite to construction, demolition, remodeling and impervious surfaces, etc.

Except as provided in section 5-62, no building, building repairs, remodeling, installation, driveway, parking lot, or other ground covering impervious surface, other construction or demolition shall begin in the town until a permit has been obtained from the building inspector.

No permit shall be issued if the total square footage of the buildings and impervious ground covering surface will exceed sixty-five (65) per cent of the lot; excepting there from, those structures located in the B-1 District or deemed commercial and the established fire district of the town. Any commercial construction requiring review by the New Hanover County Inspections Department pertaining to mechanical, electrical, plumbing or fire permits must be obtained prior to a building permit issued by the Kure Beach Building Inspector. Any type impervious surface across the town right-of-way shall be limited to twenty-four (24) feet wide total.

(Code 1973, § 6-17; Ord. of 12-17-91; Ord. of 4-10-96; Ord. of 6-19-01; Ord. of 5-15-07)

**State Law reference**— Permits, G.S. § 160A-417.



## PROPOSED NEW ORDINANCE

That the following Section of Chapter 5 *Buildings and Building Regulations*, Article II *Administration*, Division 4 *Permits* is hereby amended as follows:

**Sec. 5-61. Prerequisite to construction, ~~impervious surfaces, etc.~~ repair, replacement, demolition, remodeling, and development.**

(1) Definitions.

*Development*: Any activity within a duly designated area of environmental concern, as defined in 15A NCAC 7H, involving, requiring, or consisting of: the construction, repair, or replacement of structures, decks, swimming pools, and walkways; the excavation, dredging, filling, dumping, or removal of clay, silt, sand, gravel, or minerals; the bulkheading, driving of pilings, and clearing or installing land as an adjunct of any such construction, repair, or replacement; and the alteration or removal of sand dunes, the shore, bank, or the bottom of the Atlantic Ocean or any bay, sound, river, creek, stream, lake, or canal.

*Development Line*: The line established by the Town in accordance with 15A NCAC 07J.1300 representing the seaward-most allowable location of oceanfront development whereby the vegetation line or measurement line shall be used as the reference point for measuring oceanfront setbacks instead of the static vegetation line subject to the provisions of 15A NCAC 07H.0306(a)(2); “vegetation line,” “measurement line,” and “static vegetation line” being defined under 15A NCAC 07H.0305

(2) Except as provided in Section 5-62, no building construction, building repairs, replacement, or building remodeling; installation of driveways, parking lots, or other ground covering impervious surfaces, other construction, development, or demolition shall begin in the Town until a permit has been obtained from the Building Inspector. This section shall be applicable to all development on or abutting ocean beaches within the Town.

(3) No permit shall be issued if the total square footage of the buildings and impervious ground covering surface will exceed sixty-five (65) per cent of the lot; excepting therefrom, those structures located in the B-1 District or deemed commercial and within the established fire district of the Town.

(4) Any commercial construction requiring review by the New Hanover County Inspections Building Safety Department pertaining to mechanical, electrical, plumbing, or fire permits must shall be obtained prior to in conjunction with a building permit being issued by the Town’s Building Inspector.

(5) Any type of impervious surface across ~~the~~ any Town right-of-way shall be limited to twenty-four (24) feet total.

(6) No development shall occur seaward of the Town's Development Line except as allowed under 15A NCAC 07H.0309.

Ordinance adopted by Kure Beach Town Council on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Emilie Swearingen, Mayor

ATTEST: \_\_\_\_\_  
Nancy Hewitt, CMC, NCCMC  
Deputy Clerk



## NEW ORDINANCE

That the following Section of Chapter 5 *Buildings and Building Regulations*, Article II *Administration*, Division 4 *Permits* is hereby amended as follows:

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*Development Line:* The line established by the Town in accordance with 15A NCAC 07J.1300 representing the seaward-most allowable location of oceanfront development whereby the vegetation line or measurement line shall be used as the reference point for measuring oceanfront setbacks instead of the static vegetation line subject to the provisions of 15A NCAC 07H.0306(a)(2); “vegetation line,” “measurement line,” and “static vegetation line” being defined under 15A NCAC 07H.0305

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(6) No development shall occur seaward of the Town's Development Line except as allowed under 15A NCAC 07H.0309.


Ordinance adopted by Kure Beach Town Council on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Emilie Swearingen, Mayor

ATTEST: \_\_\_\_\_  
Nancy Hewitt, CMC, NCCMC  
Deputy Clerk



# MEMO

TO: Town Council  
FROM: Nancy Avery, Town Clerk   
RE: Agenda item 2, Old Business, approve CAMA contract E Avenue access  
DATE: March 15, 2017

## *Background*

Last year, Council authorized the submittal of a CAMA grant application to pave the parking lot and install solar lighting on the beach crossover at the E Avenue access. Estimated cost to town was \$13,457 with \$2,200 of that in-kind and \$11,257 cash match.

The Town was awarded the grant and received the contract from CAMA for approval. The contract is not effective until April 1, 2017.

After discussion with both the Building Inspector, the Public Works Director and the SLABPP committee, it was decided that it is too close to the busy tourist season to attempt to do this work, so it will be delayed until late September or October of this year.

## *Action requested by staff*

1. *Vote to approve CAMA contract # 7136 in the amount of \$53,827 for paving of the parking area and installation of solar lighting on the beach crossover at the E Avenue access with work to be occur in the fall of 2017.*
2. *Vote to authorize the Finance Officer to include a cash match of \$11,257 in the Proposed FY17-18 budget.*

## *Funding required*

*If Council approves the contract, the Town's cash match must be included in the proposed FY17-18 budget. No funds were budgeted in the current year's budget for this grant.*

## *Comments for consideration*

*The Town also submitted a CAMA grant application for the same work at the I Avenue beach access, but has not received the contract. The Town's cash match on this grant will be \$14,121 and will also need to be included in the proposed FY17-18 budget.*





ROY COOPER  
*Governor*

MICHAEL S. REGAN  
*Secretary*

February 1, 2017

Ms. Nancy Avery  
Town of Kure Beach  
117 Settlers Lane  
Kure Beach, NC 28499

Dear Ms. Avery:

Enclosed is a copy of Contract No. 7136 between the North Carolina Department of Environmental Quality and the **Town of Kure Beach** for the Division of Coastal Management Grant Project – **North Carolina Public Beach and Coastal Waterfront Access Program – Kure Beach - E Avenue Beach Access Improvements**.

Recent legislation requires each vendor/grantee/contractor, prior to contracting with the State, to complete a Certification of Eligibility under the Iran Divestment Act. This certification has been included in Grant Contract No. 7136 as Attachment D. Please have an *authorized official* complete and sign this Certification.

Please verify the information in clause number eight (8) of the agreement. If the information regarding the Grantee's Fiscal Year is incorrect, please correct and initial the correction.

Please have an authorized representative sign the enclosed document in **BLUE INK** (an original signature is required) and return document via e-mail for execution by the Department.

Please be advised that no work can be performed under this contract until both the **Grantee and Department** have executed the contract. *Failure to return the documents within fifteen (15) days, for execution by the Department may result in the Department's withdrawal of the offered contract.* Should you have any questions, please contact Purchasing Agent Marjorie Barber at (919) 707-8539.

Sincerely,

A handwritten signature in blue ink that reads 'Tommy Kirby'.

Tommy Kirby  
Purchasing Director  
Financial Services Division  
Purchase and Contract Section

Enclosures

cc: Mike Christenbury, DEQ Division of Coastal Management

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

GRANTEE'S FEDERAL  
IDENTIFICATION  
NUMBER: \*\*2681

This contract (the "Grant Contract") is hereby made and entered into this **1<sup>st</sup> DAY OF APRIL, 2017** by and between the **NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY** (the "Agency") and the **TOWN OF KURE BEACH**, (hereinafter referred to as the "Grantee" or "Recipient") (collectively, the "Parties").

**1. Contract Documents:** This Grant Contract consists of the following documents:

- (1) This document
- (2) General Terms and Conditions (Attachment A)
- (3) Grantee's Response to Agency's RFP, including line item budget and budget narrative and *if applicable*, indirect cost documentation (Attachment B)
- (4) Notice of Certain Reporting and Audit Requirements (Attachment C)
- (5) Certification of Eligibility Under the Iran Divestment Act (Attachment D)

The following documents along with the **Governor's grant award letter**, are on file and available for review at North Carolina Division of Coastal Management's (DCM) main office in Morehead City, located at 400 Commerce Avenue. The contact phone number is (252) 808-2808.

1. North Carolina Public Beach and Coastal Waterfront Access Fund 2016-17 Cycle Grant Pre-application RFP packet.
2. Kure Beach 2016-17 Pre-application submission: Kure Beach - Handicapped Improvements to Beach Access – E Avenue.
3. North Carolina Public Beach and Coastal Waterfront Access Fund 2016-17 Cycle Grant Final Application RFP packet.
4. Kure Beach 2016-17 Final Application submission: Kure Beach - Handicapped Improvements to Beach Access – E Avenue.

These documents (collectively, the "Contract Documents") constitute the entire agreement between the Parties and supersede all prior oral or written statements or agreements. The Parties may agree to amend the Grant Contract in accordance with the General Terms and Conditions (Attachment A).

- 2. Precedence Among Contract Documents:** In the event of a conflict between terms of the Contract Documents, the term in the Contract Document with the highest relative precedence prevails. The order of precedence is established by the order of documents in Paragraph 1, above, with the first-listed document having the highest precedence and the last-listed document having the lowest precedence. If there are multiple contract amendments, the most recent amendment has the highest precedence and the oldest amendment has the lowest precedence.
- 3. Contract Period:** This Grant Contract shall be effective on **April 1, 2017** and shall terminate on **September 30, 2018**.
- 4. Project Period:** The Grantee shall begin the project on **April 1, 2017**. The Grantee shall undertake and complete the project in a sequence that assures expeditious completion in light of the purposes of this agreement. Grantee shall complete the project on **September 30, 2018**.
- 5. Grantee's Duties:** The Grantee shall complete the project as described in Attachment B, **North Carolina Public Beach and Coastal Waterfront Access Program – Kure Beach - E Avenue Beach Access Improvements** and in accordance with the approved budget in Attachment B.

6. **Agency's Duties:** The Agency shall pay the Grantee in the manner and in the amounts specified in the Contract Documents.

The total amount paid by the Agency to the Grantee under this Grant Contract shall not exceed **FORTY THOUSAND THREE HUNDRED SEVENTY DOLLARS (\$40,370.00)**.

This amount consists of:

Type of Funds	Funding Source	CFDA No.
Receipts	CAMA - PARTF Funds	N/A

Accounting Code Information:

Dollars	GL Company	GL Account	GL Center
\$40,370.00	1612	536993	25005C11

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

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

- c. The Grantee's matching requirement is **\$13,457.00**, which shall consist of:

X	In-Kind	\$2,200.00
X	Cash	\$11,257.00
	Cash and In-Kind	\$
	Other / Specify:	\$

- d. The Grantee has committed to an additional \$ to complete the project as described in Attachment B.

