

City of Fayetteville

433 Hay Street
Fayetteville, NC
28301-5537
(910) 433-1FAY (1329)

Meeting Agenda - Final City Council Regular Meeting

Tuesday, November 13, 2018

7:00 PM

Council Chamber

1.0 CALL TO ORDER

2.0 INVOCATION

3.0 PLEDGE OF ALLEGIANCE

4.0 ANNOUNCEMENTS AND RECOGNITIONS

5.0 APPROVAL OF AGENDA

6.0 CONSENT AGENDA

6.01 [18-486](#) Approval of Meeting Minutes:
October 17, 2018 - Agenda Briefing

Attachments: [101718 Agenda Briefing.doc](#)

6.02 [18-483](#) Adoption of Capital Project Ordinance Amendment 2019-21 and
Award of Contract for Construction Services for Liberty Hills Drainage
Improvements

Attachments: [CPOA 2019-21 \(FY18 Stormwater - Liberty Hills\)](#)
[Bid Tab - Liberty Hill](#)
[Professional Services Work Authorization for Construction Inspections](#)
[Easement acquisition cost](#)

6.03 [18-488](#) Adoption of Capital Project Ordinance 2019-19 to Appropriate Grant
Funding for a Portable Shelter System Hub

Attachments: [CPO 2019-19 \(FFD FY2018 HSGP\)](#)
[Fire DLX HUB Grant](#)

6.04 [18-502](#) Adoption of Special Revenue Fund Project Ordinance Amendment
2019-3 for 2018-2019 HOME Program Local Match

Attachments: [SROA 2019-3 HOME Local Match](#)

- 6.05 [18-516](#) Adoption of Budget Ordinance Amendment 2019-5 (Carryover of Encumbered, Assigned and Donated Funds from Fiscal Year 2018 and Other Items)
- Attachments:** [BOA 2019-5](#)
- 6.06 [18-507](#) I-295 Landscape Maintenance Agreement at Murchison Road, Bragg Blvd and Ramsey Street Interchanges
- Attachments:** [Agreement #8307 NC 295 @ Bragg Blvd](#)
[Agreement #8308 NC 295 @ Ramsey St](#)
[Agreement #8309 NC 295 @ Murchison Rd](#)
- 6.07 [18-485](#) Hurricane Florence Disaster Assistance Agreement
- Attachments:** [State - Applicant Disaster Assistance Agreement Florence](#)
- 6.08 [18-508](#) Authorization to Apply for NCDOT Urban State Match Program Funding for Transit Capital Projects
- Attachments:** [2-Urban State Match Request Form FY 20 - Buses.docx](#)
[2-Urban State Match Request Form FY 20 - MMTC.pdf](#)
[FY 20 Program Resolution - City of Fayetteville.doc](#)
- 6.09 [18-522](#) Resolution Requesting Introduction of a Local Bill to Amend the Charter to Allow for Recall Elections
- Attachments:** [Recall Resolution](#)
- 6.10 [18-525](#) Bid Recommendation - Cross Creek Water Reclamation Facility Screens Replacement
- Attachments:** [Cross Creek WRF Screen Replacements](#)
- 6.11 [18-526](#) Bid Recommendation - Annual Construction Services Contract for Overhead Distr. Construction
- Attachments:** [Annual Construction Contract](#)

7.0 REPORTS FROM BOARDS AND COMMISSIONS

- 7.01** [18-518](#) Fayetteville - Cumberland Economic Development Corporation Board
Annual Report and Amendments to By-Laws

Attachments: [FCEDC Report To City Council](#)
[FCEDC Bylaws Board Expansion 2018 - redline](#)
[Board Change to By-Laws Memo- City Oct 2018](#)
[FCEDC Request for Appointments- City Nov. 6](#)
[BOARD OF DIRECTORS TERM ENDING 2018](#)

8.0 STAFF REPORTS

- 8.01** [18-487](#) Fayetteville Police Department 2018 - 3rd Quarter Review

Attachments: [2018 FPD Final Jan to Sept.ppt](#)

9.0 PUBLIC FORUM

10.0 OTHER ITEMS OF BUSINESS

- 10.01** [18-521](#) Bond Order Authorizing and Approving the Sale and Issuance of PWC
Revenue Bonds, Series 2018

Attachments: [Presentation - Series 2018 Revenue Bonds - Transmittal Letter](#)
[Resolution PWC2018.15 - 2018 Revenue Bonds](#)
[City Council Proceedings Approving Bond Order -Fayetteville PWC 2018 Reve](#)

11.0 ADJOURNMENT

POLICY REGARDING PUBLIC HEARING AGENDA ITEMS

Individuals wishing to speak at a public hearing must register in advance with the City Clerk. The Clerk's Office is located on the third floor, City Hall, 433 Hay Street, and is open during normal business hours. Citizens may also register to speak immediately before the public hearing by signing in with the City Clerk in the Council Chamber between 6:30 p.m. and 7:00 p.m.

POLICY REGARDING NON-PUBLIC HEARING AGENDA ITEMS

Anyone desiring to address the Council on an item that is not a public hearing must present a written request to the City Manager by 10:00 a.m. on the Wednesday preceding the Monday meeting date.

CLOSING REMARKS

POLICY REGARDING CITY COUNCIL MEETING PROCEDURES **SPEAKING ON A PUBLIC AND NON-PUBLIC HEARING ITEM**

Individuals who have not made a written request to speak on a nonpublic hearing item may submit written materials to the City Council on the subject matter by providing thirteen (13) copies of the written materials to the Office of the City Manager before 5:00 p.m. on the day of the Council meeting at which the item is scheduled to be discussed.

COUNCIL MEETING WILL BE AIRED
November 13, 2018 @ 7:00 p.m.
Spectrum Cable Channel 7

Notice Under the Americans with Disabilities Act (ADA):

The City of Fayetteville will not discriminate against qualified individuals with disabilities on the basis of disability in the City's services, programs, or activities. The City will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the City's programs, services, and activities. The City will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all City programs, services, and activities. Any person who requires an auxiliary aid or service for effective communications, or a modification of policies or procedures to participate in any City program, service, or activity, should contact the office of Human Relations at ynazar@ci.fay.nc.us, 910-433-1696, or the Office of the City Clerk at cityclerk@ci.fay.nc.us, 910-433-1989, as soon as possible but no later than 72 hours before the scheduled event.

City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 18-486

Agenda Date: 11/13/2018

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 6.01

TO: Mayor and Members of City Council

THRU: Barbara Hill, Interim Assistant City Manager

FROM: Pamela J. Megill, MMC, City Clerk

DATE: November 13, 2018

RE:

**Approval of Meeting Minutes:
October 17, 2018 - Agenda Briefing**

COUNCIL DISTRICT(S):

ALL

Relationship To Strategic Plan:

Develop and maintain strong community connections.

Executive Summary:

The Fayetteville City Council conducted meetings on the referenced date during which they considered items of business as presented in the draft.

Background:

The draft minutes are from the meeting held on the above mentioned date.

Issues/Analysis:

N/A

Budget Impact:

N/A

Options:

1. Approve draft minutes
2. Amend draft minutes and approve draft minutes as amended
3. Do not approve the draft minutes and provide direction to staff.

Recommended Action:

Approve the draft minutes.

Attachments:

Draft minutes

DRAFT

FAYETTEVILLE CITY COUNCIL
AGENDA BRIEFING MINUTES
LAFAYETTE ROOM
OCTOBER 17, 2018
5:00 P.M.

Present: Council Members Daniel Culliton (District 2); D. J. Haire (District 4); Johnny Dawkins (District 5); William J. L. Crisp (District 6); Larry O. Wright, Sr. (District 7); James W. Arp, Jr. (District 9)

Absent: Mayor Mitch Colvin and Council Members Katherine K. Jensen (District 1); Tisha S. Waddell (District 3); Theodore Mohn (District 8)

Others Present: Douglas Hewett, City Manager
Karen McDonald, City Attorney
Kristoff Bauer, Deputy City Manager
Jay Reinstein, Assistant City Manager
Telly Whitfield, Assistant City Manager
Gerald Newton, Development Services Director
Taurus Freeman, Planning and Zoning Manager
Craig Harmon, Senior Planner
Ben Major, Fire Chief
Kevin Arata, Corporate Communications Director
Tracey Broyles, Budget and Evaluation Director
Sheila Thomas-Ambat, Interim Public Services Director
Barbara Hill, Human Resources Development Director
Mark Brown, PWC Customer Relations Director
Pamela Megill, City Clerk

1.0 CALL TO ORDER

Council Member Arp called the meeting to order at 5:06 p.m.

2.0 AGENDA BRIEFING - Review of Items for the October 22, 2018, City Council Meeting

City staff presented the following items scheduled for the Fayetteville City Council's October 22, 2018, agenda:

CONSENT

P18-29F. Rezoning of property from Single-Family Residential (SF-10) to Limited Commercial (LC) Zoning, located at 2238 Hope Mills Road (Tax Map # 0416-00-4376) near the intersection of Hope Mills Road and Queensdale Drive, containing 0.25 acres and being the property of BRYANT, KRISTOPHER KURT & WIFE.

P18-32F. Initial zoning of property from Mixed-Use Development/Conditional Zoning (MXD/CZ) (County) to Mixed-Use/Conditional Zoning (MU/CZ), located at Elliot Bridge Road and US 401, containing approximately 253 +/- acres and being the property of BROADWELL LAND COMPANY.

Adoption of Special Revenue Fund Project Ordinance 2019-3 to Appropriate Grant Awarded for Adaptive Sports Programs for Disabled Veterans and Disabled Members of the Armed Forces

PUBLIC HEARINGS

Review of the proposed Development Agreement between the City and Broadwell Land Company for the proposed 254-acre development located on the southwest quadrant of Elliot Bridge Road, Elliot Farm Road, and Ramsey Street.

Consideration of a Petition of Annexation from Broadwell Land Company

DRAFT

P18-30F. The issuing of a Special Use Permit to allow a Communications Tower to be located in a Community Commercial (CC) Zoning District at 1876 Bureau Drive (Tax Map # 0455-17-6410) near the intersection of Bureau Drive and Cedar Creek Road, and is the property of BEASLEY MEDIA GROUP.

Stormwater Ordinance Variance Request - Wiseman Crematorium, 653, 655, and 657 Hillsboro Street (Hillsboro and Edwards Streets)

There being no further business, the meeting adjourned at 6:05 p.m.

Respectfully submitted,

PAMELA J. MEGILL
City Clerk

MITCH COLVIN
Mayor

101718

City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 18-483

Agenda Date: 11/13/2018

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 6.02

TO: Mayor and Members of City Council

THRU: Kristoff Bauer, Deputy City Manager

**FROM: Sheila Thomas-Ambat, PE, CCM, CFM, Interim Public Services Director
Tracey Broyles, Budget and Evaluation Director**

DATE: November 13, 2018

RE:

Adoption of Capital Project Ordinance Amendment 2019-21 and Award of Contract for Construction Services for Liberty Hills Drainage Improvements

COUNCIL DISTRICT(S):

1

Relationship To Strategic Plan:

Goal 1: Safe and Secure Community

Goal 3: High Quality Built Environment

Goal 4: Desirable Place to Live, Work and Recreate

Executive Summary:

Council is asked to adopt Capital Project Ordinance Amendment (CPOA) 2019-21 to appropriate \$610,517 of additional project funding for Liberty Hills Drainage Improvements and award the construction bid to the lowest responsive, responsible bidder, Lanier Construction Company from Snow Hill, NC.

The appropriation will provide funding for construction (\$450,422), construction inspection and material testing services (\$93,052), real estate acquisition (\$22,000) and contingency costs (\$45,043) to bring Liberty Hills Subdivision drainage system into compliance with the City's Stormwater Management Ordinance.

Background:

The Liberty Hills Subdivision, permitted in November 2012, has areas within the subdivision that are subject to localized flooding. In reviewing the as-built data, it was

confirmed that the approved stormwater calculations did not mirror the constructed layout of the drainage pipes within the system.

On November 13, 2017, Council adopted CPOA 2018-29 to appropriate \$233,855 for the design of Liberty Hills Drainage Improvements. The design phase included the modeling of the existing stormwater system, which displays areas within the existing stormwater system that do not meet the standard level of service requirements of the Stormwater Ordinance. More stormwater is draining to areas of the subdivision than was originally accounted and designed for. These areas are causing the system to become inundated with water, as it does not provide adequate capacity for the stormwater generated by the subdivision. The construction of this project will bring the system into compliance with the City's Stormwater Management Ordinance.

Bids were received on September 6, 2018 as follows:

<u>Bidders</u>	<u>Total Cost</u>
Lanier Construction Company, Snow Hill, NC	\$ 450,422.00

This bid was able to be opened with less than three responsive bids due to it being below the statutory limit of \$500,000.

ARCADIS G&M of North Carolina, Inc. was chosen from the City's on-call list for professional services to provide independent construction inspection and material testing services. Their negotiated scope and fee is not to exceed \$93,052.

Four easements will be acquired from private property owners, including recordation, at an estimated amount of \$22,000.

Issues/Analysis:

The project was advertised once and bids were received from a single contractor as outlined above. The lowest responsive, responsible bidder, Lanier Construction Company, Snow Hill, NC, is recommended.

Budget Impact:

There is sufficient funding appropriated in the FY18 Stormwater Management Fund operating budget to provide for the \$610,517 transfer to the project fund.

Options:

- Adopt CPOA 2019-21 and authorize the award and execution of the contract to the lowest responsive, responsible bidder by the City Manager as recommended by staff.
- Do not adopt CPOA 2019-21 or award the contract as recommended and provide further direction to staff.

Recommended Action:

Staff recommends that Council move to adopt CPOA 2019-21, approve the contract award, and authorize the City Manager to execute the contract for the Liberty Hills Drainage Improvement project to the recommended lowest responsive, responsible bidder as presented.

Attachments:

- Capital Project Ordinance Amendment 2019-21 (FY18 Stormwater - Liberty Hills)
- Bid tabulation
- Professional Services for Construction Inspections
- Easement Acquisition Cost

**CAPITAL PROJECT ORDINANCE AMENDMENT
CHANGE 2019-21 (CPO 2018-9)**

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby amended:

Section 1. The project change authorized is to Capital Project Ordinance 2018-9, adopted effective July 1, 2017, as amended, for the funding of FY2018 storm water drainage improvement projects and other capital expenditures including, but not limited to, a street sweeper, a jet-rodder truck, improvement projects at Neville Street, North Street, Liberty Hills Subdivision, Raeford Road, and the Market House, a spot repair program, easement and land acquisition and management of ongoing projects.

Section 2. The project director is hereby directed to proceed with the project within the terms of the various agreements executed and within the funds appropriated herein.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

	<u>Listed As</u>	<u>Amendment</u>	<u>Revised</u>
Interfund Transfer from the Stormwater Operating Fund	<u>\$ 3,597,168</u>	<u>\$ 610,517</u>	<u>\$ 4,207,685</u>

Section 4. The following amounts are appropriated for the project:

	<u>Listed As</u>	<u>Amendment</u>	<u>Revised</u>
Project Expenditures	<u>\$ 3,597,168</u>	<u>\$ 610,517</u>	<u>\$ 4,207,685</u>

Section 5. Copies of this capital project ordinance amendment shall be made available to the budget officer and the finance officer for direction in carrying out the project.

Section 6. The City Manager is hereby authorized and directed to take such action as he may deem necessary or appropriate to execute this ordinance.

Adopted this 13th day of November, 2018.

LIBERTY HILL SUBDIVISION DRAINAGE IMPROVEMENTS

				Lanier Construction Co. Inc.	
Item	Description	Unit	Quantity	Unit Price	Extended Cost
1	Mobilization, Bonds, Insurance and Permits	LS	1	\$ 21,400.00	\$ 21,400.00
2	Pedestrian and Vehicle Traffic Control	LS	1	\$ 25,000.00	\$ 25,000.00
3	Erosion Control	LS	1	\$ 35,000.00	\$ 35,000.00
4	Strip, Stockpile and Re-Spread Topsoil	CY	75	\$ 45.00	\$ 3,375.00
5	Remove and Dispose of Existing Tree and Replace with New Tree (match existing in size, height and species at 1035 Liberty Lane)	EA	2	\$ 1,250.00	\$ 2,500.00
6	Seeding and Matting	SY	1,668	\$ 10.00	\$ 16,680.00
7	Sod, (Match Existing)	SY	675	\$ 12.00	\$ 8,100.00
8	Remove, Dispose of and Replace Concrete Sidewalk, (4" depth)	SY	6	\$ 95.00	\$ 570.00
9	Remove, Dispose of and Replace Concrete Apron, (4" depth)	SY	16	\$ 150.00	\$ 2,400.00
10	Remove, Dispose of and Replace Concrete Driveway (6" depth)	SY	28	\$ 150.00	\$ 4,200.00
11	Remove, Dispose of and Replace Concrete Roll-Back Curb and Gutter, (24")	LF	58	\$ 75.00	\$ 4,350.00
12	Remove, Dispose of Concrete Roll-Back Curb and Gutter (24") and Replace with (24") Concrete Vertical Curb & Gutter	LF	365	\$ 80.00	\$ 29,200.00
13	Remove Existing Aggregate Base Course and Dispose Off-Site, (6")	SY	200	\$ 20.00	\$ 4,000.00
14	Remove Full Depth Asphalt and Dispose Off-Site, (2" depth)	SY	200	\$ 25.00	\$ 5,000.00
15	Permanent Pavement Patch, (2" thick S 9.5 B and 8" ABC)	SY	200	\$ 85.00	\$ 17,000.00
16	Profile By Milling Bituminous Pavement (1" Depth) and Replace with Bituminous Concrete Surface Course, (1" thick, Type S 9.5 B)	SY	455	\$ 85.00	\$ 38,675.00
17	Remove, Dispose of and Replace Existing Wooden Fence, (6' height at 3208 Northgate Drive)	LF	125	\$ 70.00	\$ 8,750.00
18	Install, Maintain and Remove Temporary Chainlink Fence, (6' height, fence post in-ground mount)	LF	125	\$ 45.00	\$ 5,625.00
19	Remove & Dispose of Existing Concrete Headwall, (15")	EA	1	\$ 1,200.00	\$ 1,200.00
20	Remove & Dispose of Existing Reinforced Concrete Pipe, (24")	LF	104	\$ 35.00	\$ 3,640.00
21	Remove & Dispose of Existing Reinforced Concrete Pipe, (30")	LF	67	\$ 45.00	\$ 3,015.00
22	Remove & Dispose of Existing Drainage Structure	EA	2	\$ 1,200.00	\$ 2,400.00
23	Remove Existing (8") PVC Water and Replace with (8") Ductile Iron Pipe, Fittings, etc. and Install Bedding Material. Provide (12") Minimum Separation Between Water & Storm Drain.	LF	65	\$ 275.00	\$ 17,875.00
24	Water Main Sterilization and Testing	LS	1	\$ 10,000.00	\$ 10,000.00
25	(15", ADS Grey HDPE HP, 0'-6' depth) HDPE Storm Drain Pipe and Bedding Stone (minimum 6" depth)	LF	117	\$ 85.00	\$ 9,945.00
26	(15", Class III, 0'-6' depth) Reinforced Concrete Pipe and Bedding Stone (minimum 6" depth)	LF	36	\$ 95.00	\$ 3,420.00
27	(18", Class III, 0'-6' depth) Reinforced Concrete Pipe and Bedding Stone (minimum 6" depth)	LF	12	\$ 110.00	\$ 1,320.00
28	(24", Class III, 0'-6' depth) Reinforced Concrete Pipe and Bedding Stone (minimum 6" depth)	LF	67	\$ 150.00	\$ 10,050.00
29	(30", Class III, 0'-6' depth) Reinforced Concrete Pipe and Bedding Stone (minimum 6" depth)	LF	76	\$ 225.00	\$ 17,100.00
30	(30", Class III, 6'-8' depth) Reinforced Concrete Pipe and Bedding Stone (minimum 6" depth)	LF	97	\$ 245.00	\$ 23,765.00
31	Install Catch Basin (0'-6' depth) and Bedding Stone (minimum 6" depth)	EA	7	\$ 4,200.00	\$ 29,400.00
32	Install Catch Basin (6'-8' depth) and Bedding Stone (minimum 6" depth)	EA	1	\$ 6,000.00	\$ 6,000.00
33	Install Drop Inlet (0'-6' depth) and Bedding Stone (minimum 6" depth)	EA	2	\$ 4,200.00	\$ 8,400.00
34	Install ADS HDPE Drop Inlet (0'-6' depth) and Bedding Stone (minimum 6" depth)	EA	2	\$ 4,000.00	\$ 8,000.00
35	Modify Existing Catch Basin Outlet Connection (Structure 0441, 0444, 0446)	EA	3	\$ 1,500.00	\$ 4,500.00
36	Convert Drop Inlet to Open Throat Catch Basin (0'-6' depth) and Bedding Stone (minimum 6" depth)	EA	2	\$ 1,200.00	\$ 2,400.00
37	Install Geotextile Under Rip Rap Outlet Protection	SY	91	\$ 9.00	\$ 819.00
38	Install Permanent Soil Reinforcement Matting (PSRM)	SY	274	\$ 7.00	\$ 1,918.00
39	Undercut Excavation and Backfill	CY	56	\$ 40.00	\$ 2,240.00
40	Unsuitable Trench Excavation and Select Trench Backfill (Offsite Borrow)	CY	66	\$ 35.00	\$ 2,310.00
41	Grading Fill, (Offsite Borrow and Placement)	CY	322	\$ 35.00	\$ 11,270.00
42	Remove and Reuse Rip Rap from Headwall at Rear of 3208 Northgate Drive	TN	1	\$ 1,500.00	\$ 1,500.00
43	Rip Rap, (Class A)	TN	38	\$ 95.00	\$ 3,610.00
44	Remove Existing (1") Water Service at conflict with Proposed Storm Drain and Replace with (1") Copper Iron Pipe, Fittings, etc. and Install Bedding Material. Provide (12") Minimum Separation Between Water Service and Storm Drain Pipe.	EA	3	\$ 2,500.00	\$ 7,500.00
45	Remove Existing (4") Sewer Lateral and Replace with (4") Ductile Iron Pipe, Fittings, etc. and Install Bedding Material. Provide (24") Minimum Separation Between Sanitary Sewer & Storm Drain.	EA	2	\$ 9,500.00	\$ 19,000.00
46	Sanitary Sewer Testing, (to include laterals)	LS	1	\$ 6,000.00	\$ 6,000.00
				TOTAL	\$ 450,422.00

**CITY OF FAYETTEVILLE
WORK AUTHORIZATION
FOR
PROFESSIONAL SERVICES
BY
ARCADIS G&M OF NORTH CAROLINA, INC.**

In accordance with the General Services Agreement (Agreement) dated December 19, 2017, between THE CITY OF FAYETTEVILLE (hereinafter called OWNER) and ARCADIS G&M OF NORTH CAROLINA, INC. (hereinafter called CONSULTANT), OWNER hereby authorizes CONSULTANT to proceed and CONSULTANT agrees to perform in accordance with the terms of the Agreement and this Work Authorization, the following services for the following Project:

I. PROJECT

This Work Authorization is for professional services related to resident site representation (RPR) for day to day construction management of the Liberty Hills Drainage Improvement project. See attached Exhibit A for a detailed Scope of Services.

II. AGREEMENT & SCOPE OF SERVICE

The terms of the Agreement are incorporated herein by reference as if written herein and the parties confirm that its terms are a part of this Work Authorization.

The Scope of Services to be provided by CONSULTANT, in connection with this Authorization is provided in Exhibit A.

The CONSULTANT shall request written confirmation and or execute an additional Work Authorization describing any scope change before performing any work beyond the scope specified in this Work Authorization. The confirmation shall identify any change in compensation and/or delay in completion which the scope changes entails and must be approved by the City Manager or his designee.

III. RESPONSIBILITIES

The responsibilities of the OWNER and CONSULTANT, in addition to those provided in the Agreement which are specific to this Project, are provided in Exhibit A.

IV. COMPENSATION

OWNER shall compensate CONSULTANT for providing the services set forth herein in accordance with the terms of the Agreement.

In the absence of a lump sum fee agreement, it is understood and agreed that:

1. CONSULTANT will perform under this Agreement on a best effort, not-to-exceed ceiling price basis and will notify OWNER when the ceiling price will be exceeded.
2. The not to exceed compensation (including travel) for this Work Authorization is \$93,052. This is not a guaranteed maximum amount but CONSULTANT shall not continue performing work in excess of this amount without further specific authorization. OWNER will be billed only for actual time worked and identified expenses.

Payment shall be made in accordance with the terms of the above referenced Agreement.

V. SCHEDULE

All work under this Work Authorization shall begin January 1, 2019 and shall be complete by June 30, 2019.

VI. MISCELLANEOUS

1. The terms in this Work Authorization shall have the same meaning as provided in the Agreement.
2. As mandated by N.C. Gen. Stat. § 147-86.59(a), CONSULTANT certifies that it is not listed on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.58. CONSULTANT further certifies that, in accordance with N.C. Gen. Stat. § 147-86-59(b), it shall not utilize any subcontractor found on the State Treasurer's Final Divestment List. CONSULTANT certifies that the signatory to this Work Authorization is authorized by CONSULTANT to make the foregoing statement.

3. CONSULTANT acknowledges that “E-Verify” is the federal E-Verify program operated by the U.S. Department of Homeland Security and other federal agencies which is used to verify the work authorization of newly hired employees pursuant to federal law and in accordance with Article 2, Chapter 64 of the North Carolina General Statutes. CONSULTANT further acknowledges that all employers, as defined by Article 2, Chapter 64 of the North Carolina General Statutes, must use E-Verify and after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with N.C. Gen. Stat. § 64-26(a). CONSULTANT pledges, attests and warrants through execution of this contract that CONSULTANT complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes and further pledges, attests and warrants that any subcontractors currently employed by or subsequently hired by CONSULTANT shall comply with any and all E-Verify requirements. Failure to comply with the above requirements shall be considered a breach of this Work Authorization.

CONSULTANT ACCEPTANCE:

ARCADIS G&M OF NORTH CAROLINA, INC.

BY: _____

TITLE: _____

DATE: _____

AUTHORIZATION BY:

CITY OF FAYETTEVILLE

BY: _____

TITLE: _____

DATE: _____

AUTHORIZATION NO. _____

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

Jay Toland, Acting Chief Financial Officer

RIGHT OF WAY CLAIM REPORT

TIP/PARCEL NO. Liberty Hills 001 WBS ELEMENT n/a COUNTY Cumberland

CLAIM OF McKee Homes LLC PLAN SHEET 6

1. Land Area to be Acquired (Payment per square foot/acre supported by recent land sales on file.)

RIGHT OF WAY	R/W	AC	X	\$	=	\$	®	
PERM Drainage Easement	PDE	<u>0.021</u>	AC	X	\$	<u>204,000 * 75%</u>	=	\$ <u>3,213.00</u> ® <u>3,225.00</u>
PERM Utility Easement	PUE		AC	X	\$		=	\$ _____ ® _____
PERM Drainage/Utility Ease	DUE		AC	X	\$		=	\$ _____ ® _____
PERM Aerial Utility Easement	AUE		AC	X	\$		=	\$ _____ ® _____
PERM Construction Easement	PCE		AC	X	\$		=	\$ _____ ® _____
TEMP Construction Easement	TCE	<u>0.002</u>	AC	X	\$	<u>204,000* 30%</u>	=	\$ <u>122.40</u> ® <u>125.00</u>
TEMP Drainage Easement	TDE		AC	X	\$		=	\$ _____ ® _____
TEMP Utility Easement	TUE		AC	X	\$		=	\$ _____ ® _____
OTHER _____			AC	X	\$		=	\$ _____ ® _____
LAND TOTAL							\$	<u>3,350.00</u>

2. Payment for improvement(s) to be acquired. Material and labor costs documented in the State's files.

	\$	
	\$	
	\$	
IMPROVEMENTS TOTAL		\$ <u>0.00</u>

3. Cost to Cure (Damage to Remainder)

	\$	
COST TO CURE TOTAL		\$ <u>0.00</u>
GRAND TOTAL		\$ <u>3,350.00</u>

Comments: 125 LF of fencing to be removed and replaced in same location with new fence panels

5 Comps attached: Ranged from \$152,174 to \$278,379 per acre. Reconciled at \$204,000/AC

Certificate of Preparer and Approver: I hereby certify that I am familiar with the property which is the subject of this estimate; that this estimate is based on data contained in the files of the agency and that I have no direct or indirect, present or contemplated future personal interest in this property or in any benefit from the acquisition of this property.

