

Currituck County Board of Commissioners Agenda

Historic Currituck County Courthouse

Date: Monday, November 02, 2009 Time: 7:00 PM

- 7:00 p.m. Invocation
 Pledge of Allegiance

- Item 1 Approval of Agenda

- Item 2 Public Comment
Please limit comments to items not appearing on the regular agenda, please limit comments to 3 minutes.

- Item 3 **PB 09-27 Beachmar Commercial Condo I:** Commercial Site Plan/Special Use Permit, to establish a specific use for an existing lot within the Monterey Shores planned unit development, Tax Map 116F, Parcel 1, Poplar Branch-OBX Township.

- Item 4 **Discussion** on funding to Lower Currituck Volunteer Fire Department

- Item 5 **Consideration of YMCA Agreement**

- Item 6 **Consent Agenda:**
 - 1. Application for Lottery Funds for Knotts Island Elementary and CCHS HVAC systems
 - 2. Project ordinance for Corolla Greenway Project
 - 3. Application for Lottery funds for CCMS HVAC Unit
 - 4. Report of Rural Fire Conditions - Lower Currituck
 - 5. Crowder Construction Co Change order # 6
 - 6. Charge to Tax Collector the Levy on Motor Vehicles for August Renewals
 - 7. Approval of October 19, 2009, Minutes
 - 8. Budget Amendments:
 - Moyock Watershed District* to appropriate fund balance for drainage in the Moyock Watershed District, \$15,000;
 - Elections* to record grant funding from the NC State Board of Elections to upgrade bells at polling sites, \$3,368;

Social Services Adm. Second allocation of ARRA
Administrative Funding for the Food and Nutrition Services
Program, \$20,000;
Airport to transfer funds for internet in the airport terminal
building, \$900.

- Item 7 Commissioner's Report
- Item 8 County Manager's Report
- Adjourn

CASE ANALYSIS FOR THE BOARD OF COMMISSIONERS

DATE: November 2, 2009

PB 09-27

Beachmar Commercial Condo I, Commercial Site Plan/Special Use Permit

ITEM: PB 09-27 Beachmar Commercial Condo I, Commercial Site Plan/Special Use Permit, to establish a specific use for an existing lot within a planned unit development.

LOCATION: Approximately 535 feet south of the intersection of Ocean Trail (NC12) and Dolphin St. in Corolla.

TAX ID: Tax Map 116F, Parcel 1

ZONING General Business - PUD

PRESENT USE: Monteray Plaza Parking Lot

OWNERS: I.G Holdings LLC
P.O. Box 120.
Kitty Hawk, NC 27949-0120

ENGINEER: Albemarle & Associates, LTD
115 West Saint Clair St.
P.O. Box 3989
Kill Devil Hills, NC 27948

LAND USE/ZONING OF SURROUNDING PROPERTY: SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Commercial – BD&A	GB
SOUTH	Commercial – Just for the Beach	GB
EAST:	Commercial – Stanford M. White Complex	GB
WEST:	Commercial – Monteray Plaza	GB

LAND USE PLAN

CLASSIFICATION: The 2006 Land Use Plan classifies the site as a **Full Service Area** within the **Corolla** subarea.

SIZE OF SITE: The existing lot size is 1.99 acres and the proposed project will disturb approximately 22,000 square feet.

NUMBER OF UNITS: 2

PROJECT DENSITY: N/A

STREETS: New units will utilize the existing entrance to the shopping center. Development will require re-stripping of existing parking lot and creation of new parking islands.

UTILITIES: Carolina Water Service, Inc. will accommodate the water and sanitary sewer utility needs of the new units for a maximum of 1600 gallons per day.

OPEN SPACE: There will be no change in open space.

I. NARRATIVE OF REQUEST:

- The applicant is seeking commercial site plan/SUP approval for retail/restaurant units in Monterey Plaza within the Monterey Shores planned unit development. The property is located approximately 535 feet south of the intersection of Ocean Trail and Dolphin St.
- There is a site plan dated December 12, 2001 showing a two story masonry building labeled phase V Monterey Shores Plaza. The area is currently used as parking for the Shopping center.

II. UNRESOLVED TRC COMMENTS:

- **Planning Staff Comment #1:** Staff has worked with the applicant to resolve the parking deficiency through an administrative waiver request to the Board. The applicant is proposing utilization of compact spaces, additional spaces in the drive thru aisle, and bicycle parking credits to meet the minimum parking requirements. The parking plan as proposed will meet the minimum requirements of the UDO with Board approval.
- **Planning Staff Comment #3:** The new building elevations and orientation are acceptable. The addition of windows and signage will enhance the aesthetics of the rear of the building that will face NC12. However, there is concern that the proposed signage exceeds the maximum allowed by Chapter 4 (OBX Overlay) of the ordinance. The applicant has calculated signage based on Chapter 7 requirements. If this results in a reduction in road facing signage, the overall aesthetics of the building may be compromised. We would like to see new elevations showing how the applicant will overcome this issue. ***The applicant has submitted a third set of building elevations that appear to comply with the maximum square footage requirements for signs in the Outer Banks Overlay District. Compliance with the Overlay sign ordinance has resulted in a lack of signage facing NC12. All proposed signs appear to be oriented towards the interior of the shopping center.***

- **Planning Staff Comment #8:** All new or relocated light fixtures must meet the requirements of the Outer Banks lighting ordinance.