The Grantee warrants contributions from the Grantee shall be sourced from non-federal funds.

The total contract amount is **\$53,827.00**.

**7. Reversion of Unexpended Funds:** Any unexpended grant funds shall revert to the Agency upon termination of this Grant Contract.

8. **Grantee's Fiscal Year:** The Grantee's Fiscal Year is from July 1, 2016 to June 30, 2017.

**9. Payment Provisions:**

The Agency shall reimburse the Grantee for actual allowable expenditures with the Agency retaining a minimum of ten percent (10%) of the Agency's funds until all required activities are completed and reports/deliverables are received and accepted by the Agency. Allowable expenditures are defined as expenditures associated with work performed to meet the milestones for a specific reporting period. The Agency may withhold payment on invoices when the Grantee fails to accomplish the milestones stated in Attachment B.

10. **Invoices:** The Grantee shall submit invoices to the Agency Contract Administrator at least quarterly. The final invoice must be received by the Agency within forty-five (45) days following the end of the contract period.

Amended or corrected invoices must be received by the Agency's Office of the Controller within six (6) months following the end of the contract period. The Agency will not pay any invoice received more than six (6) months after the end of the effective period.

11. **Contract Administrators:** All notices permitted or required to be given by one party to the other, and all other questions about the Grant Contract shall be addressed and delivered to the Parties' Contract Administrator. The name, post office address, street address, telephone number, fax number, and email address of the Parties' initial Contract Administrators are set out below. Either Party may change the name, post office address, street address, telephone number, fax number, or email address of its Contract Administrator or Principal Investigator or Key Personnel by giving timely written notice to the other Party.

Any changes in the scope of this agreement which increase or decrease the Grantee's compensation are not effective until approved in writing by the Agency's Head or Authorized Agent.

<b>Agency Contract Administrator:</b>
Mike Christenbury Division of Coastal Management 127 Cardinal Drive Ext. Wilmington, NC 28405 Telephone: (910) 796-7426 Email: <a href="mailto:mike.christenbury@ncdenr.gov">mike.christenbury@ncdenr.gov</a>

<b>Grantee Contract Administrator:</b>	<b>Grantee Principal Investigator or Key Personnel</b>
Nancy Avery, Town Clerk Town of Kure Beach 117 Settlers Lane Kure Beach, NC 28499 Telephone: (910) 458-8216 Fax: (910) 458-7421 Email: <a href="mailto:townclerk@townofkurebeach.org">townclerk@townofkurebeach.org</a>	Nancy Avery, Town Clerk Town of Kure Beach 117 Settlers Lane Kure Beach, NC 28499 Telephone: (910) 458-8216 Fax: (910) 458-7421 Email: <a href="mailto:townclerk@townofkurebeach.org">townclerk@townofkurebeach.org</a>

12. **Grantee Principal Investigator or Key Personnel:** The Grantee shall not substitute the Principal Investigator or Key Personnel assigned to the performance of this Grant Contract without prior written approval by the Agency Contract Administrator.

13. **Supplantation of Expenditure of Public Funds:**  
The Grantee assures that funds received pursuant to this Grant Contract shall be used only to supplement, not to supplant, the total amount of Federal, State and local public funds that the Grantee otherwise expends for **North Carolina Public Beach and Coastal Waterfront Access** services and related programs. Funds received under this Grant Contract shall be used to provide additional public funding for such services; the funds shall not be used to reduce the Grantee's total expenditure of other public funds for such services.

14. **Grantee's Disbursements:** As a condition of this Grant Contract, Grantee acknowledges and agrees to make disbursements in accordance with the following requirements:
- a. Implement adequate internal controls over disbursements;
  - b. Pre-audit all vouchers presented for payment to determine:
    - Validity and accuracy of payment
    - Payment due date
    - Adequacy of documentation supporting payment
    - Legality of disbursement
  - c. Assure adequate control of signature stamps/plates;
  - d. Assure adequate control of negotiable instruments; and
  - e. Implement procedures to ensure that account balance is solvent and reconcile the account monthly.
15. **Outsourcing:** The Grantee certifies that it has identified to the Agency all jobs related to the Grant Contract that have been outsourced to other countries, if any. Grantee further agrees that it will not outsource any such jobs during the term of this Grant Contract without providing notice to the Agency and obtaining written approval from the Agency Contract Administrator prior to outsourcing.
16. **E-Verify:** As required by G.S. §143-48.5 (Session Law 2013-418), the Grantee certifies that it, and each of its subcontractors for any contract awarded as a result of this solicitation, complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, including the requirement for each employer, with more than 25 employees in North Carolina, to verify the work authorization of its employees through the federal E-Verify system.
17. **Confidentiality:** Each party shall be solely responsible for properly identifying any document(s) containing "CONFIDENTIAL" information. Anything that qualifies as a "TRADE SECRET" under State law must be designated as "CONFIDENTIAL". All "CONFIDENTIAL" documents shall be properly identified by conspicuously marking it "CONFIDENTIAL" at the top and bottom of each page. Any document(s) not properly identified as CONFIDENTIAL, prior to its release to the Agency, may be deemed a public record.
18. **Records Retention:** Records created or kept in connection with this Grant Contract shall be maintained in accordance with the applicable retention policies of the Agency, and shall not be destroyed, purged or disposed of without the express written consent of the Agency. If any litigation, claim, negotiation, audit, disallowance action, or other action involving this Grant Contract is initiated prior to expiration of the applicable retention period, the records must be retained until completion of the action and resolution of all issues arising therefrom, or until the end of the applicable retention period, whichever is later
19. **Assurances For Non-Federally Funded Contracts:** The GRANTEE certifies that with regard to:
1. **Debarment And Suspension** - To the best of its knowledge and belief that it and its principals:
    - (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State, or local government agency;
    - (b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

- (d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
2. **Lobbying** - To the best of his or her knowledge and belief, that:
- (a) No Federal, State or local government appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal, State or local government agency; a member of Congress, North Carolina's General Assembly or local government body; an officer or employee of Congress, North Carolina's General Assembly or local government body, or an employee of a member of Congress, North Carolina's General Assembly or local government body, in connection with the awarding of any Federal, State or local government contract, the making of any Federal, State or local government grant, the making of any Federal, State or local government loan, the entering into of any Federal, State or local government cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal, State or local government contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal, State or local government appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency; a member of Congress, North Carolina's General Assembly or local government body; an officer or employee of Congress, North Carolina's General Assembly or local government body; or an employee of a member of Congress, North Carolina's General Assembly or local government body in connection with the Federal, State or local government contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
3. **Drug-Free Work Place Requirements** - It will comply by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing a drug-free awareness program to inform employees about -
- (1) The dangers of drug abuse in the workplace;
  - (2) The grantee's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a) above;
- (d) Notifying the employee in the statement required by paragraph (a), above, that, as a condition of employment under the grant, the employee will -
- (1) Abide by the terms of the statement; and
  - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- (e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2), above, from an employee or otherwise receiving actual notice of such conviction;
- (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), above with respect to any employee who is so convicted -
- (1) Taking appropriate personnel action against such an employee, up to and including termination; or

- (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f), above.
- 4. Will comply with the provisions of the Equal Employment Practices Act set out in Article 49A of Chapter 143 of the North Carolina General Statutes.
- 5. Will comply, as applicable, with the provisions of the Wage and Hour Act, Occupational Safety and Health Act of North Carolina, Controlled Substance Examination Regulation, Retaliatory Employment Discrimination, Safety and Health Programs and Committees, Workplace Violence Prevention, and other applicable provisions of Chapter 95 of the North Carolina General Statutes regarding labor standards.
- 6. Will comply with all applicable requirements of all other Federal, State and local government laws, executive orders, regulations and policies governing this program.

**20. Signature Warranty:**

The undersigned represent and warrant that they are authorized to bind their principals to the terms of this Grant Contract.

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

IN WITNESS WHEREOF, the Grantee and the Agency execute this Grant Contract in two (2) originals, one (1) of which is retained by the Grantee and one (1) of which is retained by the Agency, the day and year first above written.

**TOWN OF KURE BEACH**

**NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY**

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

By \_\_\_\_\_  
Department Head's Signature or Authorized Agent

\_\_\_\_\_  
Typed / Printed Name

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

\_\_\_\_\_  
Title

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

**ORIGINAL**

**General Terms and Conditions  
Governmental Entities**

**DEFINITIONS**

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

- (1) "Agency" (as used in the context of the definitions below) means and includes every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political sub-agency of government. For other purposes in this Contract, "Agency" means the entity identified as one of the parties hereto.
- (2) "Audit" means an examination of records or financial accounts to verify their accuracy.
- (3) "Certification of Compliance" means a report provided by the Agency to the Office of the State Auditor that states that the Grantee has met the reporting requirements established by this Subchapter and included a statement of certification by the Agency and copies of the submitted grantee reporting package.
- (4) "Compliance Supplement" refers to the North Carolina State Compliance Supplement, maintained by the State and Local Government Finance Agency within the North Carolina Department of State Treasurer that has been developed in cooperation with agencies to assist the local auditor in identifying program compliance requirements and audit procedures for testing those requirements.
- (5) "Contract" means a legal instrument that is used to reflect a relationship between the agency, grantee, and sub-grantee.
- (6) "Fiscal Year" means the annual operating year of the non-State entity.
- (7) "Financial Assistance" means assistance that non-State entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance. Financial assistance does not include amounts received as reimbursement for services rendered to individuals for Medicare and Medicaid patient services.
- (8) "Financial Statement" means a report providing financial statistics relative to a given part of an organization's operations or status.
- (9) "Grant" means financial assistance provided by an agency, grantee, or sub-grantee to carry out activities whereby the grantor anticipates no programmatic involvement with the grantee or sub-grantee during the performance of the grant.
- (10) "Grantee" has the meaning in G.S. 143C-6-23(a)(2): a non-State entity that receives a grant of State funds from a State agency, department, or institution but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.
- (11) "Grantor" means an entity that provides resources, generally financial, to another entity in order to achieve a specified goal or objective.
- (12) "Non-State Entity" has the meaning in N.C.G.S. 143C-1-1(d)(18): A firm, corporation, partnership, association, county, unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution.
- (13) "Public Authority" has the meaning in N.C.G.S. 159-7(10): A municipal corporation that is not a unit of local government or a local governmental authority, board, commission, council, or agency that (i) is not a municipal corporation, (ii) is not subject of the State Budget Act, and (iii) operates on an area, regional, or multiunit basis, and the budgeting and accounting systems of which are not fully a part of the budgeting and accounting systems of a unit of local government.
- (14) "Single Audit" means an audit that includes an examination of an organization's financial statements, internal controls, and compliance with the requirements of Federal or State awards.
- (15) "Special Appropriation" means a legislative act authorizing the expenditure of a designated amount of public funds for a specific purpose.
- (16) "State Funds" means any funds appropriated by the North Carolina General Assembly or collected by the State of North Carolina. State funds include federal financial assistance received by the State and transferred or disbursed to non-State entities. Both Federal and State funds maintain their identity as they are sub-granted to other organizations. Pursuant to N.C.G.S. 143C-6-23(a)(1), the terms "State grant funds" and "State grants" do not include any payment made by the Medicaid program, the Teachers' and State Employees' Comprehensive Major Medical Plan, or other similar medical programs.
- (17) "Sub-grantee" has the meaning in G.S. 143C-6-23(a)(4): a non-State entity that receives a grant of State funds from a grantee or from another sub-grantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.