Preparer Signature:  **Brad A. McKinney** Date 8/23/2018

Approval Signature:  Date 8/23/18

TEMPORARY EASEMENT TOTAL \$ 125.00 PERMANENT EASEMENT TOTAL \$ 3,225.00

RIGHT OF WAY CLAIM REPORT

TIP/PARCEL NO. Liberty Hills 002 WBS ELEMENT n/a COUNTY Cumberland

CLAIM OF James D. Brumley and wife, Shannon R. Brumley PLAN SHEET 6

1. Land Area to be Acquired (Payment per square foot/acre supported by recent land sales on file.)

RIGHT OF WAY	RW	AC	X	\$	=	\$	®		
PERM Drainage Easement	PDE	<u>0.025</u>	AC	X	\$	<u>204,000 * 75%</u>	=	\$ <u>3,825.00</u>	® <u>3,825.00</u>
PERM Utility Easement	PUE		AC	X	\$		=	\$	®
PERM Drainage/Utility Ease	DUE		AC	X	\$		=	\$	®
PERM Aerial Utility Easement	AUE		AC	X	\$		=	\$	®
PERM Construction Easement	PCE		AC	X	\$		=	\$	®
TEMP Construction Easement	TCE		AC	X	\$		=	\$	®
TEMP Drainage Easement	TDE		AC	X	\$		=	\$	®
TEMP Utility Easement	TUE		AC	X	\$		=	\$	®
OTHER			AC	X	\$		=	\$	®
LAND TOTAL							\$	<u>3,825.00</u>	

2. Payment for improvement(s) to be acquired. Material and labor costs documented in the State's files.

	\$	
	\$	
	\$	
IMPROVEMENTS TOTAL		\$ <u>0.00</u>

3. Cost to Cure (Damage to Remainder)

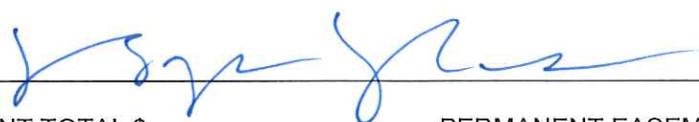
	COST TO CURE TOTAL	\$ <u>0.00</u>
GRAND TOTAL		\$ <u>3,825.00</u>

Comments: _____

5 Comps attached: Ranged from \$152,174 to \$278,379 per acre. Reconciled at \$204,000/AC

Certificate of Preparer and Approver: I hereby certify that I am familiar with the property which is the subject of this estimate; that this estimate is based on data contained in the files of the agency and that I have no direct or indirect, present or contemplated future personal interest in this property or in any benefit from the acquisition of this property.

Preparer Signature:  **Brad A. McKinney** Date 8/23/2018

Approval Signature:  Date 8/23/18

TEMPORARY EASEMENT TOTAL \$ _____ PERMANENT EASEMENT TOTAL \$ 3,825.00

RIGHT OF WAY CLAIM REPORT

TIP/PARCEL NO. Liberty Hills 003 WBS ELEMENT n/a COUNTY Cumberland

CLAIM OF Mario M. Bazan Torrico and wife, Samantha E. Bazan PLAN SHEET 6

1. Land Area to be Acquired (Payment per square foot/acre supported by recent land sales on file.)

RIGHT OF WAY	R/W	AC	X	\$	=	\$	Ⓜ		
PERM Drainage Easement	PDE	<u>0.018</u>	AC	X	\$	<u>204,000 * 75%</u>	=	\$ <u>2,754.00</u>	Ⓜ <u>2,775.00</u>
PERM Utility Easement	PUE		AC	X	\$		=	\$	Ⓜ
PERM Drainage/Utility Ease	DUE		AC	X	\$		=	\$	Ⓜ
PERM Aerial Utility Easement	AUE		AC	X	\$		=	\$	Ⓜ
PERM Construction Easement	PCE		AC	X	\$		=	\$	Ⓜ
TEMP Construction Easement	TCE	<u>0.068</u>	AC	X	\$	<u>204,000* 30%</u>	=	\$ <u>4,161.60</u>	Ⓜ <u>4,175.00</u>
TEMP Drainage Easement	TDE		AC	X	\$		=	\$	Ⓜ
TEMP Utility Easement	TUE		AC	X	\$		=	\$	Ⓜ
OTHER			AC	X	\$		=	\$	Ⓜ

LAND TOTAL \$ 6,950.00

2. Payment for improvement(s) to be acquired. Material and labor costs documented in the State's files.

2 Landscaped Trees	\$ <u>100.00</u>
Landscape Curbing estimated \$23.28/Linear Foot, approximately 10 LF	\$ <u>250.00</u> Ⓜ
Planted Flowers	\$ <u>100.00</u>

IMPROVEMENTS TOTAL \$ 450.00

3. Cost to Cure (Damage to Remainder)

COST TO CURE TOTAL \$ 0.00

GRAND TOTAL \$ 7,400.00

Comments: _____

5 Comps attached: Ranged from \$152,174 to \$278,379 per acre. Reconciled at \$204,000/AC

Certificate of Preparer and Approver: I hereby certify that I am familiar with the property which is the subject of this estimate; that this estimate is based on data contained in the files of the agency and that I have no direct or indirect, present or contemplated future personal interest in this property or in any benefit from the acquisition of this property.

Preparer Signature:  **Brad A. McKinney** Date 8/23/2018

Approval Signature:  Date 8/23/18

TEMPORARY EASEMENT TOTAL \$ 4,175.00 PERMANENT EASEMENT TOTAL \$ 2,775.00

RIGHT OF WAY CLAIM REPORT

TIP/PARCEL NO. Liberty Hills 004 WBS ELEMENT n/a COUNTY Cumberland

CLAIM OF LeShaun L. Martin and wife, Erica L. Martin PLAN SHEET 6

1. Land Area to be Acquired (Payment per square foot/acre supported by recent land sales on file.)

RIGHT OF WAY	R/W	AC	X	\$	=	\$	Ⓜ		
PERM Drainage Easement	PDE	<u>0.011</u>	AC	X	\$	<u>204,000 * 75%</u>	=	\$ <u>1,683.00</u>	Ⓜ <u>1,700.00</u>
PERM Utility Easement	PUE		AC	X	\$		=	\$	Ⓜ
PERM Drainage/Utility Ease	DUE		AC	X	\$		=	\$	Ⓜ
PERM Aerial Utility Easement	AUE		AC	X	\$		=	\$	Ⓜ
PERM Construction Easement	PCE		AC	X	\$		=	\$	Ⓜ
TEMP Construction Easement	TCE	<u>0.022</u>	AC	X	\$	<u>204,000 * 30%</u>	=	\$ <u>1,346.40</u>	Ⓜ <u>1,350.00</u>
TEMP Drainage Easement	TDE		AC	X	\$		=	\$	Ⓜ
TEMP Utility Easement	TUE		AC	X	\$		=	\$	Ⓜ
OTHER			AC	X	\$		=	\$	Ⓜ
LAND TOTAL							\$	<u>3,050.00</u>	

2. Payment for improvement(s) to be acquired. Material and labor costs documented in the State's files.

	\$	
	\$	
	\$	
IMPROVEMENTS TOTAL		\$ <u>0.00</u>

3. Cost to Cure (Damage to Remainder)

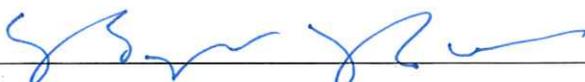
	\$	<u>0.00</u>
COST TO CURE TOTAL		\$ <u>0.00</u>
GRAND TOTAL		\$ <u>3,050.00</u>

Comments: _____

5 Comps attached: Ranged from \$152,174 to \$278,379 per acre. Reconciled at \$204,000/AC

Certificate of Preparer and Approver: I hereby certify that I am familiar with the property which is the subject of this estimate; that this estimate is based on data contained in the files of the agency and that I have no direct or indirect, present or contemplated future personal interest in this property or in any benefit from the acquisition of this property.

Preparer Signature:  **Brad A. McKinney** Date 8/23/2018

Approval Signature:  Date 8/23/18

TEMPORARY EASEMENT TOTAL \$ 1,350.00 PERMANENT EASEMENT TOTAL \$ 1,700.00

City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 18-488

Agenda Date: 11/13/2018

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 6.03

TO: Mayor and Members of City Council

THRU: Douglas Hewett, ICMA - CM, City Manager

**FROM: Benjamin Major, Fire Chief
Tracey Broyles, Budget and Evaluation Director**

DATE: November 13, 2018

RE:

Adoption of Capital Project Ordinance 2019-19 to Appropriate Grant Funding for a Portable Shelter System Hub

COUNCIL DISTRICT(S):

All

Relationship To Strategic Plan:

Goal 1: The City of Fayetteville will be a safe and secure community.

Executive Summary:

Capital Project Ordinance 2019-19 will appropriate a \$27,900 grant from the U.S. Department of Homeland Security, passed through the North Carolina Department of Public Safety, Division of Emergency Management, for the purchase of a portable shelter system hub to provide interconnectivity with existing portable shelters. There is no local match required for the grant.

Background:

The City has received notification of the award of federal grant funds for the purchase of a portable shelter system hub. The DLX HUB Interconnectivity Shelter System equipment grant funds the purchase of a 17' x 17' quick deployment shelter that connects with two existing DLX tents owned by the Fayetteville Fire/Emergency Management Department to form a larger system. This shelter system is also part of a standardized and interoperable disaster deployable resource package developed by North Carolina

Emergency Management.

Issues/Analysis:

None

Budget Impact:

There is no impact to the General Fund as no local match is required.

Options:

- 1) Adopt Capital Project Ordinance 2019-19 to appropriate the grant funds and allow staff to move forward with the equipment purchase.
- 2) Do not adopt Capital Project Ordinance 2019-19 and provide direction to staff.

Recommended Action:

Staff recommends that Council move to adopt Capital Project Ordinance 2019-19 as presented.

Attachments:

Capital Project Ordinance 2019-19

MOA with NC Department of Public Safety, Division of Emergency Mangement

**CAPITAL PROJECT ORDINANCE
ORD 2019-19**

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1. The authorized project is for the purchase of a portable shelter system hub, as funded under the FY 2018 Homeland Security Grant Program (HSGP), awarded as a pass through by the North Carolina Department of Public Safety, Division of Emergency Management.

Section 2. The project director is hereby directed to proceed with the project within the terms of the various agreements executed and within the funds appropriated herein.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

U.S. Department of Homeland Security Grant (Passed through NC Department of Public Safety, Division of Emergency Management)	<u>\$ 29,700</u>
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Section 4. The following amounts are appropriated for the project:

Project Expenditures	<u>\$ 29,700</u>
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Section 5. Copies of this capital project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out the project.

Section 6. The City Manager is hereby authorized and directed to take such action as he may deem necessary or appropriate to execute this ordinance.

Adopted this 13th day of November, 2018.



North Carolina Department of Public Safety

Emergency Management

Roy Cooper, Governor
Erik A. Hooks, Secretary

Michael A. Sprayberry, Director

Homeland Security Grant Program (HSGP)

CFDA #: 97.067

Fiscal Year 2018

Grant #: EMW-2018-SS-00053

SUB AWARD NOTIFICATION

Scott Bullard
City of Fayetteville
433 Hay Street
Fayetteville, NC 28301

Period of Performance: September 1, 2018 to February 28, 2021

Project Title(s): DLX HUB

Total Amount of Award: \$29,700.00

MOA#: 1820

North Carolina Emergency Management is pleased to inform you that the federal Fiscal Year (FY) 2018 Homeland Security Grant Program (HSGP) has been approved for funding. In accordance with the provisions of FY 2018 HSGP award, North Carolina Emergency Management hereby awards to the foregoing sub-recipient a grant in the amount shown above. The CFDA number is 97.067 and North Carolina Emergency Management federal grant number is EMW-2018-SS-00053.

Payment of Funds: The grant shall be effective upon final approval by North Carolina Emergency Management of the grant budget and program narrative and the execution of the forthcoming Memorandum of Agreement. Grant funds will be disbursed (according to the approved project budget) upon receipt of evidence that funds have been invoiced and products received and/or that funds have been expended (i.e., invoices, contracts, itemized expenses, etc.).

Conditions: The sub-recipient shall understand and agree that funds will only be expended for those projects outlined in the funding amounts as individually listed above. Sub-recipient shall also certify the understanding and agreement to comply with the general and fiscal terms and conditions of the grant including special conditions; to comply with provisions of the 2 CFR 200 and all applicable laws governing these funds and all other federal, state and local laws; that all information is correct; that there has been appropriate coordination with affected agencies; that sub-recipient is duly authorized to commit the applicant to these requirements; that costs incurred prior to grant application approval will result in the expenses being absorbed by the sub-recipient; and that all agencies involved with this project understand that federal funds are limited to the period of performance. Sub-recipient must read and sign forthcoming Memorandum of Agreement for acceptance of the award.

Supplanting: The sub-recipients confirm that sub-grant funds will not be used to supplant or replace local or state funds or other resources that would otherwise have been available for homeland security activities. In compliance with that mandate, the sub-recipient will certify that the receipt of federal funds through North Carolina Emergency Management shall in no way supplant or replace state or local funds or other resources that would have been made available for homeland security activities.

Callion L. Maddox

Callion L. Maddox
Homeland Security Grants Branch Manager

GRANT AWARD NOTICE: THIS AWARD IS SUBJECT TO THE GRANT SPECIAL CONDITIONS AND FINAL APPROVAL BY THE DEPARTMENT OF PUBLIC SAFETY, NORTH CAROLINA EMERGENCY MANAGEMENT GRANT PROGRAM BUDGET AND NARRATIVE



MAILING ADDRESS
4236 Mail Service Center
Raleigh NC 27699-4236
www.readync.org
www.ncdps.gov

OFFICE LOCATION
1636 Gold Star Drive
Raleigh, NC 27607-3371
Telephone: (919) 825-2500
Fax: (919) 825-2685

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North Carolina Department of Public Safety

Emergency Management

Roy Cooper, Governor
Erik A. Hooks, Secretary

Michael A. Sprayberry, Director

**Homeland Security Grant Program
(HSGP)**

CFDA #: 97.067

Fiscal Year 2018

Grant Award #: EMW-2018-SS-00053

MEMORANDUM OF AGREEMENT (MOA)**Between****Recipient:**

State of North Carolina
Department of Public Safety
Division of Emergency Management

Sub-recipient:

City of Fayetteville
Tax ID/EIN #: 56-6001226
DUNS #: 040031700

MOA #: 1820

MOA Period of Performance:

September 1, 2018 to February 28, 2021

DPS Fund Code: 1502-7A38-3H18

MOA Amount:

Federal:	\$	29,700.00
State:	\$	0.00
Local:	\$	0.00
Total:	\$	29,700.00

1. Purpose

The purpose of this Memorandum of Agreement (MOA) is to establish responsibilities and procedures to implement the terms of the US Department of Homeland Security (DHS) HSGP Grant Program. A copy of the complete Federal grant instructions is available at www.fema.gov. This agreement is to set forth terms by which the State of North Carolina, Department of Public Safety, North Carolina Emergency Management (Recipient), shall provide HSGP funding to the Sub-recipient to fund projects related to Homeland Security Planning, Operations, Equipment purchases, Training and Exercises. For a more detailed description of the approved Scope of Work, please see Attachment 1.

2. Program Authorization and Regulations

This Agreement is authorized under the provisions of (1) Department of Homeland Security Appropriations Act, 2018 (Pub. L. No. 115-141); (2) The 9/11 Commission Act of 2007; (3) Public Law 107-56, (6 U.S.C. § 101 et seq.), the USA Patriot Act of 2001; (4) Public Law 107-296 as amended, the Homeland Security Act of 2002; (5) Public Law 109-295, The Post-Katrina Emergency Management Reform Act of 2006, 6 U.S.C. 752(c); (6) the implementing recommendations or regulations of each Act or Law, if any; (7) the FY 2018 HSGP Notice of Funding Opportunity Announcement (NOFOA) available at www.fema.gov (8) applicable Grants Programs Directorate (GPD) Information Bulletins available at www.fema.gov; and (9) the NC Emergency Management Act, Chapter 166A of the North Carolina General Statutes. The funds awarded under this grant must be used in compliance with all applicable state and federal laws to include compliance with N.C.G.S. §143C-6-23 and 09 NCAC 03M. By accepting this award, the Sub-recipient agrees to use these funds in a manner consistent with state laws and regulations.

3. Projects managed by the Recipient (State) on behalf of Sub-recipient (Only)

By checking this Box I request that the Recipient retain funds effective September 1, 2018. Sub-recipient has agreed to receive grant funds from Recipient. Sub-recipient desires for the North Carolina Emergency Management to conduct activities described in Attachment 1 of this MOA, on its behalf with its allocation of \$29,700.00 awarded through the FY 2018 HSGP. Sub-recipient authorizes Recipient to provide the funds to the State of North Carolina, Department of Public Safety, North Carolina Emergency Management to conduct Planning, make Equipment Purchases, and conduct

Training and Exercise activities to improve prevention, protection, preparedness, response, and recovery capabilities. See Attachment 1 for detailed Scope of Work.

4. Compensation

Recipient agrees that it will pay the Sub-recipient complete and total compensation for the services to be rendered by the Sub-recipient. Payment to the Sub-recipient for expenditures under this Agreement will be reimbursed after the Sub-recipient's cost report is submitted and approved for eligible scope of work activity. The original signed copy of this Award and MOA must be signed by the Official(s) authorized to sign below and returned to North Carolina Emergency Management no later than 45 days after award date. The grant shall be effective upon return of the executed Grant Award and MOA and final approval by North Carolina Emergency Management of the grant budget and program narrative. Grant funds will be disbursed (according to the approved project budget) upon receipt of evidence that funds have been invoiced and products received and/or that funds have been expended (i.e., invoices, contracts, itemized expenses, etc.) and/or that all work activities are completed.

Sub-recipients must meet all reimbursement requirements contained herein. Non-compliance may result in denial of reimbursement request(s) or revocation of equipment and/or grant funds awarded for this project.

5. Funding Eligibility Criteria

Federal funds administered through the State are available to local governments to assist in the cost of developing and maintaining a "Comprehensive Homeland Security Response" program. Continued HSGP funding is contingent upon completion of all HSGP funding requirements. The following eligibility criteria must be adhered to during the Grant Program:

A. Every participant must:

- i. Be established as a State, Local, or Non-Profit agency by appropriate resolution/ordinance.
- ii. Complete any procurement(s) and expenditures no later than February 28, 2021.
- iii. Provide quarterly progress reports to NCEM Grant Managers, Training and Exercise Officer(s), and Field Branch Staff, as applicable using the latest Grant Quarterly Report form by the following dates: January 15th, April 15th, July 15th and October 15th.
- iv. Submit request for reimbursement with all required documentation attached.

B. File Retention:

Sub-recipient is required to maintain records and (invoices) of this grant for three years after termination of the grant, or audit if required, or longer where required by law, as outlined below, attached and incorporated by reference. Recipient must meet the financial administration requirements in 2 CFR Part 200 and must maintain a file for each HSGP grant award. The files must be available for review by North Carolina Emergency Management staff for site visits, project closeout and future audits.

However, if a litigation, claim or audit has been initiated prior to the expiration of the three-year period and extends beyond the five-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. Files must be available for review by North Carolina Emergency Management staff for site visits, project closeout and future audits.

Sub-recipient must include appropriate documentation in the file, including but not limited to the following:

- i. Resolution/ordinance establishing Sub-recipient a State, Local, or Non-Profit
- ii. Grant award and memorandum of agreement/memorandum of understanding and supporting appendices
- iii. Completed appropriate reports with specifications, solicitations, competitive quotes or proposals, basis for selection decisions, purchase orders, contracts, invoices and proof(s) of payment
- iv. Audit findings and corrective action plans
- v. Equipment inventory records with photo documentation of labeling

C. The political subdivision must have an acceptable local travel regulation plan or accept the state travel regulations.

6. Conditions

The Sub-recipient certifies that it understands and agrees that funds will only be expended for those projects outlined in the funding amounts as individually listed in the FY 2018 HSGP Application Packet, incorporated by reference herein. The Recipient certifies that it understands and agrees to comply with the general and fiscal terms and conditions of the grant including special conditions; to comply with provisions of the applicable laws, rules and policies governing these funds; that all information is correct; that there has been appropriate coordination with affected agencies; that it is duly authorized to commit the Sub-recipient to these requirements; that costs incurred prior to grant application approval will result in the expenses being absorbed by the Sub-recipient; and that all agencies involved with this project understand that all Federal funds are limited to the Federal period of performance.

7. Supplantation

Sub-recipients are required to provide assurance that grant funds will not be used to supplant or replace local or state funds or other resources that would otherwise have been available for homeland security activities. In compliance with that mandate, the Sub-recipient certifies that the receipt of Federal funds through North Carolina Emergency Management shall in no way supplant or replace state or local funds or other resources that would have been made available for homeland security activities.

8. Compliance

Sub-recipient shall comply with the applicable statutes, ordinances, regulations, licensing requirements, policies, guidelines and requirements, reporting requirements and certifications and other regulatory matters that are applicable to the conduct of its business and purchase requirements performed under this MOA, including those of Federal requirements and State and local agencies having appropriate jurisdiction and found in the applicable FY 2018 HSGP NOFO announcement. Sub-recipient shall be wholly responsible for the purchases to be made under this MOA and for the supervision of its employees and assistants. Failure to comply with the specified conditions of this MOA will result in the return of funds and/or items to North Carolina Emergency Management.

9. Responsibilities

Recipient:

- A. The Recipient shall provide funding to the Sub-recipient to perform the work activities as described herein.
- B. The Recipient shall conduct a review of the project to ensure that it is in accordance with HSGP requirements.
- C. The Federal award date is September 1, 2018. Funds allocated for the performance of the work activities must be encumbered and invoices received by the North Carolina, Department of Public Safety, and North Carolina Emergency Management by February 28, 2021.
- D. The recipient shall directly monitor the completion of this project.

Sub-recipient:

- A. The Sub-recipient shall expend FY 2018 HSGP Grant Program funds in accordance with the applicable DHS and HSGP NOFO announcement, the Grant Application Package, and the Grant Award and Special Conditions documents, incorporated by reference herein, of this MOA for the performance of the work activities.
- B. The Sub-recipient shall utilize State of North Carolina and/or local procurement policies and procedures for the expenditure of funds, and conform to applicable State and Federal law and the standards identified in the Procurement Standards Sections of 44 Code of Federal Regulations (CFR) 2 CFR Part 200. Sub-recipient must follow procurement procedures and policies as outlined in the applicable DHS and HSGP NOFO announcement and the DHS Financial Management Guide. Sub-recipient shall comply with all applicable laws, regulations and program guidance. Sub-recipient must comply with the most recent version of the funding administrative requirements, cost principles, and audit requirements. Administrative and procurement practices must conform to applicable Federal requirements. A non-exclusive list of regulations commonly applicable to DHS grants are listed below, codified in the following guidance: 2 CFR 215; 2 CFR Parts 225, 220, and 230; 15 CFR Part 24; Federal Acquisition Regulations (FAR), Part 31.2; and 2 CFR 200 Sub-part F and 44 CFR Part 14; 28 CFR Part 23 “Criminal Intelligence Systems Operating Policies”; 49 CFR Part 1520 “Sensitive Security Information”; Public Law 107-296, The Critical Infrastructure Act of 2002; Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000 et. seq.; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et. seq; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; The Age Discrimination Act of 1975, as amended, 20

U.S.C. 6101 et. seq.; Cash Management Improvement Act (CMIA) and its implementing regulations at 31 CFR Part 205; FEMA Grant Programs Directorate, Grants Management Division, Match Guidance; Certifications and Assurances regarding Lobbying 31 U.S.C. 1352, Drug-Free Workplace Act, as amended, 41 U.S.C. 701 et. seq. and Certification Regarding Drug-Free Workplace Requirements, Debarment and Suspension Executive Orders 12549 and 12689 and 44 CFR Part 17 and Certification Regarding Debarment, Suspension and Other Responsibility Matters; Assurances as listed in SF 424B and SF 424D, 28 CFR Parts 66, 67, 69, 70 and 83; and Grant Award and Special Conditions documents.

- C. Submit invoice(s) requesting reimbursement for item(s) received to the NCEM Grants Management Branch Grants Manager. Recipient will reimburse Sub-recipient for eligible costs as outlined in the applicable DHS Program Guidelines and NOFO announcements. Sub-recipient must take possession of all purchased equipment and receive any grant-eligible service prior to seeking reimbursement from the Recipient. Sub-recipient must submit request for reimbursement within 60 days of payment of invoice.
- D. Sub-recipient must take possession of all purchased equipment, receive any grant-eligible service and/or complete work activities prior to seeking reimbursement from the Recipient.
- E. Complete the procurement(s) process not later than February 28, 2021.
- F. Provide quarterly progress reports to NCEM Grant Managers, Training and Exercise Officer(s), and Field Branch Staff, as applicable using the latest Grant Quarterly Report form by the following dates: January 15th , April 15th, July 15th and October 15th. (Attachment 2)
- G. Maintain a grant management filing system as required in this MOA.
- H. Provide a list at project completion phase to the Grants Manager, DPR chair, and/or Branch Office listing all items purchased through the grant.
- I. Comply with the applicable Federal statutes, regulations, policies, guidelines and requirements, reporting requirements and certifications as outlined in the applicable FY 2018 HSGP NOFO announcement and Grant Award and Special Conditions documents.
- J. Comply with current Federal laws, suspension and debarment regulations pursuant to 2 CFR 200 Sub-part F and OMB which states in pertinent part that “effective November 26, 2003, when a non-Federal entity enters into a covered transaction with an entity at a lower tier, the non-Federal entity must verify that the entity is not suspended or debarred or otherwise excluded. Sub-recipient shall be responsible to ensure that it has checked the Federal System for Awards Management (SAM) <https://www.sam.gov/portal/public/SAM/> and the State Debarred Vendors Listing, <http://www.pandc.nc.gov/actions.asp> to verify that contractors or sub-recipients have not been suspended or debarred from doing business with the Federal government”.
- K. Ensure that HSGP funds are not used to support the hiring of any personnel for the purposes of fulfilling traditional public safety duties or to supplant traditional public safety positions and responsibilities.
- L. Non-supplanting Requirement. Federal grant funds shall be used to supplement existing funds, and shall not replace (supplant) funds that have been appropriated for the same purpose.
- M. All materials publicizing or resulting from award activities shall contain this acknowledgement: “This project was supported by a Federal award from the US Department of Homeland Security, Department of Public Safety, North Carolina Emergency Management.” Use of the Federal program logo must be approved by DHS. Printed as a legend, either below or beside the logo shall be the words “Funded by US Department of Homeland Security.
- N. The purchase or acquisition of any additional materials, equipment, accessories or supplies or completion of any work activities beyond those identified in this MOA shall be the sole responsibility of Sub-recipient and shall not be reimbursed under this MOA.
- O. Sub-recipient shall have sole responsibility for the maintenance, insurance, upkeep, and replacement of any equipment procured pursuant to this Agreement unless hand receipted or transferred.
- P. Maintain an effective property management system that complies with the following requirements:
 - i. Recipient and Sub-recipient shall take an initial physical inventory of any equipment. Equipment is defined as tangible, non-expendable property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. Sub-recipient may have property management guidelines that are more restrictive, requiring a unit of equipment with a value of less than \$5,000 to be inventoried. If so, such equipment purchased under

this award allocation shall be included on the report submitted to Recipient. The grant summary, cost reports with backup documentation, certificate of title, and any other Sub-recipient reports or inventory reports that include information regarding the grant, vendor, invoice number, cost per item, number of items, description, location, condition and identification number may be used to meet this requirement.

- ii. Sub-recipient must ensure a control system exists to ensure adequate safeguards to prevent loss, damage or theft. Sub-recipient shall be responsible for replacing or repairing equipment which is willfully or negligently lost, stolen, damaged, or destroyed. Any loss, damage or theft of the property must be investigated and fully documented, and made part of the official project records.
- iii. Sub-recipient or equipment owner must ensure adequate maintenance procedures exist to keep the equipment in good condition.
- iv. Disposition Procedures. Sub-recipient may dispose of the equipment when the original or replacement equipment acquired under the grant award is no longer needed for the original project or program. Items with a fair market value of less than \$5,000 may be retained, transferred or otherwise disposed of with prior approval of Recipient and in accordance with disposition requirements in 2 CFR Part 200. Items with a current per unit standard Federal or fair market value in excess of \$5,000 may be retained, transferred or otherwise disposed of with prior Recipient approval in accordance with disposition requirements in 2 CFR Part 200. Sub-recipient must provide documentation that includes the method used to determine current fair market value.
- v. Only authorized equipment listed in the Authorized Equipment List (AEL), with appropriate grant listed are eligible for purchases from this grant. For more guidance visit www.fema.gov.