III. QUESTION(S) BEFORE THE BOARD:

Special Use Permit Criteria and Staff Findings:

Special use permits (SUP) are intended to allow the Board of Commissioners flexibility in the administration of the UDO. Through the SUP procedure, property uses which would otherwise be considered undesirable in certain districts can be developed subject to conditions of approval to minimize any negative effects they might have on surrounding properties.

In order to approve the SUP, certain criteria must be satisfied. The criteria and suggested findings of fact are outlined as follows:

1. COMPLETENESS OF THE APPLICATION

Suggested Findings:

- a. The application is complete.

2. THE PROPOSED USE IS AMONG THOSE LISTED IN THE TABLE OF PERMISSIBLE USES AS A SPECIAL USE INDICATED WITH AN "S"

Suggested Findings:

- a. The proposed use is permissible with a Special Use Permit

3. THE CONDITIONS PROPOSED MEET OR EXCEED THE MINIMUM REQUIREMENTS OF THIS ORDINANCE.

Suggested Findings:

- a. The proposed conditions meet the minimum requirements of the ordinance with the approval of a parking waiver by the Board.

4. THE SPECIAL USE WILL NOT ENDANGER THE PUBLIC HEALTH OR SAFETY:

Suggested Findings:

- a. The proposed development will not endanger public health and safety.

5. THE SPECIAL USE WILL NOT INJURE THE VALUE OF ADJOINING OR ABUTTING PROPERTY AND WILL BE IN HARMONY WITH THE AREA IN WHICH IT IS LOCATED

Suggested Findings:

- a. The subdivision is proposed within a General Business area of an existing PUD and is allowed by the UDO with a special use permit.
- b. The parcel is currently within an existing Planned Unit Development and should be in harmony with the surrounding area.

6. The special use will be in conformity with the Land Use Plan or other officially adopted plan.

Suggested Findings:

- a. The 2006 Land Use Plan classifies this site as a Full Service area within the Corolla subarea and the proposed use is in keeping with the policies of the plan, some of which are:
 - i. Policy OB2 states “Currituck County shall encourage commercial development to cluster at appropriate locations rather than dispersing along NC 12.”
 - ii. Policy OB1 states “Currituck County supports the provision of infrastructure and services adequate to meet basic quality of life and public health and safety requirements of residents of the Outer Banks” The proposed subdivision has been designed with adequate water and sewer extensions.
7. The special use will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate. Such facilities must be in place or programmed to be in place within two years after the initial approval of the plan (sketch plan in the case of major subdivisions).

Suggested Findings:

- a. The county should have adequate public facilities to service this development.

IV. STAFF RECOMMENDATION:

Staff recommends approval with the following conditions.

1. All new or relocated light fixtures on parcel B must meet the requirements of the OBX overlay lighting ordinance.
2. All signage must be permitted and shall comply with Chapter 4 Overlay District requirements.
3. The resubmitted building elevations shall be incorporated into the SUP.
4. The following administrative waivers (UDO Section 8.5) shall be approved by the Board of Commissioners and installed on the site prior to occupancy of the building proposed for Parcel B:
 - Installation of 10 bicycle spaces to be credited as required parking.
 - Installation of 3 additional stacking spaces in the drive-thru aisle to be credited as required parking.
 - Provision of 155 total compact spaces (22 percent of the required 694 spaces).

V. PLANNING BOARD RECOMMENDATION:

The Planning Board **recommended approval** of the Commercial Site Plan/Special Use Permit with the staff recommendations and a requirement that the applicant work with staff to create an administrative wavier for parking.

TRC Comments are as follows:

MEMORANDUM

To: John DeLucia, Albemarle and Associates, LTD.

CC: IG Holdings, LLC

From: Planning Staff

Date: August 13, 2009

Re: SUP, PB 09-27 Beachmar Commercial Condo I

The following comments have been received for the August 19, 2009 TRC meeting. In order to be scheduled for the September 15, 2009 Planning Board meeting, please address all comments and resubmit a corrected plan by 3:00 p.m. on August 24, 2009.

Planning, Jason Litteral

1. Staff is concerned that some or all of the existing parking spaces which will be covered by the proposed building are required spaces for the entire shopping center. Please provide detailed parking calculations for all of Monterey Plaza to insure compliance with Chapter 8 of the Unified Development Ordinance. Please include corrected employee totals for the existing 148 seat restaurant and the proposed Dunkin Donuts. Provide percentage of proposed or existing compact spaces. Number of compact spaces cannot exceed 20 percent of total parking area.
2. Section 16.8 of the Unified Development Ordinance states, "When a permit for an addition is requested where a nonconforming bufferyard exists, and the addition is less than 30 percent of the total floor area of existing buildings on the lot or 1,000 square feet, whichever is less, then no additional landscaping shall be required. When a permit for an addition is requested where a nonconforming bufferyard exists, and the addition is more than 30 percent of the total floor area of existing buildings on the lot or over 1,000 square feet, then all landscaping required by this ordinance shall be provided." Therefore, the shading and buffering for all of parcel B must comply with current standards. Please provide detailed calculations and designs for buffering and shading including the number and type of trees/shrubs.
3. It appears the proposed building is oriented with the back facing NC12. This configuration is not in harmony with the aesthetic appeal of the rest of the shopping center or other buildings with road frontage along NC12. This is in direct contrast with several land use policies, particularly CA1 and CD9 of the 2006 Land Use Plan. See also, Ordinance section 4.7.2
4. Please relocate the proposed dumpster to a location not visible from NC12, or consider using an existing dumpster located in the shopping center.