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

#### Relationships of the Parties

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

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

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

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

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

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

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

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

#### Indemnity

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

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

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

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

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

#### **Default and Termination**

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

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

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

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

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

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

#### **Intellectual Property Rights**

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

#### **Compliance with Applicable Laws**

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

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

#### **Confidentiality**

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

#### **Oversight**

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

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

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

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

#### Miscellaneous

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

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

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

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

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

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

Ownership of equipment purchased under this contract rests with the Agency. Upon approval of the Agency Contract Administrator, such equipment may be retained by the Grantee for the time the Grantee continues to provide services begun under this contract.

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

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

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

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

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

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

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

**By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32:** It is unlawful for any vendor or contractor ( i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Natural and Cultural Resources, Environmental Quality, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

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

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

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



PUBLIC BEACH AND  
COASTAL WATERFRONT  
ACCESS PROGRAM

NC COASTAL MANAGEMENT PROGRAM

## Kure Beach – E Avenue Beach Access Improvements 2016-17

### North Carolina Public Beach and Coastal Waterfront Access Program

**Site Location/ Address:** At the eastern end of E Avenue ending at the Atlantic Ocean in Kure Beach, New Hanover County.

**Local Government:** Town of Kure Beach

**Federal ID #:** [REDACTED]

**Local Administrator of this Project:**

Nancy Avery, Town Clerk  
Town of Kure Beach  
117 Settlers Lane  
Kure Beach, NC 28499

**Project Description:**

Upgrade the existing parking and beach access area, and install viewing platform solar lighting to enhance handicapped beach experience.

**Site Description:**

Located within the public right-of-way at the eastern end of E Avenue in Kure Beach.

Phone: (910) 458-8216

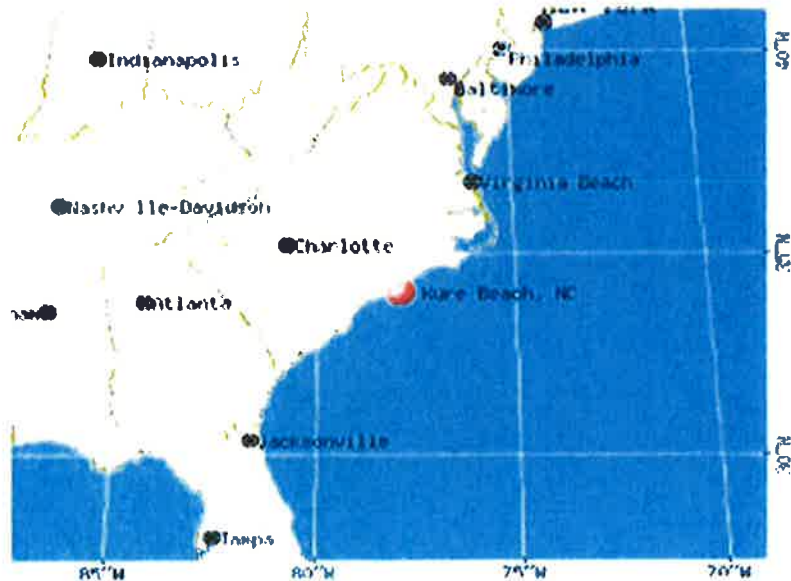
Fax: (910) 458-7421

Email: [townclerk@townofkurebeach.org](mailto:townclerk@townofkurebeach.org)

### A. REGIONAL LOCATION MAP

#### Attachment A

### Location Map for Kure Beach, North Carolina







**D. OTHER REQUIREMENTS, GUIDANCE AND CONDITIONS:**

1. Costs ineligible for grant award reimbursement or local match, unless specifically included in project description:
  - a. Environmental Assessments other than preliminary work associated with site planning and wetland delineation.
  - b. Remediation Plans associated with contaminated sites. However, some costs of actual remediation or clean up may be eligible for non-cash in-kind match.
  
2. Other state and federal requirements:
  - a. All utility lines funded with a grant award must be placed underground unless otherwise agreed to within the contract.
  - b. All facilities funded with a grant award must comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Prior to closing out a project and receiving final payment of grant funds, the local building official will be required to provide a letter certifying compliance.
  
3. Project signage, retention of use, and operation and maintenance:
  - a. The community is required to install CAMA public access signs at the project site(s). The State will provide these signs at no cost to the community.
  - b. Any future improvements, modifications, or changes to the project site are required to be subject to full review and approval by DEQ/DCM. This can include any changes that require permits or any modifications (reductions or additions) to recreational amenities. Unapproved changes to the project site may be or can be the cause for DEQ to seek repayment of previously granted funds for site acquisition and improvements.
  - c. The community is required to allow the inspection of property and facilities acquired or in development pursuant to the grant award by DEQ/DCM to ensure work progress is in accordance with the grant award, including a final inspection upon project completion.
  - d. Development plans and specifications are required to be available for review by DEQ/DCM upon request. All significant deviations from the project proposal outlined in the grant award will be required to be submitted to DEQ/DCM for prior approval.
  - e. The acquisition cost or fair market value of real property, including interest in donated lands, is required to be based upon the appraisal of a licensed appraiser. The reports are required to be provided for review and acceptance by DEQ/DCM. Grant funds dispersed for acquisition cannot exceed the fair market value of the real property associated with the award.
  - f. Any tract or parcel of, or interest in, real property subject to being purchased under the provisions of the grant award that is determined by DEQ/DCM for any reason not to be suitable can be the basis for all obligations of the State to cease with regard to the property associated with the award.
  - g. Retention of Use: Any property acquired or developed with grant assistance is required to be retained and used for public access. The community is required to agree to transfer title to any real property acquired with the grant funds to DEQ if the local government uses the property for a purpose other than public access; or the local government shall reimburse the State with an equal percentage of access grant funds, at current market value.
  - h. Operation and Maintenance: The community is required to agree to operate and maintain solely at its own expense, insofar as it is legally empowered to do so, for as long as they exist, the facilities and areas covered by the grant award contract. Acquired or developed property is required to be operated and maintained as follows:



1. The property must be maintained in such a manner that DEQ/DCM finds it to appear attractive and inviting to the public.
  2. Sanitation must be kept at reasonable standards for public use. Fire protection and other similar services must be maintained in accordance with applicable state and local public health standards.
  3. Properties must be kept reasonably safe for public use. The community will determine the level of maintenance and supervision necessary to maintain the facility in a safe condition.
  4. Buildings, roads, and other structures and improvements must be kept in reasonable repair throughout their estimated lifetime, so as to prevent undue deterioration and not to discourage public use.
  5. Buildings, roads, and other structures and improvements must be kept open for public use at reasonable hours and times of the year, according to the type of area or facility.
  6. Reasonable user fees may be assessed, as long as those fees are used exclusively for the operation and maintenance of the access facility and/or other public access facilities within the local jurisdiction. Local governments shall provide biannual accounting reports for fees generated by CAMA-funded access sites. Accounting reports may be included in Biannual LUP Implementation Status Reports required under 15A NCAC 7L.0511.
- i. Reasonable Use Limitations: The use of property acquired or developed with grant assistance may not be changed from that proposed and approved in the grant award, unless approval is obtained from DEQ/DCM. The community may impose reasonable limits on the type and extent of use of areas and facilities acquired or developed with grant assistance when such a limitation is necessary for maintenance or preservation. All limitations will be required to be in accord with the applicable grant contract.
  - j. Use of Proceeds of Sales of assisted areas and facilities: The proceeds of sale of assisted areas and facilities will be required to be held by DEQ/DCM or community and be disposed of only in accordance with a plan approved by DEQ/DCM.
4. Notice of Limitations of Use and Restrictions: The community and/or owner of the real property acquired or improved with grant funds awarded is required to file in the office of the local Register of Deeds a Notice of Limitation of Use and Restrictions that sets forth the land-use restrictions outlined in the grant award contract and to provide a copy to DEQ/DCM.
  5. Acquisition and Development of the Site: Following acquisition, the Grantee has five years to begin developing facilities that ensure the site is useable for public access. Prior to closeout, a 'Plan for Future Development' must be provided which describes how the public will be able to use the site for public access until facilities are provided. A conceptual site plan showing proposed facilities and a timeline for development. Failure to ensure the property is accessible for public access after five years will be the basis for meeting Section D. Condition 3 (g).

**Local Government: Kure Beach**  
**Project: E Avenue Beach Access Improvements**

**E. BUDGET SUMMARY**

	<b>Grant Assistance Requested</b>	<b>Local Cash Contribution</b>	<b>Local In-Kind Contribution</b>	<b>TOTAL</b>
<b>Land Acquisition Costs</b>				
	\$	\$	\$	\$
<b>Subtotal</b>	\$	\$	\$	\$
<b>Permit and Design Fees:</b>				
<b>Engineering Fee</b>	\$	\$ 2,500.	\$	\$ 2,500.
<b>CAMA Permit Fees</b>		\$ 800.		\$ 800.
<b>Subtotal</b>	\$	\$ 3,300.	\$	\$ 3,300.
<b>Site Improvement Costs:</b>				
<b>Materials</b>				
<b>Paving</b>	\$ 27,587.	\$ 323.	\$	\$ 27,910.
<b>Solar Lighting</b>	\$ 4,483.	\$ 1,634.		\$ 6,117.
<b>Subtotal</b>	\$ 32,070.	\$ 1,957.	\$	\$ 34,027.
<b>Labor</b>				
<b>Paving</b>	\$ 6,000.	\$ 6,000.	\$	\$ 12,000.
<b>Solar Lighting</b>	\$ 2,300.	\$		\$ 2,300.
<b>Subtotal</b>	\$ 8,300.	\$ 6,000.	\$	\$ 14,300.
<b>Local Administrative Costs:</b>				
<b>In-kind</b>				
<b>Project Administration</b>	\$	\$	\$ 2,200.	\$ 2,200.
<b>Subtotal</b>	\$	\$	\$ 2,200.	\$ 2,200.
<b>TOTAL BUDGET</b>	<b>\$40,370.</b>	<b>\$11,257.</b>	<b>\$ 2,200.</b>	<b>\$53,827.</b>

Below is the Project Timeline for improvements under the grant award. Progress monitoring will occur at 6-month intervals for the duration of the 18-month contract. Adjustments to the timeline will require approval by the Contract Administrator.