Q. No indirect or administrative costs will be charged to this allocation award.

R. Sub-recipient must utilize equipment as intended in their project application to NCEM. Any variation from this intended use must be requested in writing and approved by NCEM. Any equipment purchased under the HSGP is subject to use as a regional asset to be utilized by the DHS, North Carolina Emergency Management, or Domestic Preparedness Region partners and statewide as needed. Failure to adhere to this policy might result in revocation of funds allocated for the purchase of said equipment.

S. Sub-recipient must have a DUNS number, prior to any funds being released. DUNS numbers may be obtained from either of the following web links: www.dnb.com or <http://fedgov.dnb.com/webform>.

T. Each sub-recipient shall ensure their organization is registered with the System for Award Management (SAM). It is required for all applicants name, address, DUNS number and EIN are up to date in SAM and that the DUNS number used in SAM is the same one used to apply for all FEMA awards. SAM information can be found at <http://www.sam.gov>. Future payments will be contingent on the information provided in SAM; therefore it is imperative that the information is correct.

U. The purchase or acquisition of any additional materials, equipment, accessories or supplies, or the provision of any training, exercise or work activities beyond that identified in this MOA shall be the sole responsibility of Sub-recipient, and shall not be reimbursed under this MOA.

10. Funding

All terms and conditions of this MOA are dependent upon and subject to the allocation of funds from the DHS and NCEM for the purpose set forth, and the MOA shall automatically terminate if funds cease to be available.

Allowable costs shall be determined in accordance with the applicable DHS Program Guidelines, which include, but may not be limited to:

- the FY 2018 HSGP NOFO announcement, available at: www.fema.gov; 2 CFR Parts 200 Sub-part F, 215, 220, 225, and 230;
- Federal Acquisition Regulations (FAR) Part 31.2, OMB Circulars A-21, and;
- the DHS Financial Management Guide available at www.dhs.gov.

Allowable costs are also subject to the approval of the State Administrative Agent for the State of North Carolina, the Secretary of the Department of Public Safety.

11. Taxes

Sub-recipient shall be considered to be an independent sub-recipient and as such shall be responsible for all taxes.

12. Warranty

As an independent sub-recipient, the Sub-recipient will hold the Recipient harmless for any liability and personal injury that may occur from or in connection with the performance of this Agreement to the extent permitted by the North Carolina Tort Claims Act. Nothing in this Agreement, express or implied, is intended to confer on any other person any rights or remedies in or by reason of this Agreement. This Agreement does not give any person or entity other than the parties hereto any legal or equitable claim, right or remedy. This Agreement is intended for the sole and exclusive benefit of the parties hereto. This Agreement is not made for the benefit of any third person or persons. No third party may enforce any part of this Agreement or shall have any rights hereunder. This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person not a party to this Agreement. Nothing herein shall be construed as a waiver of the sovereign immunity of the State of North Carolina.

13. Audit Requirements

For all DHS grant programs, Sub-recipient is responsible for obtaining audits in accordance with 2 CFR 200 Subpart F.

14. State Property

Sub-recipient shall be responsible for the custody and care of any property purchased with HSGP funds furnished for use in connection with the performance of this Agreement and shall reimburse the Recipient for any loss or damage to said property until the property is disposed of in accordance with HSGP Program requirements. Recipient will not be held responsible for any property purchased under this MOU/MOA. Title to the property purchased with HSGP funds shall be in the Sub-recipient unless noted in section 8 of the MOA.

15. Points of Contact

To provide consistent and effective communication between Sub-recipient and the Department of Public Safety, North Carolina Emergency Management, each party shall appoint a Principal Representative(s) to serve as its central point of contact responsible for coordinating and implementing this MOA. The Department of Public Safety, North Carolina Emergency Management contact shall be, Assistant Director for Planning & Homeland Security, the NCEM Grants Management Branch Staff, and the NCEM Field Branch Staff. The Sub-recipient point of contact shall be the HSGP Program Manager or the person designated by the Sub-recipient. All confidential information of either party disclosed to the other party in connection with the services provided hereunder will be treated by the receiving party as confidential and restricted in its use to only those uses contemplated by the terms of this MOA. Any information to be treated as confidential must be clearly marked as confidential prior to transmittal to the other party. Neither party shall disclose to third parties, the other party's confidential information without written authorization to do so from the other party. Specifically excluded from such confidential treatment shall be information that:

- A. As of the date of disclosure and/or delivery, is already known to the party receiving such information.
- B. Is or becomes part of the public domain, through no fault of the receiving party.
- C. Is lawfully disclosed to the receiving party by a third party who is not obligated to retain such information in confidence.
- D. Is independently developed at the receiving party by someone not privy to the confidential information.

16. Public Records Access

While this information under Federal control is subject to requests made pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. §552 et. seq., all determinations concerning the release of information of this nature are made on a case-by-case basis by the FEMA FOIA Office. This agreement may be subject to the North Carolina Public Records Act, Chapter 132 of the North Carolina General Statutes.

17. Subcontracting

If Sub-recipient subcontracts any or all purchases or services required under this Agreement, then Sub-recipient agrees to include in the subcontract that the subcontractor is bound by the terms and conditions of this MOA. Sub-recipient and any subcontractor agree to include in the subcontract that the subcontractor shall hold Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this MOA. If Sub-recipient

subcontracts any or all purchases or services required under this MOA, a copy of the executed subcontract Agreement must be forwarded to Recipient. A contractual arrangement shall in no way relieve Sub-recipient of its responsibilities to ensure that all funds issued pursuant to this grant be administered in accordance with all state and Federal requirements. Sub-recipient is bound by all special conditions of this grant award as set out in the Grant Application Package and the Grant Award and Special Conditions documents, incorporated by reference herein, as well as all terms, conditions and restrictions of the applicable HSGP NOFO announcement referenced herein.

18. Situs

This Agreement shall be governed by the laws of North Carolina and any claim for breach or enforcement shall be filed in State Court in Wake County, North Carolina.

19. Antitrust Laws

This Agreement is entered into in compliance with all State and Federal antitrust laws.

20. Other Provisions/Severability

Nothing in this Agreement is intended to conflict with current laws or regulations of the State of North Carolina, Department of Public Safety, North Carolina Emergency Management, or the Sub-recipient. If a term of this agreement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect.

21. Compliance with the law

Sub-recipient shall be wholly responsible for the purchases to be made under this MOA and for the supervision of its employees and assistants. Sub-recipient shall be responsible for compliance with all laws, ordinances, codes, rules, regulations, licensing requirements and other regulatory matters that are applicable to the conduct of its business and purchase requirements performed under this MOA, including those of Federal requirements and State and local agencies having appropriate jurisdiction and found in the FY 2018 HSGP NOFO announcement.

22. Entire Agreement

This Agreement and any annexes, exhibits and amendments annexed hereto and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral and written statements or agreements.

23. Modification

This Agreement may be amended only by written amendments duly executed by the Recipient and the Sub-recipient.

24. 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 contacting with the State certifies, and the undersigned on behalf of the Vendor does hereby certify, to the following:

- A. 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
- B. That the vendor shall not utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List
- C. That the undersigned is authorized by the Vendor to make this Certification

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 is updated every 180 days. For questions about the Department of State Treasurer's Iran Divestment Policy, please call (919) 814-3852.

25. Termination

The terms of this agreement, as modified with the consent of all parties, will remain in effect until February 28, 2021. Either party upon thirty days advance written notice to the other party may terminate this agreement. Upon approval by DHS, FEMA and the issuance of the Grant Adjustment Notice, if this MOA is extended, the termination date for the extension will be the date listed in the applicable DHS, FEMA Grant Adjustment Notice, incorporated by reference herein. If DHS suspends or terminates funding in accordance with 2 CFR 200 and the 2018 HSGP NOFOA, incorporated by reference herein, the Sub-recipient shall reimburse North Carolina Emergency Management for said property and/or expenses.

26. Scope of Work

Sub-recipient shall implement the HSGP project summarized below and as described in the approved project application. That application is hereby incorporated by reference into this Agreement:

- A. Scope of Work Summary
 - i. Completed appropriate report forms with invoices and proof(s) of payment
 - ii. Audit findings and corrective action plans
 - iii. Equipment inventory records with photo documentation of labeling
- B. Semi-annual summary (progress report) no later than July 15th to the NCEM Grant Manager and/or NCEM Field Planner to ensure:
 - i. The project deliverables are being met.
 - ii. Each grant contract is operating within budget.
- C. Documentation to be provided throughout the Period of Performance of the grant:
 - i. Quarterly project progress reports
 - ii. Sub-recipient involved legal action that pertains to Planning, Organization, Training, Exercise and Equipment purchased with HSGP
 - iii. After action report from exercise
 - iv. Training course roster and description
 - v. Any other documentation that would be pertinent
 - vi. All legible and complete invoices and receipts detailing the expenses associated with the project.

Receipts must contain the following information:

- Name and address of the vendor or establishment providing the product or service.
 - Vendor/Payee invoice number, account number, and any other unique meaningful identifying number
 - Date the product or service was provided.
 - Itemized description of all products or services.
 - Unit price of products or services (if applicable).
 - Total amount charged.
- vii. Proof of payment of expenses associated with the project

27. Lobbying Prohibition

The Sub-recipient certifies, to the best of its knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person or employee of any state or Federal agency, a member of the NC General Assembly, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- C. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representative of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

28. Assurance of Compliance with Title VI of the Civil Rights Act of 1964

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

- A. **Compliance with Regulations:** The contractor shall comply with the Regulations relative to nondiscrimination in Federally-Assisted Programs of the 2 CFR. 200 and North Carolina regulation as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- B. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, sex, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- C. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractors obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.
- D. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Research and Special Programs Administration (RSPA) to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the Recipient or the Research and Special Programs Administration as appropriate, and shall set forth what efforts it has made to obtain such information.
- E. **Sanctions for Noncompliance:** In the event of the contractors noncompliance with nondiscrimination provisions of this contract, the Recipient shall impose contract sanctions as it or the Research and Special Programs Administration may determine to be appropriate, including, but not limited to:
- i. Withholding of payments to the contractor under the contract until the contractor complies.
 - ii. Cancellation, termination, or suspension of the contract, in whole or in part.
- F. **Incorporation of Provisions:** The contractor shall include the provisions of every subcontract, including procumbent of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contract shall take such action with respect to any subcontract or procurements as the Recipient or the Research and Special Programs Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provide, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontract or supplier as a result of such direction, the contractor may request the Recipient to enter into such litigation to protect the of the Recipient and, in addition the contractor may request the United States to enter such litigation to protect the interests of the United States.

29. Assurance of Compliance with Title VI of the Civil Rights Act of 1964

Sub-recipient hereby agrees that as a condition to receiving any Federal financial assistance from the DHS it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-4 (hereinafter referred to as the Act) and all requirements imposed by or pursuant to 2 CFR Sub Part F , Nondiscrimination in Federally-Assisted Programs of the DHS - Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex or national origin, be excluded from participation in, be denied the benefits of, or be otherwise discrimination under any program or activity for which the Sub-recipient receives Federal financial assistance from the DHS, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations. More specifically and without limiting the above general assurance, the Sub-recipient hereby gives the following specific assurance with respect to the project:

- A. Agrees that each "program" and each "facility" as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to ("facility")) operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
- B. Insert the following notification in all solicitations for bids for work or material subject to the Regulations and, in adapted form in all proposals for negotiated agreements:

In accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and 2 CFR Sub Part F issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in regard to any contract entered into pursuant to this advertisement, minority, business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex or national origin in consideration for an award.

- C. Insert the clauses of this agreement in every contract subject to the Act and the Regulations.
- D. This assurance obligates the Recipient for the period during which Federal financial assistance is extended to the project.
- E. Provide for such methods of administration for the program as are found by the Secretary of DHS or the official to whom he delegates specific authority to give reasonable guarantee that is, other recipients, Sub-recipients, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.
- F. Agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, and Regulations, and this assurance.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient by the DHS and is binding on it, other recipients, Sub-recipients, contractors, subcontractors, transferees, successors in interest and other participants in the DHS Program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the recipients.

30. Assurance of Compliance with Title VI of the Civil Rights Act of 1964

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by Sub-recipient executed in expending these grant funds:

- A. The [Sub-recipient, licensee, lessee, permittee, etc., as appropriate] for itself, herself/himself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this [deed, license, lease, permit, etc.] for a purpose for which a DHS program or activity is extended or for another purpose involving the provision of similar services or benefits, the Sub-recipient [licensee, lessee, permittee, etc.] shall maintain and operate such

facilities and services in compliance with all other requirements imposed pursuant to 2 CFR Sub Part F and as said Regulations may be amended.

- B. That in the event of breach of the above nondiscrimination covenants, Sub-recipient shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [licenses, lease, permit, etc.] had never been made or issued.
- C. That in the event of breach of any of the above nondiscrimination covenants, Sub-recipient shall have the right to re-enter said lands and facilities thereon, and the above-described lands and facilities shall thereupon revert to and vest in and become the absolute property of Sub-recipient and its assigns.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by Sub-recipient:

- A. The [Sub-recipient, licensee, lessee, permittee, etc., as appropriate] for herself/himself, his/her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in case of deeds, and leases add "as a covenant running with the land"] that (1) no person on the grounds of race, color, sex, or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing services thereon, no person on the grounds of race, color, sex, or national origin shall be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination, and (3) that the [Sub-recipient, licensee, lessee, permittee, etc.] shall use the premises in compliance with all other requirements imposed by or pursuant 2 CFR Sub Part F Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- B. That in the event of breach of any of the above nondiscrimination covenants, Sub-recipient shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.
- C. That in the event of breach of any of the above nondiscrimination covenants, Sub-recipient shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of Sub-recipient and its assigns.

* Reverted clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI of the Civil Rights Act of 1964.

31. Assurance of Compliance with Privacy Act

The Sub-recipient agrees:

- A. To comply with the provisions of the Privacy Act of 1974, 5 U.S.C. §552A and regulations adopted there under, when performance under the program involves the design, development, or operation of any system or records on individuals to be operated by the Sub-recipient, its third-party contractors, subcontractors, or their employees to accomplish a DHS function.
- B. To notify DHS when the Sub-recipient or any of its third-party contractors, subcontractors, sub-recipients, or their employees anticipate a system of records on behalf of DHS in order to implement the program, if such system contains information about individuals name or other identifier assigned to the individual. A system of records subject to the Act may not be used in the performance of this Agreement until the necessary and applicable approval and publication requirements have been met.
- C. To include in every solicitation and in every third-party contract, sub-grant, and when the performance of work, under that proposed third-party contract, sub grant, or sub agreement may involve the design, development, or operation of a system of records on individuals to be operated under that third-party contract, sub grant, or to accomplish a DHS function, a Privacy Act notification informing the third party contractor, or sub Recipient, that

it will be required to design, develop, or operate a system of records on individuals to accomplish a DHS function subject to the Privacy Act of 1974, 5 U.S.C. §552a, and applicable DHS regulations, and that a violation of the Act may involve the imposition of criminal penalties; and

- D. To include the text of Sections 30 part A through C in all third party contracts, and sub grants under which work for this Agreement is performed or which is award pursuant to this Agreement or which may involve the design, development, or operation of a system of records on behalf of the DHS.

32. Certification Regarding Drug-Free Workplace Requirements (Sub-recipients Other Than Individuals)

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988, 44 CFR Part 17, Sub Part F. The regulations, published in the January 31, 1989 Federal Register, require certification by sub- Recipient, prior to award, that they will maintain a drug-free workplace. The certification set out below is a material representation of the act upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government-wide suspension of debarment, (See 2 CFR Part 200).

- A. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Sub-recipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
- B. Establish a drug-free awareness program to inform employees about:
- i. The dangers of drug abuse in the workplace
 - ii. The Sub-recipient's policy of maintaining a drug-free workplace
 - iii. Any available drug counseling, rehabilitation, and employee assistance programs
 - iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace
- C. Require that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph A. .
- D. Notifying the employee in the statement required by paragraph (A) that, as a condition of employment under the grant, the employee will:
- i. Abide by the terms of the statement.
 - ii. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
- E. Notifying the agency within ten days after receiving notice under subparagraph (D) (ii), from an employee or otherwise receiving actual notice of such conviction.
- F. Taking one of the following actions, within 30 days of receiving notice under subparagraph (D)(ii), with respect to any employee who is convicted:
- i. Taking appropriate personnel action against such an employee, up to and including termination.
 - ii. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purpose by federal, state, 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).

33. Execution and Effective Date

This grant shall become effective upon return of this original Grant Award and MOA, properly executed on behalf of the Sub-recipient, to North Carolina Emergency Management and will become binding upon execution of all parties to the Agreement. The terms of this Agreement will become effective September 1, 2018. The last signature shall be that of Erik A. Hooks, Secretary for the North Carolina Department of Public Safety.

34. Term of this Agreement

This agreement shall be in effect from September 1, 2018 to February 28, 2021.

IN WITNESS WHEREOF, the parties have each executed this Agreement and the parties agree that this Agreement will be effective as of September 1, 2018

**NC DEPARTMENT OF PUBLIC SAFETY
DIVISION OF EMERGENCY MANAGEMENT
1636 GOLD STAR DR
RALEIGH, NC 27607**

**CITY OF FAYETTEVILLE
433 HAY STREET
FAYETTEVILLE, NC 28301-0007**

DocuSigned by:
Michael A. Sprayberry
BY: _____
**MICHAEL A. SPRAYBERRY, DIRECTOR
NORTH CAROLINA EMERGENCY MANAGEMENT**

BY: _____

APPROVED AS TO PROCEDURES:

BY: _____
**JAMES J. CHEROKE, CONTROLLER
DEPARTMENT OF PUBLIC SAFETY**

BY: _____

DocuSigned by:
William Polk
BY: _____
**WILLIAM POLK, ASSISTANT GENERAL COUNSEL
REVIEWED FOR THE DEPARTMENT OF
PUBLIC SAFETY, BY WILLIAM POLK,
DPS ASSISTANT GENERAL COUNSEL, TO FULFILL THE
PURPOSES OF THE US DEPARTMENT OF
HOMELAND SECURITY GRANT PROGRAMS**

BY: _____
**ERIK A. HOOKS, SECRETARY
DEPARTMENT OF PUBLIC SAFETY**

THIS MOA WAS PREVIOUSLY APPROVED AS TO FORM BY THE NORTH CAROLINA DEPARTMENT OF JUSTICE FOR THE FY 2018 HOMELAND SECURITY GRANT PROGRAM ONLY AND IS SUBJECT TO EXECUTION BY ERIK A. HOOKS, SECRETARY OF THE DEPARTMENT OF PUBLIC SAFETY. THIS MOU/MOA SHOULD NOT BE USED FOR OTHER MOUs/MOAs FOR THE HSGP FOR OTHER FISCAL YEARS.

Attachment 1

**NORTH CAROLINA EMERGENCY MANAGEMENT
FFY 2018 HOMELAND SECURITY GRANT
(HSGP)**

APPLICATION

Submission Deadline: March 15, 2018

INSTRUCTIONS FOR COMPLETING EM FORM 67

A. Applicant Information

EM Agency Name - Type or print the official legal title of your Emergency Management (EM) agency.

Street Address, City, Zip Code+4 - Type or print the street address, city, and nine-digit zip code.

D-U-N-S Number - Type or print the unique nine-digit identification number for your county's agency.

NOTE: Your financial personnel should be able to provide you with this number.

EIN/Tax ID Number - Type or print the unique nine-digit identification number for your county's agency. *NOTE: Your financial personnel should be able to provide you with this number.*

SAM Registered - Each applicant must be registered in the federal System for Award Management (SAM) annually in order to be eligible to receive EMPG monies. The URL is <https://www.sam.gov/>.

Expiration Date - What is the expiration date for your SAM account?

B. Applicant Point of Contact Information - Type or print the name and contact information of the person responsible for the day-to-day management of the grant once awarded.

C. County EM Program Manager Contact Information - Type or print the name of the county EM Program Manager.

D. MOA Signatory Information - Type or print the name and contact information of the person that has signatory authority to accept the grant award on behalf of the municipality.

E. Project Information - Type or print a detailed description of the project/activity to be reviewed for grant award approval.

F. FEMA Reporting and Review Requirements

Core capabilities - Select a capability that best describes this project (Required by FEMA for Annual Reporting).

Environmental Historical Preservation - Complete if your project involves construction, modification or installation of equipment to a permanent fixture.

Project Milestone - Describe the steps that will help you complete this project.

G. Certification - Verify that all application information is correct.

This project must be submitted by email to FeliciaD.johnson@ncdps.gov on or before **March 15, 2018.**

**NORTH CAROLINA EMERGENCY MANAGEMENT
FFY 2018 HOMELAND SECURITY GRANT
(HSGP)**

APPLICATION

Submission Deadline: March 15, 2018

A. Applicant Information

(When awarded a grant, the applicant will be referred to as the sub-recipient)

Applicant	City of Fayetteville North Carolina		
Street Address	433 Hay Street		
City State Zip	Fayetteville, NC 28301		
DUNS Number	040031700		
Tax ID Number	56-6001226		
Registered in SAM? <i>(Registration is required)</i>	Yes	Expiration Date	

B. Applicant Point of Contact Information

(Primary point of contact for all communication regarding the grant)

Name	Scott Bullard		
Agency	Fayetteville Fire Department		
Title	EM Coordinator and Safety Officer		
Phone (Work)	910-433-1789	Phone (Mobile)	910-551-4208
Street Address	433 Hay Street		
City	Fayetteville	ZIP + 4	28301
Email	sbullard@ci.fay.nc.us		

C. County EM Program Manager Contact Information

(This is usually either the emergency manager or fire marshal.)

Name	Gene Booth		
Email	wbooth@co.cumberland.nc.us		

D. MOA Signatory Information:

(Individual who has the authority to sign the grant agreement, if more than one signatory is required add contact information on separate sheet)

Name	Douglas J. Hewett		
Agency	City of Fayetteville		
Title	City Manager		
Street Address <i>(must be physical address, not PO Box)</i>	433 Hay Street		
City	Fayetteville	ZIP + 4	28301
Email	dhewett@ci.fay.nc.us		
Name	Ben Major		
Agency	Fayetteville Fire Department		
Title	Fire Chief		
Street Address <i>(must be physical address, not PO Box)</i>	433 Hay Street		
City	Fayetteville	ZIP + 4	28301
Email	bmajor@ci.fay.nc.us		

*****Please attach information for additional MOA Signatory, if necessary *****

E. Project Information*(Project or activity to be reviewed for grant award approval)*

State, Local (DPR), or Local Non-DPR Project	<i>Local</i>
If Local, select DPR number	DPR 2
Project Name	
Fayetteville DLX HUB Project	
Project Description	
<p>The DLX HUB is a Center piece that will allow all of the tents in not just DPR 2 but throughout the region and across the state to tie together and make a large complex when needed. This can be used for any type of planned or non-planned event such as for housing, medical treatment, Incident Management, rehabilitation of responders at all types of incidents to include but not limited to WMD, CBRNE, terrorist activity, mass causality, etc.</p>	

In addition to completing this section, applicants will need to submit at least one **Budget Sheet** attachment for every solution area in which they request funding.

Solution Area	Funding Amount	Funds Dedicated to LETP*
Planning		
Organization		
Equipment <i>(Only AEL listed equipment)</i>	\$29,700.00	
Training		
Exercise		
TOTAL FUNDING	\$29,700.00	

**If applicable, provide the proposed funding amount that will be spent on Law Enforcement Terrorism Prevention (LETP)*.*

Regionalization	
<i>This unit is mobile and will be housed in a trailer and can be deployed very quickly to any region that has a need as well as across the state.</i>	
Deployable? <i>Can the project be deployed to other jurisdictions?</i>	<i>Yes</i>
Sharable? <i>If the asset cannot be moved, can it be shared with other jurisdictions?</i>	<i>Yes</i>
Project Management	
Fayetteville Fire Department will be the sub grantee and will purchase the equipment, and once the equipment arrives the DPR 2 ED and Field-Planner will assure inventory and do all appropriate paperwork for grant closeout.	
Fusion Center	
Does this proposal contribute to development and operation of the fusion center?	No

If "Yes", please explain.

F. FEMA Reporting and Review Requirements

(The following information is required by FEMA.)

1) Does this project support a previously awarded investment?	No
2) If yes, from which year?	Choose an item.
3) Project name?	
4) How much funding was awarded?	\$
5) Last completed milestone?	
Is this project new or ongoing?	New
This project will:	
<input checked="" type="checkbox"/> Sustain or continue current capabilities <input type="checkbox"/> Complete a current project <input type="checkbox"/> Build or increase current capabilities (Only select if the project will <u>significantly</u> increase capacity)	
Which Core Capability(s) Best Describes this Project? (Required by FEMA for Annual Reporting) https://www.fema.gov/core-capabilities	
<input type="checkbox"/> Planning	<input type="checkbox"/> Critical Transportation
<input type="checkbox"/> Operational Coordination	<input type="checkbox"/> Environmental Response/Health and Safety
<input type="checkbox"/> Forensics and Attribution	<input type="checkbox"/> Natural and Cultural Resources
<input type="checkbox"/> Interdiction and Disruption	<input type="checkbox"/> Fire Management and Suppression
<input type="checkbox"/> Screening, Search, and Detection	<input type="checkbox"/> Infrastructure Systems
<input type="checkbox"/> Access Control and Identity Verification	<input type="checkbox"/> Logistics and Supply Chain Management
<input type="checkbox"/> Physical Protective Measures	<input type="checkbox"/> On-scene Security, Protection, and Law Enforcement
<input type="checkbox"/> Supply Chain Integrity and Security	<input type="checkbox"/> Operational Communications
<input type="checkbox"/> Cyber Security	<input type="checkbox"/> Threats and Hazard Identification
<input type="checkbox"/> Housing	<input type="checkbox"/> Risk/Disaster Resiliency Assessment
<input type="checkbox"/> Fatality Management Services	<input checked="" type="checkbox"/> Mass Search and Rescue Operations
<input type="checkbox"/> Intelligence and Information Sharing	<input type="checkbox"/> Public Information and Warning
<input checked="" type="checkbox"/> Community Resilience	<input type="checkbox"/> Health and Social Services
<input checked="" type="checkbox"/> Mass Care Services	<input type="checkbox"/> Economic Recovery
<input checked="" type="checkbox"/> Public Health and Medical Services	<input type="checkbox"/> Long-term Vulnerability Reduction
<input type="checkbox"/> Risk Management for Protection Programs and Activities	<input type="checkbox"/> Situational Assessment
Environmental and Historic Preservation	
Does this project require new construction, renovation, retrofitting, or modification of existing structures?	No
Does this project require affixing equipment (e.g. TV, Monitor, and radio equipment) to an existing structure?	No
If you answered Yes to either question above, please provide explanation:	
Project Milestones: Describe the major steps that will occur over the process of completing the project and include the estimated date of those steps. Project plan should be no longer than 36 months.	
Milestone	Date (mm/yyyy)
Application for funding of project	3/15/2018
Vetting of project at SRC	4/2018
Project funded	Fall of 2018
Grant closeout	Upon Purchase

G. Certification:

(Verification that all application information is correct)

I certify that:

- This application includes the following:
 - Completed and accurate information.
 - Completed budget sheet(s).
 - If applying as a nonprofit, documentation demonstrating nonprofit status.

- No project (supported through federal and/or matching funds) having the potential to impact Environmental or Historical Preservation (EHP) can be started without the prior approval of FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings, structures and objects that are 50 years old or greater. Applicant must comply with all conditions placed on the project as the result of the EHP review. Any change to the approved project scope of work will require re-evaluation for compliance with these EHP requirements. Any activities that have been initiated without the necessary EHP review and approval will result in a non-compliance finding and will not be eligible for FEMA funding.

- In accordance with HSPD-5, the adoption of the National Incident Management System (NIMS) is a requirement to receive Federal preparedness assistance through grants, contracts, and other activities. By submitting this project proposal, you and all participating entities are certifying that your locality/state agency is NIMS compliant.

- Submission of the project proposal does not guarantee funding.

- Any projects allocated funds will be required to check all purchases against the Allowable Equipment Lists <https://www.fema.gov/authorized-equipment-list>.

- Any changes made to this project after the submission deadline must be approved by the Homeland Security Section Grants Branch Manager and an updated application must be submitted.