5. An engineered traffic impact report shall be submitted addressing the methods of ordering, time to process the order, arrival rate of customers, peak demand hour, expected traffic volumes, and the projected impact on existing roads.
6. Please design the ATM in a way that forces customers to park and walk to the ATM to avoid congestion in the drive aisle.
7. Provide square footage of all proposed signage.
8. Provide detail for existing light pole fixtures. The relocated light pole must meet full cut-off requirement. All other light poles located on parcel B must also be retrofitted with full cut-off fixtures if they are not already in compliance.
9. Provide detail for wall fixtures including fixture type and angle of cut-off. In no case shall lighting be directed above a horizontal plane through the lighting fixture.
10. All exterior lighting, excluding security lighting, shall be reduced by 50% after operating hours to decrease unneeded lighting. Timers are suggested.

Soil and Water, Mike Doxey

Approved, No Comments

Utilities, Pat Irwin

Approved With Comments:

Comments I question the validity of Carolina Water Service approving 1,600 gallons per day when they purchase water from Currituck County under an expired contract.

The grease trap is undersized for a 25 seat restaurant it should be 1,250 following these state regulations:

- (1) The grease trap shall be plumbed to receive all wastes associated with food handling and no toilet wastes;
- (2) The grease trap liquid capacity shall be sufficient to provide for at least five gallons of storage per meal served per day, or at least two-thirds of the required septic tank liquid capacity, or a capacity as determined in accordance with the following:

$$LC = D \times GL \times ST \times HR/2 \times LF$$

where LC = grease trap liquid capacity (gallons) D = number of seats in dining area GL = gallons of wastewater per meal (1.5 single-service; 2.5 full service) ST = storage capacity factor = 2.5 HR = number of hours open LF = loading factor = (1.25 interstate highway = 1.0 other highways and recreational areas = 0.8 secondary roads)

Eric Weatherly, County Engineer

Recommendation Approval with corrections

Comments

1. Utility Plan

* Notes:

3. Provide design flow calculations
4. Explain note about LPP turn-up head

* Wastewater Notes

1. Provide the additional drawings and specs referred to 3.,
 4. change note referring to Dare County, who is the owner referred to in note 3
 5. change note referring to Dare County
 8. it is necessary to contact ULOCO
 10. what proposed alarms and pump station
 - 11., 12. what are these notes referring to
- * provide grease trap sizing
 - * show grease trap connecting to restaurant
 - * grease trap rim elevation seems low
 - * show water service size, meter size and detail of service
 - * show sewer services and existing manhole elevations to confirm proper service grades
 - * where does the existing sewer go, it can't go out the force main
 - * show all existing stormwater features on site, show how water will be diverted around the proposed building, show existing elevation
 - * show curb elevations
 - * show limits of disturbance
 - * show limits of construction
- 2. Application:** Will a stormwater permit modification be required since this is commercial greater than 10,000 square feet of disturbance
- 3. Site Plan**
- * Provide Coastal Vegetation Mix spec and schedule
 - * show existing stormwater management features
- 4. CWS letter:** describe the manhole relocation and connection Martin is referring to. show on plans

Currituck County Inspections Department, Spence Castello

Approved with Comments:

If existing parking lot is reconfigured the accessible parking must be moved to spaces closer to the entrance.

NCDOT, Roger Ward

Approved, No Comment

ARHS, Joe Hobbs

Denied / Resubmit

Comments ALSO PROPOSED RESTAURANT LAYOUT WILL NEED TO BE REVIEWED AND APPROVED BY HEALTH DEPT..*CONSULT WITH HEALTH DEPT.. (252)232-6603. CONSULT WITH NC DEPT. OF WATER QUALITY (WASHINGTON,NC)252-946-6481 FOR APPROVAL.

Fire Marshal, James Mims

Approved, No Comments

Currituck County GIS, Harry Lee

Approved with comments on addresses:

Restaurant side is 813C Ocean Trl

Retail side is 813D Ocean Trl

Parks and Recreation, Jason Weeks

Approved, No Comments

USACE, Tom Steffens:

Approved, No Comments

NC Division of Coastal Management, Charlan Owens

No Comment

Economic Development, Peter Bishop

Approved, No Comments

Please be advised that Comments were not received from the following TRC members.

Susan Johnson, Sheriff

Lawrence Abbott, State Archeology

Siraj Chohan, NCDENR Public Water

Hester Jones, Embarq

Troy Lindsey, Dominion Power

Mary Beth News, Emergency Management

Roger Thorpe, NCDENR Environmental Management

Mike Warren, Currituck County School Superintendent

Kim Ferrell, Agricultural Advisory Board Staff

Richard Galganski, Corolla Fire and Rescue

Sam Scilabba, Charter Communications

Pat McClain, NCDENR Land Quality

PLANNING BOARD DISCUSSION (October 13 meeting)

Mr. Woody discussed the parking requirements, building elevations, and new traffic study.

Mr. Delucia stated the suggestions from the new traffic study will improve the site.

ACTION

Mr. West motioned to recommend approval with staff recommendations and a requirement that the applicant work with staff to create an administrative waiver for parking. Mr. Kovacs seconded the motion. Motion carried unanimously.

PLANNING BOARD DISCUSSION (September 15 meeting)

Mr. Kovacs asked since this application is incomplete; why is it being presented to the Planning Board.

Ms. Voliva stated the applicant feels they have submitted the necessary data for the project to move forward.

Mr. Kovacs questioned data being submitted by the applicant at 5:00 p.m. on the day of the Planning Board meeting and planning staff not having a chance to review the data thoroughly.