**F. PROJECT SCHEDULE & ACTIVITIES CHART**

This chart illustrates grant and local cash match amounts tied to deliverables per project period. Local funds must be spent before drawing down grant funds. Non-cash match is not illustrated or represented in this chart. However, non-cash match documentation must still be reported at the time of project closeout.

**PROJECT SCHEDULE & ACTIVITIES CHART**

Grant: \$40,370.

Cash Match: \$11,257.  
Non-cash Match: \$2,200.

Total: \$53,827/

**PROJECT SCHEDULE AND ACTIVITIES CHART**

<p>% of total work to be completed <u>15</u> %</p> <p>Grant funds to be spent \$</p> <p>Local funds to be spent \$ 3,300.</p>	<p>Period 1 Dec 2016 – Feb 2017</p> <ul style="list-style-type: none"> <li>• Return Contract</li> <li>• Obtain CAMA permits</li> <li>• Engineering drawings submitted to vendors</li> <li>• Land Preparation</li> </ul>
<p>% of total work to be completed <u>75</u> %</p> <p>Grant funds to be spent \$36,333.</p> <p>Local funds to be spent \$ 7,957</p>	<p>Period 2 Mar 2017 – May 2017</p> <ul style="list-style-type: none"> <li>• Pave &amp; stripe Avenue E; install block on CAMA set back</li> <li>• Install solar lighting at access ramp and viewing platform</li> <li>• Landscape area as necessary</li> <li>•</li> </ul>
<p>% of total work to be completed <u>10</u> %*</p> <p>Grant funds to be spent \$ 4,037</p> <p>Local funds to be spent \$ -0-</p>	<p>Period 3 Jun 2017 – Jul 2017</p> <ul style="list-style-type: none"> <li>• Final Inspection</li> <li>• Submit Close-Out Packet</li> <li>•</li> <li>•</li> </ul>

\* The final reporting period shall include a holdback of 10% of the total grant award, which is retained until a closeout packet is received by the District Planner/Contract Administrator.

**G. PROJECT/CONSTRUCTION/PROCESSES/REPORTING BY THE APPLICANT**

1. The project will be required to be completed consistent with 15A NCAC 7M SECTION .0303 are all deliverables outlined in the "Project Schedule and Activities Chart".
2. The DEQ/DCM will withhold the initial payment of grant funds until the community has documented expenditure of the local cash match sum. The in-kind services match is to be documented by the community and delivered to DCM with contract closeout materials.
3. Consistent with the "Project Schedule & Activities Chart", the community will be required to submit reports as to the status and progress of the project. The local District Planner (Contract Administrator) will provide the periodic and final closeout report form templates.
4. Grant funds will not be disbursed until a Title Opinion for the site has been submitted to and approved by the local District Planner/Contract Administrator.
5. No construction credited towards the grant is to occur prior to the receipt of all required local, state, and federal permits. Coordination with permitting agency personnel will be required to assure the least amount of impact on coastal resources.
6. If the community subcontracts with a company engaged in another project(s) for the locality, all accounting and reporting specific to the project associated with the grant award will be required to be wholly separate from that of the other project(s).

**Reimbursement of project cost:**

7. Actual payments of the award will be based on the local District Planner/Contract Administrator's approval of a monitoring report. Final requisitions and invoices for payment will be required to be received by DCM within 30 days after the end of the grant contract period. Upon approval of the closeout packet, the State will release the final 10% as provided for in the contract.
8. The community is required to maintain and make available to DEQ/DCM upon request all bid documents and accurate records of all expenditures for costs applicable to the grant award, and to submit properly certified billings for such costs on forms as may be prescribed by DEQ/DCM. The community will need to keep complete accounting records, including original invoices, payrolls, contracts, or other documents clearly showing the nature and property of all costs incurred under the grant award for a period of five years following project completion, or until an audit has been completed, whichever is later. All accounting records and supporting documents must clearly display the project's contract number assigned by the State.
9. Community will be required to agree to refund to DEQ/DCM, subsequent to an audit of the project financial records by DEQ/DCM, any funds not expended in compliance with the grant contract.
10. **Cash and Non-Cash In-kind Contributions (General):** Cash and in-kind contributions may be claimed as part of the local government's match when such contributions meet all of the following criteria:

- a. Are provided for in the project budget approved by DCM;
- b. Are verifiable from the local government's records;
- c. Are necessary and reasonable for proper and efficient completion of the project;
- d. Are not included as contributions for matching any other state or federally assisted projects or program, except where authorized by state or federal statute;
- e. Use of other state or federal funds for local cash match must be identified to ensure that double matching does not occur;
- f. Do not include N.C. state sales tax; and
- g. Conform to other provisions of these guidelines, as applicable.

In general, in-kind contributions are derived from resources already on hand or from donations, whereas, cash contributions will be utilized to purchase new services or equipment necessary for proper completion of the access project.

11. **Cash Contributions:** Local cash contributions may be claimed for the following accountable items: planning and project design fees, permit fees, land acquisition (including survey and appraisal), labor (other than local government salaried employees), materials, construction equipment rental, amenities, and infrastructure. These costs must be incurred during the contract period.
12. **Site Amenities:** The cost of other amenities purchased by the local government during the contract period may be included as part of the cash contribution if it is an integral part of the access facility or its construction. Examples include park benches, bike racks, water fountains, trashcans and lights.
13. **Rental of Construction Equipment:** If the local government must rent construction equipment to complete the proposed project, such as front loaders, graders or dump trucks, rental costs may be included as cash contribution. The purchase of tools, maintenance equipment, office equipment and indoor furniture are not eligible for reimbursement with grant funds. (Also see 17b below)
14. **State and Federal Funds:** State and federal funds may be counted as cash match, provided the funds are not being used as a match for other programs. Such funds must be identified within the project budget chart. Local government employee salaries do not qualify as cash match, but may be counted toward non-cash in-kind match.
15. **In-kind Contributions:** Local in-kind non-cash contributions may be claimed for the following accountable items: project design fees, permit fees, land acquisition (including survey and appraisal), labor (including local government salaried employees), materials, construction equipment rental, amenities, and infrastructure. These costs must be incurred during the contract period, except as specifically indicated below.
  - a. **Site Assessments:** Title opinions, property appraisals, boundary surveys, and wetland delineations associated with land acquisitions and site improvements may be counted toward in-kind match, provided the costs are incurred within three (3) years of the grant award date. Please note the District Planner/Contract Administrator can require a more current appraisal.
  - b. **Donations of Property and Services:** Land/Structures - If the local government has land that has recently been donated or that will be donated, or structures for an access facility, and the donation is allowed by DCM to be counted as local contribution, the value of the donation for purposes of in-kind contributions shall be established by an independent licensed appraiser. The donor of the land must be a private or non-profit organization, or individual. The community must provide a five-year history of conveyance for the property. Land that is transferred to the community due to a statute or rule is not considered a donation. If a landowner is proposing to sell land to the

community for less than the appraised value, the amount of the donation is the difference between the appraised value and the amount paid by the applicant. Donation to, or acquisition of, the property/structure by the local government must have occurred within five (5) years of the grant award. A long-term easement (more than 25 years from the date of the grant award) of land may also be considered under this guideline.

- c. **Property Lease:** Lease arrangements must be for the life of the project (generally 25 years). When property is leased to the local government for an annual fee, the first year's lease payment may be considered as in-kind contribution.
  - d. **Professional Fees:** If the usual fees of a licensed professional, such as architects and engineers, are waived or donated to the local government for work associated with the access project, the fees may be claimed as in-kind contributions. Rates shall be consistent with local pay scales. Partial contribution of a fee (for example, the balance of a discount rate) will not be considered as in-kind match. All volunteer services must be documented by invoice showing the billing rate for the service and the number of hours, and that the charges are forgiven.
  - e. **Construction Equipment:** The use of privately-owned construction equipment (graders, loaders, dump trucks, etc.) donated for construction of the access facility may be claimed as in-kind contribution. The use value of the rented equipment shall not exceed its fair rental value.
  - f. **Building Materials, Site Amenities and Landscaping Materials:** Building materials (lumber, hardware, marl, etc.), site amenities (benches, bike racks, water fountains, etc.) and landscaping materials (plants, soil, timbers) donated to the project may be claimed as in-kind contribution. The value of any of these goods shall not exceed fair market value at the time of donation. To be eligible as in-kind contributions, the building material, amenities or landscape materials must be an integral part of the original access project as presented in the Final Application submitted to DCM and specified in the contract.
16. **FEMA Buyout Properties:** Property that was part of a FEMA buyout or other similar mitigation program is eligible for this grant program, provided the original conditions for the buyout is not in conflict with the proposed improvements. Use of recent buyout property's value as non-cash in-kind match may be considered similarly as previously purchased or donated property.
17. **Volunteer Services:** The eligibility of volunteer services as in-kind contribution is limited to professional engineering and architectural services when those services are not found in the local government. Paid fringe benefits that are reasonable, allowable and allocable may be included in the valuation, if approved by DCM. When an employer other than the local government furnishes the services of an employee, or when an individual contractor volunteers, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits, as described above), provided these services employ the same technical skill for which the employee is normally paid. All volunteer services must be documented by signed invoice showing the billing rate for the service, number of hours, and a statement that the charges are forgiven.
- a. Excluded from volunteer services are prison labor, court-required community service and other work programs, and volunteer civic groups.
  - b. In those instances in which the required skills are not found in the local government, or for other activities specifically approved by DCM, rates shall be consistent with those paid for similar work in the labor market in which the local government competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.



# MEMO

TO: Town Council  
FROM: Nancy Avery, Town Clerk   
RE: Agenda item 3, Old Business, approve CAMA contract I Avenue access  
DATE: March 16, 2017

## *Background*

Last year, Council authorized the submittal of a CAMA grant application to pave the parking lot and install solar lighting on the beach crossover at the I Avenue access. Estimated cost to town was \$16,321 with \$2,200 of that in-kind and \$14,121 cash match.

The Town was awarded the grant and received the contract from CAMA for approval. The contract is not effective until April 1, 2017.

After discussion with both the Building Inspector, the Public Works Director and the SLABPP committee, it was decided that it is too close to the busy tourist season to attempt to do this work, so it will be delayed until late September or October of this year. Additionally, trying to do part of the project in this year's budget and part in next year's budget will make tracking expenditures for reimbursement more difficult.