****This project must be submitted by email to FeliciaD.johnson@ncdps.gov on or before March 15, 2018.****

Attachment 2

Quarterly Progress Report

Sub-Recipient: City of Fayetteville
 MOA Number: 1820
 FY 2018 HSGP — EMW-2018-SS-00053

Quarter (list dates):

Grant Award Amount: \$29,700.00

Funds Expended Prior Quarters:

Funds Expended This Quarter:

Activities	Metric	Current Status
1. Equipment	Dates, current status. For example: list needs identified, items in vendor negotiation, purchased, placed in service, etc.	
2. Planning	Dates, current status. For example: list needs identified, updates or revisions made to plans, or those to be made.	
3. Training	Dates, status of training. For example: list identified needs; training planned, in progress, or conducted (with agenda and roster attached).	
4. Exercise	Dates, status of exercise. For example: list identified needs; exercise(s) planned, in progress, or conducted (with After Action Report attached).	

Report submitted by:

Date:

Quarterly Progress Reports are due:

January 15

April 15

July 15

October 15

Attachment 3

Attachment 3 - EXAMPLE**Grant-Funded Typed Resource Report****Tool Instructions:**

- Each row should contain one piece of equipment purchased with or training held using grant funds for current reporting period. **Only report purchases and trainings that have already been completed and funds have been expended and drawn down.**
- Choose from the drop-down menu whether the line is for equipment or training, the NIMS Typed Discipline, NIMS Typed Resource and NIMS Type #, as published by FEMA's National Integration Center (NIC) that the equipment supports, if NIMS Typed.
- If equipment or training is not NIMS Typed, choose "State/Local Other" in drop-down menu and provide State/Local typing or Community of Interest information in the Comments.
- Choose whether the piece of equipment or training is to "Sustain Current" existing capabilities or will increase or "Add New" capability .
- Choose the Core Capability or Capabilities that the Typed Resource supports. If more than one Core Capability is applicable, expand the columns by clicking the '+' above the 'Cost of Purchase' column to show more 'Core Capability Supported' columns.
- Enter the cost of the equipment or training.
- Enter additional information in the Comments, including a brief description of whether the training or equipment purchased sustains existing capabilities; adds or improves an existing capability; or builds a new capability from scratch. This Form Can be accessed at www.fema.gov/media-library/assets/documents/28973?id=6432

SUBGRANTEE:		GRANT#:		PROJECT:							
Carolina County		2013-SS-00033-S01-13xx		Generators & Generator Switches							
Equipment or Training	NIMS Typed Discipline or State/Local Discipline/Community of Interest Supported	NIMS Typed Resource Supported	NIMS Type #	State/Local Typed Resource Supported (if applicable)	Typed Equipment Purchased	# of Personnel Trained for Typed Teams	# of Typed Teams Trained	Sustain Current Capability/Add New Capability	Core Capability Supported	Cost of Purchase	Comments
Equipment	Fire / Hazmat	HazMat Entry Team	I	N/A	WMD Liquid Splash-Protective CPC	N/A	N/A	Add New	Environmental Response / Health and Safety	\$ 90,000.00	This new PPE will increase a Type II to a Type I HazMat Entry Team by fulfilling the PPE requirements for a Type I team. This investment completes the upgrade of this team.
Training	Incident Management	Incident Management Team	III	N/A	N/A	53	2	Sustain Current	Operational Coordination	\$ 150,000.00	This Training sustained policy awareness for a State and two Regional IMTs. This training maintains emergency staff awareness that would have otherwise been out-of-date within 3 months of the training.
Equipment	Public Health and Medical	State / Local Other (provide in comments section)	State / Local Other	Water Ambulance	ALS Rescue Boat	N/A	N/A	Add New	Mass Care Services	\$ 100,000.00	The ALS Rescue Boat meets State typing for Water Ambulance. This equipment purchase adds a new capability to the local EMS. Teams will begin training to complete the resource.
Training	Search and Rescue	US&R Task Forces	II	N/A	N/A	63	23	Sustain Current	Mass Search and Rescue Operations	\$ 75,000.00	63 Responders were trained in structural collapse to support 23 Type II USAR Teams. This training sustained current levels of staffing in anticipation of current staff retiring.

Attachment 4

The Department of Homeland Security Standard Terms and Conditions 2018

The FY 2018 DHS Standard Terms and Conditions apply to all new federal financial assistance awards funded in FY 2018. The DHS financial assistance awards terms and conditions flow down to subrecipients, unless a particular award term or condition specifically indicates otherwise.

Assurances, Administrative Requirements, Cost Principles, and Audit Requirements

DHS financial assistance recipients must complete either the OMB Standard Form) [Standard Form 424B Assurances – Non-Construction Programs](#), or [OMB Standard Form 424D Assurances – Construction Programs](#) as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Please contact the DHS FAO if you have any questions.

DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at [2 C.F.R. Part 200](#), and adopted by DHS at [2 C.F.R. Part 3002](#).

DHS Specific Acknowledgements and Assurances

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Recipients must cooperate with any compliance reviews or compliance investigations conducted by DHS.
2. Recipients must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations *and* other applicable laws or program guidance.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
5. Recipients of federal financial assistance from DHS must complete the *DHS Civil Rights Evaluation Tool* (<https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>) within thirty (30) days of receipt of the Notice of Award or, for State Administering Agencies, thirty (30) days from receipt of the DHS Civil Rights Evaluation Tool from DHS or its awarding component agency. Recipients are required to provide this information once every two (2) years, not every time an award is made. After the initial submission, recipients are only required to submit updates. Recipients should submit the completed tool, including supporting materials to CivilRightsEvaluation@hq.dhs.gov. This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS.

The United States has the right to seek judicial enforcement of these obligations.

Acknowledgment of Federal Funding from DHS

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

Activities Conducted Abroad

Recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

The Department of Homeland Security Standard Terms and Conditions 2018

Age Discrimination Act of 1975

Recipients must comply with the requirements of the *Age Discrimination Act of 1975* ([Title 42 U.S. Code, § 6101 et seq.](#)), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

Americans with Disabilities Act of 1990

Recipients must comply with the requirements of Titles I, II, and III of the *Americans with Disabilities Act*, which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities. ([42 U.S.C. §§ 12101–12213](#)).

Best Practices for Collection and Use of Personally Identifiable Information (PII)

Recipients who collect PII are required to have a publically-available privacy policy that describes standards on the usage and maintenance of PII they collect. DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: [Privacy Guidance](#) and [Privacy template](#) as useful resources respectively.

Civil Rights Act of 1964 – Title VI

Recipients must comply with the requirements of Title VI of the *Civil Rights Act of 1964* ([42 U.S.C. § 2000d et seq.](#)), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at [6 C.F.R. Part 21](#) and [44 C.F.R. Part 7](#).

Civil Rights Act of 1968

Recipients must comply with [Title VIII of the Civil Rights Act of 1968](#), which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (See [42 U.S.C. § 3601 et seq.](#)), as implemented by the Department of Housing and Urban Development at [24 C.F.R. Part 100](#). The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See [24 C.F.R. § 100.201](#).)

Copyright

Recipients must affix the applicable copyright notices of [17 U.S.C. §§ 401 or 402](#) and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

Debarment and Suspension

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) [12549](#) and [12689](#), and [2 C.F.R. Part 180](#). These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

Drug-Free Workplace Regulations

You as the recipient must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of [2 CFR part 3001](#), which adopts the Government-wide implementation ([2 CFR part 182](#)) of sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; [41 U.S.C. 8101](#)).

The Department of Homeland Security Standard Terms and Conditions 2018

Duplication of Benefits

Any cost allocable to a particular federal financial assistance award provided for in [2 C.F.R. Part 200, Subpart E](#) may not be charged to other federal financial assistance awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions, or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

Education Amendments of 1972 (*Equal Opportunity in Education Act*) – Title IX

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972 ([20 U.S.C. § 1681 et seq.](#)), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at [6 C.F.R. Part 17](#) and [44 C.F.R. Part 19](#)

Energy Policy and Conservation Act

Recipients must comply with the requirements of The Energy Policy and Conservation Act ([42 U.S.C. § 6201](#)) which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

False Claims Act and Program Fraud Civil Remedies

Recipients must comply with the requirements of The False Claims Act ([31 U.S.C. § 3729-3733](#)) which prohibits the submission of false or fraudulent claims for payment to the federal government. (See [31 U.S.C. § 3801-3812](#) which details the administrative remedies for false claims and statements made.)

Federal Debt Status

Recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See [OMB Circular A-129](#).)

Federal Leadership on Reducing Text Messaging while Driving

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in [E.O. 13513](#), including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.

Fly America Act of 1974

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under [49 U.S.C. § 41102](#)) for international air transportation of people and property to the extent that such service is available, in accordance with the *International Air Transportation Fair Competitive Practices Act of 1974* ([49 U.S.C. § 40118](#)) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981 [amendment](#) to Comptroller General Decision B-138942.

Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the *Hotel and Motel Fire Safety Act of 1990*, ([15 U.S.C. § 2225a](#)), recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the *Federal Fire Prevention and Control Act of 1974*, as amended, ([15 U.S.C. § 2225](#)).

Limited English Proficiency (*Civil Rights Act of 1964, Title VI*)

Recipients must comply with the *Title VI of the Civil Rights Act of 1964* ([42 U.S.C. § 2000d et seq.](#)) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance <https://www.dhs.gov/guidance->

The Department of Homeland Security Standard Terms and Conditions 2018

[published-help-department-supported-organizations-provide-meaningful-access-people-limited](#) and additional resources on <http://www.lep.gov>.

Lobbying Prohibitions

Recipients must comply with [31 U.S.C. § 1352](#), which provides that none of the funds provided under an federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

National Environmental Policy Act

Recipients must comply with the requirements of the [National Environmental Policy Act](#) (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which requires recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in [6 C.F.R. Part 19](#) and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

Non-supplanting Requirement

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

Notice of Funding Opportunity Requirements

All of the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. Recipients must comply with any such requirements set forth in the program NOFO.

Patents and Intellectual Property Rights

Unless otherwise provided by law, recipients are subject to the [Bayh-Dole Act, Pub. L. No. 96-517](#), as amended, and codified in [35 U.S.C. § 200](#) et seq. All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at [37 C.F.R. Part 401](#) and the standard patent rights clause located at 37 C.F.R. § 401.14.

Procurement of Recovered Materials

Recipients must comply with Section 6002 of the [Solid Waste Disposal Act](#), as amended by the [Resource Conservation and Recovery Act](#). The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 C.F.R. Part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the [Rehabilitation Act of 1973](#), ([29 U.S.C. § 794](#)), as amended, which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

The Department of Homeland Security Standard Terms and Conditions 2018

Reporting of Matters Related to Recipient Integrity and Performance

If the total value of the recipient's currently active grants, cooperative agreements, and procurement contracts from all federal assistance offices exceeds \$10,000,000 for any period of time during the period of performance of this federal financial assistance award, the recipient must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at [2 C.F.R. Part 200, Appendix XII](#), the full text of which is incorporated here by reference in the award terms and conditions.

Reporting Subawards and Executive Compensation

Recipients are required to comply with the requirements set forth in the government-wide Award Term on Reporting Subawards and Executive Compensation located at [2 C.F.R. Part 170, Appendix A](#), the full text of which is incorporated here by reference in the award terms and conditions.

SAFECOM

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the [SAFECOM](#) Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

Terrorist Financing

Recipients must comply with [E.O. 13224](#) and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

Trafficking Victims Protection Act of 2000

Recipients must comply with the requirements of the government-wide award term which implements Section 106(g) of the *Trafficking Victims Protection Act of 2000*, (TVPA) as amended by [22 U.S.C. § 7104](#). The award term is located at [2 C.F.R. § 175.15](#), the full text of which is incorporated here by reference.

Universal Identifier and System of Award Management (SAM)

Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at [2 C.F.R. Part 25, Appendix A](#).

USA Patriot Act of 2001

Recipients must comply with requirements of the [Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act \(USA PATRIOT Act\)](#), which amends [18 U.S.C. §§ 175–175c](#).

Use of DHS Seal, Logo and Flags

Recipients must obtain permission from their DHS FAO, prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

Whistleblower Protection Act

Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at [10 U.S.C § 2409](#), [41 U.S.C. 4712](#), and [10 U.S.C. § 2324](#), [41 U.S.C. §§ 4304](#) and [4310](#).

Attachment 5

Required Sub-Recipient File Documentation

Sub-grantee or sub-recipient must meet the financial administration requirements in 2 C.F.R Part 200 and must maintain a file for each Homeland security grant award. The files must be available for review by the North Carolina Division of Emergency Management – Homeland Security Branch Staff for site visits, project closeout and future audits.

Sub-grantee or sub-recipient must include appropriate documentation in the file, including but not limited to the following documents:

- Grant Award and Memorandum of Agreement/ Memorandum of Understanding and Supporting Appendices
- Completed appropriate cost report forms with invoices and proof(s) of payment
- Audit Findings and Corrective Action Plans
- Equipment Inventory records with photo documentation of labeling

Non-Federal entities are required to maintain and retain the following:

- Backup documentation, such as bids and quotes.
- Cost/price analyses on file for review by Federal personnel, if applicable.
- Other documents required by Federal regulations applicable at the time a grant is awarded to a recipient.

FEMA requires that non-Federal entities maintain the following documentation for federally funded purchases:

- Specifications
- Solicitations
- Competitive quotes or proposals
- Basis for selection decisions
- Purchase orders
- Contracts
- Invoices
- Cancelled checks

Non-Federal entities should keep detailed records of all transactions involving the grant. FEMA may at any time request copies of purchasing documentation along with copies of cancelled checks for verification.

Non-Federal entities who fail to fully document all purchases will find their expenditures questioned and subsequently disallowed.

City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 18-502

Agenda Date: 11/13/2018

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 6.04

TO: Mayor and Members of City Council

THRU: Kristoff Bauer, Deputy City Manager

FROM: Cynthia Blot, Economic & Community Development Director
Brenda Powell, Financial Reporting Manager
Tracey Broyles, Budget and Evaluation Director

DATE: November 13, 2018

RE:

Adoption of Special Revenue Fund Project Ordinance Amendment 2019-3 for 2018-2019 HOME Program Local Match

COUNCIL DISTRICT(S):

All

Relationship To Strategic Plan:

Goal II - Diverse and Viable Economy

Goal IV - Desirable Place to Live, Work and Recreate

Executive Summary:

Special Revenue Fund Project Ordinance Amendment (SROA) 2019-3 will appropriate a local match of \$96,445 for the FY2018-2019 HOME Program project. The local funding is to be provided by a transfer of \$74,853 from the General Fund and by \$21,592 that had previously been transferred to the Federal and State Assistance Fund.

Background:

On April 23, 2018, Council adopted the Annual Action Plan, which outlines all activities and funding sources for both CDBG and HOME. This plan was approved by HUD on August 29, 2018. All participating jurisdictions (PJs) must contribute or match no less than 25 cents for each dollar of HOME funds spent on affordable housing

In years 2016 and 2017 HUD waived the match requirement for participating jurisdictions impacted by Hurricane Matthew. The 25% match requirement was reinstated for the

2018 fiscal year.

The U.S. Department of Housing and Urban Development awarded a HOME program grant in the amount of \$835,404 which was appropriated by Council on October 22, 2018 on SROA 2019-2. Council is now asked to adopt SROA 2019-3 to appropriate funds for the local match for the HOME program in the amount of \$96,445.

Issues/Analysis:

None

Budget Impact:

Budget Ordinance Amendment (BOA) 2018-5 for carry-over encumbrances and designations from FY2018 is also presented for Council consideration with the November 13, 2018 agenda. This BOA includes an appropriation of \$74,853 from General Fund fund balance which will be used along with \$21,592 already available in the Federal and State Assistance Fund to provide the required local match funds.

Options:

- Adopt SROA 2019-3 to provide funding for the local match to the FY2018-2019 HOME program.
- Do not adopt SROA 2019-3 and provide further direction to staff.

Recommended Action:

Staff recommends that Council move to adopt Special Revenue Fund Project Ordinance Amendment 2019-3 as presented.

Attachments:

- Special Revenue Fund Project Ordinance Amendment 2019-3 (FY2018-2019 HOME Program)

SPECIAL REVENUE FUND PROJECT ORDINANCE AMENDMENT
CHANGE 2019-3 (ORD 2019-6)

BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that pursuant to section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following special revenue project ordinance is hereby amended:

Section 1. The project change authorized is to the Special Revenue Fund Project Ordinance 2019-6, adopted effective July 1, 2018, as amended, for the FY2018-2019 funding of the HOME Investment Partnership Program awarded by the U.S. Department of Housing and Urban Development.

Section 2. The project director is hereby directed to proceed with the project within the terms of the various grant agreements executed with the Federal and State governments and within the funds appropriated herein.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

	<u>Listed As</u>	<u>Amendment</u>	<u>Revised</u>
HOME-HUD	\$ 835,404	\$ -	\$ 835,404
Program Income	683,514	-	683,514
Local Match - General Fund Transfer	-	96,445	96,445
	<u>\$ 1,518,918</u>	<u>\$ 96,445</u>	<u>\$ 1,615,363</u>

Section 4. The following amounts are appropriated for the project:

Project Expenditures	<u>\$ 1,518,918</u>	<u>\$ 96,445</u>	<u>\$ 1,615,363</u>
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Section 5. Copies of this special revenue project ordinance amendment shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Section 6. The City Manager is hereby authorized and directed to take such action as he may deem necessary or

Adopted this 13th day of November, 2018.

City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 18-516

Agenda Date: 11/13/2018

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 6.05

TO: Mayor and Members of City Council

THRU: Telly Whitfield, Ph. D., Assistant City Manager

FROM: Tracey Broyles, Budget and Evaluation Director

DATE: November 13, 2018

RE:

Adoption of Budget Ordinance Amendment 2019-5 (Carryover of Encumbered, Assigned and Donated Funds from Fiscal Year 2018 and Other Items)

COUNCIL DISTRICT(S):

All

Relationship To Strategic Plan:

Goal V: Sustainable Organizational Capacity

- Objective A: To ensure strong financial management with fiduciary accountability

Executive Summary:

Budget Ordinance Amendment (BOA) 2019-5 will appropriate \$4,031,117 across several annually budgeted funds for outstanding purchase orders and contracts; \$17,508 in the General Fund for unspent donation proceeds; and \$1,770,854 for specific items for which funding was assigned (designated) at the close of fiscal year 2017-2018 for the General Fund. Funding for these expenditures was included or available in the fiscal year 2017-2018 budget. These appropriations will be funded by fund balance or net asset appropriations for the various funds.

A portion of the funding assigned (designated) in the General Fund is for funding for Transit grant local match funding. Those funds (\$154,108) will be transferred to the Transit Operating Fund to flow to the project fund appropriations.

Additional appropriations are also proposed for two Hurricane Matthew recovery expenditures that were budgeted during fiscal year 2017-2018 but were not completed. Those appropriations total \$24,523 for the General Fund and \$1,932 for the

Environmental Services Fund and are to be funded by the Federal Emergency Management Agency (FEMA) and the State of North Carolina.

Background:

Routinely, the City issues purchase orders or contracts for various items in the budget (i.e. equipment and services) but does not receive them by the June 30 fiscal year end date. The City may also fund items in the current fiscal year, but for various reasons not expend or encumber those funds during the fiscal year. For instance, a planned expenditure or project may be delayed. To address these circumstances and to ensure that funds are available to meet the Council's goals, the City assigns (designates) funds for specific purposes and reserves funds for encumbrances and unspent donations in the City's fund balance at the end of the fiscal year. When Council approves the budget ordinance for the following fiscal year, it authorizes the City to re-appropriate funds reserved for encumbrances and donations and funds assigned (designated) for a specific purpose based upon the year-end financial statements.

As of June 30, 2018, there was \$2,130,854 of fund balance in the General Fund assigned for future specific purposes in the financial statements. On July 19, 2018, Council adopted Budget Ordinance Amendment 2019-1 to appropriate \$360,000 of that funding for the Louise Street Bridge repair project. Highlights of the items for which \$1,770,854 of assigned funds are being appropriated in the General Fund include:

Pending Municipal Agreements with NCDOT	\$201,487
Local Grant Match Funding for FY18 Transit Capital and Planning Grants	154,108
Potential Retirement System Payments for Pension Spiking	150,000
ERP Replacement Project Consulting	100,000
Non-Live Fire Shoot House Upgrade for Police Training Center	100,000
Active Shooter Protective Gear for Fire First Responders	75,194
Comprehensive Plan/Zoning Map Updates	75,000
HOME Grant Local Match	74,853
Renovations of the Seabrook Resource Center for PAL Boxing Program	70,000
City Public Safety Camera System Repair and Maintenance	60,000
Gateway Enhancements	58,573
External Audit and Financial Statement Preparation	51,400
Police Evidence Storage System Improvements	50,000

The additional appropriations for Hurricane Matthew recovery expenditures that were not encumbered as of the fiscal year end include \$24,523 for replacement pedestrian light poles at Festival Park in the General Fund, and \$1,932 for a pending final invoice for debris removal and monitoring for the Environmental Services Fund. As noted above, these expenditures are expected to be reimbursed by FEMA and the State of North Carolina.

Issues/Analysis:

Funding for the General Fund fund balance appropriations on BOA 2019-5 was included

in restricted or assigned fund balance as of June 30, 2018.

At the close of fiscal year 2018, it has been preliminarily estimated that unassigned, or available, General Fund fund balance is approximately \$23.4 million, although that total is unaudited at this point. In accordance with the Council fund balance policy, the estimated fund balance would equate to approximately 14.2% of the fiscal year 2019 General Fund budget, excluding budget for the County Parks District. That amount would represent fund balance that exceeds the established 10% minimum by approximately \$6.9 million, and exceeds the 12% target by approximately \$3.6 million.

Budget Impact:

A total of \$5,819,479 was included in the annual operating budgets for the various funds in fiscal year 2017-2018 for the additional appropriations on this budget ordinance amendment and was available at the close of the fiscal year. Of the remaining \$180,563 appropriated, \$154,108 relates to transfers between funds for the same items and the balance of \$26,455 is expected to be funded by FEMA and state hurricane recovery reimbursements.

Options:

Adopt Budget Ordinance Amendment 2019-5 as presented.
Do not adopt the budget ordinance amendment and provide direction to staff.

Recommended Action:

Staff recommends that Council move to adopt Budget Ordinance Amendment 2019-5 as presented.

Attachments:

Budget Ordinance Amendment 2019-5

BE IT ORDAINED BY THE CITY COUNCIL OF FAYETTEVILLE, NORTH CAROLINA:

That the City of Fayetteville Budget Ordinance adopted June 11, 2018 is hereby amended as follows:

Section 1. It is estimated that the following revenues and other financing sources will be available during the fiscal year beginning July 1, 2018, and ending June 30, 2019, to meet the appropriations listed in Section 2.

<u>Item</u>	<u>Listed As</u>	<u>Revision</u>	<u>Revised Amount</u>
<u>Schedule A: General Fund</u>			
Intergovernmental Revenues	\$ 80,917,196	\$ 24,523	\$ 80,941,719
Fund Balance Appropriation	5,393,560	5,544,637	10,938,197
All Other General Fund Revenues and OFS	83,805,562	-	83,805,562
Total Estimated General Fund Revenues and Other Financing Sources	<u>\$ 170,116,318</u>	<u>\$ 5,569,160</u>	<u>\$ 175,685,478</u>

Schedule C: Emergency Telephone System Fund

Fund Balance Appropriation	\$ 220,655	\$ 19,416	\$ 240,071
All Other Emergency Telephone System Fund Revenues and OFS	895,340	-	895,340
Total Estimated Emergency Telephone System Fund Revenues and Other Financing Sources	<u>\$ 1,115,995</u>	<u>\$ 19,416</u>	<u>\$ 1,135,411</u>

Schedule H: Airport Fund

Net Assets Appropriation	\$ 633,941	\$ 25,539	\$ 659,480
All Other Airport Fund Revenues and OFS	5,088,429	-	5,088,429
Total Estimated Airport Fund Revenues and Other Financing Sources	<u>\$ 5,722,370</u>	<u>\$ 25,539</u>	<u>\$ 5,747,909</u>

Schedule I: Environmental Services Fund

Intergovernment Revenues	\$ 1,954,758	\$ 1,932	\$ 1,956,690
Net Assets Appropriation	-	207,607	207,607
All Other Environmental Services Fund Revenues and OFS	12,738,639	-	12,738,639
Total Estimated Environmental Services Fund Revenues and Other Financing Sources	<u>\$ 14,693,397</u>	<u>\$ 209,539</u>	<u>\$ 14,902,936</u>

Schedule K: Transit Fund

Interfund Transfers	\$ 4,732,105	\$ 154,108	\$ 4,886,213
Net Assets Appropriation	-	22,280	22,280
All Other Transit Fund Revenues and OFS	5,483,326	-	5,483,326
Total Estimated Transit Fund Revenues and Other Financing Sources	<u>\$ 10,215,431</u>	<u>\$ 176,388</u>	<u>\$ 10,391,819</u>

Section 2. The following amounts are hereby appropriated for the operations of the City Government and its activities for the fiscal year beginning July 1, 2018, and ending June 30, 2019, according to the following schedules:

<u>Item</u>	<u>Listed As</u>	<u>Revision</u>	<u>Revised Amount</u>
<u>Schedule A: General Fund</u>			
Community Investment Operations	\$ 5,854,798	\$ 718,202	\$ 6,573,000
Support Services and Administration	118,815,048	3,846,764	122,661,812
Other Appropriations	16,411,708	593,682	17,005,390
Total Estimated General Fund Expenditures	<u>\$ 170,116,318</u>	<u>\$ 5,569,160</u>	<u>\$ 175,685,478</u>
<u>Schedule C: Emergency Telephone System Fund</u>			
Total Estimated Emergency Telephone System Fund Expenditures	<u>\$ 1,115,995</u>	<u>\$ 19,416</u>	<u>\$ 1,135,411</u>

Schedule H: Airport Fund

Total Estimated Airport Fund Expenditures

\$	5,722,370	\$	25,539	\$	5,747,909
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Schedule I: Environmental Services Fund

Total Estimated Environmental Services Fund Expenditures

\$	14,693,397	\$	209,539	\$	14,902,936
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Schedule K: Transit Fund

Total Estimated Transit Fund Expenditures

\$	10,215,431	\$	176,388	\$	10,391,819
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Adopted this 13th day of November, 2018.

City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 18-507

Agenda Date: 11/13/2018

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 6.06

TO: Mayor and Members of City Council

THRU: Telly Whitfield, Assistant City Manager

FROM: Michael Gibson, Parks, Recreation and Maintenance Director

DATE: November 13, 2018

RE:

I-295 Landscape Maintenance Agreement at Murchison Road, Bragg Blvd and Ramsey Street Interchanges

COUNCIL DISTRICT(S):

1,3

Relationship To Strategic Plan:

Goal IV: Desirable Place to Live, Work and Recreate

Executive Summary:

The North Carolina Department of Transportation (NCDOT) has proposed three municipal agreements to install plants and landscape I-295 interchanges. Initial installation and maintenance will be the responsibility of NCDOT.

The municipal agreements outline the scopes of service for these landscape improvements and installation of plantings. The City is expected to assume responsibility for all maintenance and replacement of the landscape materials.

Background:

At the Gateway, Streets, & Roads Committee meeting on September 4, 2018, Mike Tarrant, (Stewart Inc.) gave a presentation which estimated NCDOT will pay approximately \$600,000 for Murchison Road, \$292,000 for Ramsey Street, and \$260,000 for Bragg Boulevard for the installation of landscaping and plants at these intersections along I-295. Mr. Tarrant stated the three intersections will cost an estimated

total of \$1,167,406.00 of the \$1,300,000.00 budget. Mr. Tarrant stated that NCDOT is comfortable with the estimated cost.

At the September 4, 2018 Council Work Session, Council voted to authorize NCDOT to move ahead with the bid process for the landscaping at the I-295 intersections.

Issues/Analysis:

The agreements mandate that the City shall assume responsibility for all maintenance and replacement of the landscape material and plantings one (1) year after completion of planting. NCDOT will not reimburse the City for these cost. The planting is expected to begin mid-January - mid-February, with completion expected in mid- April 2019. If this schedule holds true, the City is expected to assume maintenance in April 2020.

Budget Impact:

No budget impact exists for the current fiscal year. Budget will be required for FY20 and future fiscal years.

Options:

This is an informational report. No decisions are required.

Recommended Action:

N/A

Attachments:

- Municipal Agreement #8307 NC 295 @ Bragg Blvd
- Municipal Agreement #8308 NC 295 @ Ramsey St
- Municipal Agreement #8309 NC 295 @ Murchison Rd

NORTH CAROLINA
CUMBERLAND COUNTY

LANDSCAPE MAINTENANCE AGREEMENT

DATE: 10/12/2018

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

AND

WBS Element: 35196.3.25

CFDA: 20.205

CITY OF FAYETTEVILLE

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the City of Fayetteville, a municipal corporation, hereinafter referred to as the "Municipality."