Mr. Delucia stated in the early 1990's Monterey Shores was conceived by the developers of Monterey Shores. The site plan, PUD was approved. At that time, the standard used during the planning of the PUD created the master plan for this project. In 2002 there was a 10,000 sq. ft. building approved in the same location on this property. The parking standards used were the parking standards planned for the subdivision. The BOC approved the site plan based upon utilization of the existing regulations that were in place during that time and that were used to establish precedent for the PUD. After this plan was approved they could not build until sewage was available; however there was a condominium plat which was signed off by the county which created this parcel. The building they have before you tonight is much smaller than 10,000 sq. ft. Mr. Delucia stated that it is the opinion of his design team that the Plaza was design under this one ordinance. Mr. Delucia stated his site plan shows the exact same standard which was approved in 2002. It is Mr. Delucia assertion that his client does not have to follow the UDO parking standard as it has been revised since 2002. Mr. Delucia stated from 2002 to 2009 nothing has really changed in the Plaza and the plan was approved based upon the 2002 standards at this time. They feel it is unfair and not proper to try to imply new standards on a shopping center that was approved by the county especially since there is a condominium unit allowed to be built on this piece of property within that footprint. The other issue is the traffic study. Mr. Delucia stated the Dunkin Donuts which will be 1,800 sq. ft. will be used mainly between the hours of 6:00-11:00 a.m. Mr. Delucia does not see how the drive-thru lane will cause any problems. Mr. Delucia contends that they have met the ordinance and met

the ordinance under which this was designed for and would have to disagree with staff on their recommendation. Mr. Delucia stated he and his client would respectfully request that the board makes a motion on this tonight and not table the request.

Mr. Kovacs stated that the changes came to the parking requirements because there are parking space problems in Corolla. Mr. Kovacs stated he can understand what Mr. Delucia is saying but from the Planning Board they want to make sure there is adequate parking available.

Mr. Delucia stated you can't change the ordinance on a PUD.

Ms. Voliva stated that the planning department does not have a copy of the 2002 site plan. There is some indication that it did go through some type of review but we do not have an approved site plan on file. A site plan approved in 2002 is not good forever; it is not until you actually obtain a permit that your project is vested.

Mr. Delucia stated the traffic study he submitted does meet the county ordinance regulations.

Ms. Wilson stated this particular entrance can be confusing and anything that could maximize the safety and traffic flow should be taken into consideration.

Mr. Clark stated that there are eight conditions from TRC which have not been resolved.

Ms. Voliva stated the lighting issue has been resolved and Carolina Water Service will accommodate the water and sanitary sewer utility needs. The other items can be resolved with the resubmittal of the building elevations or the signage. Parking and the traffic study seem to be the two unresolved issues remaining.

ACTION

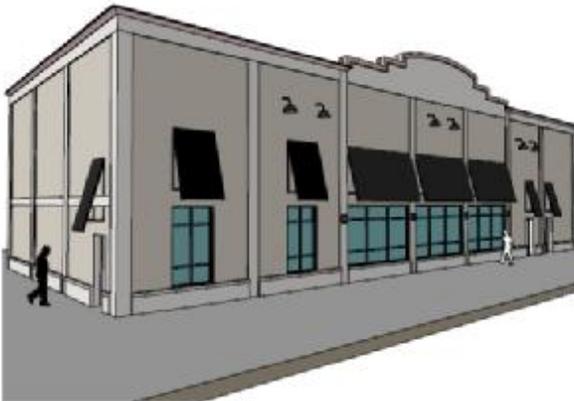
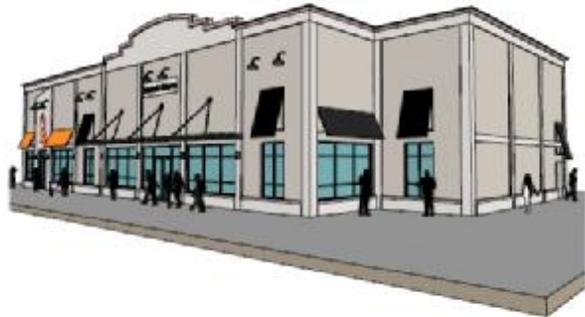
Mr. Kovacs motioned to table the request as presented until planning staff has had an opportunity to review information on parking that was submitted late. Mr. Clark seconded the motion. Motion carried unanimously.

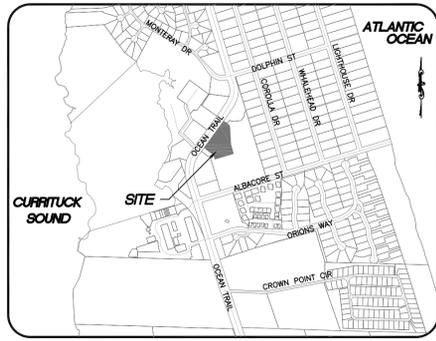


PB 09-27 Beachmar
Commercial Condo 1
SUP Request
Aerial Photography



Map Produced By:
Currituck County
Planning Department





VICINITY MAP
NTS

NOTES:

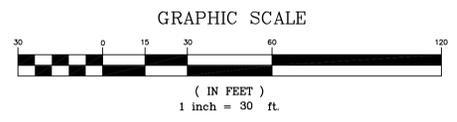
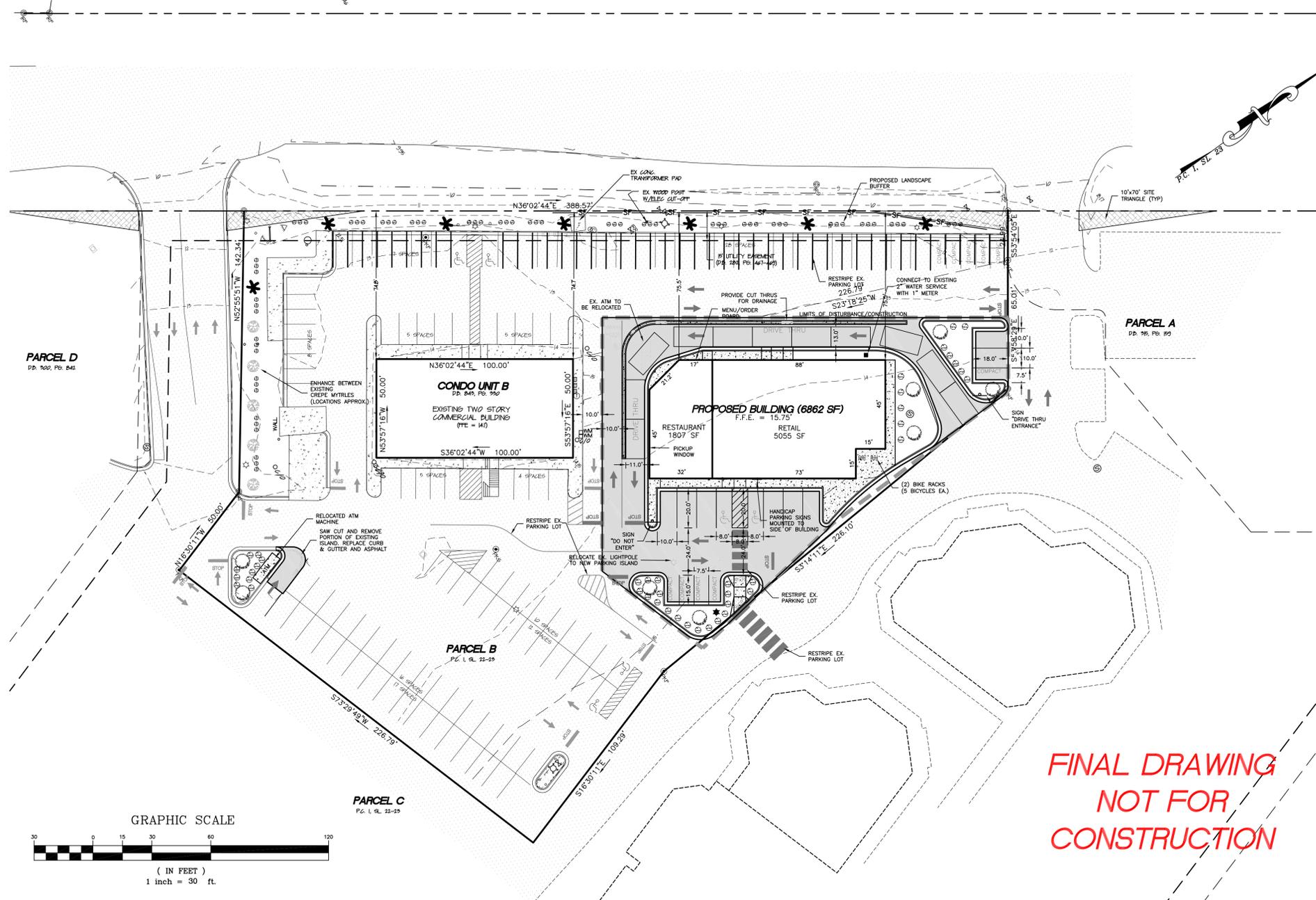
- OWNER/DEVELOPER: I.G. HOLDINGS, LLC
P.O. BOX 120
KITTY HAWK, NORTH CAROLINA 27949
- THE OWNER INTENDS TO CONSTRUCT A 6,862 SF BUILDING CONSISTING OF AN 1,807 SF RESTAURANT AND 5,055 SF RETAIL SPACE.
- THE PROPERTY IS DESCRIBED AS PARCEL B, RECOMBINATION PLAT FOR: BEACHMAR COMMERCIAL CONDOMINIUM I, PARCEL B & C, COMMERCIAL TRACT 3, P.C. I, SL. 22-23 AND RECORDED IN DEED BOOK 1034, PG. 591. CURRITUCK COUNTY PARCEL#: 116F-000-001-0000; PIN#: 9935 73 6545.
PROPERTY ADDRESS: 813 OCEAN TRAIL, COROLLA, NORTH CAROLINA 27927.
PROPOSED ADDRESSES:
RESTAURANT 813C OCEAN TRAIL, COROLLA
RETAIL 813D OCEAN TRAIL, COROLLA
- SURVEY REFERENCES:
P.C. K, SL. 49 P.C. E, SL. 255
C.B. 1, SL. 86-90 D.B. 314, PG. 486
C.B. 1, PG. 137-141 D.B. 319, PG. 735
- THE PROPERTY IS ZONED GENERAL BUSINESS (GB). RETAIL AND RESTAURANT USES ARE PERMITTED.
- THE SITE IS LOCATED IN FIRM ZONE "X". FIRM MAP NUMBER 3720993500J, EFFECTIVE DATE DECEMBER 16, 2005. (SUBJECT TO CHANGE BY FEMA)
- ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE SPECIFIED. ELEVATIONS SHOWN ARE HEREON PER NAVD83.
- AREAS SHOWN ARE BY COORDINATE METHOD.
- ALL DISTURBED AREAS SHALL BE STABILIZED WITH A COASTAL VEGETATION MIX. (SEE SHEET C301)
- MINIMUM BUILDING SETBACKS PER CURRENT ZONING:
FRONT - 20'
REAR - 15'
SIDE - 25'
- AREA TO BE DISTURBED ±22,000 SF
- LOT AREA: 86,728.49 SF (1.99 ACRES)