## *Action requested by staff*

1. *Vote to approve CAMA contract # 7135 in the amount of \$65,283 for paving of the parking area and installation of solar lighting on the beach crossover at the I Avenue access with work to occur in the fall of 2017.*
2. *Vote to authorize the Finance Officer to include a cash match of \$14,121 in the proposed FY17-18 budget.*

## *Funding required*

*If Council approves the contract, the Town's cash match must be included in the proposed FY17-18 budget. No funds were budgeted in the current year's budget for this grant.*

## *Comments for consideration*

*None.*



Environmental  
Quality

ROY COOPER  
Governor

MICHAEL S. REGAN  
Secretary

March 15, 2017

Ms. Nancy Avery  
Town of Kure Beach  
117 Settlers Lane  
Kure Beach, NC 28499

Dear Ms. Avery:

Enclosed is a copy of Contract No. 7135 between the North Carolina Department of Environmental Quality and the **Town of Kure Beach** for the Division of Coastal Management Grant Project – **North Carolina Public Beach and Coastal Waterfront Access Program – Kure Beach - I Avenue Beach Access Improvements**.

Recent legislation requires each vendor/grantee/contractor, prior to contracting with the State, to complete a Certification of Eligibility under the Iran Divestment Act. This certification has been included in Grant Contract No. 7135 as Attachment D. Please have an *authorized official* complete and sign this Certification.

Please verify the information in clause number eight (8) of the agreement. If the information regarding the Grantee's Fiscal Year is incorrect, please correct and initial the correction.

Please have an authorized representative sign the enclosed document in **BLUE INK** (an original signature is required) and return document via e-mail for execution by the Department.

Please be advised that no work can be performed under this contract until both the **Grantee and Department** have executed the contract. *Failure to return the documents within fifteen (15) days, for execution by the Department may result in the Department's withdrawal of the offered contract.* Should you have any questions, please contact Purchasing Agent Marjorie Barber at (919) 707-8539.

Sincerely,

Tommy Kirby  
Purchasing Director  
Financial Services Division  
Purchase and Contract Section

Enclosures

cc: Mike Christenbury, DEQ Division of Coastal Management



STATE OF NORTH CAROLINA  
COUNTY OF WAKE

GRANTEE'S FEDERAL  
IDENTIFICATION  
NUMBER: \*\*.\*2681

This contract (the "Grant Contract") is hereby made and entered into this **1<sup>st</sup> DAY OF APRIL, 2017** by and between the **NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY** (the "Agency") and the **TOWN OF KURE BEACH**, (hereinafter referred to as the "Grantee" or "Recipient") (collectively, the "Parties").

**1. Contract Documents:** This Grant Contract consists of the following documents:

- (1) This document
- (2) General Terms and Conditions (Attachment A)
- (3) Grantee's Response to Agency's RFP, including line item budget and budget narrative and *if applicable*, indirect cost documentation (Attachment B)
- (4) Notice of Certain Reporting and Audit Requirements (Attachment C)
- (5) Certification of Eligibility Under the Iran Divestment Act (Attachment D)

The following documents along with the **Governor's grant award letter**, are on file and available for review at North Carolina Division of Coastal Management's (DCM) main office in Morehead City, located at 400 Commerce Avenue. The contact phone number is (252) 808-2808.

1. North Carolina Public Beach and Coastal Waterfront Access Fund 2016-17 Cycle Grant Pre-application RFP packet.
2. Kure Beach 2016-17 Pre-application submission: Kure Beach - Handicapped Improvements to Beach Access – I Avenue.
3. North Carolina Public Beach and Coastal Waterfront Access Fund 2016-17 Cycle Grant Final Application RFP packet.
4. Kure Beach 2016-17 Final Application submission: Kure Beach - Handicapped Improvements to Beach Access – I Avenue.

These documents (collectively, the "Contract Documents") constitute the entire agreement between the Parties and supersede all prior oral or written statements or agreements. The Parties may agree to amend the Grant Contract in accordance with the General Terms and Conditions (Attachment A).

- 2. Precedence Among Contract Documents:** In the event of a conflict between terms of the Contract Documents, the term in the Contract Document with the highest relative precedence prevails. The order of precedence is established by the order of documents in Paragraph 1, above, with the first-listed document having the highest precedence and the last-listed document having the lowest precedence. If there are multiple contract amendments, the most recent amendment has the highest precedence and the oldest amendment has the lowest precedence.
- 3. Contract Period:** This Grant Contract shall be effective on **April 1, 2017** and shall terminate on **September 30, 2018**.
- 4. Project Period:** The Grantee shall begin the project on **April 1, 2017**. The Grantee shall undertake and complete the project in a sequence that assures expeditious completion in light of the purposes of this agreement. Grantee shall complete the project on **September 30, 2018**.
- 5. Grantee's Duties:** The Grantee shall complete the project as described in Attachment B, **North Carolina Public Beach and Coastal Waterfront Access Program – Kure Beach – I Avenue Beach Access Improvements** and in accordance with the approved budget in Attachment B.

6. **Agency's Duties:** The Agency shall pay the Grantee in the manner and in the amounts specified in the Contract Documents.

The total amount paid by the Agency to the Grantee under this Grant Contract shall not exceed **FORTY-EIGHT THOUSAND NINE HUNDRED SIXTY-TWO DOLLARS (\$48,962.00)**.

This amount consists of:

Type of Funds	Funding Source	CFDA No.
Receipts	CAMA - PARTF Funds	N/A

Accounting Code Information:

Dollars	GL Company	GL Account	GL Center
\$48,962.00	1612	536993	25005C10

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

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

- c. The Grantee's matching requirement is **\$16,321.00**, which shall consist of:

X	In-Kind	\$2,200.00
X	Cash	\$14,121.00
	Cash and In-Kind	\$
	Other / Specify:	\$

- d. The Grantee has committed to an additional \$ to complete the project as described in Attachment B.

The Grantee warrants contributions from the Grantee shall be sourced from non-federal funds.

The total contract amount is **\$65,283.00**.

**7. Reversion of Unexpended Funds:** Any unexpended grant funds shall revert to the Agency upon termination of this Grant Contract.

8. **Grantee's Fiscal Year:** The Grantee's Fiscal Year is from July 1, 2016 to June 30, 2017.

9. **Payment Provisions:**

The Agency shall reimburse the Grantee for actual allowable expenditures with the Agency retaining a minimum of ten percent (10%) of the Agency's funds until all required activities are completed and reports/deliverables are received and accepted by the Agency. Allowable expenditures are defined as expenditures associated with work performed to meet the milestones for a specific reporting period. The Agency may withhold payment on invoices when the Grantee fails to accomplish the milestones stated in Attachment B.

10. **Invoices:** The Grantee shall submit invoices to the Agency Contract Administrator at least quarterly. The final invoice must be received by the Agency within forty-five (45) days following the end of the contract period.

Amended or corrected Invoices must be received by the Agency's Office of the Controller within six (6) months following the end of the contract period. The Agency will not pay any invoice received more than six (6) months after the end of the effective period.

11. **Contract Administrators:** All notices permitted or required to be given by one party to the other, and all other questions about the Grant Contract shall be addressed and delivered to the Parties' Contract Administrator. The name, post office address, street address, telephone number, fax number, and email address of the Parties' initial Contract Administrators are set out below. Either Party may change the name, post office address, street address, telephone number, fax number, or email address of its Contract Administrator or Principal Investigator or Key Personnel by giving timely written notice to the other Party.

Any changes in the scope of this agreement which increase or decrease the Grantee's compensation are not effective until approved in writing by the Agency's Head or Authorized Agent.

<p><b>Agency Contract Administrator:</b>                  Mike Christenbury                  Division of Coastal Management                  127 Cardinal Drive Ext.                  Wilmington, NC 28405                  Telephone: (910) 796-7426                  Email: <a href="mailto:mike.christenbury@ncdenr.gov">mike.christenbury@ncdenr.gov</a></p>
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<p><b>Grantee Contract Administrator:</b>                  Nancy Avery, Town Clerk                  Town of Kure Beach                  117 Settlers Lane                  Kure Beach, NC 28499                  Telephone: (910) 458-8216                  Fax: (910) 458-7421                  Email: <a href="mailto:townclerk@townofkurebeach.org">townclerk@townofkurebeach.org</a></p>	<p><b>Grantee Principal Investigator or Key Personnel</b>                  Nancy Avery, Town Clerk                  Town of Kure Beach                  117 Settlers Lane                  Kure Beach, NC 28499                  Telephone: (910) 458-8216                  Fax: (910) 458-7421                  Email: <a href="mailto:townclerk@townofkurebeach.org">townclerk@townofkurebeach.org</a></p>
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12. **Grantee Principal Investigator or Key Personnel:** The Grantee shall not substitute the Principal Investigator or Key Personnel assigned to the performance of this Grant Contract without prior written approval by the Agency Contract Administrator.

13. **Supplantation of Expenditure of Public Funds:**  
 The Grantee assures that funds received pursuant to this Grant Contract shall be used only to supplement, not to supplant, the total amount of Federal, State and local public funds that the Grantee otherwise expends for **North Carolina Public Beach and Coastal Waterfront Access** services and related programs. Funds received under this Grant Contract shall be used to provide additional public funding for such services; the funds shall not be used to reduce the Grantee's total expenditure of other public funds for such services.

- 14. Grantee's Disbursements:** As a condition of this Grant Contract, Grantee acknowledges and agrees to make disbursements in accordance with the following requirements:
- a. Implement adequate internal controls over disbursements;
  - b. Pre-audit all vouchers presented for payment to determine:
    - Validity and accuracy of payment
    - Payment due date
    - Adequacy of documentation supporting payment
    - Legality of disbursement
  - c. Assure adequate control of signature stamps/plates;
  - d. Assure adequate control of negotiable instruments; and
  - e. Implement procedures to ensure that account balance is solvent and reconcile the account monthly.
- 15. Outsourcing:** The Grantee certifies that it has identified to the Agency all jobs related to the Grant Contract that have been outsourced to other countries, if any. Grantee further agrees that it will not outsource any such jobs during the term of this Grant Contract without providing notice to the Agency and obtaining written approval from the Agency Contract Administrator prior to outsourcing.
- 16. E-Verify:** As required by G.S. §143-48.5 (Session Law 2013-418), the Grantee certifies that it, and each of its subcontractors for any contract awarded as a result of this solicitation, complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, including the requirement for each employer, with more than 25 employees in North Carolina, to verify the work authorization of its employees through the federal E-Verify system.
- 17. Confidentiality:** Each party shall be solely responsible for properly identifying any document(s) containing "CONFIDENTIAL" information. Anything that qualifies as a "TRADE SECRET" under State law must be designated as "CONFIDENTIAL". All "CONFIDENTIAL" documents shall be properly identified by conspicuously marking it "CONFIDENTIAL" at the top and bottom of each page. Any document(s) not properly identified as CONFIDENTIAL, prior to its release to the Agency, may be deemed a public record.
- 18. Records Retention:** Records created or kept in connection with this Grant Contract shall be maintained in accordance with the applicable retention policies of the Agency, and shall not be destroyed, purged or disposed of without the express written consent of the Agency. If any litigation, claim, negotiation, audit, disallowance action, or other action involving this Grant Contract is initiated prior to expiration of the applicable retention period, the records must be retained until completion of the action and resolution of all issues arising therefrom, or until the end of the applicable retention period, whichever is later.
- 19. Assurances For Non-Federally Funded Contracts:** The GRANTEE certifies that with regard to:
1. **Debarment And Suspension** - To the best of its knowledge and belief that it and its principals:
    - (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State, or local government agency;
    - (b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