WITNESSETH:

WHEREAS, the Department and the Municipality propose to make certain landscape improvements under 35196.3.25, Cumberland County; and,

WHEREAS, the Municipality has agreed to participate in the responsibilities of the Project as hereinafter set out;

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

SCOPE OF THE PROJECT

1. The Project consists of installing landscape plantings at the interchange at NC 295 and NC 87/NC 24/Bragg Blvd in Fayetteville. The Department will design the landscape improvements and install all plantings. The Municipality will maintain the plantings.

PLANNING, DESIGN, RIGHT OF WAY AND UTILITIES

2. The Department shall develop the landscape design and prepare the landscape plans and specifications in accordance with the Department's standard landscaping policies and procedures for highways.
3. All work shall be performed within the existing right of way and in accordance with Departmental standards, policies and procedures.
4. The Department does not anticipate the need to relocate and adjust any municipally-owned utilities at this time. If during the project, it becomes necessary to adjust and relocate the municipally-owned utilities, the Municipality, at no expense to the Department, shall be responsible for the relocation and adjustment of all utilities in conflict with the landscape planting.

CONSTRUCTION

5. The Department shall install, or caused to be installed, said plantings in accordance with the plans and specifications of said project as filed with, and approved by, the Department.

MAINTENANCE

6. Upon completion of the plantings, the Department shall maintain said planting areas for a period of one (1) year, at no expense to the Municipality.
7. At the end of the one (1) year establishment period, the Municipality shall assume responsibility for all maintenance and replacement of the landscape materials. Maintenance shall include, but not be limited to, the following: watering, mulching, pruning, fertilizing, weeding, pest control, mowing, and replacing plant materials. All costs of maintenance shall be borne by the Municipality, in accordance with the following provisions:
 - A. The Municipality agrees to continually maintain all plantings in accordance with generally accepted horticultural practices. The Department shall have the right to periodically inspect the maintenance practices being utilized by the Municipality.

- B. If the Department determines that the Municipality is not properly maintaining the plantings, the Department shall notify the Municipality. If proper maintenance is not performed by the Municipality within a reasonable time after notification, the Municipality agrees that the Department shall perform the necessary maintenance, or at the Department's option, shall return the planted area to a natural condition (i.e. seeded and mulched, etc.). It is further agreed that the costs of the restoration shall be reimbursed to the Department by the Municipality. Reimbursement to the Department shall be made in one final payment within sixty (60) days of invoicing by the Department. The Department shall charge a late payment penalty and interest on any unpaid balance due in accordance with N.C.G.S. § 147-86.23.
8. In the event these plantings require relocation or removal for highway construction, reconstruction, maintenance or safety, the Municipality shall be given the option to remove or relocate any plantings it considers salvageable immediately upon notification by the Department, at no expense to the Department.
9. The Department, at the end of the one (1) year establishment period, shall not be responsible for any damage to the plantings that may be done by third parties.

ADDITIONAL PROVISIONS

10. Any modification to scope, funding, responsibilities, or time frame will be agreed upon by all parties by means of a written Supplemental Agreement.
11. All terms of this Agreement are dependent upon, and subject to, the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminated if funds cease to be available.
12. The Department must approve any assignment or transfer of the responsibilities of the Municipality set forth in this Agreement to other parties or entities.
13. This Agreement is solely for the benefit of the identified parties and there are no understandings or agreements, verbal or otherwise, regarding this Agreement except as expressly set forth.

14. The Entity is solely responsible for all agreements, contracts, and work orders entered into or issued by the Entity to meet the terms of this Agreement. The Department is not responsible for any expenses or obligations incurred for the terms of this Agreement except those specifically eligible for the funds and obligations as approved by the Department under the terms of this Agreement.
15. The parties hereby acknowledge that the individual executing this Agreement has read this Agreement, conferred with legal counsel, fully understands its contents, and is authorized to execute this Agreement and to bind the respective parties to the terms contained herein.
16. To the extent authorized by state and federal claims statutes, the Municipality shall be responsible for its actions under the terms of this agreement and save harmless the FHWA (if applicable), the Department, and the State of North Carolina, their respective officers, directors, principals, employees, agents, successors, and assigns to the extent allowed by law, from and against any and all claim for payment, damages and/or liabilities of any nature, asserted against the Department in connection with this Agreement. The Department shall not be liable and shall be held harmless from any and all third party claims that might arise on account of the Entity's negligence and/or responsibilities under the terms of this agreement.
17. It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, the Entity certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Agency or Department and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.
18. 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, Environmental Quality, Health and Human Services, Information Technology, Military and Veterans Affairs, Natural and Cultural Resources, Public Safety, Revenue, Transportation, and the Office of the Governor).

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:

CITY OF FAYETTEVILLE

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

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

Approved by the local governing body of the City of Fayetteville as attested to by the signature of

Clerk of the _____ (governing body) on _____

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

(SEAL)

(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:

City of Fayetteville

DEPARTMENT OF TRANSPORTATION

BY: _____

(CHIEF ENGINEER)

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (DATE)

NORTH CAROLINA
CUMBERLAND COUNTY

LANDSCAPE MAINTENANCE AGREEMENT

DATE: 10/12/2018

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

AND

WBS Element: 35196.3.24

CFDA: 20.205

CITY OF FAYETTEVILLE

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the City of Fayetteville, a municipal corporation, hereinafter referred to as the "Municipality."

WITNESSETH:

WHEREAS, the Department and the Municipality propose to make certain landscape improvements under 35196.3.24, Cumberland County; and,

WHEREAS, the Municipality has agreed to participate in the responsibilities of the Project as hereinafter set out;

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

SCOPE OF THE PROJECT

1. The Project consists of installing landscape plantings at the interchange of NC 295 and US 401/Ramsey Street in Fayetteville. The Department will design the landscape improvements and install all plantings. The Municipality will maintain the plantings.

PLANNING, DESIGN, RIGHT OF WAY AND UTILITIES

2. The Department shall develop the landscape design and prepare the landscape plans and specifications in accordance with the Department's standard landscaping policies and procedures for highways.
3. All work shall be performed within the existing right of way and in accordance with Departmental standards, policies and procedures.
4. The Department does not anticipate the need to relocate and adjust any municipally-owned utilities at this time. If during the project, it becomes necessary to adjust and relocate the municipally-owned utilities, the Municipality, at no expense to the Department, shall be responsible for the relocation and adjustment of all utilities in conflict with the landscape planting.

CONSTRUCTION

5. The Department shall install, or caused to be installed, said plantings in accordance with the plans and specifications of said project as filed with, and approved by, the Department.

MAINTENANCE

6. Upon completion of the plantings, the Department shall maintain said planting areas for a period of one (1) year, at no expense to the Municipality.
7. At the end of the one (1) year establishment period, the Municipality shall assume responsibility for all maintenance and replacement of the landscape materials. Maintenance shall include, but not be limited to, the following: watering, mulching, pruning, fertilizing, weeding, pest control, mowing, and replacing plant materials. All costs of maintenance shall be borne by the Municipality, in accordance with the following provisions:
 - A. The Municipality agrees to continually maintain all plantings in accordance with generally accepted horticultural practices. The Department shall have the right to periodically inspect the maintenance practices being utilized by the Municipality.

- B. If the Department determines that the Municipality is not properly maintaining the plantings, the Department shall notify the Municipality. If proper maintenance is not performed by the Municipality within a reasonable time after notification, the Municipality agrees that the Department shall perform the necessary maintenance, or at the Department's option, shall return the planted area to a natural condition (i.e. seeded and mulched, etc.). It is further agreed that the costs of the restoration shall be reimbursed to the Department by the Municipality. Reimbursement to the Department shall be made in one final payment within sixty (60) days of invoicing by the Department. The Department shall charge a late payment penalty and interest on any unpaid balance due in accordance with N.C.G.S. § 147-86.23.
8. In the event these plantings require relocation or removal for highway construction, reconstruction, maintenance or safety, the Municipality shall be given the option to remove or relocate any plantings it considers salvageable immediately upon notification by the Department, at no expense to the Department.
9. The Department, at the end of the one (1) year establishment period, shall not be responsible for any damage to the plantings that may be done by third parties.

ADDITIONAL PROVISIONS

10. Any modification to scope, funding, responsibilities, or time frame will be agreed upon by all parties by means of a written Supplemental Agreement.
11. All terms of this Agreement are dependent upon, and subject to, the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminated if funds cease to be available.
12. The Department must approve any assignment or transfer of the responsibilities of the Municipality set forth in this Agreement to other parties or entities.
13. This Agreement is solely for the benefit of the identified parties and there are no understandings or agreements, verbal or otherwise, regarding this Agreement except as expressly set forth.

14. The Entity is solely responsible for all agreements, contracts, and work orders entered into or issued by the Entity to meet the terms of this Agreement. The Department is not responsible for any expenses or obligations incurred for the terms of this Agreement except those specifically eligible for the funds and obligations as approved by the Department under the terms of this Agreement.
15. The parties hereby acknowledge that the individual executing this Agreement has read this Agreement, conferred with legal counsel, fully understands its contents, and is authorized to execute this Agreement and to bind the respective parties to the terms contained herein.
16. To the extent authorized by state and federal claims statutes, the Municipality shall be responsible for its actions under the terms of this agreement and save harmless the FHWA (if applicable), the Department, and the State of North Carolina, their respective officers, directors, principals, employees, agents, successors, and assigns to the extent allowed by law, from and against any and all claim for payment, damages and/or liabilities of any nature, asserted against the Department in connection with this Agreement. The Department shall not be liable and shall be held harmless from any and all third party claims that might arise on account of the Entity's negligence and/or responsibilities under the terms of this agreement.
17. It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, the Entity certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Agency or Department and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.
18. 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, Environmental Quality, Health and Human Services, Information Technology, Military and Veterans Affairs, Natural and Cultural Resources, Public Safety, Revenue, Transportation, and the Office of the Governor).

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:

CITY OF FAYETTEVILLE

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

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

Approved by the local governing body of the City of Fayetteville as attested to by the signature of Clerk of the _____ (governing body) on _____

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

(SEAL)

(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:

City of Fayetteville

DEPARTMENT OF TRANSPORTATION

BY: _____

(CHIEF ENGINEER)

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (DATE)

NORTH CAROLINA
CUMBERLAND COUNTY

LANDSCAPE MAINTENANCE AGREEMENT

DATE: 10/18/2018

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

AND

WBS Element: 35196.3.26 and 35196.3.27

CFDA: 20.205

CITY OF FAYETTEVILLE

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the City of Fayetteville, a municipal corporation, hereinafter referred to as the "Municipality."

WITNESSETH:

WHEREAS, the Department and the Municipality propose to make certain landscape improvements under 35196.3.26, Cumberland County; and,

WHEREAS, the Municipality has agreed to participate in the responsibilities of the Project as hereinafter set out;

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

SCOPE OF THE PROJECT

1. The Project consists of installing landscape plantings at the interchange of NC 295 and NC 210/Murchison Road in Fayetteville. The Department will design the landscape improvements and install all plantings. The Municipality will maintain the plantings.

PLANNING, DESIGN, RIGHT OF WAY AND UTILITIES

2. The Department shall develop the landscape design and prepare the landscape plans and specifications in accordance with the Department's standard landscaping policies and procedures for highways.
3. All work shall be performed within the existing right of way and in accordance with Departmental standards, policies and procedures.
4. The Department does not anticipate the need to relocate and adjust any municipally-owned utilities at this time. If during the project, it becomes necessary to adjust and relocate the municipally-owned utilities, the Municipality, at no expense to the Department, shall be responsible for the relocation and adjustment of all utilities in conflict with the landscape planting.

CONSTRUCTION

5. The Department shall install, or caused to be installed, said plantings in accordance with the plans and specifications of said project as filed with, and approved by, the Department.

MAINTENANCE

6. Upon completion of the plantings, the Department shall maintain said planting areas for a period of one (1) year, at no expense to the Municipality.
7. At the end of the one (1) year establishment period, the Municipality shall assume responsibility for all maintenance and replacement of the landscape materials. Maintenance shall include, but not be limited to, the following: watering, mulching, pruning, fertilizing, weeding, pest control, mowing, and replacing plant materials. All costs of maintenance shall be borne by the Municipality, in accordance with the following provisions:
 - A. The Municipality agrees to continually maintain all plantings in accordance with generally accepted horticultural practices. The Department shall have the right to periodically inspect the maintenance practices being utilized by the Municipality.

- B. If the Department determines that the Municipality is not properly maintaining the plantings, the Department shall notify the Municipality. If proper maintenance is not performed by the Municipality within a reasonable time after notification, the Municipality agrees that the Department shall perform the necessary maintenance, or at the Department's option, shall return the planted area to a natural condition (i.e. seeded and mulched, etc.). It is further agreed that the costs of the restoration shall be reimbursed to the Department by the Municipality. Reimbursement to the Department shall be made in one final payment within sixty (60) days of invoicing by the Department. The Department shall charge a late payment penalty and interest on any unpaid balance due in accordance with N.C.G.S. § 147-86.23.
8. In the event these plantings require relocation or removal for highway construction, reconstruction, maintenance or safety, the Municipality shall be given the option to remove or relocate any plantings it considers salvageable immediately upon notification by the Department, at no expense to the Department.
9. The Department, at the end of the one (1) year establishment period, shall not be responsible for any damage to the plantings that may be done by third parties.

ADDITIONAL PROVISIONS

10. Any modification to scope, funding, responsibilities, or time frame will be agreed upon by all parties by means of a written Supplemental Agreement.
11. All terms of this Agreement are dependent upon, and subject to, the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminated if funds cease to be available.
12. The Department must approve any assignment or transfer of the responsibilities of the Municipality set forth in this Agreement to other parties or entities.
13. This Agreement is solely for the benefit of the identified parties and there are no understandings or agreements, verbal or otherwise, regarding this Agreement except as expressly set forth.

14. The Entity is solely responsible for all agreements, contracts, and work orders entered into or issued by the Entity to meet the terms of this Agreement. The Department is not responsible for any expenses or obligations incurred for the terms of this Agreement except those specifically eligible for the funds and obligations as approved by the Department under the terms of this Agreement.
15. The parties hereby acknowledge that the individual executing this Agreement has read this Agreement, conferred with legal counsel, fully understands its contents, and is authorized to execute this Agreement and to bind the respective parties to the terms contained herein.
16. To the extent authorized by state and federal claims statutes, the Municipality shall be responsible for its actions under the terms of this agreement and save harmless the FHWA (if applicable), the Department, and the State of North Carolina, their respective officers, directors, principals, employees, agents, successors, and assigns to the extent allowed by law, from and against any and all claim for payment, damages and/or liabilities of any nature, asserted against the Department in connection with this Agreement. The Department shall not be liable and shall be held harmless from any and all third party claims that might arise on account of the Entity's negligence and/or responsibilities under the terms of this agreement.
17. It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, the Entity certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Agency or Department and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.
18. 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, Environmental Quality, Health and Human Services, Information Technology, Military and Veterans Affairs, Natural and Cultural Resources, Public Safety, Revenue, Transportation, and the Office of the Governor).

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:

CITY OF FAYETTEVILLE

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

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

Approved by the local governing body of the City of Fayetteville as attested to by the signature of Clerk of the _____ (governing body) on _____

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

(SEAL)

(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:
City of Fayetteville

DEPARTMENT OF TRANSPORTATION

BY: _____
(CHIEF ENGINEER)

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (DATE)

City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 18-485

Agenda Date: 11/13/2018

Version: 2

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 6.07

TO: Mayor and Members of City Council

THRU: Telly Whitfield, PhD, Assistant City Manager

FROM: Jay C. Toland, Acting Chief Financial Officer

DATE: 10/17/18

RE:

Hurricane Florence Disaster Assistance Agreement

COUNCIL DISTRICT(S):

All

Relationship To Strategic Plan:

Core Value: Stewardship

Executive Summary:

To establish an agreement between the State of North Carolina Division of Emergency Management and the City of Fayetteville to authorize Jay C. Toland - Acting CFO as the primary agent and Kim Toon - Purchasing Manager as the Secondary Agent to execute and file applications for State and Federal assistance on behalf of the of the City of Fayetteville. The above named agents will be authorized to act for the City in all matters with the State of North Carolina and the Federal Emergency Management Agency pertaining to disaster assistance.

Background:

Due to the impact of Hurricane Florence the city has incurred damage and expenses that has made this request a priority. The City will continue to experience unexpected costs as the clean-up and recovery moves forward. Or goal is to minimize the impact on the City's budget by completing the public assistance request and initiate the process of submitting expenses and requesting reimbursements.

Issues/Analysis:

The primary purpose of this resolution is to officially request public assistance funding by notifying the State of North Carolina and the Federal Emergency Management Agency that the City will be applying for public funding.

Budget Impact:

The budget impact related to Hurricane Florence has been significant. New and unexpected expenditures continue on a periodic basis. This agreement/resolution is the first step for ensuring that all eligible expenses will be fully reimbursed in a timely manner.

Options:

Approve the agreement/resolution

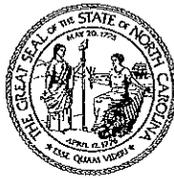
Reject the agreement/resolution and direct staff to pursue different options

Recommended Action:

Staff recommends approving the agreement/resolution as presented.

Attachments:

State - Application Disaster Assistance Agreement



**North Carolina Department of Public Safety
Division of Emergency Management**

APPLICANT: City of Fayetteville DISASTER: Florence
FEMA- 4393 -DR-NC

PUBLIC ASSISTANCE CFDA# 97.036

STATE – APPLICANT DISASTER ASSISTANCE AGREEMENT

This Agreement made by and between the State of North Carolina, Dept. of Public Safety, Division of Emergency Management (“the State”) and City of Fayetteville (“the Applicant”) shall be effective on the date signed by the State and the Applicant. It shall apply to all disaster assistance funds provided by or through the State to the Applicant as a result of the disaster called Hurricane Florence, and pursuant to the Disaster Declaration made by the President of the United States numbered FEMA - 4393 - DR-NC.

The designated representative of the Applicant (Applicant’s Agent) certifies that:

1. He/She has legal authority to apply for assistance on behalf of the Applicant pursuant to a resolution duly adopted or passed by the Applicant’s governing body.
2. The Applicant shall provide all necessary financial and managerial resources to meet the terms and conditions of receiving Federal and State disaster grant assistance.
3. The applicant shall use disaster assistance funds solely for the purpose for which these funds are provided and as approved by the Governor’s Authorized Representative (GAR).
4. The Applicant is aware of and shall comply with cost-sharing requirements of Federal and State disaster assistance: specifically that Federal assistance is limited to 75% of eligible expenditures, and that State assistance is limited to 25% of the eligible costs. Alternate projects selected by the Applicant may be eligible for only 75% of the approved Federal share of estimated eligible costs.
5. The Applicant shall provide the following completed documentation to the State:
 - Designation of Applicant’s Agent;
 - State-Applicant Disaster Assistance Agreement
 - Private Non-Profit Organization Certification (if required);
 - Summary of Documentation Form itemizing actual costs expended for large project payment requests;
 - Monthly Progress Reports;
 - Copies of Single Audit Reports as applicable.

If the Applicant fails to provide any of the above documentation, the State will be under no obligation to reimburse the Applicant for eligible expenses.

6. The Applicant shall establish and maintain a proper accounting system to record expenditures of disaster assistance funds in accordance with generally accepted accounting principals or as directed by the Governor's Authorized Representative. If applicable, the Applicant shall conduct audit(s) pursuant to the Single Audit Act of 1984, 31 U.S.C. §7501 *et. seq.*, 44 C.F.R. Part 14, OMB Circular A-133, "Audits of States, Local Governments and Non-profit Organizations," and applicable North Carolina laws, rules and regulations.
7. The Applicant shall provide to the State monthly Progress Reports for all open large projects funded by State and Federal disaster assistance grants. The first Progress Report will be due on the 10th day of the first month following initiation of the project and subsequent Progress Reports will be due on the 10th day of each and every month thereafter until project completion. Forms and reporting requirements will be provided by the Governor's Authorized Representative.
8. The Applicant, its employees and agents, including consultants, contractors and subcontractors to be paid with funds provided under this Agreement, shall give State and Federal agencies designated by the Governor's Authorized Representative, full access to and the right to examine all records and documents related to the use of disaster assistance funds.
9. The Applicant shall return to the State, within thirty (30) days of a request by the Governor's Authorized Representative, any funds advanced to the Applicant that are not supported by audit or other Federal or State review of documentation maintained by the Applicant.
10. The Applicant shall comply with all applicable codes and standards in the completion of eligible work to repair or replace damaged public facilities.
11. The Applicant shall comply with all applicable provisions of Federal and State statutes, rules and regulations regarding the procurement of goods and services and regarding contracts for the repair and restoration of public facilities.
12. The Applicant shall begin and complete all items of work within the time limits established by the Governor's Authorized Representative and in accordance with applicable Federal and State statutes, rules and regulations.
13. The Applicant shall request a final inspection within ninety (90) days after completion of each and every large project funded under this Agreement, or within ninety (90) days after the expiration of the time limit established for each project under Paragraph 12 above, whichever occurs first. Applicant shall present all supporting documentation to State and/or Federal inspectors at the time of final inspection. **The State, as Grantee, reserves the right to conduct a final inspection of any large project after expiration of the ninety- (90) day period and to reimburse Applicant only for costs documented at the time of final inspection.**

14. The Applicant shall comply with all applicable Federal and State statutes, rules and regulations for publicly financed or assisted contracts including, but not limited to, non-discrimination, labor standard, and access by the physically handicapped.
15. The Applicant's Designated Agent shall execute and comply with the Lobbying Prohibition document incorporated herein as Attachment A.
16. The Applicant's Designated Agent shall execute and comply with the Statement of Assurances (SF 424D) document incorporated herein as Attachment B.
17. The Applicant shall not enter into cost-plus-percentage-of-cost contracts for debris removal, emergency protective measures, or completion of disaster restoration or repair work.
18. The Applicant shall not enter into contracts for which payment is contingent upon receipt of State or Federal funds.
19. The Applicant shall not enter into any contract with any entity that is debarred or suspended from participation in Federal Assistance. The State and/or FEMA will not be under any obligation to reimburse Applicant for payments made to a debarred or suspended contractor. Applicant may search for debarred or suspended contractors on the "Excluded Parties List System" (EPLS) at the following website: www.sam.gov.
20. The Applicant shall comply with the provisions of 42 U.S.C. §5155 (Section 312 of the Stafford Act) which prohibits duplication of benefits. Applicant shall notify State immediately if any other source of funds is available to offset disaster assistance provided pursuant to this Agreement. Applicant agrees that eligible costs under this Agreement will be reduced by duplicate benefits received from any other source.
21. The Applicant shall comply with all uniform grant administration requirements required by State and Federal statutes, rules and regulations, including but not limited to, the Robert T. Stafford Disaster Relief and Emergency assistance Act, Public Law 93-288, as amended, Title 44 of the Code of Federal Regulations, applicable OMB Circulars, and policy guidance issued by the Federal Emergency Management Agency (FEMA).
22. If the Applicant pays contractors, subcontractors or consultants with funds provided through this Agreement then the Applicant shall include language in all contracts that binds the contractor, subcontractor or consultant to the terms and conditions of this Agreement with the State. Contractual arrangements with contractors, subcontractors or consultants shall in no way relieve the Applicant of its responsibilities to ensure that all funds provided through this Agreement are administered in accordance with all State and Federal requirements.

FOR THE APPLICANT:

Date

56-6001227

Applicant's Federal Tax I.D.
Number (required)

BY: _____

Signature

Douglas J. Hewett, ICMA

Typed Name

City Manager

Title

FOR THE STATE:

Date

BY: _____

Signature

Typed Name

Title

ATTACHMENT A

LOBBYING PROHIBITION

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

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence either directly or indirectly an officer or employee of any State or Federal agency, a member of the N.C. Legislature, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-L. "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (c) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all recipients of funds under this Agreement shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

City of Fayetteville
Name of Applicant

BY: Jay C. Toland
Signature of Applicant's Designated Agent

ATTACHMENT B-1

OMB Approval No. 0348-0042

ASSURANCES-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington DC 20503

PLEASE **DO NOT** RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further; certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of the project costs) to ensure proper planning, management and completion of the project described in this application
2. Will give the awarding agency, the Comptroller-General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply by the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-2763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended relating to nondiscrimination in the sale, rental, or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

ATTACHMENT B-2

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L.93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of under ground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

RESOLUTION
DESIGNATION OF APPLICANT'S AGENT
 North Carolina Division of Emergency Management

Organization Name (hereafter named Organization) Disaster Number:

Applicant's State Cognizant Agency for Single Audit purposes (If Cognizant Agency is not assigned, please indicate):

Applicant's Fiscal Year (FY) Start Month: Day:

Applicant's Federal Employer's Identification Number

Applicant's Federal Information Processing Standards (FIPS) Number

PRIMARY AGENT	SECONDARY AGENT
Agent's Name <i>Jay C. Toland</i>	Agent's Name <i>Kim Toon</i>
Organization <i>City of Fayetteville</i>	Organization <i>City of Fayetteville</i>
Official Position <i>Acting CFO</i>	Official Position <i>Purchasing Manager</i>
Mailing Address <i>433 Hay St</i>	Mailing Address <i>433 Hay St</i>
City, State, Zip <i>Fayetteville NC 28301</i>	City, State, Zip <i>Fayetteville NC 28301</i>
Daytime Telephone <i>910 433 1682</i>	Daytime Telephone <i>910 433 1942</i>
Facsimile Number <i>910 433 1680</i>	Facsimile Number <i>910 433 1680</i>
Pager or Cellular Number <i>910 610 9776</i>	Pager or Cellular Number <i>910 829 4860</i>

BE IT RESOLVED BY the governing body of the Organization (a public entity duly organized under the laws of the State of North Carolina) that the above-named Primary and Secondary Agents are hereby authorized to execute and file applications for federal and/or state assistance on behalf of the Organization for the purpose of obtaining certain state and federal financial assistance under the Robert T. Stafford Disaster Relief & Emergency Assistance Act, (Public Law 93-288 as amended) or as otherwise available. BE IT FURTHER RESOLVED that the above-named agents are authorized to represent and act for the Organization in all dealings with the State of North Carolina and the Federal Emergency Management Agency for all matters pertaining to such disaster assistance required by the grant agreements and the assurances printed on the reverse side hereof. BE IT FINALLY RESOLVED THAT the above-named agents are authorized to act severally. PASSED AND APPROVED this _____ day of _____, 20__.

GOVERNING BODY	CERTIFYING OFFICIAL
Name and Title	Name
Name and Title	Official Position
Name and Title	Daytime Telephone

CERTIFICATION

I, _____, (Name) duly appointed and _____ (Title) of the Governing Body, do hereby certify that the above is a true and correct copy of a resolution passed and approved by the Governing Body of _____ (Organization) on the _____ day of _____, 20__.

Date: _____ Signature: _____

City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 18-508

Agenda Date: 11/13/2018

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 6.08

TO: Mayor and Members of City Council

THRU: Barbara Hill, Interim Assistant City Manager

FROM: Randy Hume, Transit Director

DATE: November 13, 2018

RE:

Authorization to Apply for NCDOT Urban State Match Program Funding for Transit Capital Project

COUNCIL DISTRICT(S):

All

Relationship To Strategic Plan:

Goal 4: Desirable Place to Live, Work and Recreate

Objective D: To develop and maintain public transportation investments with high quality transit and airport services

Executive Summary:

The Transit Department has secured and executed Federal Transit Administration (FTA) capital grants. Certain capital projects are eligible for North Carolina Department of Transportation (NCDOT) funding that can provide approximately 50% of the required local funding match. The Public Transit Division of NCDOT has announced a "call for projects" for these state matching funds.

The attached resolution is required as part of the application process and authorizes staff to submit applications to NCDOT for consideration for funding. The city will be requesting \$70,720 in state funding.

Background:

The North Carolina Department of Transportation has established a program to assist

cities and urban transit systems throughout the state with funding of certain capital projects. The Urban State Match Program may provide up to 50% of the local share toward matching FTA capital grants. Currently, the only projects eligible for state funding are replacement vehicles and facility projects that were listed in the State Transportation Improvement Program (STIP) as of FY 2013.

Transit has applied for and awarded FTA grant funding for replacement buses and for the FAST Transit Center project. These projects are eligible to be submitted to NCDOT for possible funding. These projects are:

FTA Grant NC-2018-045	Four (4) Paratransit Light Transit Vehicles
FTA Grant NC-2016-021	Two (2) Low Floor Light Transit Vehicles for fixed route
FTA Grant NC-2016-030	FAST Transit Center

In grant NC-2016-021, FTA approved additional funding by a grant amendment to add buses to an existing grant. In grant NC-2016-030, FTA allowed the City to move existing funding within the approved grant to the transit center project. CPOA 2018-23 approved this transfer on September 25, 2017.