LOT COVERAGE IS AS FOLLOWS:
EXISTING BUILDING: 5,000 SF
EXISTING PAVEMENT: 68,531 SF
EXISTING CONCRETE: 5,434 SF
TOTAL EXISTING SITE COVERAGE: 78,965 SF (91.0%)

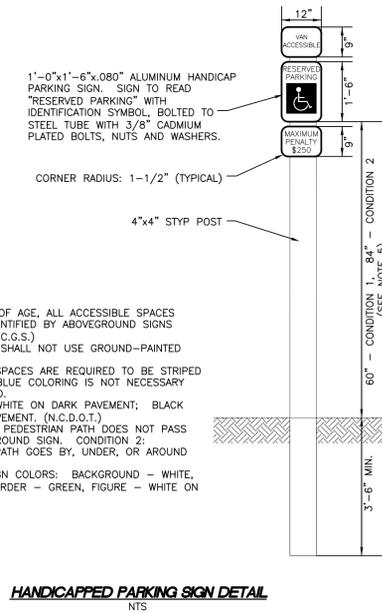
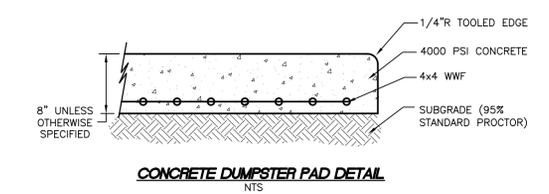
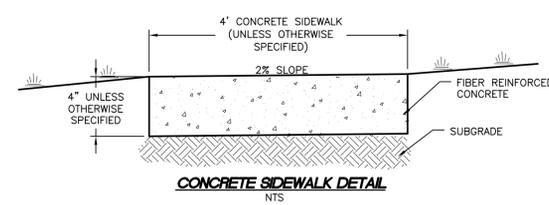
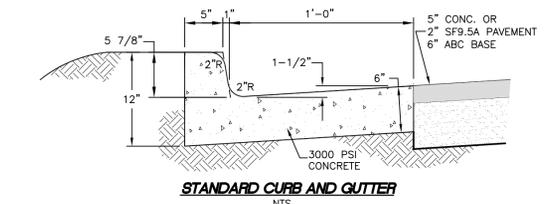
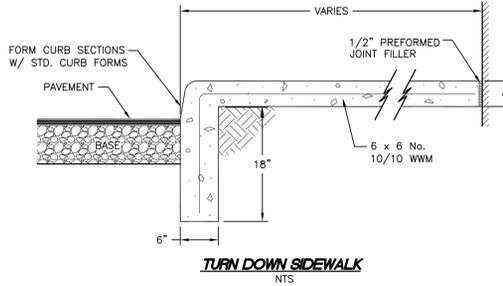
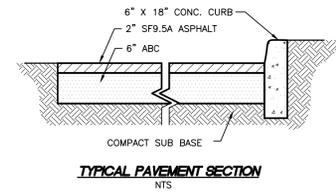
EXISTING PAVEMENT TO BE REMOVED: (22,694 SF)
NEW PAVEMENT: 12,805 SF
NEW BUILDING: 6,862 SF
NEW CONCRETE: 1,653 SF
77,591 SF (89.5%)
- PARKING CALCULATIONS:
PARKING REQUIREMENTS PER SITE PLAN FOR MONTERAY SHORES PLAZA - PHASE V

PARCEL A (EXISTING) 8,816 SF
PARCELS B & C
PHASES I & II (EXISTING) 86,155 SF
PHASE III (EXISTING) 9,900 SF
PHASE V (PROPOSED) 6,862 SF
PARCEL D
PHASE IV (EXISTING) 24,860 SF
PARCEL E (TOMATO PATCH) 5,023 SF
TOTAL 141,616 SF

REQUIRED: RESTAURANTS (42,857 SF) = 299 SPACES; RETAIL (98,759 SF) = 395 SPACES = 694 SPACES
PROVIDED: 694 SPACES PROVIDED (DOES NOT INCLUDE 8 REQUIRED FOR DRIVE-THRU) (526 STANDARD, 155 COMPACT, 3 IN DRIVE AISLE, 10 BIKES SPACES)
- STORMWATER MANAGEMENT WILL USE EXISTING STRUCTURES. LAND DISTURBANCE ON THE SITE WILL BE LIMITED TO REMOVAL OF EXISTING PAVEMENT.
- THE OWNER SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF ALL BUFFERING. ALL REQUIRED LANDSCAPING AND BUFFER AREAS SHALL BE MAINTAINED IN GOOD CONDITION SO AS TO PRESENT A HEALTHY AND ORDERLY APPEARANCE AND SHALL BE KEPT FREE FROM REFUSE AND DEBRIS. THIS INCLUDES, BUT IS NOT LIMITED TO, THE REPLACEMENT OF PLANTS DAMAGED BY INSECTS, DISEASE, VEHICULAR TRAFFIC, AND VANDALISM.
- ALL NEW UTILITIES ARE TO BE PLACED UNDERGROUND.
- ALL SIGNS SHALL BE ERECTED, ALTERED AND MAINTAINED IN ACCORDANCE WITH THE PROVISIONS IN THE CURRITUCK COUNTY CODE OF ORDINANCES.
- THE LIGHT POLES ARE OWNED AND OPERATED BY DOMINION POWER. THE RELOCATED LIGHT POLE WILL BE REPLACED WITH FULL CUT-OFF FIXTURE. OTHER LIGHT POLES LOCATED WITHIN PARCEL B WILL BE REPLACED WHEN NECESSARY.
- ALL EXTERIOR LIGHTING, EXCLUDING SECURITY LIGHTING, SHALL BE REDUCED BY 50% AFTER OPERATING HOURS TO DECREASE UNNEEDED LIGHTING.
- NEW BUILDING WILL UTILIZE EXISTING DUMPSTER ON PARCEL B.
- THERE ARE NO DELINEATED WETLANDS ON THIS SITE.
- THE BUILDING WILL COMPLY WITH VOL. 1C OF THE N.C. STATE BUILDING CODE AND CURRENT NFPA REQUIREMENTS.
- BUILDING HEIGHT SHALL NOT EXCEED 35'