- (d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. **Lobbying** - To the best of his or her knowledge and belief, that:

- (a) No Federal, State or local government appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal, State or local government agency; a member of Congress, North Carolina's General Assembly or local government body; an officer or employee of Congress, North Carolina's General Assembly or local government body, or an employee of a member of Congress, North Carolina's General Assembly or local government body, in connection with the awarding of any Federal, State or local government contract, the making of any Federal, State or local government grant, the making of any Federal, State or local government loan, the entering into of any Federal, State or local government cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal, State or local government contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal, State or local government appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency; a member of Congress, North Carolina's General Assembly or local government body; an officer or employee of Congress, North Carolina's General Assembly or local government body; or an employee of a member of Congress, North Carolina's General Assembly or local government body in connection with the Federal, State or local government contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

3. **Drug-Free Work Place Requirements** - It will comply by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing a drug-free awareness program to inform employees about -
- (1) The dangers of drug abuse in the workplace;
  - (2) The grantee's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a) above;
- (d) Notifying the employee in the statement required by paragraph (a), above, that, as a condition of employment under the grant, the employee will -
- (1) Abide by the terms of the statement; and
  - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- (e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2), above, from an employee or otherwise receiving actual notice of such conviction;
- (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), above with respect to any employee who is so convicted -
- (1) Taking appropriate personnel action against such an employee, up to and including termination; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f), above.

- 4. Will comply with the provisions of the Equal Employment Practices Act set out in Article 49A of Chapter 143 of the North Carolina General Statutes.
- 5. Will comply, as applicable, with the provisions of the Wage and Hour Act, Occupational Safety and Health Act of North Carolina, Controlled Substance Examination Regulation, Retaliatory Employment Discrimination, Safety and Health Programs and Committees, Workplace Violence Prevention, and other applicable provisions of Chapter 95 of the North Carolina General Statutes regarding labor standards.
- 6. Will comply with all applicable requirements of all other Federal, State and local government laws, executive orders, regulations and policies governing this program.

**20. Signature Warranty:**

The undersigned represent and warrant that they are authorized to bind their principals to the terms of this Grant Contract.

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

IN WITNESS WHEREOF, the Grantee and the Agency execute this Grant Contract in two (2) originals, one (1) of which is retained by the Grantee and one (1) of which is retained by the Agency, the day and year first above written.

**TOWN OF KURE BEACH**

**NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY**

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

By \_\_\_\_\_  
Department Head's Signature or Authorized Agent

\_\_\_\_\_  
Typed / Printed Name

Tommy Kirby, Purchasing Director  
Type / Printed Name and Title

\_\_\_\_\_  
Title

Financial Services Division/Purchasing and Contracts Section  
Division/Section

**ORIGINAL**

**General Terms and Conditions  
Governmental Entities**

**DEFINITIONS**

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

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

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

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

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

### Relationships of the Parties

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

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

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

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

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

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

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

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

### Indemnity

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

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

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

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



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

### **Default and Termination**

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

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

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

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

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

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

### **Intellectual Property Rights**

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

### **Compliance with Applicable Laws**

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

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

### **Confidentiality**

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

### **Oversight**

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

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

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

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

#### Miscellaneous

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

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

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

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

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

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

Ownership of equipment purchased under this contract rests with the Agency. Upon approval of the Agency Contract Administrator, such equipment may be retained by the Grantee for the time the Grantee continues to provide services begun under this contract.

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

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

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

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

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

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

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

**By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32:** It is unlawful for any vendor or contractor ( i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Natural and Cultural Resources, Environmental Quality, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

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

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

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



**PUBLIC BEACH AND  
COASTAL WATERFRONT  
ACCESS PROGRAM**

**NC COASTAL MANAGEMENT PROGRAM**

## **Kure Beach – I Avenue Beach Access Improvements 2016-17**

### North Carolina Public Beach and Coastal Waterfront Access Program

**Site Location/ Address:** At the eastern end of I Avenue ending at the Atlantic Ocean in Kure Beach, New Hanover County.

**Local Government:** Town of Kure Beach

**Federal ID #:** [REDACTED]

**Local Administrator of this Project:**

Nancy Avery, Town Clerk  
Town of Kure Beach  
117 Settlers Lane  
Kure Beach, NC 28499

**Project Description:**

Upgrade the existing parking and beach access area, and install viewing platform solar lighting to enhance handicapped beach experience.

**Site Description:**

Located within the public right-of-way at the eastern end of I Avenue in Kure Beach.

Phone: (910) 458-8216

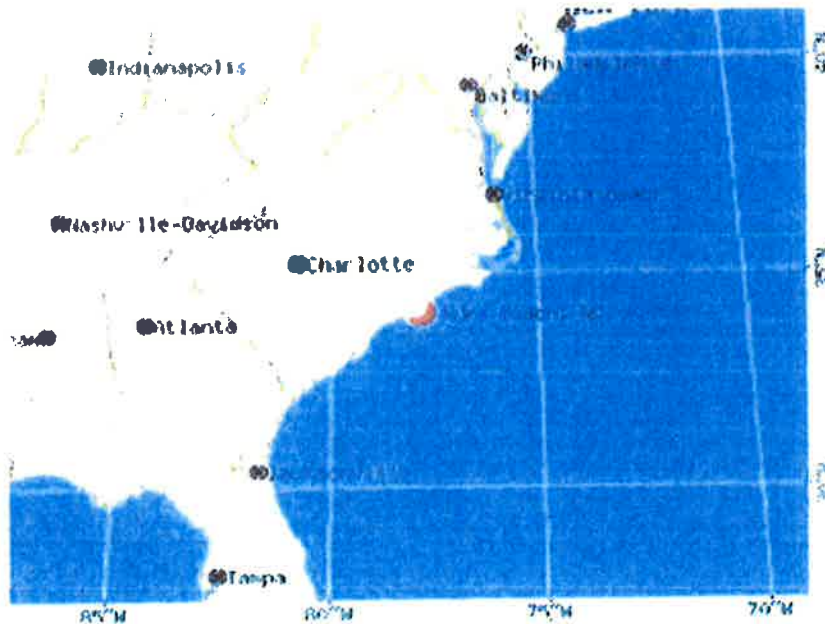
Fax: (910) 458-7421

Email: [townclerk@townofkurebeach.org](mailto:townclerk@townofkurebeach.org)

### A. REGIONAL LOCATION MAP

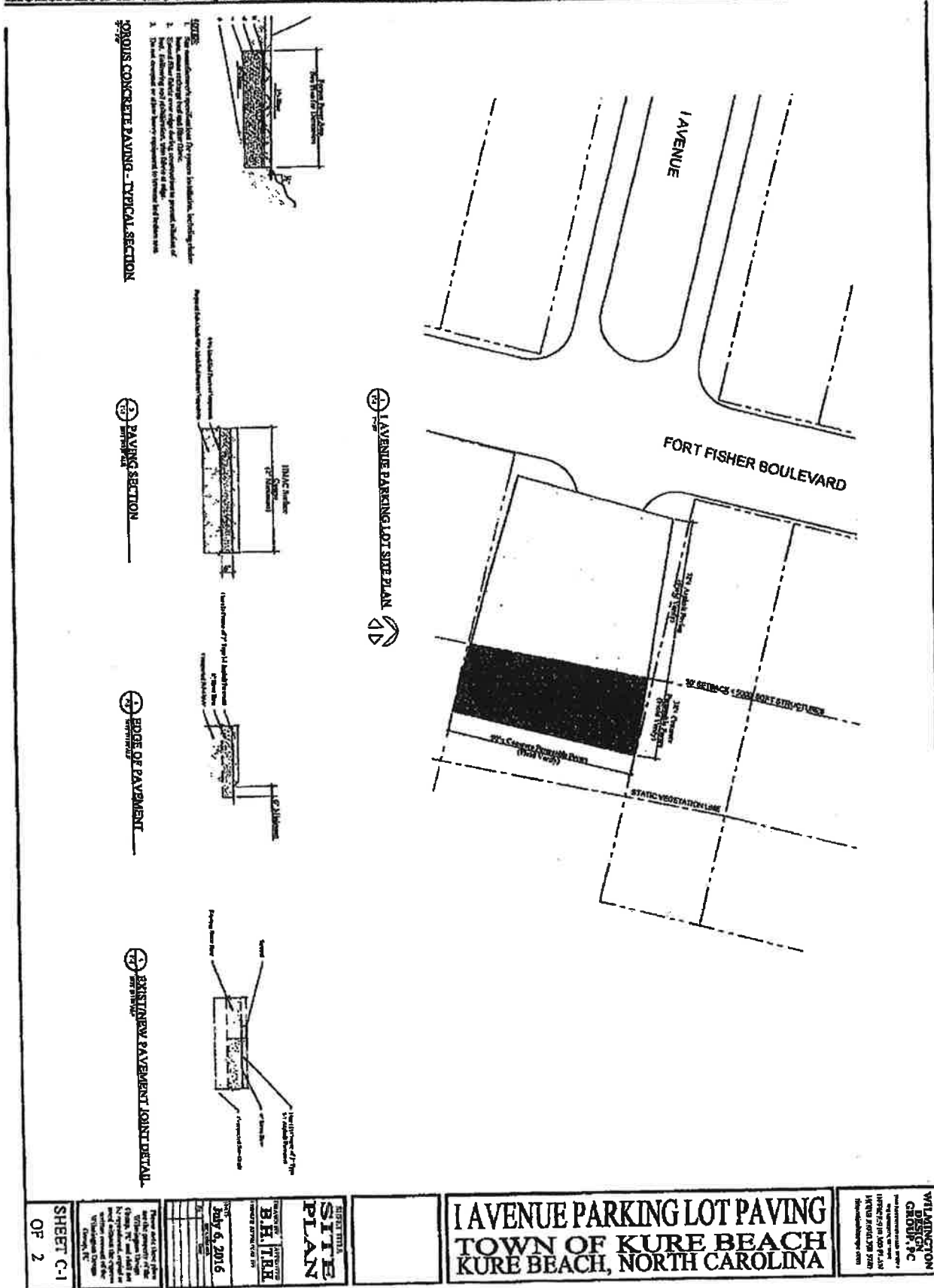
Attachment A

### **Location Map for Kure Beach, North Carolina**





**C. PROJECT SITE PLAN:** Below is the Project Site Plan submitted by the local community. The site plan is provided for reference only. Only those improvements specifically mentioned in the Project Description will be considered under the grant award.