The resolution authorizes staff to submit the applications to NCDOT. The actual grant agreements will be presented for approval if these applications are approved for funding.

Issues/Analysis:

None

Budget Impact:

There is no budget impact at this time since the City has already approved the full local match when the FTA grant is accepted and project funds appropriated. If State funds are granted the City's local share of these projects may be reduced and funds transferred back to the Transit Operating Fund.

Options:

Approve the resolution to authorize staff to submit applications to NCDOT; or
Reject the resolution.

Recommended Action:

Approve the resolution to authorize staff to submit applications to NCDOT

Attachments:

NCDOT Funding Requests
Resolution

State Fiscal Year 2020

Urban State Match Request (DUE November 2, 2018)

Transit System: City of Fayetteville, Fayetteville Area System of Transit (FAST)

Person Filling out Request Form: Randall J. Hume, Transit Director

Phone Number: (910)433-1011

E-Mail Address: rhume@ci.fay.nc.us

Type of Funding (5307, 5337, 5339; 5310, Local, etc.): 5307 and 5339A

Funding Breakdown:

\$546,000 Total Amount

\$464,100 Federal Amount

\$ 38,220 Requested State Match Amount

\$ 43,680 Local Match Amount

Project STIP ID # (if available) TA-4743B and TA-4743A

Project TRAMS Grant ID (if available) NC-2018-045-00 and NC-2016-021-01

Priority Rank (1, 2, 3, etc.): 1

Description of Project: The City of Fayetteville is replacing four (4) LTV Paratransit vehicles and two (2) LTVs used for fixed route services. These vehicles have exceeded their useful lives bench marks. The paratransit vehicle will be replaced with like 22ft and 25ft vehicles with high floors and wheelchair lifts. The fixed route vehicles will be replaced with low-floor light vehicles with ramps. The vehicles being replaced will be removed from service and disposed. The funding for the fixed route vehicles was secured via grant amendment to NC-20-016.

If this project involved the replacement of vehicles, please provide the year, local ID, and VIN # for the vehicles in which you would like to replace:

Paratransit:

<u>Year</u>	<u>ID#</u>	<u>VIN</u>	<u>Mileage</u>
2013	412	1FDEE3FS7DDA72616	169,656
2013	414	1FDEE3FS4DDA92953	179,654
2013	418	1FDEE3FSXDDA92956	176,106
2013	420	1FDEE3FL9DDA89023	176,466

Fixed Route:

<u>Year</u>	<u>ID#</u>	<u>VIN</u>	<u>Mileage</u>
2009	402	1FDFE45P19DA47211	250,751
2011	408	1FDFE4FL6BDA82876	104,070

Project Grant Status:

FTA Grant has been approved by FTA

FTA Grant has been developed but the grant is still under review by FTA

This project is not utilizing federal funds

Project Reimbursement:

Will claims for reimbursement be submitted between July 1, 2019 and June 30, 2020?

Yes

No

State Fiscal Year 2020

Urban State Match Request (DUE November 2, 2018)

Transit System: City of Fayetteville, Fayetteville Area System of Transit (FAST)

Person Filling out Request Form: Randall J. Hume, Transit Director

Phone Number: (910)433-1011

E-Mail Address: rhume@ci.fay.nc.us

Type of Funding (5307, 5337, 5339; 5310, Local, etc.): 5307

Funding Breakdown:

\$325,000 Total Amount

\$260,000 Federal Amount

\$ 32,500 Requested State Match Amount

\$ 32,500 Local Match Amount

Project STIP ID # (if available) TD-4708

Project TRAMS Grant ID (if available) NC-2016-030-00 (Budget Revision 2)

Priority Rank (1, 2, 3, etc.): 2

Description of Project: The City of Fayetteville is constructing a two-story, 34,000 SF, multi-modal facility. The project consists of 16 exterior bus bays and covered transit customer waiting/boarding areas. The first floor will house a transit ticket sales/information center, information kiosks, indoor customer waiting area, restrooms and a bus operator lounge. This floor also includes space for Greyhound Lines, food vendors and a small retail/sundries area. The second floor will provide administrative office space and a public meeting room with restrooms and a breakout area. The exterior waiting areas and walking paths will be sheltered and provide seating areas and information kiosks with route information. We currently have 3 federal grants that cover the construction of this facility: 5309 Capital Grant NC-04-0055 for \$10,018,750 (matched by NCDOT for \$1,001,875); 5307 Capital Grant NC-90-x567 for \$2,131,250; and 5307 Capital Grant NC-2016-030 for \$291,000. FTA has approved a Budget Revision to increase the project by \$325,000.

If this project involved the replacement of vehicles, please provide the year, local ID, and VIN # for the vehicles in which you would like to replace:

NA

Project Grant Status:

Yes FTA Grant has been approved by FTA

_____ FTA Grant has been developed but the grant is still under review by FTA

_____ This project is not utilizing federal funds

Project Reimbursement:

Will claims for reimbursement be submitted between July 1, 2019 and June 30, 2020?

X Yes

_____ No

**FY 2020 RESOLUTION AUTHORIZING THE CITY OF FAYETTEVILLE
TO APPLY FOR URBAN STATE MATCH PROGRAM FUNDING
AND TO ENTER INTO AGREEMENT WITH
THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION**

A motion was made by _____ and seconded by _____
for the adoption of the following resolution, and upon being put to a vote was duly adopted.

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural, small urban, and urban public transportation services consistent with the policy requirements of each funding source for planning, community and agency involvement, service design, service alternatives, training and conference participation, reporting and other requirements (drug and alcohol testing policy and program, disadvantaged business enterprise program, and fully allocated costs analysis); and

WHEREAS, the funds applied for may be Administrative, Operating, Planning or Capital funds and will have different percentages of federal, state, and local funds.

WHEREAS, **The City of Fayetteville** hereby assures and certifies that it will provide the required local matching funds; that its staff has the technical capacity to implement and manage the project(s), prepare required reports, obtain required training, attend meetings and conferences; and agrees to comply with the federal and state statutes, regulations, executive orders, Section 5333 (b) Warranty, and all administrative requirements related to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U. S. C.

WHEREAS, the applicant has or will provide all annual certifications and assurances to the State of North Carolina required for the project;

NOW, THEREFORE, be it resolved that the **City Manager** of is hereby authorized to submit grant applications for state funding in response to NCDOT's calls for projects, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide rural, small urban, and urban public transportation services.

I, **Mitch Colvin**, Mayor of the City of Fayetteville do hereby certify that the above is a true and correct copy of an excerpt from the minutes of a meeting of the City of Fayetteville City Council duly held on the **13th day November, 2018**.

BY: _____
MITCH COLVIN, Mayor

ATTEST:

(Official Seal)

Pamela J. Megill, City Clerk

City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 18-522

Agenda Date: 11/13/2018

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 6.09

TO: Mayor and Members of City Council

THRU:

FROM: Karen M. McDonald, City Attorney

DATE: November 13, 2018

RE:

Resolution Requesting Introduction of a Local Bill to Amend the Charter to Allow for Recall Elections

COUNCIL DISTRICT(S):

All

Relationship To Strategic Plan:

Goal V: Sustainable Organizational Capacity

Executive Summary:

Council directed staff to draft a Resolution seeking to amend the Charter to allow for recall elections. The attached Resolution requests introduction of a local bill to amend the Charter to allow for recall elections.

Background:

This item was discussed at the November 5, 2018, work session regarding modification of the Resolution to clarify that the grounds for a recall election are "allegations of misfeasance, malfeasance, nonfeasance or a violation of the oath of office."

At the conclusion of the discussion, staff was directed to place the Resolution on the November 13, 2018, agenda for adoption. The General Assembly is scheduled to convene on November 27, 2018.

Issues/Analysis:

Whether to approve the Resolution.

Budget Impact:

Unknown at this time.

Options:

1. Adopt the resolution.
2. Do not adopt the resolution.
3. Provide additional direction to staff.

Recommended Action:

Staff recommends that Council provide direction to staff as to Council's interest.

Attachments:

Resolution

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE REQUESTING THE INTRODUCTION OF A LOCAL BILL AMENDING THE CITY CHARTER TO PROVIDE FOR RECALL ELECTIONS

WHEREAS, the general laws of North Carolina do not provide a recall procedure for local elected officials; and

WHEREAS, a number of municipalities have been granted the authority to hold recall elections by local legislation of the General Assembly; and

WHEREAS, the City of Fayetteville wishes to have a recall procedure in place that will allow its citizens an opportunity to address any serious concerns that may arise between regular City elections with regard to allegations of misfeasance, malfeasance, nonfeasance, or a violation of the oath of office; and

WHEREAS, the establishment of a recall procedure would allow the citizens to have an active voice in addressing any such concerns and would authorize the City to respond to the will of the people.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fayetteville that the Council does support and request the introduction of a local bill amending the City Charter, Chapter 557, Session Law of 1979, as amended, by adding a new section to Chapter IV, Elections, to read as follows:

Sec. 4.4. Recall of Elected Officials.

- (a) The Mayor or any member of the City Council of the City of Fayetteville may be removed from office in the manner provided for in this section.
- (b) A recall petition committee may file an affidavit with the Director of the Cumberland County Board of Elections containing the name of the elected official whose removal is sought and a general statement of the grounds alleged for removal. The grounds for recall must be for allegations of misfeasance, malfeasance, nonfeasance, or a violation of the oath of office. The Director of the Board of Elections shall provide the recall petition committee filing the affidavit with petition forms for demanding the removal of a City elected official. The petition forms shall (i) be signed by the Director of the Board of Elections; (ii) be dated on the date of issuance; (iii) be addressed to the Cumberland County Board of Elections; (iv) contain the name of the persons to whom the forms are issued; (v) contain the name of the elected official whose removal is sought; (vi) contain a general statement of the grounds on which the removal is sought; and (vii) provide a place for signatures. The Director of the Board of Elections shall promptly deliver a copy of the petition issued by the Director of the Board of Elections to the City Clerk, who shall enter the copy of the petition in a record book kept for that purpose. The record book shall be maintained at the Office of the City Clerk.

- (c) A recall petition committee authorized under subsection (b) of this section shall be comprised of at least five members who are registered voters within the City and who shall represent the signers of the petition. Each member of the recall petition committee shall sign the petition and shall be responsible for circulating the petition within the City limits and for assembling and returning the petition to the Board of Elections as required by subsection (d) of this section.
- (d) A recall petition to be effective must be returned to the Board of Elections within 30 days after the filing of the affidavit. To be sufficient, a recall petition must bear the signatures of at least fifteen percent (15%) of the registered voters of the City if the recall is for the Mayor or fifteen percent (15%) of the registered voters in the district in which the Council member serves as shown by the registration records of the last preceding general municipal election.
- (e) The signatures to the petition need not all be appended to one paper. Each signer shall add his or her signature and place of residence, giving the complete street name, street number, and town.
- (f) The Board of Elections shall investigate the sufficiency of any petition and certify the results of the investigation to the City Council. The Board of Elections may employ persons as it deems necessary to undertake that investigation. The City Council shall reimburse the Board of Elections for the reasonable cost of the investigation. The Board of Elections may adopt rules concerning the validation of signatures appearing on the recall petition.
- (g) The Board of Elections shall complete its investigation and issue its certification of the results of the investigation within 10 days after the filing of any petition. However, the Board of Elections shall not be obligated to conduct an investigation in any 30-day period immediately preceding or in any 10-day period immediately following a county-wide election. If, by the Board of Elections' certification, the petition is shown to be insufficient, it may be amended within 10 days from the date of the certificate. The Board of Elections shall, within 10 days after any amendment, complete an investigation of the amended petition. If the certification of the results of the investigation shows the amended petition to be insufficient, a copy of the petition shall be returned to the recall petition committee filing the petition, without prejudice to the filing of a new petition.
- (h) Upon a determination that a sufficient recall petition has been submitted, the Board of Elections shall submit the petition to the City Clerk, who shall submit it to the City Council and shall notify the elected official whose removal is sought. If the elected official whose removal is sought does not resign within five days after receiving the notice, the City Council shall order and fix a date for holding a recall election. Subject to the remaining provisions of this section, an election shall be held not less than 60 nor more than 90 days after the petition has been certified as being sufficient. If any other general or special election is scheduled within this period, the City Council shall schedule the special election at the same time. If the provisions of general law prohibit the holding

of a special election during this time period and no general or special election is otherwise scheduled during that period of time, then the City Council shall schedule the special recall election for a date within 10 days after the last day of the period of time during which special elections are prohibited by general law.

- (i) The Board of Elections shall cause legal notice of the election to be published. That notice shall include the general statement of the grounds on which the recall is sought as alleged in the affidavit and shall make all arrangements for holding the election in accordance with general law. The recall election shall be conducted, returned, and the results declared as in other elections in the City of Fayetteville. The City shall reimburse the reasonable costs of the recall election to the Board of Elections.
- (j) The question of recalling any number of elected officials may be submitted at the same election. However, as to each individual elected official, a separate petition shall be filed and there shall be an entirely separate ballot.
- (k) The ballots used in a recall election shall submit the following proposition:

FOR AGAINST

The recall of (name and title of elected official).

- (l) If less than a majority of the votes cast on the question of recalling an elected official are for recall, the elected official shall continue in office for the remainder of the unexpired term and, except as provided by subsection (n) of this section, shall be subject to recall as before. If a majority of the votes are for the recall of the elected official designated on the ballot, the elected official shall, regardless of any defects in the recall petition, be deemed removed from office on the date the Board of Elections certifies the results of the recall election.
- (m) If an elected official concerning whom a sufficient recall petition is submitted to the City Council resigns before the recall election or is removed from office as a result of the recall election, the vacancy shall be filled in the manner provided by Section 4.1 or Section 4.2 of this Charter for filling vacancies in that office, except as provided in subsection (o) of this section. An elected official who resigns after a sufficient petition for his or her recall has been submitted to the City Council or who is removed from office by the voters as a result of a recall election shall not be appointed to fill the vacancy caused by that elected official's own resignation or removal.
- (n) No recall petition shall be filed in accordance with subsection (d) of this section against an elected official who has been subjected to a recall election, and not removed thereby, until at least six months after that recall election. No recall petition shall be filed in accordance with subsection (d) of this section against an elected official during the first three months of the term of that office or during the six months before the expiration of the term of that office.

- (o) If the recall of two or more members of the City Council or the recall of the Mayor and one or more members of the City Council are effected at a single recall election, the successors of the elected officials recalled shall be elected by the registered voters of the City at a special municipal election, and the successors shall serve for the remainder of the terms of the elected officials recalled. The members of the City Council who have not been recalled shall call that special election, which shall be conducted by the Cumberland County Board of Elections under the laws then governing elections in the State. If the recall of all or a majority of the members of the City Council is effected at a single election, they shall continue in office for the purpose, and only for the purpose, of calling a special municipal election for the election of their successors as provided in this section. That election shall also be conducted by the Cumberland County Board of Elections under the laws then governing elections in the State. The City shall reimburse the reasonable costs of the recall election to the Cumberland County Board of Elections.

AND BE IT FURTHER RESOLVED that copies of this resolution be sent to Representatives Elmer Floyd, Marvin W. Lucas, William O. Richardson, and John Szoka and Senators Ben Clark and Wesley Meredith.

ADOPTED this _____ day of November, 2018.

MITCH COLVIN, Mayor

ATTEST:

PAMELA J. MEGILL, City Clerk

City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 18-525

Agenda Date: 11/13/2018

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 6.10

TO: Mayor and Members of City Council

**THRU: David W. Trego, CEO/General Manager
Fayetteville Public Works Commission**

FROM: Fayetteville Public Works Commission

DATE: November 13, 2018

RE:

**Bid Recommendation - Cross Creek Water Reclamation Facility Screens
Replacement**

COUNCIL DISTRICT(S):

All

Relationship To Strategic Plan:

High Quality Built Environment

Executive Summary:

Bids were received for the Cross Creek Water Reclamation Facility Screens Replacement Project. The recommended lowest responsive, responsible bidder is Crowder Construction Company, Apex, NC, in the total amount of \$2,134,386.00.

Background:

The Fayetteville Public Works Commission during their meeting on October 24, 2018, approved the bid recommendation to award the contract for the Cross Creek Water Reclamation Facility Screens Replacement Project to Crowder Construction Company, Apex, NC, the lowest responsible, responsive bidder, in the total amount of \$2,134,386.00 and to forward to City Council for approval.

Bids were received on September 24, 2018, as follows:

Bidders

Total Cost

Crowder Construction Company, Apex, NC	\$2,134,386.00
State Utility Contractors, Inc., Monroe, NC	\$2,438,000.00
TA Loving Company, LLC, Alexandria, LA	\$2,541,977.00

Issues/Analysis:

This project was first bid with a closing date of September 3, 2018, and only two bids were received. Subsequently the project was re-bid with a closing date of September 24, 2018, and three bids were received. **SDBE:** The bidder intends to subcontract with Mayer Electric, Durham, NC, a woman owned firm, in the amount of \$31,000.00. **Local Participation:** No local bidders. The bidder is located in Apex, NC.

Budget Impact:

This project will be funded from FY2019 CIP, WS 93 (CPR1000279) and this project is included in the upcoming PWC bond issue. The projected contract is budgeted in the amount of \$2,134,386.00

Options:

N/A

Recommended Action:

The Fayetteville Public Works Commission recommends the Fayetteville City Council approve the bid recommendation to award the contract for the Cross Creek Water Reclamation Facility Screens Replacement Project to Crowder Construction, Apex, the lowest responsive, responsible bidder in the total amount of \$2,134,386.00

Attachments:

Cross Creek WRF Screen Replacements

**PUBLIC WORKS COMMISSION
ACTION REQUEST FORM**

TO: David W. Trego, CEO/General Manager

DATE: October 17, 2018

FROM: Trent K. Ensley, Procurement Manager

.....
ACTION REQUESTED: Approve contract award for Cross Creek Water Reclamation Facility Screens Replacement project. This project will make improvements to the existing headworks facilities at Cross Creek facility. Fine screens will be installed downstream from existing mechanical bar screens at the Influent Pump Station. The fine screens will enhance primary treatment by reducing influent Biochemical Oxygen Demand and provide a greater degree of solids removal that will improve operating conditions for grit removal and pumping equipment downstream.

.....
BID/PROJECT NAME: Cross Creek Water Reclamation Facility Cross Creek Water Reclamation Facility Screens Replacement.

BID DATE: September 24, 2018
Engineering

DEPARTMENT: Water Resources

BUDGET INFORMATION: Funding for this project will be funded from the FY2019 CIP, WS 93 (CPR1000279) and this project is included in the upcoming PWC bond issue. The projected contract will be in the amount of \$2,134,386.00.

.....

BIDDERS	TOTAL COST
Crowder Construction Company, Apex, NC	\$2,134,386.00
State Utility Contractors, Inc., Monroe, NC	\$2,438,000.00
TA Loving Company, LLC, Alexandria, LA	\$2,541,977.00

.....

AWARD RECOMMENDED TO: Crowder Construction Company, Apex, NC

BASIS OF AWARD: Lowest responsive, responsible bidder

.....
COMMENTS: This project was first bid with a closing date of September 3, 2018 and only two bids were received. Subsequently the project was re-bid with a closing date of September 24, 2018 and three bids were received. When the bids were opened Crowder Construction Company, Apex, NC was the lowest responsive, responsible bidder.

.....
ACTION BY COMMISSION
APPROVED _____ **REJECTED** _____
DATE _____

ACTION BY COUNCIL

APPROVED _____ REJECTED _____
DATE _____

BID HISTORY
CROSS CREEK WATER RECLAMATION FACILITY CROSS CREEK WATER
RECLAMATION FACILITY SCREENS REPLACEMENT
BID DATE: SEPTEMBER 24, 2018

Consulting Engineer

Hazen and Sawyer, Raleigh, NC

Advertisement

- | | | |
|----|------------------------|---------------------------|
| 1. | PWC Website | |
| | First Advertisement | 08/03/18 through 09/06/18 |
| | Second Advertisement | 09/07/18 through 09/24/18 |
| 2. | The Fayetteville Press | General Monthly Ad |

List of Prospective Bidders

1. Heyward Inc., Charlotte, NC
2. Crowder Construction Company, Apex, NC
3. State Utilities, Monroe, NC
4. Carolina Civil Works, Raleigh, NC
5. TA Loving Company, Goldsboro, NC
6. Water & Waste Systems, Garner, NC

List of Organizations Notified of Bid

Small Business Administration Programs:

Small Business Administration Regional Office (SBA)
NC Procurement & Technical Assistance Center (NCPTAC)
Veterans Business Outreach Center (VBOC)
Small Business Technology Center (SBTDC)
Women's Business Center at CEED (WBC)

FTCC Programs

Small Business Center (SBC)

Local Business Programs

NAACP, Fayetteville Branch
Greater Fayetteville Chamber, RFP & Press Release submitted
Hope Mills Chamber
Spring Lake Chamber

Fayetteville Business & Professional League (FBPL)
FSU Construction Resource Office (FSUCRO)
FSU EDA Grant Program

State Programs

NC Institute of Minority Economic Development (The Institute) Durham, NC
NAACP, State Branch Raleigh, NC
NC national Utility Contractors Association

Media

Fayetteville Observer
WIDU, AM1600
IBronco Radio at FSU

SDBE/Local Participation

SDBE: The bidder intends to subcontract with Mayer Electric, Durham, NC, a woman owned firm, in the amount of \$31,000.

Local: No local bidders. The bidder is located in Apex, NC.

City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 18-526

Agenda Date: 11/13/2018

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Consent

Agenda Number: 6.11

TO: Mayor and Members of City Council

**THRU: David W. Trego, CEO/General Manager
Fayetteville Public Works Commission**

FROM: Fayetteville Public Works Commission

DATE: November 13, 2018

RE:

**Bid Recommendation - Annual Construction Services Contract for Overhead
Distr. Construction**

COUNCIL DISTRICT(S):

All

Relationship To Strategic Plan:

High Quality Built Environment

Executive Summary:

Bids were received for the Annual Construction Service Contract Overhead Distribution Construction. The recommended lowest responsive, responsible bidder is River City Construction, Inc., Washington, NC, in the total amount of \$3,404,692.50.

Background:

The Fayetteville Public Works Commission during their meeting on October 24, 2018, approved the bid recommendation to award the contract for the Annual Construction Service Contract Overhead Distribution Construction to River City Construction, Inc., Washington, NC, the lowest responsive, responsible bidder in the total amount of \$3,404,692.50 and to forward to City Council for approval.

* Bids were solicited on a compatible unit basis (assemblies). Evaluation was based upon unit pricing for the top 100 most frequently used units. The prices for the bids shown

above are the extended prices for the top 100 compatible units priced by each bidder.

Issues/Analysis:

The Commission approved the award of an annual construction contract for overhead distribution construction to River City Construction, Inc., Washington, NC, for the initial amount of \$1,000,000 (estimated to be expended in FY19). The initial contract is for commencement until June 30, 2019. This contract has an option to renew annually up to five additional years upon mutual agreement of both parties. **SDBE/Local**

Participation: River City Construction intends on self-performing all work associated with the annual contract. Staff will reach out to River City to provide points of contact to aid in deploying their resources locally

Budget Impact:

The Annual Construction Service Contract for Overhead Distribution Construction is budgeted in EL 2 Overhead Infrastructure Installation - New; EL 13 Overhead Distribution Circuit Improvements; and EL 20 Overhead Infrastructure Improvements; up to \$1,000,000 is planned for expenditures across the three budget areas

Options:

N/A

Recommended Action:

The Fayetteville Public Works Commission recommends the City Council approve the bid recommendation to award the Annual Construction Service Contract Overhead Distribution Construction to River City Construction, Inc., Washington, NC, the lowest responsive, responsible bidder in the total amount of \$3,404,692.50.

Attachments:

Annual Construction Contract

**PUBLIC WORKS COMMISSION
ACTION REQUEST FORM**

TO: David W. Trego, CEO/General Manager

DATE: October 17, 2018

FROM: Trent Ensley, Procurement Manager

.....
ACTION REQUESTED: Award annual construction service contract overhead distribution construction to River City Construction, Inc. for the initial amount of \$1,000,000.

BID/PROJECT NAME: Annual Construction Service Contract for Overhead Distribution Construction

BID DATE: September 26, 2018

DEPARTMENT: Electric Construction

BUDGET INFORMATION: FY 2018 Annual Construction Services Budget, EL 2 Overhead Infrastructure Installation – New, EL 13 Overhead Distribution Circuit Improvements, EL 20 Overhead Infrastructure Improvements – up to \$1,000,000 total is planned for expenditures across these three budget areas.

.....

BIDDERS	EVALUATED TOTAL COST*
River City Construction, Inc.; Washington, NC	\$3,404,692.50
Pike Electric, LLC; Mount Airy, NC	\$4,006,398.07
Lee Electric Construction, Inc.; Aberdeen, NC	\$6,069,560.00

*Bids were solicited on a compatible unit cost basis (assemblies). Evaluation was based upon unit pricing for the top 100 most frequently used units. The prices for the bids shown above are the extended prices for the top 100 compatible units priced by each bidder. River City's pricing was lower than the other bidders.

.....
AWARD RECOMMENDED TO: River City Construction, Washington, NC

BASIS OF AWARD: Lowest responsive, responsible bidder

.....

COMMENTS: The Commission is asked to approve award of an annual construction contract for overhead distribution construction to River City Construction, Inc.; Washington, NC, for the initial amount of \$1,000,000 (estimated amount to be expended in FY 19). The initial contract is for commencement until June 30, 2019. The contract has an option to renew annually up to five (5) additional years upon mutual agreement from both parties.

.....

ACTION BY COMMISSION
APPROVED _____ **REJECTED** _____
DATE _____

ACTION BY COUNCIL
APPROVED _____ **REJECTED** _____
DATE _____

BID HISTORY

ANNUAL CONSTRUCTION SERVICE CONTRACT FOR OVERHEAD DISTRIBUTION CONSTRUCTION

BID DATE: SEPTEMBER 26, 2018

Advertisement

- | | | |
|----|--|----------------------|
| 1. | PWC Website | 08/10/18 to 09/26/18 |
| 2. | Fayetteville Regional Chamber | Web Posting |
| 3. | The Fayetteville Press, Fayetteville, NC | General Ad Monthly |

List of Contractors Requesting Plans and Specifications

1. Lee Electrical Construction, Aberdeen, NC
2. Davis H. Elliot Company, Inc., Lexington, KY
3. River City Construction, Inc., Kinston, NC
4. CW Wright Construction Co., Chester, VA
5. Carolina Power and Signalization, Fayetteville, NC
6. Mastec North America, Roxboro, NC
7. Pike Electric, Inc., Mount Airy, NC
8. Watson Electrical Construction, Fayetteville, NC
9. Sandy Ridge Electric, Fayetteville, NC
10. King Electric, Fayetteville, NC
11. Coleman Electric, Cumming, GA

List of Organizations Notified of Bid

Small Business Administration Programs:

Small Business Administration Regional Office (SBA)
NC Procurement & Technical Assistance Center (NCPTAC)
Veterans Business Outreach Center (VBOC)
Small Business Technology Center (SBTDC)
Women's Business Center at CEED (WBC)

FTCC Programs

Small Business Center (SBC)

Local Business Programs

NAACP, Fayetteville Branch
Greater Fayetteville Chamber, RFP & Press Release submitted
Hope Mills Chamber

Spring Lake Chamber
Fayetteville Business & Professional League (FBPL)
FSU Construction Resource Office (FSUCRO)
FSU EDA Grant Program

State Programs

NC Institute of Minority Economic Development (The Institute) Durham, NC
NAACP, State Branch Raleigh, NC
NC national Utility Contractors Association

Media

Fayetteville Observer
WIDU, AM1600
IBronco Radio at FSU

SDBE/Local Participation

River City Construction intends on self-performing all work associated with the annual contract. Staff will reach out to River City to provide points of contact to aid in deploying their resources locally.



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 18-518

Agenda Date: 11/13/2018

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Reports From
Boards and Commissions

Agenda Number: 7.01

TO: Mayor and Members of City Council

THRU: Kristoff Bauer, Deputy City Manager

FROM: Robert Van Geons, President & CEO, FCEDC
Andrew Pennick, Chairman of the FCEDC Board

DATE: November 13, 2018

RE:

**Fayetteville - Cumberland Economic Development Corporation Board Annual
Report and Amendments to By-Laws**

COUNCIL DISTRICT(S):

All

Relationship To Strategic Plan:

FCEDC's work and mission directly support "GOAL II: Diverse and Viable Economy", of the City's FY 2019 Strategic Plan, specifically "Objective B: To implement strategies that diversify the city's tax base and increase the industrial and commercial tax bases" and "Objective C: To leverage partnerships for job creation and retention, with focus on local and regional workforce and increasing per capita income"

Executive Summary:

In the fall of 2015, the City of Fayetteville and Cumberland County entered into an interlocal agreement, creating the Fayetteville Cumberland Economic Development Corporation (FCEDC). In the last 18 months, FCEDC has worked with new and existing industries to announce over 1,100 new jobs and \$56 million of new investment.