**FINAL DRAWING
NOT FOR
CONSTRUCTION**



- NOTES:
- REGARDLESS OF AGE, ALL ACCESSIBLE SPACES SHALL BE IDENTIFIED BY ABOVEGROUND SIGNS ONLY (SEE N.C.G.S.)
 - NEW SPACES SHALL NOT USE GROUND-PAINTED SYMBOLS
 - ACCESSIBLE SPACES ARE REQUIRED TO BE STRIPED OFF ONLY; BLUE COLORING IS NOT NECESSARY NOT REQUIRED.
 - STRIPING IS WHITE ON DARK PAVEMENT; BLACK ON LIGHT PAVEMENT. (N.C.D.O.T.)
 - CONDITION 1: PEDESTRIAN PATH DOES NOT PASS UNDER OR AROUND SIGN. CONDITION 2: PEDESTRIAN PATH GOES BY, UNDER, OR AROUND SIGN.
 - STANDARD SIGN COLORS: BACKGROUND - WHITE, LETTERING/BORDER - GREEN, FIGURE - WHITE ON BLUE FIELD.

Engineering - Surveying - Land Planning

Albemarle & Associates, Ltd.
P.O. Box 988
Kill Devil Hills, NC 27848
Phone: (252) 441-2113
www.albemarle.com

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REVISIONS	
NO.	DESCRIPTION

SITE PLAN

PARCEL B

BEACHMAR COMMERCIAL CONDO 1

COROLLA
POPULAR BRANCH TOWNSHIP
CURRITUCK COUNTY
NORTH CAROLINA

DATE: 06/12/09	SURVEYED: AAL	DESIGNED: JMD	DRAWN: RGA	CHECKED: JMD	FILE: 07745B
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SCALE: 1" = 30'

C201

07745B

From: president@lcvfd.org [<mailto:president@lcvfd.org>]
Sent: Tuesday, October 20, 2009 4:54 PM
To: Dan Scanlon
Subject: Re: Lower Currituck VFD Inc. Rehab Costs

Dan,
Lower Currituck VFD Inc. would like the remainder of the grant \$29,140.18 disbursed to Albemarle Contractors Inc.
Building Inspections issued the C/O on 9/30/09.
Our first request for the remaining grant disbursement was October 2, 2009.
Lower Currituck VFD Inc. does not have the funds to cover this \$29,140.18.

Currituck County Grant Amount	\$325,000.00
Ralph Calfee P.E.	- \$8,002.47
Albemarle Contractors Inc.	- \$291,426.00
Refund of sales tax	+ \$3,568.65
Grant Balance	= \$29,140.18

Thank you,
Maureen O'Shea
President
Lower Currituck VFD, Inc.
Cell# 252-619-7515

-----Original Message-----

From: Dan Scanlon [<mailto:dscanlon@co.currituck.nc.us>]
Sent: Tuesday, October 20, 2009 10:56 AM
To: president@lcvfd.org
Subject: RE: Lower Currituck VFD Inc. Rehabilitation Costs

They want to put this on their next agenda for discussion. Am I safe in assuming your preference is that we submit a request that the funding between the \$284,000 and the \$325,000 be released and that LCVFD would cover anything over and above the \$325,000?

From: president@lcvfd.org [<mailto:president@lcvfd.org>]
Sent: Tuesday, October 20, 2009 8:45 AM
To: Dan Scanlon
Subject: Re: Lower Currituck VFD Inc. Rehabilitation Costs

Dan,
What was the decision of the Board of Commissioner's last night?
Thank you,
Maureen O'Shea
President

Lower Currituck VFD, Inc.
Cell# 252-619-7515

From: president@lcvfd.org [mailto:president@lcvfd.org]
Sent: Tuesday, October 13, 2009 8:04 PM
To: Dan Scanlon
Subject: Lower Currituck VFD Inc. Rehabilitation Costs

Dan,
Has the Board of Commissioners released the remaining funds in the \$325,000 grant to the contractor?
Lower Currituck VFD Inc. has paid our upgrades portion of the overages.
A deed exchange will not be favorably received by the membership.
I will provide the BOC's proposal to the membership at our meeting on Thursday evening.
Thank you,
Maureen O'Shea
President
Lower Currituck VFD, Inc.
Cell# 252-619-7515

-----Original Message-----
From: Dan Scanlon [mailto:dscanlon@co.currituck.nc.us]
Sent: Friday, October 9, 2009 03:38 PM
To: president@lcvfd.org
Subject: RE: Lower Currituck VFD Inc. Rehabilitation Costs

There is some ongoing conversation but not a unanimous decision as of yet. I understand that Owen mentioned that the Commissioner might request the deed in exchange for the funds; how do you think your Board would respond to such a request?
From: president@lcvfd.org [mailto:president@lcvfd.org]
Sent: Friday, October 09, 2009 1:50 PM
To: Dan Scanlon
Subject: Re: Lower Currituck VFD Inc. Rehabilitation Costs

Dan,
Have you received directions from the Board of Commissioner's yet?
Thank you,
Maureen O'Shea
President
Lower Currituck VFD, Inc.
Cell# 252-619-7515

-----Original Message-----
From: Dan Scanlon [mailto:dscanlon@co.currituck.nc.us]
Sent: Friday, October 2, 2009 03:12 PM
To: president@lcvfd.org
Subject: RE: Lower Currituck VFD Inc. Rehabilitation Costs

Thanks. I have forwarded this to the Board of Commissioner's for direction.