**NOTES:**  
 1. See manufacturer's specifications for all materials, including sub-base.  
 2. Submit flow chart for all paving operations to permit scheduling of work.  
 3. Submit list of equipment to be used on site.  
 4. Submit list of equipment to be used on site.

**CONCRETE PAVING - TYPICAL SECTION**

**PAVING SECTION**

**EDGE OF PAVEMENT**

**EXPANDED PAVEMENT JOINT DETAIL**

<p>WILMINGTON DESIGN GROUP, PC 1000 WILMINGTON ROAD WILMINGTON, NC 28403 910.342.1234 www.wilmingtondesign.com</p>	<p><b>I AVENUE PARKING LOT PAVING</b>  <b>TOWN OF KURE BEACH</b>  <b>KURE BEACH, NORTH CAROLINA</b></p>	<p>PROJECT NO. 16-0001                  DATE: July 6, 2016                  DRAWN BY: B.H. IRE                  CHECKED BY: B.H. IRE                  SCALE: AS SHOWN</p>	<p>DESIGNED BY                  SITE PLAN                  SHEET C-1                  OF 2</p>
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**D. OTHER REQUIREMENTS, GUIDANCE AND CONDITIONS:**

1. **Costs ineligible for grant award reimbursement or local match, unless specifically included in project description:**
  - a. **Environmental Assessments** other than preliminary work associated with site planning and wetland delineation.
  - b. **Remediation Plans** associated with contaminated sites. However, some costs of actual remediation or clean up may be eligible for non-cash in-kind match.
  
2. **Other state and federal requirements:**
  - a. All utility lines funded with a grant award must be placed underground unless otherwise agreed to within the contract.
  - b. All facilities funded with a grant award must comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Prior to closing out a project and receiving final payment of grant funds, the local building official will be required to provide a letter certifying compliance.
  
3. **Project signage, retention of use, and operation and maintenance:**
  - a. The community is required to install CAMA public access signs at the project site(s). The State will provide these signs at no cost to the community.
  - b. Any future improvements, modifications, or changes to the project site are required to be subject to full review and approval by DEQ/DCM. This can include any changes that require permits or any modifications (reductions or additions) to recreational amenities. Unapproved changes to the project site may be or can be the cause for DEQ to seek repayment of previously granted funds for site acquisition and improvements.
  - c. The community is required to allow the inspection of property and facilities acquired or in development pursuant to the grant award by DEQ/DCM to ensure work progress is in accordance with the grant award, including a final inspection upon project completion.
  - d. Development plans and specifications are required to be available for review by DEQ/DCM upon request. All significant deviations from the project proposal outlined in the grant award will be required to be submitted to DEQ/DCM for prior approval.
  - e. The acquisition cost or fair market value of real property, including interest in donated lands, is required to be based upon the appraisal of a licensed appraiser. The reports are required to be provided for review and acceptance by DEQ/DCM. Grant funds dispersed for acquisition cannot exceed the fair market value of the real property associated with the award.
  - f. Any tract or parcel of, or interest in, real property subject to being purchased under the provisions of the grant award that is determined by DEQ/DCM for any reason not to be suitable can be the basis for all obligations of the State to cease with regard to the property associated with the award.
  - g. **Retention of Use:** Any property acquired or developed with grant assistance is required to be retained and used for public access. The community is required to agree to transfer title to any real property acquired with the grant funds to DEQ if the local government uses the property for a purpose other than public access; or the local government shall reimburse the State with an equal percentage of access grant funds, at current market value.
  - h. **Operation and Maintenance:** The community is required to agree to operate and maintain solely at its own expense, insofar as it is legally empowered to do so, for as long as they exist, the facilities and areas covered by the grant award contract. Acquired or developed property is required to be operated and maintained as follows:

1. The property must be maintained in such a manner that DEQ/DCM finds it to appear attractive and inviting to the public.
  2. Sanitation must be kept at reasonable standards for public use. Fire protection and other similar services must be maintained in accordance with applicable state and local public health standards.
  3. Properties must be kept reasonably safe for public use. The community will determine the level of maintenance and supervision necessary to maintain the facility in a safe condition.
  4. Buildings, roads, and other structures and improvements must be kept in reasonable repair throughout their estimated lifetime, so as to prevent undue deterioration and not to discourage public use.
  5. Buildings, roads, and other structures and improvements must be kept open for public use at reasonable hours and times of the year, according to the type of area or facility.
  6. Reasonable user fees may be assessed, as long as those fees are used exclusively for the operation and maintenance of the access facility and/or other public access facilities within the local jurisdiction. Local governments shall provide biannual accounting reports for fees generated by CAMA-funded access sites. Accounting reports may be included in Biannual LUP Implementation Status Reports required under 15A NCAC 7L.0511.
- i. Reasonable Use Limitations: The use of property acquired or developed with grant assistance may not be changed from that proposed and approved in the grant award, unless approval is obtained from DEQ/DCM. The community may impose reasonable limits on the type and extent of use of areas and facilities acquired or developed with grant assistance when such a limitation is necessary for maintenance or preservation. All limitations will be required to be in accord with the applicable grant contract.
  - j. Use of Proceeds of Sales of assisted areas and facilities: The proceeds of sale of assisted areas and facilities will be required to be held by DEQ/DCM or community and be disposed of only in accordance with a plan approved by DEQ/DCM.
4. Notice of Limitations of Use and Restrictions: The community and/or owner of the real property acquired or improved with grant funds awarded is required to file in the office of the local Register of Deeds a Notice of Limitation of Use and Restrictions that sets forth the land-use restrictions outlined in the grant award contract and to provide a copy to DEQ/DCM.
  5. Acquisition and Development of the Site: Following acquisition, the Grantee has five years to begin developing facilities that ensure the site is useable for public access. Prior to closeout, a 'Plan for Future Development' must be provided which describes how the public will be able to use the site for public access until facilities are provided. A conceptual site plan showing proposed facilities and a timeline for development. Failure to ensure the property is accessible for public access after five years will be the basis for meeting Section D. Condition 3 (g).



**Local Government: Kure Beach**  
**Project: I Avenue Beach Access Improvements**

**E. BUDGET SUMMARY**

	Grant Assistance Requested	Local Cash Contribution	Local In-Kind Contribution	TOTAL
<b>Land Acquisition Costs</b>				
	\$	\$	\$	\$
<b>Subtotal</b>				
<b>Permit and Design Fees:</b>				
<b>Engineering Fee</b>	\$	\$ 2,500.	\$	\$ 2,500.
<b>CAMA Permit Fees</b>		\$ 800.		\$ 800.
<b>Subtotal</b>		\$ 2,500.		\$ 2,500.
<b>Site Improvement Costs:</b>				
<b>Materials</b>				
<b>Paving</b>	\$39,043.	\$ 322.	\$	\$ 39,365.
<b>Solar Lighting</b>	\$ 6,052.	\$ 66.		\$ 6,118.
<b>Subtotal</b>	\$39,043.	\$ 388.		\$ 39,431.
<b>Site Improvement Costs:</b>				
<b>Labor</b>				
<b>Paving</b>	\$ 1,567.	\$10,433.	\$	\$ 12,000.
<b>Solar Lighting</b>	\$ 2,300.	\$		\$ 2,300.
<b>Subtotal</b>	\$ 3,867.	\$10,433.		\$ 14,300.
<b>Local Administrative Costs:</b>				
<b>In-kind</b>				
<b>Project Administration</b>	\$	\$	\$ 2,200.	\$ 2,200.
<b>Subtotal</b>	\$	\$	\$ 2,200.	\$ 2,200.
<b>TOTAL BUDGET</b>	\$48,963.	\$11,244.	\$ 2,200.	\$65,285.

Below is the Project Timeline for improvements under the grant award. Progress monitoring will occur at 6-month intervals for the duration of the 18-month contract. Adjustments to the timeline will require approval by the Contract Administrator.

**F. PROJECT SCHEDULE & ACTIVITIES CHART**

This chart illustrates grant and local cash match amounts tied to deliverables per project period. Local funds must be spent before drawing down grant funds. Non-cash match is not illustrated or represented in this chart. However, non-cash match documentation must still be reported at the time of project closeout.

Grant: \$48,962.

Cash Match: \$14,121.  
Non-cash Match: \$2,200.

Total: \$65,283.

**PROJECT SCHEDULE AND ACTIVITIES CHART**

<p>% of total work to be completed <u>5</u> %</p> <p>Grant funds to be spent \$</p> <p>Local funds to be spent \$ 3,300.</p>	<p>Period 1 Dec 2016 – Feb 2017</p> <ul style="list-style-type: none"> <li>• Return Contract</li> <li>• Obtain CAMA permits</li> <li>• Engineering drawings submitted to vendors</li> <li>• Land Preparation</li> </ul>
<p>% of total work to be completed <u>85</u> %</p> <p>Grant funds to be spent \$44,066.</p> <p>Local funds to be spent \$10,821.</p>	<p>Period 2 Mar 2017 – May 2017</p> <ul style="list-style-type: none"> <li>• Pave &amp; stripe Avenue I; install block on CAMA set back</li> <li>• Install solar lighting at access ramp and viewing platform</li> <li>• Landscape area as necessary</li> <li>•</li> </ul>
<p>% of total work to be completed <u>10</u> %*</p> <p>Grant funds to be spent \$ 4,896.</p> <p>Local funds to be spent \$ -0-</p>	<p>Period 3 Jun 2017 – Jul 2017</p> <ul style="list-style-type: none"> <li>• Final Inspection</li> <li>• Submit Close-Out Packet</li> <li>•</li> <li>•</li> </ul>

\* The final reporting period shall include a holdback of 10% of the total grant award, which is retained until a closeout packet is received by the District Planner/Contract Administrator.

## **G. PROJECT/CONSTRUCTION/PROCESSES/REPORTING BY THE APPLICANT**

1. The project will be required to be completed consistent with 15A NCAC 7M SECTION .0303 are all deliverables outlined in the "Project Schedule and Activities Chart".
2. The DEQ/DCM will withhold the initial payment of grant funds until the community has documented expenditure of the local cash match sum. The in-kind services match is to be documented by the community and delivered to DCM with contract closeout materials.
3. Consistent with the "Project Schedule & Activities Chart", the community will be required to submit reports as to the status and progress of the project. The local District Planner (Contract Administrator) will provide the periodic and final closeout report form templates.
4. Grant funds will not be disbursed until a Title Opinion for the site has been submitted to and approved by the local District Planner/Contract Administrator.
5. No construction credited towards the grant is to occur prior to the receipt of all required local, state, and federal permits. Coordination with permitting agency personnel will be required to assure the least amount of impact on coastal resources.
6. If the community subcontracts with a company engaged in another project(s) for the locality, all accounting and reporting specific to the project associated with the grant award will be required to be wholly separate from that of the other project(s).