In addition to providing an update on the activities of the FCEDC, the FCEDC Board of Directors are requesting amendments to the By-Laws that would increase the size of the Board, change the timing for the election of Officers for the Board, and amend the address for the FCEDC's offices.

Background:

The City Manager instituted that each Board/Commission will make an annual report to the City Council regarding the activities of their Board/Commission. The City appoints three voting members to FCEDC's Board (Currently, Mayor Colvin, FCEDC Chairman Andrew Pennink, and Bobby Suggs), and one ex-officio member (City Manager Hewett).

Whereas the City Manager has instituted that each Board/Commission will make an annual report to the City Council regarding the activities of their Board/Commission, FCEDC appreciates this opportunity to update the City Council regarding our current efforts and the results generated over the past year.

Additionally, over the past year, the size of our Board, the ratio of appointments-to-funding and our operational calendar, have been topics of pragmatic discussion.

After considerable conversation and review, the FCEDC Board of Directors has adopted the attached amendments to our By-Laws, which require your approval to become effective. The unanimously passed amendments can be summarized as follows:

1. The number of City of Fayetteville and Cumberland County appointments shall increase from 3 (each) to 4 (each). Effective December of 2018, the County will appoint 4 members (with the Chairman or his designee being one), the City will appoint 4 members (with the Mayor or his designee being one), and 2 members will continue to be appointed by the private sector. Our Ex officio officers would remain the County Manager, City Manager, and Community College President.
2. Election of Officers will now occur at the July meeting: This is a change from our current practice of electing officers at the December meeting.
3. Amendment to FCEDC Address. The FCEDC By-Laws will now reflect our new office address of 201 Hay Street, Suite 401A, Fayetteville, NC 28301.

The Board of Directors believe this expansion will provide multiple operational benefits. Primarily, the appointment-to-funding ratio for our Board will more closely align with our operational resources. Currently, our funding is approximately 40% from Cumberland County, 40% from the City of Fayetteville, and 20% from other sources (private sector funding / grants / contracted services). With this update, each appointed member will represent approximately 10% of our funding. Subsequently, it will also help us ensure quorum for our meetings.

These amendments will allow us to tap a greater range of expertise, while also diversifying the industry sectors and perspectives represented by Board. Most importantly, it ensures additional opportunities for the City and County to appoint members from the broader business community and expand our engagement with local business leaders and stakeholders.

While Board Member terms will remain as they currently are (December - November), we believe that moving the election of officers to July will provide newly appointed members time to acclimate themselves, prior to being asked to serve as an officer (or support other Board Members for an Officers position). Additionally, officer terms will now coincide with

our fiscal year. .

Issues/Analysis:

N/A

Budget Impact:

N/A

Options:

Receive the annual report and approve the changes to the FCEDC's By-Laws as requested, or

Take no action and provide direction to staff.

Recommended Action:

Receive the annual report and approve the changes to the FCEDC's By-Laws as requested

Attachments:

FCEDC Board Report to City Council



Fayetteville Cumberland County
Economic Development Corporation



Annual Report

Andrew Pennink

Chairman, FCEDC Board of Directors

FCEDC is a Public-Private Partnership Charged With:

- Attracting new business projects, increasing investment and employment opportunities
- Promoting our community to industry decision makers, site-selectors, and developers
- Supporting existing companies by facilitating expansions and connecting them with resources
- Identifying and preparing sites and buildings for expedited development

Our Board is comprised of 10 Voting and 3 Ex-Officio Members

- The City of Fayetteville represented by Mayor Mitch Colvin, Bobby Suggs Jr., Andrew Pennink (Voting), and City Manager Doug Hewett (Ex-Officio)

* Request pending to add 4th City appointee

Honoring Our Commitment to the Community

NEW YORK BAGEL
CAFE & DELI
105

Promoting Our Community's Best Assets

FCEDC's messaging highlights our:

- Young, talented, and available workforce
- Outstanding educational programs from FTCC, FSU, and Methodist University
- Research and development infrastructure
- Innovative public-private partnerships
- Vibrant, diverse, accessible, and affordable community
- Superior logistic location
- Close proximity to the leadership, operations, and talent of Fort Bragg



Engaging Decision Makers, Site-Selectors, and Developers

- Selling our community at 18 industry / recruitment events

Examples include:

- SelectUSA International Investment Summit
- SIOR Carolinas Conferences
- Southeast Region Cyber Security and Technology Symposium
- Distribution of targeted recruitment materials
- Reaching over 60,000 unique viewers with digital and print advertising
- Generating original content in publications, online, and social media
- Leveraging local, regional, and national press coverage



ACCESSIBILITY & AFFORDABILITY CONVERGE IN FAYETTEVILLE, NC



Fayetteville's location on I-95 and logistical advantages give you easy and cost-effective access to your customers and supply chain.

WHERE ACCESSIBILITY, AFFORDABILITY, DIVERSITY, & OPPORTUNITY CONVERGE

FAYETTEVILLE, NC

Visit Fayetteville, City of the Century
A Young, Diverse & Growing
Workforce (Median Age 36.4)
State Ranked 1st for Quality of Life
in America (MetLife)

Shovel-Ready Sites

- Available Sites Up to 500 Acres
- Parcel 4 to 100+ Acres
- Subdivided, Zoned, and Ready for Construction
- Available for Lease or Purchase
- Dec 1985a (EP of the 1980s) of State Site Certification

Commercial & Industrial Buildings

- 20K SF Shovel-Ready Office/Industrial
- 100K SF Shovel-Ready Office/Industrial
- 100K SF Shovel-Ready Office/Industrial

FCEDC www.fayedc.com | (910) 500-6464

Supporting Existing Industry

- Engaging over 100 local companies
- Fayetteville Area Plant Managers Association (PMA)
- New Transportation and Logistics Committee



Development of New Product

- 7 new industrial sites identified
- Over 1 Million SF of new industrial and commercial building construction
- Aggressively searching for developable land, partnering with private land owners and all 9 municipalities
- On track to add an additional 1,000 acres to our inventory by 2019

Generating Results

Recent Project Announcements



1,000
New Jobs



\$56,600,000 In
Investment



Increased Activity

Since January 1, 2018:

- 23 new client visits
- 65 generated projects



63 active projects - representing
8,060 new jobs and \$2.1 billion
in investment - considering our
community

Innovation and Collaboration

- 'The Core' Innovation Center
- Cumberland County Healthcare Next Gen Partnership
- Economic Development Program of Work for the FAY Regional Airport
- Multi-modal economic development transportation strategy – leveraging our transportation infrastructure
- Organizing business roundtables, special programs, and industry events

Community Branding (FCCBC)

- 11 public and private partners
- Goal of establishing a common brand
- Highly-qualified finalist agency identified



Proposed Amendments to By-Laws

1. Increase the number of appointments made by the City/County from 3 to 4 members each
2. Election of Officers to occur in July instead of December each year
3. Amend By-Laws to reflect the new office address as 201 Hay Street, Suite 401A, Fayetteville, NC
4. Also requires approval by Cumberland County to become effective

Thank You

Contact our team at any time



Robert Van Geons
President & CEO

robert@fayedc.com



Lindsey Almond
VP of Operations

lindsey@fayedc.com



Teddy Warner
Dir. Business Development

teddy@fayedc.com



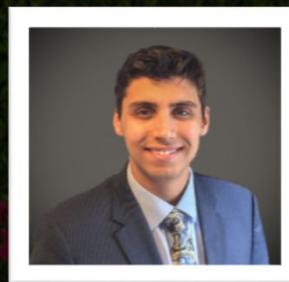
Cathy Johnson
Dir. Existing Industry

cathy@fayedc.com



Tonny McNeil
Manager, Special Projects

tonny@fayedc.com



Jimmy Abbatiello
Manager, Marketing
& Communications

jimmy@fayedc.com



Stephanie Howard
Manager of
Administration
(Vacant as of Oct. 15th)



We Respectfully Request a
Motion to Approve the Report

**BYLAWS OF THE
FAYETTEVILLE-CUMBERLAND COUNTY ECONOMIC DEVELOPMENT CORPORATION**
As Amended Month Day 2018

ARTICLE I
Offices

1.1 *Principal Office.* The principal office of the Corporation shall be located at 201 Hay Street, Suite 401A, Fayetteville, NC, or at such other location designated by the Board of Directors.

Deleted: 159~~9~~
Maxwell Street

1.2 *Registered Office.* The registered office of the Corporation required by law to be maintained in the State of North Carolina shall be identical with the principal office.

ARTICLE II
Board of Directors

2.1 *General Powers.* The business and affairs of the Corporation shall be managed by its Board of Directors. Except as otherwise expressly provided by law, the Articles of Incorporation, or these Bylaws, all of the power of the Corporation shall be vested in the Board of Directors.

2.2 *Number, Term, and Qualifications.* The number of directors constituting the Board of Directors shall be ten, voting members and three *ex officio*, non-voting members. Each director shall hold office until his or her successor shall have been appointed. The terms of directors serving in an *ex officio* capacity shall run with their principal offices. The terms of all other directors shall be for three years and shall be staggered. Directors must be residents of Cumberland County, North Carolina.

Deleted: eight

2.3 *Appointment of Directors.* Directors shall be appointed as follows:

2.3.1 The Cumberland County Manager, the Fayetteville City Manager and the President of Fayetteville Technical Community College shall each serve in a non-voting, *ex officio* capacity.

2.3.2 The Cumberland County Board of Commissioners shall appoint four directors consisting of one member of the Board of County Commissioners (an "Elected Official") and three other residents of Cumberland County.

Deleted: three

Deleted: two

2.3.3 The Fayetteville City Council shall appoint four directors consisting of either the Mayor or a Member of the City Council (an "Elected Official") and three other residents of Cumberland County.

Deleted: three

Deleted: two

2.3.4 Community Development Foundation shall appoint two directors consisting of one member of its Board of Directors and one other resident of Cumberland County.

Deleted: , d/b/a The Alliance Foundation,

2.4 *Commencement and Staggering of Terms.* The terms of all appointed directors shall commence on the first Monday in December in the year of their appointments. The Elected Officials shall serve, a one year term; all other appointments shall be for a full term of three years. Should the number of Directors increase, in order to appropriately stagger terms, initial appointments may be for a term of less than three years, subsequent appointments or reappointments shall be for a full term of three years.

Deleted: The initial terms shall be staggered as follows:

Deleted: an initial term of

Deleted: one of the other appointments made by the Fayetteville City Council and the County Board of Commissioners, and the Director appointed from the Board of Directors of Community Foundation, d/b/a The Alliance Foundation, shall be for an initial term of two years;

2.5 *Vacancies.* Any vacancy occurring in the Board of Directors shall be filled by the authority which appointed the director whose seat becomes vacant. The seat of an Elected Official who ceases to hold elected office during his or term as a director shall become vacant at the time he or she ceases to hold elected office; provided, however, the City Council or Board of County Commissioners may elect to continue the former Elected Official in his or her term as a director until the expiration of his or her term as a director, or may elect to appoint another Elected Official to that vacant seat. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

2.6 *Removal.* Directors may only be removed with cause by the authority which appointed them. The Board of Directors may, but is not required to, make a recommendation to the appointing authority for the removal of a director.

2.7 *Chairman of the Board.* There shall be a Chairman and Vice-chairman of the Board of Directors elected by the directors from their number during a meeting held in the month of July, each year. The terms of office for the Chairman and Vice-chairman shall be for the following calendar year and these officers may be elected for successive terms. The Chairman, or in his or her absence the Vice-Chairman, shall preside at all meetings of the Board of Directors, and each shall perform such other duties as may be directed by the Board of Directors. The Chairman and Vice-Chairman shall be officers of the Corporation.

Deleted: December

2.8 *Compensation.* The Board of Directors shall serve without compensation for their services as directors. The Board of Directors may approve the reimbursement of the reasonable expenses incurred by individual directors in attending to the business of the Corporation.

ARTICLE III Meetings of Directors

3.1 *Annual Meetings.* The annual meeting of the Board of Directors shall be held during the month of July of each year, for the purpose of electing directors and officers of the Corporation and for the transaction of any other business properly before the Board of Directors. Notice of the date of the annual meeting shall be given in accordance with the notice provisions of these Bylaws.

Deleted: December

3.2 *Special Meetings.* Special meetings of the Board of Directors may be called by or at the request of the Chairman or any two directors.

3.3 *Place of Meetings.* The annual or any special meeting of the Board of Directors may be held at the principal office of the Corporation or at such other place as shall be designated in

the notice of the meeting or in a waiver of notice of the meeting signed by all the directors then in office.

3.4 *Notice of Meetings.* The Secretary shall give notice of each annual meeting of the Board of Directors by mailing or emailing such notice to each director to such mailing or email address provided by each director at least ten days before the meeting. The Chairman or other persons calling a special meeting of the Board of Directors shall give notice thereof (or cause the Secretary to give notice) by mailing or emailing such notice to each director in the same manner as for notice of the annual meeting at least three days before the special meeting. Unless otherwise indicated in the notice thereof, any and all business may be transacted at a meeting of the Board of Directors, except as otherwise provided by law or these Bylaws.

3.5 *Waiver of Notice.* Any director may waive notice of any meeting, either before or after the meeting. Written waivers of notice shall be filed by the Secretary with the corporate records or as part of the minutes of the meeting. The attendance by a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

3.6 *Quorum.* A majority of the number of voting directors fixed by these Bylaws shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

3.7 *Manner of Acting.* Except as otherwise provided in these Bylaws, the act of the majority of the voting directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

3.8 *Presumption of Assent.* A director of the Corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless he objects at the beginning of the meeting, or promptly upon his arrival, to holding it or transacting business at the meeting, or his dissent or abstention from the action is otherwise entered in the minutes of the meeting.

3.9 *Informal Action by Directors.* Action taken by a majority of the directors without a meeting is nevertheless action of the Board of Directors if written consent to the action in question is signed by all of the directors and filed with the minutes of the proceedings of the Board of Directors, whether done before or after the action so taken.

3.10 *Participation by Telephone.* Any one or more directors may participate in a meeting of the Board of Directors by means of a conference telephone or similar communications device that allows all persons participating in the meeting to hear each other. Participation by these means shall be deemed presence in person at the meeting.

ARTICLE IV

Officers

4.1 *Officers of the Corporation.* The officers of the Corporation shall consist of a Chairman, a Vice-Chairman, a President, a Secretary, and a Treasurer. Other officers, including

one or more Vice-Presidents (whose seniority and titles, including Executive Vice-Presidents and Senior Vice-Presidents, may be specified by the Board of Directors), Assistant Secretaries, and Assistant Treasurers, may from time to time be elected by the Board of Directors. Any two or more offices, except Chairman or President and Secretary, may be held by the same person. No officer may act in more than one capacity where the actions of two or more officers are required.

4.2 *Election and Term.* The officers of the Corporation shall be elected by the Board of Directors, and each officer shall hold office for such term and upon such conditions as are stated in these Bylaws or as determined by the Board of Directors.

4.3 *Removal.* Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Corporation will be served thereby.

4.4 *President.* The President shall be the chief executive officer of the Corporation and shall be primarily responsible for the implementation of policies of the Board of Directors. He shall have authority over the general management of the Corporation in accordance with these Bylaws, subject only to the ultimate authority of the Board of Directors. He may sign and execute instruments in the name of the Corporation except in cases where the signing and the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law otherwise to be signed or executed. In addition, he shall perform all duties incident to the office of the President and such other duties as from time to time may be assigned to him by the Board of Directors. The President shall be a full-time employee of the Corporation and shall not be engaged in any other business or employment except with the consent of the Board of Directors.

4.6 *Vice-Presidents.* Each Vice-President, if any, shall have such powers and duties as may from time to time be assigned to him by the Board of Directors.

4.7 *Secretary.* The Secretary shall keep the minutes of the meetings of the Board of Directors. He shall keep all minutes of all such meetings in books designated for those purposes. The Secretary shall see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law. He shall have charge of the books, records, and papers of the Corporation. He shall have custody of the seal of the Corporation and see that the seal of the Corporation is affixed to all documents the execution of which on behalf of the Corporation under its seal is duly authorized, and shall sign such instruments as may require his signature. He shall in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the Chairman, by the Board of Directors, or by these Bylaws.

4.8 *Assistant Secretaries.* In the absence of the Secretary, any Assistant Secretary designated by the Chairman, unless otherwise determined by the Board of Directors, shall perform the duties of the Secretary and when so acting shall have all the powers of and be subject to all the restrictions upon the Secretary.

4.9 *Treasurer.* The Treasurer shall have charge of and be responsible for all funds and

securities, receipts, and disbursements of the Corporation, and shall deposit all monies and securities of the Corporation in such banks and depositories as shall be designated by the Board of Directors, provided that the Board of Directors may appoint a custodian or depository for any such funds or securities, and the Board of Directors may designate those persons upon whose signature or authority such funds may be disbursed.

4.10 *Assistant Treasurers.* In the absence of the Treasurer any Assistant Treasurer designated by the Chairman, unless otherwise determined by the Board of Directors, shall perform the duties of the Treasurer, and when so acting shall have all the powers of and be subject to all the restrictions upon the Treasurer.

4.11 *Compensation.* The compensation of the President shall be fixed by the Board of Directors. The compensation of the Secretary and Treasurer shall also be fixed by the Board of Directors; provided, however; that these shall not be positions of full-time employment and if these Officers are otherwise employed by the Corporation their duties as Secretary or Treasurer shall be conducted incident to such other employment without additional compensation.

ARTICLE V Indebtedness

The Corporation shall not incur any indebtedness other than accounts payable and payroll liabilities incurred in the normal course of business, except as may be approved by resolution adopted by the Board of Directors.

ARTICLE VI Contracts, Loans, Checks, and Deposits

6.1 *Contracts.* Unless specifically authorized by the Board of Directors, all contracts or instruments in the name of and on behalf of the Corporation must be executed by the President or Chairman and attested by the Secretary or Assistant Secretary.

6.2 *Loans.* No loans shall be contracted on behalf of the Corporation, and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

6.3 *Checks and Drafts.* All checks, drafts, or other orders for the payment of money, issued in the name of the Corporation, shall be signed by such officer or officers, agent or agents, or employee or employees of the Corporation and in such manner, including facsimile signatures, as shall from time to time be determined by resolution of the Board of Directors.

6.4 *Deposits.* All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such depositories as the Board of Directors may select.

6.5 *Appointment of Fiscal Agent.* The Board of Directors may appoint Cumberland County as the fiscal agent for the Corporation with the county to deposit all the Corporation's

funds and issue all checks and drafts on behalf of the Corporation subject to the fiscal controls governing the county.

ARTICLE VII

Provisions Subject to Restrictions on Amendment

7.1 *Statutory Authority.* Pursuant to N.C.G.S. § 55A-10-30, the provisions contained or referenced in this Article VII may not be amended by action of the Board of Directors. The provisions contained or referenced in this Article VII may only be amended by the approval of the Fayetteville City Council and the Cumberland County Board of Commissioners. This amendment restriction applies to the following provisions:

7.2 *This Article.* The provisions contained in this Article VII of these Bylaws, Provisions Subject to Restrictions on Amendment, are subject to this amendment restriction.

7.3 *Article II.* The provisions contained in Article II of these Bylaws, Board of Directors, are subject to this amendment restriction.

7.4 *Fiscal Year.* The fiscal year of the Corporation shall commence on July 1.

7.5 *Audit, Financial Statements and Tax Returns.* If Cumberland County is not designated as the fiscal agent for the Corporation, the Board of Directors shall engage a certified public accountant to annually audit the financial transactions, prepare financial statements and prepare and file income tax returns for the Corporation. The audit, financial statements and income tax returns shall be presented to the city and county managers within ninety days of the close of the fiscal year. If Cumberland County is designated as the fiscal agent for the Corporation, the county shall be responsible to obtain the audit and financial statements and engage a certified public accountant to prepare and file the Corporation's income tax returns.

7.6 *Articles of Incorporation.* Articles IX and XII of the Articles of Incorporation are subject to this amendment restriction.

ARTICLE VIII

General Provisions

8.1 *Seal.* The corporate seal of the Corporation shall contain the name of the Corporation and shall be in such form as approved by the Board of Directors.

8.2 *Waiver of Notice.* Whenever any notice is required to be given to any director by law, by the Articles of Incorporation, or by these Bylaws, a waiver thereof in writing signed by the director or directors entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

8.3 *Indemnification.* The Corporation shall indemnify its officers and directors to the maximum extent required or permitted by Part 5 of Article 8 of Chapter 55A of the General Statutes of North Carolina as from time to time amended, and such officers and directors shall be

deemed to have relied upon this Part.

8.4 *Gender Specific Words*. All words referencing the masculine gender herein are meant to include the feminine gender.

8.5 *Amendment of Bylaws*. Except as otherwise provided by law, by the Articles of Incorporation or herein, these Bylaws may be amended or repealed, and new Bylaws may be adopted by the affirmative vote of a majority of the voting directors then holding office at any annual or special meeting of the Board of Directors; provided, however, that notice of the proposed action shall have been included in the notice of the meeting or shall have been waived as provided in these Bylaws.

Adopted in duly called meeting held December 18, 2015. Amended Month, Day, 2018

Chairman, Board of Directors

TO: Mayor Mitch Colvin, Mayor Pro Tem Theodore W. Mohn, and Fayetteville City Council Members
CC: City Manager Doug Hewett
FROM: Robert Van Geons, President and CEO
DATE: October 24, 2018
RE: *Amendments to the FCEDC By-Laws approved by Board of Directors*

Honorable Mayor, Mayor Pro Tem, and Fayetteville City Council Members:

Thank you again for your continued support of our organization, its Board of Directors, and our ongoing economic development efforts. Over the past year, the size of our Board, the ratio of appointments-to-funding and our operational calendar, have been topics of pragmatic discussion.

After considerable conversation and review, the FCEDC Board of Directors has adopted the attached amendments to our By-Laws, which require your approval to become effective. The unanimously passed amendments can be summarized as follows:

1. The number of City of Fayetteville and Cumberland County appointments shall increase from 3 (each) to 4 (each). Effective December of 2018, the County will appoint 4 members (with the Chairman or his designee being one), the City will appoint 4 members (with the Mayor or his designee being one), and 2 members will continue to be appointed by the private sector. Our Ex officio officers would remain the County Manager, City Manager, and Community College President.
2. Election of Officers will now occur at the July meeting: This is a change from our current practice of electing officers at the December meeting.
3. Amendment to FCEDC Address. The FCEDC By-Laws will now reflect our new office address of 201 Hay Street, Suite 401A, Fayetteville, NC 28301.

The Board of Directors believe this expansion will provide multiple operational benefits. Primarily, the appointment-to-funding ratio for our Board will more closely align with our operational resources. Currently, our funding is approximately 40% from Cumberland County, 40% from the City of Fayetteville, and 20% from other sources (private sector funding / grants / contracted services). With this update, each appointed member will represent approximately 10% of our funding. Subsequently, it will also help us ensure quorum for our meetings.

The Board appreciates the value this expansion will bring to our economic development endeavors, as we continue to build partnerships. These amendments will allow us to tap a greater range of expertise, while also diversifying the industry sectors and perspectives represented by Board. Most importantly, it ensures additional opportunities for the City and County to appoint members from the broader business community and expand our engagement with local business leaders and stakeholders.

While Board Member terms will remain as they currently are (December – November), we believe that moving the election of officers to July will provide newly appointed members time to acclimate themselves, prior to being asked to serve as an officer (or support other Board Members for an Officers position). Additionally, officer terms will now coincide with our fiscal year.

It is our hope that you will support these modifications to the FCEDC By-Laws, and approve them as presented. For your reference, we have attached a “red-line” version of our By-Laws, an updated membership roster, and an “Requested Action Memo”. Please do not hesitate to contact me with any questions you may have, or should you wish to discuss this in greater detail.

Sincerely,



Robert Van Geons
President and CEO

TO: Mayor Mitch Colvin, Mayor Pro Tem Theodore W. Mohn, and Fayetteville City Council Members
CC: City Manager Doug Hewett
FROM: Robert Van Geons, President and CEO
DATE: November 6, 2018
RE: *Request for Appointments to the Board*

Background

Per our previous correspondence, the FCEDC Board of Directors (BOD) has requested approval of amendments to our ByLaws, which would increase the number of City Council appointees to the FCEDC Board. Upon approval of the amendments, we respectfully submit the following for your consideration and action:

Request for Appointment / Re-Appointment to BOD

Currently, the City appoints three voting members to our Board. Those are the Mayor (or his designee), Chairman Andrew Pennink (term expires November 30, 2020) and Bobby Suggs (term expires November 30, 2018). Mr. Suggs has completed one term on the Board and has applied to be reappointed.

Requested Action – We respectfully request that the City Council reappoint Mr. Suggs, or another qualified individual of your choice, to a 3-year term on the FCEDC Board of Directors.

Request for Intial Appointment to the BOD

Upon approval of the amendments to our ByLaws, the City of Fayetteville gains an additional appointment to the Board of Directors. In order to provide a proper staggering of terms, we respectfully request that this initial term be for 1 year. Subsequent appointments / reappointments would be for a term of 3 years. Under this arrangement, one BOD seat will be open for appointment (or reappointment) each year. A copy of our Board Roster is attached, for your reference

Requested Action – We respectfully request that the City Council appoint a qualified individual, of your choosing, to a 1-year term on the FCEDC Board of Directors. Subsequent appointments, or reappointments, shall be for a term of 3 years.

FCEDC BOARD OF DIRECTORS

TERM ENDING DATES

Current Term Ending Date	Subsequent Term Ending Date*	Appointed By:	Name	Term #
N/A	N/A	Cumberland County	Chairman, Larry Lancaster	N/A
November 30, 2020	November 30, 2023	Cumberland County	Kelvin Farmer, Treasurer	1
November 30, 2019	November 30, 2022	Cumberland County	<i>To Be Determined</i>	1
November 30, 2018	November 30, 2021	Cumberland County	Juanita Pilgrim, Vice Chairman	1
N/A	N/A	City of Fayetteville	Mayor, Mitch Colvin	N/A
November 30, 2020	November 30, 2023	City of Fayetteville	Andrew Pennink, Chairman	2
November 30, 2019	November 30, 2022	City of Fayetteville	<i>To Be Determined</i>	1
November 30, 2018	November 30, 2021	City of Fayetteville	Bobby Suggs	1
November 30, 2020	November 30, 2023	CDF	Vivek Tandon	1
November 30, 2018	November 30, 2021	CDF	Jack Rostetter, Secretary	1
No Set Term	Ex-Officio Member	Cumberland County	Amy Cannon	N/A
No Set Term	Ex-Officio Member	City of Fayetteville	Doug Hewett	N/A
No Set Term	Ex-Officio Member	Fayetteville Tech	Dr. Larry Keen	N/A

*This date is included to illustrate the staggering of terms, and how the appointments would rotate annually. All appointing entities are free to appoint or reappoint Board Members, per their individual procedures.

City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 18-487

Agenda Date: 11/13/2018

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Staff Reports

Agenda Number: 8.01

TO: Mayor and Members of City Council

THRU: Douglas Hewett, ICMA - CM, City Manager

FROM: Gina V. Hawkins, Chief of Police

DATE: November 13, 2018

RE:

Fayetteville Police Department 2018 - 3rd Quarter Review

COUNCIL DISTRICT(S):

ALL

Relationship To Strategic Plan:

Safe and Secure Community

Executive Summary:

Fayetteville Police Department 2018 - 3rd Quarter Review presentation to City Council on crime rates for the first 9 months of the year. Additionally, Chief Hawkins will provide an overview of changes used that will be used by law enforcement agencies in the United States, including the Fayetteville Police Department, for collecting and reporting data on crimes .

Background:

Several times a year, the Fayetteville Police Department provides an overview of crime trends and issues both locally and nationally. The overviews give City Council an opportunity to discuss issues and strategies to maintain and improve the public safety of our community. Chief Hawkins will present the Fayetteville Police Department's 2018 - 3rd Quarter Review. Further, City Council will be briefed on the new National Incident-Based Reporting System, NIBRS that will replace to Uniform Crime Reports, UCR, that was first established in the 1920s.

Issues/Analysis:

None

Budget Impact:

None

Options:

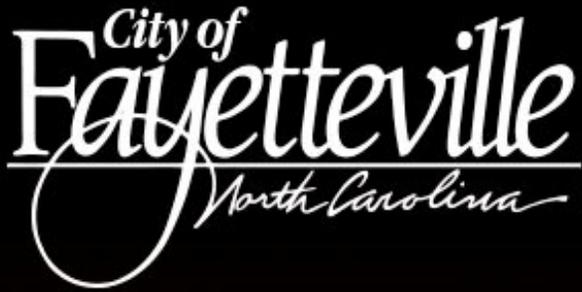
None

Recommended Action:

Receive the report.

Attachments:

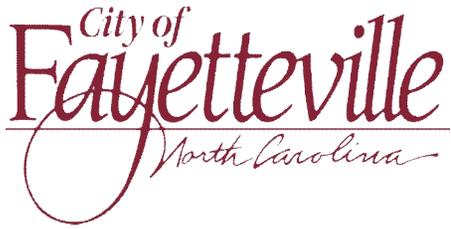
A copy of the power-point presentation will be provided at the City Council Meeting.



Fayetteville Police Department January-September 2018 Review

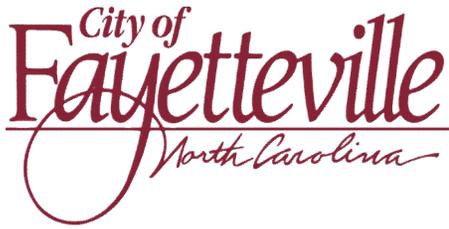
*ONE Agency, ONE Community, ONE Family,
ONE*

#LOVEONE



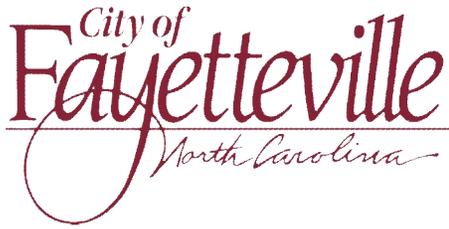
Uniform Crime Reporting

- The UCR Program compiles data monthly from law enforcement agencies which are transmitted directly to the FBI or SBI.
- The UCR Program is managed by the FBI.
- It was created in 1929 and collects information and crimes reported to law enforcement authorities.
- The hierarchy rule applies to UCR.



National Incident-Based Reporting System (NIBRS)

- NIBRS is a nationally supported system which collects detailed information to include information about offense, victim, offender, property, and the arrestee.
- It includes all offenses within a single incident.
- The hierarchy rule is eliminated with NIBRS.
- We have transitioned to NIBRS as of **November 1, 2018**.
- The SBI is requiring North Carolina agencies to transition by **January 1, 2019**.
- The FBI is requiring agencies nationwide to transition to NIBRS by **2021**.



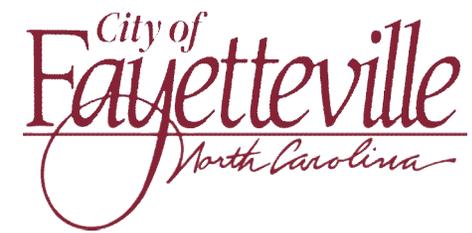
UCR vs. NIBRS

- Unlike UCR, NIBRS includes all offenses within a single incident and additional aspects about each event.
- NIBRS will improve the detail and overall quality of crime data, which will help law enforcement and communities around the country use resources more strategically and effectively.
- **BUT**- Agencies can expect citizens to have the perception that crime has increased.

UCR vs. NIBRS

Example

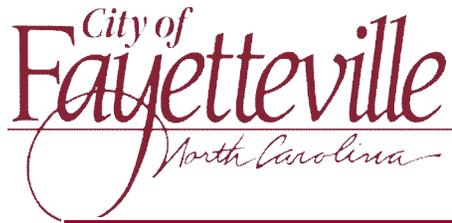
- Two offenders robbed a bar at gunpoint. One of the robbers found a female customer in the restroom and raped her there without the knowledge of the other offender. When the rapist returned, both robbers left.
- With NIBRS, this would be two reports- one for the robbery and the other involving the rape, because the offenders were not acting in concert in both offenses.
- With UCR, this would be one report with one case number.



Jan.-Sept. 2018 UCR Part 1 Crimes Against Persons

Part 1 Crimes	2017	2018	Percentage Change 2017-2018
Homicide	23	19	-17.3%
Rape	80	73	-8.7%
Robbery	213	176	-17.3%
Aggravated Assault	823	996	+21.0%
Total	1,139	1,264	+11.0%

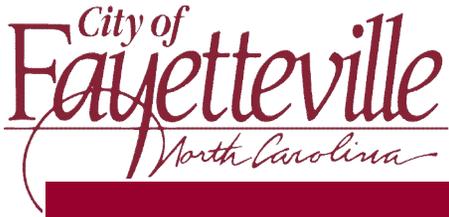
- Note: For 2018 Aggravated Assaults- 400 are classified as felonies.
- Seven (7) of the 19 homicides were related to domestic violence.



January to September 2018 Aggravated Assault

Aggravated Assaults	2017	2018	Percentage of Change
Misdemeanor	525	596	+13.5%
Felony	305	400	+31.2%
Total	830	996	+20.0%

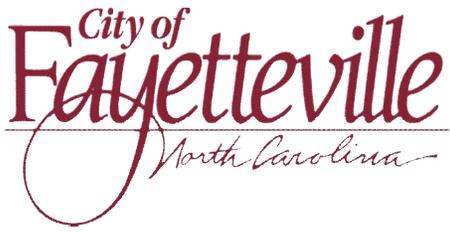
- 35% of aggravated assaults occurring in 2018 were related to domestic violence.
- In 2017, less than 10% of aggravated assaults were related to domestic violence.
- We have created a Domestic Violence Unit to combat the domestic violence trend.



January to September 2018 UCR Part 1 Property Crimes

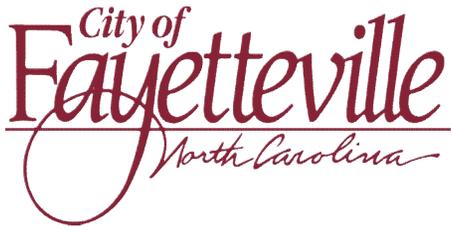
Part 1 Crimes	2017	2018	Percentage Change 2017-2018
Burglary	1383	1240	-10.3%
Larceny	4,957	4,078	-17.7%
Motor Vehicle Theft	319	249	-21.9%
Property Crimes Total	6,664	5,567	-16.4%
	2017	2018	Percentage Change 2017-2018
Total	7,783	6,831	-12.2%

The City of Fayetteville experienced 812 larcenies from vehicles for this time period, 598 of the 812 incidents (74%) were unsecured vehicles which is a significant drop from 85%-90% over previous years.



January to September 2018 Traffic Fatalities

Traffic Fatalities	2017	2018
Number of Crashes	15	15
Number Killed	15	17
Circumstances	2017	2018
Pedestrians	4	2
Motorcycles	2	6
Military Involved	1	2
Alcohol/Drugs	3	2
Speeding	6	8
Under 18	3	2



January to September
2018
Narcotics Unit

Narcotics	2017	2018	Percentage of Change
Cocaine	115.08 lbs	30 lbs	-73%
Heroin	5.1 lbs	2.1 lbs	-58.8%
Marijuana	43.5 lbs	732 lbs	+1582%
Fentanyl	3.09 lbs	13 grams	-92.7%
Arrest	25	36	+44%

- The FPD has a OCDETF case being nominated for case of the year.

OCDETF-Organized Crime Drug Enforcement Task Forces

Number of FPD Taskforce Members: 11

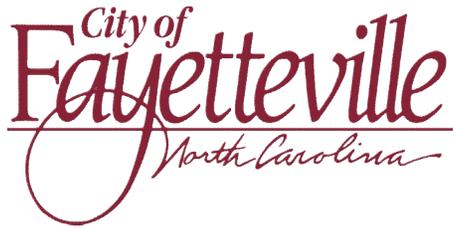


February 5 to September 2018

Gang Unit

Narcotics	Amount
Cocaine	834 grams
Heroin	169 grams
Marijuana	439 lbs
Arrest	79

- The Gang Unit has validated 178 gang members.
- The Gang Unit conducted numerous educational/awareness presentations internally and externally.
- A total of 89 weapons have been seized by this unit alone.

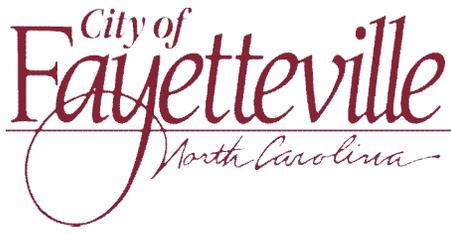


January to September 2018 Departmental

Recovered		Seized	
Handgun	64	Handgun	137
Rifle	8	Rifle	12
Shotgun	2	Shotgun	17
Total	74	Total	166

Grand Total: 240

Note: In 2018, 259 weapons were reported stolen by citizens versus 370 weapons being reported stolen in 2017.



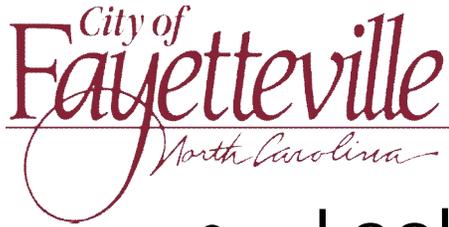
Community Engagement Efforts

Community Affairs Unit

Total Statistics Reviewed	Total
Active Community Watch Groups	142
Active Business Watch Groups	8
Virtual Community Watch Groups	12
Nextdoor Notifications	174
Community Events	82
Security/Safety Briefings	65

Crime Fighting Strategies

- Reorganization of the Department
 - Initiated Reorganization
 - Decentralized Property Unit
 - Added the Gang Liaison to each squad
 - Implemented and deployed CERT Teams
 - Expanded the Taskforce Partnerships
 - Created Domestic Violence Unit
- Increased engagement & communication to the community
 - Implemented Citizens' Academy (waiting list for next class)
 - Created and implemented Faith-based Forum
 - Modified Community Watch Meetings with mandatory sworn personnel attendance

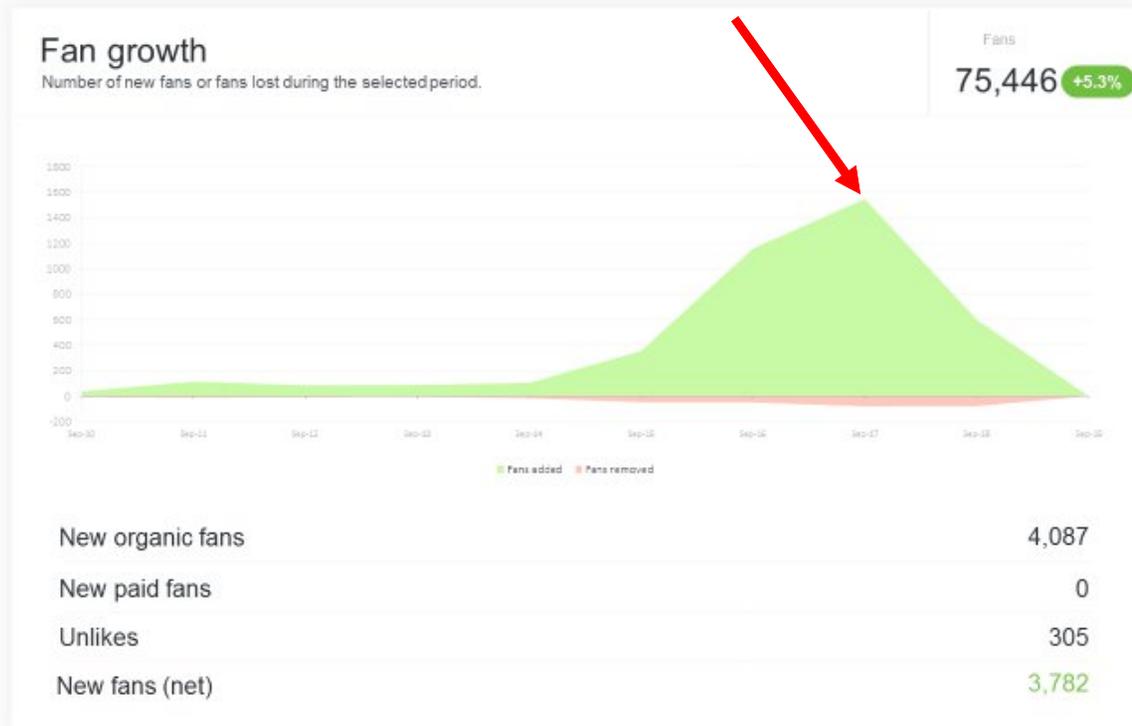


Crime Fighting Strategies

- Look for funding to expand resources
 - Partnered with the Fayetteville Police Foundation for funding opportunities
 - Secured grant to expand our EKG Program
 - Secured grant to implement Portable Fingerprinting System
 - Secured grant to implement training simulator
 - Secured grant funding to transition to NIBRS
- Increased social media platform
 - Benefits of social media, enables FPD to identify suspects quickly, (example: Crime Stoppers)
 - Communication with citizens about crimes and suspects
 - Communicate with citizens about natural disasters

Crime Fighting Strategies

FPD experienced a surge with FB during Hurricane Florence.



The Fayetteville Police Department saw a peak in viewers during Hurricane Florence (September 14-17, 2018).

Twitter Followers: 8,700
Instagram Followers: 4,200

of Platforms: 5 (Facebook, Twitter, Instagram, Snapchat, YouTube).

Facebook is our largest social media platform with over 77,160 likes and number ONE in NC.

Hurricane Florence Highlights

Facebook: 91 Posts Published, 1,942 Replies Sent, over 7.5 MILLION impressions, nearly 4,000 new page likes, reviewed 8,908 comments, & 123 comments hidden.

Twitter: 243 Tweets Published, 93 Replies Sent, over 2 MILLION impressions, 1,189 new followers, reviewed 5,114 public tweets/retweets during Hurricane Florence.



City of
Fayetteville
North Carolina

433 Hay Street
Fayetteville, NC 28301-5537
www.cityoffayetteville.org

www.faytv7.com www.fayettevilleoutfront.com



Fayetteville
OUTFRONT



The City of Fayetteville, North Carolina does not discriminate on the basis of race, sex, color, age, national origin, religion, or disability in its employment opportunities, programs, services or activities.

City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 18-521

Agenda Date: 11/13/2018

Version: 1

Status: Agenda Ready

In Control: City Council Regular Meeting

File Type: Other Items of
Business

Agenda Number: 10.01

TO: Mayor and Members of City Council

THRU: David W. Trego, CEO/General Manager
Fayetteville Public Works Commission

FROM: Rhonda Haskins, Chief Financial Officer
Fayetteville Public Works Commission

DATE: November 13, 2018

RE:

**Bond Order Authorizing and Approving the Sale and Issuance of PWC Revenue
Bonds, Series 2018**

COUNCIL DISTRICT(S):

All

Relationship To Strategic Plan:

Safe and Secure Community; High Quality Built Environment; Desirable Place to Live,
Work and Recreate

Executive Summary:

The Fayetteville Public Works Commission during their meeting on October 24, 2018, adopted Resolution # PWC2018.15 and requests the City Council to adopt a similar resolution/bond order at their November 13, 2018, meeting.

Background:

The Fayetteville Public Works Commission, during their meeting on October 24, 2018, adopted the following Resolution # PWC2018.15 and requests City Council adopt a similar resolution/bond order at their November 13, 2018, meeting.

“Resolution Approving and Agreeing to the Terms of a Bond Order Authorizing the Sale

and Issuance of Public Works Commission Revenue Bonds, Series 2018 by the City of Fayetteville, North Carolina, Requesting that the City Council of Said City Adopt Such Bond Order and Taking Certain Other Actions in Connection with Such Bonds.”

Issues/Analysis:

N/A

Budget Impact:

Fayetteville Public Works Commission Budget currently accounts for the projects and funding sources.

Options:

N/A

Recommended Action:

The Fayetteville Public Works Commission recommends the City Council adopt a Bond Order and take certain other actions in connection with such bonds at their November 13, 2018, City Council Meeting.

Attachments:

Presentation - Series 2018 Revenue Bond - Transmittal Letter; Resolution PWC2018.15
- 2018 Revenue Bonds; City Council Proceedings Approving Bond Order - Fayetteville
PWC 2018 Revenue Bonds



DARSWEIL L. ROGERS, COMMISSIONER
WADE R. FOWLER, JR., COMMISSIONER
EVELYN O. SHAW, COMMISSIONER
D. RALPH HUFF, III, COMMISSIONER
DAVID W. TREGO, CEO/GENERAL MANAGER

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

October 17, 2018

MEMO TO: David Trego, CEO/General Manager

MEMO FROM: 
Rhonda Haskins, Chief Financial Officer

SUBJECT: Series 2018 Revenue Bonds – Resolution Approving and Agreeing to the terms of the Series 2018 Bond Order

Attached is a resolution for Commission action at the October 24, 2018 meeting approving and agreeing to the terms of the Series 2018 Bond Order and requesting the City do the same. The Series 2018 Bond Order is a supplement to the Original Bond Order and approves the issuance of the Series 2018 Bonds and sets forth the particular form, terms and provisions of the bonds.

A draft copy of each of the Series 2018 Bond Order, Preliminary Official Statement, Escrow Agreement, and Notice of Sale will be provided to you for your review.

The status of the key milestones are:

- October 12 File Application - Complete
- October 8 City adopt resolution to file application with the LGC – Complete
- October 19 Send draft documents to rating agencies
- **October 24 PWC adopt Bond Order and request City adopt same**
- October 30/31 Calls with rating agencies (Moody's, S&P and Fitch)
- November 6 LGC approval
- November 13 City adopt Bond Order
- November 27 Pricing – receive and accept bids for bonds
- December 11 Closing

Staff recommends that the Commission adopt the attached Resolution No. PWC2018-14.

The Fayetteville Public Works Commission held a regular meeting at 955 Old Wilmington Road in Fayetteville, North Carolina, the regular place of meeting, at 8:30 a.m. on October 24, 2018.

Present: Chairman Darsweil L. Rogers, presiding, and Commissioner

Absent: Commissioners

Also Present: _____

* * * * *

Rhonda Haskins introduced the following resolution the title of which was read and a copy of which had been previously distributed to each Commissioner:

Resolution No. PWC2018.15

RESOLUTION APPROVING AND AGREEING TO THE TERMS OF A BOND ORDER AUTHORIZING THE SALE AND ISSUANCE OF PUBLIC WORKS COMMISSION REVENUE BONDS, SERIES 2018 BY THE CITY OF FAYETTEVILLE, NORTH CAROLINA, REQUESTING THAT THE CITY COUNCIL OF SAID CITY ADOPT SUCH BOND ORDER AND TAKING CERTAIN OTHER ACTIONS IN CONNECTION WITH SUCH BONDS

WHEREAS, the Fayetteville Public Works Commission (the “PWC”), created pursuant to Chapter VIA of the Charter of the City of Fayetteville, North Carolina (the “City”) as a public authority for the purpose of managing, controlling and operating the electric, water and sanitary sewer systems of the City, currently operates such electric, water and sanitary sewer systems; and

WHEREAS, pursuant to a bond order adopted by the City Council of the City on November 5, 1990, as supplemented and amended (the “Original Bond Order”), the City and the PWC created a combined enterprise system comprised of the electric system, water system and sanitary sewer system (collectively, the “System”); and

WHEREAS, the Original Bond Order provides for the issuance of revenue bonds thereunder, to be secured by the Net Revenues (as defined in the Original Bond Order) of the System as set forth therein, to finance and refinance improvements to the System; and

WHEREAS, in order to better serve and provide for the future needs of the residents of the City and its environs, the PWC has determined to acquire (in the name of the City), construct

and equip various improvements to its water and sanitary sewer systems, including, without limitation, (i) extension of water and sanitary sewer mains and lines to various annexed areas of the City, (ii) extension, rehabilitation and replacement of water and sanitary sewer mains and lines, (iii) improvements and upgrades to sanitary sewer collection and treatment facilities and (iv) improvements and upgrades to the water distribution and treatment facilities (collectively, the “Series 2018 Project”); and

WHEREAS, the City has previously issued its Public Works Commission Revenue Refunding Bonds, Series 2009A (the “Prior Bonds”); and

WHEREAS, after consideration, the PWC has determined that significant debt service savings may be realized through the refunding of all or a portion of the outstanding Prior Bonds; and

WHEREAS, the City has determined to issue its Public Works Commission Revenue Bonds, Series 2018 (the “Series 2018 Bonds”) in an aggregate principal amount not to exceed \$95,000,000 for the purpose of providing funds, together with any other available funds, to (a) pay the costs of the Series 2018 Project, including capitalized interest with respect thereto, (b) refund all or a portion of the outstanding Prior Bonds and (c) pay the fees and expenses incurred in connection with the sale and issuance of the Series 2018 Bonds; and

WHEREAS, in connection with the authorization, sale and issuance of the Series 2018 Bonds, the staff of the PWC has presented to the PWC at this meeting proposed forms of the following documents:

(a) Bond Order to be adopted by the City Council of the City on November 13, 2018 (the “Series 2018 Bond Order”), authorizing the sale and issuance of the Series 2018 Bonds, together with the form of the Series 2018 Bonds attached as Exhibit B thereto;

(b) Preliminary Official Statement, to be dated as of the date of delivery thereof (the “Preliminary Official Statement”), relating to the offering and sale of the Series 2018 Bonds;

(c) Notice of Sale and Bid Form relating to the offering and sale of the Series 2018 Bonds (the “Notice of Sale”); and

(d) Escrow Deposit Agreement, to be dated as of December 1, 2018 or other mutually agreeable date (the “Escrow Deposit Agreement”), between the City and The Bank of New York Mellon Trust Company, N.A., relating to the refunding of all or a portion of the outstanding Prior Bonds; and

WHEREAS, the Series 2018 Bonds will be issued and secured pursuant to the Original Bond Order and the Series 2018 Bond Order; and

WHEREAS, the City Council of the City is desirous of receiving the PWC’s concurrence and agreement with the terms and provisions of the Original Bond Order, the Series 2018 Bond Order, the Preliminary Official Statement and the Notice of Sale; and

WHEREAS, the PWC is in agreement with such terms and provisions; and

WHEREAS, it is necessary for the PWC to authorize and approve certain other actions in connection with the sale and issuance of the Series 2018 Bonds by the City;

NOW, THEREFORE, BE IT RESOLVED, by the Public Works Commission of the City of Fayetteville, North Carolina as follows:

1. The Series 2018 Bond Order and the Series 2018 Bonds are hereby approved in substantially the forms presented at this meeting, together with such further supplements, modifications, amendments and changes as the officers of the PWC, with the advice of counsel, may approve, such approval to be evidenced by the issuance of the Series 2018 Bonds by the City.

2. The PWC hereby approves the action of the North Carolina Local Government Commission in providing for the public offering and sale of the Series 2018 Bonds by competitive bid pursuant to the terms of the Notice of Sale. The PWC hereby approves the Notice of Sale in substantially the form presented at this meeting.

3. The PWC hereby approves the use and distribution of the Preliminary Official Statement in substantially the form presented at this meeting in connection with the offering and sale of the Series 2018 Bonds. A final Official Statement, in substantially the form of the Preliminary Official Statement, together with such changes as are necessary to reflect certain pricing and other terms relating to the Series 2018 Bonds, is hereby approved, and the Chairman, the General Manager and the Chief Financial Officer of the PWC are each hereby authorized to execute and deliver the final Official Statement in substantially the form of the Preliminary Official Statement, together with such modifications as any of them, with the advice of counsel, may deem necessary and appropriate, such execution and delivery to be conclusive evidence of the approval and authorization thereof by the PWC.

4. The PWC hereby approves the execution and delivery by the City of the Escrow Deposit Agreement in substantially the form presented at this meeting, together with such further supplements, modifications, amendments and changes as the officers of the PWC, with the advice of counsel, may approve, such approval to be evidenced by the issuance of the Series 2018 Bonds by the City. The PWC hereby also approves the refunding of all or a portion of the outstanding Prior Bonds as set forth in the Escrow Deposit Agreement.

5. The officers and employees of the PWC are authorized and directed (without limitation, except as may be expressly set forth herein and in the Original Bond Order or the Series 2018 Bond Order) to take such action and to execute and deliver such documents, certificates, undertakings and agreements or other instruments as any of them, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by the Original Bond Order, the Series 2018 Bond Order, the Notice of Sale, the final Official Statement and the Escrow Deposit Agreement.

6. The PWC agrees to fulfill all of its obligations under the Original Bond Order and, upon its adoption by the City Council of the City, the Series 2018 Bond Order, and the PWC concurs with all of the terms and provisions thereof, including, but not limited to:

- (a) the form of the Series 2018 Bonds;

(b) the interest rates to be borne by the Series 2018 Bonds (provided such rates are within the parameters set forth in Section 2.04 of the Series 2018 Bond Order);

(c) the mechanisms and procedures for securing the Series 2018 Bonds;

(d) the mechanisms and procedures for the payment of the principal of, premium, if any, and the interest on the Series 2018 Bonds;

(e) the pledge of the Net Revenues (as defined in the Original Bond Order) granted by the Original Bond Order, as supplemented by the Series 2018 Bond Order;

(f) the mechanisms and procedures for disbursement of the proceeds of the Series 2018 Bonds;

(g) the procedures for amending and supplementing the Series 2018 Bond Order;

(h) the undertaking of all obligations of the City under the Series 2018 Bond Order by the PWC and the compliance with the terms and conditions of the City under the Original Bond Order and the Series 2018 Bond Order by the PWC; and

(i) all other matters in the Series 2018 Bond Order with respect to the Series 2018 Bonds.

7. The City Council of the City is hereby requested to adopt the Series 2018 Bond Order in substantially the form of the draft presented to the PWC at this meeting.

8. This resolution shall take effect immediately upon its adoption.

Upon motion of Commissioner _____, seconded by Commissioner _____, the foregoing resolution entitled "RESOLUTION APPROVING AND AGREEING TO THE TERMS OF A BOND ORDER AUTHORIZING THE SALE AND ISSUANCE OF PUBLIC WORKS COMMISSION REVENUE BONDS, SERIES 2018 BY THE CITY OF FAYETTEVILLE, NORTH CAROLINA, REQUESTING THAT THE CITY COUNCIL OF SAID CITY ADOPT SUCH BOND ORDER AND TAKING CERTAIN OTHER ACTIONS IN CONNECTION WITH SUCH BONDS" was adopted by the following vote:

Ayes: _____

Noes: _____

* * * * *

I, D. Ralph Huff, III, Secretary of the Fayetteville Public Works Commission, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of so much of the proceedings of said Public Works Commission at a regular meeting held on October 24, 2018, as relates in any way to the adoption of the foregoing resolution and that said proceedings are to be recorded in minute books of said Fayetteville Public Works Commission.

I DO HEREBY FURTHER CERTIFY that proper notice of such regular meeting was given as required by North Carolina law.

WITNESS my hand and the official seal of said Public Works Commission this 24th day of October, 2018.

Secretary

[SEAL]

The City Council of the City of Fayetteville, North Carolina met in a regular meeting in the City Council Chambers of the City Hall located at 433 Hay Street in Fayetteville, North Carolina, the regular place of meeting, at 7:00 p.m. on November 13, 2018.

Present: Mayor Mitch Colvin, presiding, and Council Members

Absent: Council Members

Also Present: _____

* * * * *

_____ introduced the following order the title of which was read and a copy of which had been previously distributed to each Council Member:

BOND ORDER AUTHORIZING AND APPROVING THE SALE AND ISSUANCE UNDER THE PROVISIONS OF THE STATE AND LOCAL GOVERNMENT REVENUE BOND ACT, AS AMENDED, OF NOT TO EXCEED \$95,000,000 AGGREGATE PRINCIPAL AMOUNT OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA, PUBLIC WORKS COMMISSION REVENUE BONDS, SERIES 2018 TO PROVIDE FUNDS FOR THE FINANCING AND REFINANCING OF VARIOUS ELECTRIC, WATER AND SANITARY SEWER CAPITAL IMPROVEMENTS AND DIRECTING THE AUTHENTICATION AND DELIVERY OF THE SERIES 2018 BONDS

Upon motion of Council Member _____, seconded by Council Member

_____, the foregoing order was adopted by the following vote:

Ayes: _____

Noes: _____

* * * * *

I, Pamela Megill, City Clerk of the City of Fayetteville, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of so much of the proceedings of the City Council of said City at a regular meeting held on November 13, 2018, as relates in any way to the adoption of the foregoing resolution and that said proceedings are to be recorded in minute books of said City Council.

I DO HEREBY FURTHER CERTIFY that proper notice of such regular meeting was given as required by North Carolina law.

WITNESS my hand and the official seal of said City this 8th day of October, 2018.

City Clerk

[SEAL]