### **Reimbursement of project cost:**

7. Actual payments of the award will be based on the local District Planner/Contract Administrator's approval of a monitoring report. Final requisitions and invoices for payment will be required to be received by DCM within 30 days after the end of the grant contract period. Upon approval of the closeout packet, the State will release the final 10% as provided for in the contract.
8. The community is required to maintain and make available to DEQ/DCM upon request all bid documents and accurate records of all expenditures for costs applicable to the grant award, and to submit properly certified billings for such costs on forms as may be prescribed by DEQ/DCM. The community will need to keep complete accounting records, including original invoices, payrolls, contracts, or other documents clearly showing the nature and property of all costs incurred under the grant award for a period of five years following project completion, or until an audit has been completed, whichever is later. All accounting records and supporting documents must clearly display the project's contract number assigned by the State.
9. Community will be required to agree to refund to DEQ/DCM, subsequent to an audit of the project financial records by DEQ/DCM, any funds not expended in compliance with the grant contract.
10. **Cash and Non-Cash In-kind Contributions (General):** Cash and in-kind contributions may be claimed as part of the local government's match when such contributions meet all of the following criteria:

- a. Are provided for in the project budget approved by DCM;
- b. Are verifiable from the local government's records;
- c. Are necessary and reasonable for proper and efficient completion of the project;
- d. Are not included as contributions for matching any other state or federally assisted projects or program, except where authorized by state or federal statute;
- e. Use of other state or federal funds for local cash match must be identified to ensure that double matching does not occur;
- f. Do not include N.C. state sales tax; and
- g. Conform to other provisions of these guidelines, as applicable.

In general, in-kind contributions are derived from resources already on hand or from donations, whereas, cash contributions will be utilized to purchase new services or equipment necessary for proper completion of the access project.

11. **Cash Contributions:** Local cash contributions may be claimed for the following accountable items: planning and project design fees, permit fees, land acquisition (including survey and appraisal), labor (other than local government salaried employees), materials, construction equipment rental, amenities, and infrastructure. These costs must be incurred during the contract period.
12. **Site Amenities:** The cost of other amenities purchased by the local government during the contract period may be included as part of the cash contribution if it is an integral part of the access facility or its construction. Examples include park benches, bike racks, water fountains, trashcans and lights.
13. **Rental of Construction Equipment:** If the local government must rent construction equipment to complete the proposed project, such as front loaders, graders or dump trucks, rental costs may be included as cash contribution. The purchase of tools, maintenance equipment, office equipment and indoor furniture are not eligible for reimbursement with grant funds. (Also see 17b below)
14. **State and Federal Funds:** State and federal funds may be counted as cash match, provided the funds are not being used as a match for other programs. Such funds must be identified within the project budget chart. Local government employee salaries do not qualify as cash match, but may be counted toward non-cash in-kind match.
15. **In-kind Contributions:** Local in-kind non-cash contributions may be claimed for the following accountable items: project design fees, permit fees, land acquisition (including survey and appraisal), labor (including local government salaried employees), materials, construction equipment rental, amenities, and infrastructure. These costs must be incurred during the contract period, except as specifically indicated below.
  - a. **Site Assessments:** Title opinions, property appraisals, boundary surveys, and wetland delineations associated with land acquisitions and site improvements may be counted toward in-kind match, provided the costs are incurred within three (3) years of the grant award date. Please note the District Planner/Contract Administrator can require a more current appraisal.
  - b. **Donations of Property and Services:** Land/Structures - If the local government has land that has recently been donated or that will be donated, or structures for an access facility, and the donation is allowed by DCM to be counted as local contribution, the value of the donation for purposes of in-kind contributions shall be established by an independent licensed appraiser. The donor of the land must be a private or non-profit organization, or individual. The community must provide a five-year history of conveyance for the property. Land that is transferred to the community due to a statute or rule is not considered a donation. If a landowner is proposing to sell land to the

community for less than the appraised value, the amount of the donation is the difference between the appraised value and the amount paid by the applicant. Donation to, or acquisition of, the property/structure by the local government must have occurred within five (5) years of the grant award. A long-term easement (more than 25 years from the date of the grant award) of land may also be considered under this guideline.

- c. **Property Lease:** Lease arrangements must be for the life of the project (generally 25 years). When property is leased to the local government for an annual fee, the first year's lease payment may be considered as in-kind contribution.
  - d. **Professional Fees:** If the usual fees of a licensed professional, such as architects and engineers, are waived or donated to the local government for work associated with the access project, the fees may be claimed as in-kind contributions. Rates shall be consistent with local pay scales. Partial contribution of a fee (for example, the balance of a discount rate) will not be considered as in-kind match. All volunteer services must be documented by invoice showing the billing rate for the service and the number of hours, and that the charges are forgiven.
  - e. **Construction Equipment:** The use of privately-owned construction equipment (graders, loaders, dump trucks, etc.) donated for construction of the access facility may be claimed as in-kind contribution. The use value of the rented equipment shall not exceed its fair rental value.
  - f. **Building Materials, Site Amenities and Landscaping Materials:** Building materials (lumber, hardware, marl, etc.), site amenities (benches, bike racks, water fountains, etc.) and landscaping materials (plants, soil, timbers) donated to the project may be claimed as in-kind contribution. The value of any of these goods shall not exceed fair market value at the time of donation. To be eligible as in-kind contributions, the building material, amenities or landscape materials must be an integral part of the original access project as presented in the Final Application submitted to DCM and specified in the contract.
16. **FEMA Buyout Properties:** Property that was part of a FEMA buyout or other similar mitigation program is eligible for this grant program, provided the original conditions for the buyout is not in conflict with the proposed improvements. Use of recent buyout property's value as non-cash in-kind match may be considered similarly as previously purchased or donated property.
17. **Volunteer Services:** The eligibility of volunteer services as in-kind contribution is limited to professional engineering and architectural services when those services are not found in the local government. Paid fringe benefits that are reasonable, allowable and allocable may be included in the valuation, if approved by DCM. When an employer other than the local government furnishes the services of an employee, or when an individual contractor volunteers, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits, as described above), provided these services employ the same technical skill for which the employee is normally paid. All volunteer services must be documented by signed invoice showing the billing rate for the service, number of hours, and a statement that the charges are forgiven.
- a. Excluded from volunteer services are prison labor, court-required community service and other work programs, and volunteer civic groups.
  - b. In those instances in which the required skills are not found in the local government, or for other activities specifically approved by DCM, rates shall be consistent with those paid for similar work in the labor market in which the local government competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.

18. **Site Control:** The applicant must own or have at least a 25-year lease or easement on the property where improvements or renovated facilities would be located. The community must submit copies of the deed or of the signed lease or easement, as well as the opinion by the community's attorney, regarding site control as part of the Final Application submittal. *Proposals that include the leasing or acquisition of easements as part of the total project cost must include them in both the project description and budget chart.* Leases and easements shall be recorded in a similar manner as Section D., Condition 4.
19. **Joint-Use Agreement:** Where property is owned or controlled by another governmental entity or agency, a joint-use agreement may suffice, subject to approval of DEQ. (Also see Section G., Condition 18)
20. **When to Take Title to Land/Leases/Easements:** All communities must sign a contract with the State *before* accepting title/lease/easement to land that will be accomplished using grant funds, unless otherwise approved by DCM. This also applies to property that is donated to the local government. The exception is when the intent is to use it toward non-cash match.

## Notice of Certain Reporting and Audit Requirements

A recipient or subrecipient shall comply with the all rules and reporting requirements established by statute or administrative rules found in 09 NCAC Subchapter 3M. For convenience, the requirements of 09 NCAC Subchapter 3M.0205 are set forth in this Attachment.

### Reporting Thresholds.

There are three reporting thresholds established for recipients and subrecipients receiving State awards of financial assistance. The reporting thresholds are:

- (1) Less than \$25,000 – A recipient or subrecipient that receives, hold, uses, or expends State financial assistance in an amount less than twenty-five thousand dollars (\$25,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
  - (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
  - (B) An accounting of all State financial assistance received, held, used, or expended.
- (2) \$25,000 up to \$500,000 -A recipient or subrecipient that receives, holds uses, or expends State financial assistance in an amount of at least twenty-five thousand (\$25,000) but less than five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
  - (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
  - (B) An accounting of all State financial assistance received, held, used, or expended.
  - (C) A description of activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.
- (3) Greater than \$500,000 – A recipient or subrecipient that receives, holds, uses, or expends State financial assistance in the amount equal to or greater than five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
  - (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
  - (B) An accounting of all State financial assistance received, held, used, or expended.
  - (C) A description of activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.
  - (D) A single or program-specific audit prepared and completed in accordance with Generally Accepted Government Auditing Standards, also known as the Yellow Book.

### Other Provisions:

1. All reports shall be filed with the disbursing agency in the format and method specified by the agency no later than three (3) months after the end of the recipient's fiscal year, unless the same information is already required through more frequent reporting. Audits must be provided to the funding agency no later than nine (9) months after the end of the recipient's fiscal year.
2. Unless prohibited by law, the costs of audits made in accordance with the provisions of 09 NCAC 03M .0205 shall be allowable charges to State and Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with cost principles outlined in the Code of Federal Regulations, 2CFR Part 200. The cost of any audit not conducted in accordance with this Subchapter shall not be charged to State awards.
3. Notwithstanding the provisions of 09 NCAC 03M .0205, a recipient may satisfy the reporting requirements of Part (3)(D) of this Rule by submitting a copy of the report required under the federal law with respect to the same funds.
4. Agency-established reporting requirements to meet the standards set forth in this Subchapter shall be specified in each recipient's contract.

**CERTIFICATION OF ELIGIBILITY  
Under the Iran Divestment Act**

Pursuant to G.S. 147-86.59, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, is ineligible to contract with the State of North Carolina or any political subdivision of the State. The Iran Divestment Act of 2015, G.S. 147-86.55 *et seq.*\* requires that each vendor, prior to contracting with the State certify, and the undersigned on behalf of the Vendor does hereby certify, to the following:

1. that the vendor is not identified on the Final Divestment List of entities that the State Treasurer has determined engages in investment activities in Iran;
2. that the vendor shall not utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List; and
3. that the undersigned is authorized by the Vendor to make this Certification.

Vendor: \_\_\_\_\_

By: \_\_\_\_\_  
Signature Date

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

The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address: <https://www.nctreasurer.com/inside-the-department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx> and will be updated every 180 days. For questions about the Department of State Treasurer's Iran Divestment Policy, please contact Meryl Murtagh at [Meryl.Murtagh@nctreasurer.com](mailto:Meryl.Murtagh@nctreasurer.com) or (919) 814-3852.

\* Note: Enacted by Session Law 2015-118 as G.S. 143C-55 *et seq.*, but has been renumbered for codification at the direction of the Revisor of Statutes.