NORTH CAROLINA

CURRITUCK COUNTY

**LEASE AGREEMENT
CURRITUCK COUNTY COMMUNITY CENTER**

THIS LEASE AGREEMENT is made this _____ day of _____, 2009, (the "Effective Date"), by and between the COUNTY OF CURRITUCK, NORTH CAROLINA, a body corporate and politic existing pursuant to the laws of the State of North Carolina (the "County"), and YOUNG MEN'S CHRISTIAN ASSOCIATION OF SOUTH HAMPTON ROADS, aka YMCA OF SOUTH HAMPTON ROADS, a Virginia non-profit corporation, ("Lessee").

WITNESSETH:

WHEREAS, County desires to develop a YMCA family center into its plans to construct and operate a community center on land owned by the County; and

WHEREAS, County will invest up to \$12,000,000 for the design and construction for the community center; and

WHEREAS, the County is willing to enter into a Lease Agreement with Lessee for the operation of a YMCA family center within County's community center based on Lessee's mutual promises and covenants set out herein;

NOW, THEREFORE, for and in consideration of the rents, all improvements, and the covenants and agreements hereinafter set forth, the parties agree as follows:

1. Leased Property; Easement; Examination of Premises; Right of Termination

The County hereby leases to Lessee and Lessee leases from County those certain premises, consisting of 50,000 square feet of space within County's Community Center, (the "Premises"), together with the nonexclusive right to use the parking areas, entrance ways, foot walks, driveways and other common facilities furnished from time to time by County. The Premises is designated as "YMCA Recreational Facility" shown on the site plan attached hereto as Exhibit A. The Premises is part of the County's Community Center composed of that building and improvement to be constructed on that parcel of land more particularly described and delineated on Exhibit A.

2. Use of Leased Property

Except as otherwise may be provided herein, the Premises shall be used solely in connection with the operation of a YMCA recreational facility together with related sidewalks, parking facilities and landscaping (the "Community Center" or the "Improvements"), and in

accordance with the following provisions, each of which shall be deemed a condition of this Lease Agreement, the nonperformance of which shall constitute a default by Lessee:

- a. Lessee shall use the Premises only for recreational and related programs which are consistent with the mission of the YMCA. In addition, Lessee may use the Premises for community meetings for public and civic groups upon the terms and conditions set out by Lessee's policies and procedures.
- b. The Premises shall be open for business and closed on certain holidays as outlined in Lessee's policies and procedures.
- c. Lessee shall not use the Premises or permit others to lease or rent the Premises for any use that is in conflict with the law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted.
- d. The Lessee is committed to providing services without regard to race, sex, disability, religion, age, or national origin. Lessee shall operate the Premises as a "nondenominational YMCA" and shall avoid engaging in such sectarian proselytizing activities as shall be inconsistent with Lessee's qualification as a tax exempt charitable educational organization under Section 501 (c)(3) of the U. S. Internal Revenue Code. Lessee acknowledges that the County is a governmental entity and a political subdivision of the State of North Carolina, and as such is prohibited by virtue of the First Amendment to the United States Constitution, and Article I, Section 13 of the North Carolina Constitution, from engaging in any activity which constitutes an establishment of religion. Consequently, Lessee agrees not to perform any acts, including the expenditure of funds received from the County, by which the County shall be deemed by virtue of this lease agreement to have violated the applicable terms of those constitutional provisions referenced in this subparagraph. In the event Lessee is ever determined by a court of competent jurisdiction to have performed such an act, Lessee shall immediately cease such actions. Lessee shall guarantee and hold harmless the County from costs of litigation and from liability, as a result of any legal action brought against the County arising out of any action, or any alleged action of Lessee, which is alleged to constitute a violation of the County of the referenced constitutional provisions. The violation by Lessee of the provisions of this subparagraph shall be deemed a material breach of this Lease Agreement amounting to a default, entitling the County to terminate this Lease Agreement if such breach continues after reasonable notice and opportunity to cure has been given to Lessee. Nothing herein shall prevent the use of the Premises by religious groups on the same basis as such use may be afforded to civic and community groups generally.

3. Term

The initial Lease Term shall be for thirty (30) years beginning as of the Effective Date. Lessee shall thereafter have the right to renew the Lease Agreement for additional successive five (5) year terms provided, however, that the County shall have the right to terminate this

Lease Agreement as of the end of any lease term if Lessee shall then be in default of the provisions of the Lease Agreement, subject, however, to any applicable cure period as set out in paragraph 21 hereof. Moreover, the County shall have the right to terminate this Lease Agreement as of the end of any lease term if Lessee shall have evidenced a pattern of defaulting on the terms and conditions of this Lease Agreement, despite having cured such defaults within the applicable cure periods. As to the final five (5) year period of the original Lease Term, or as to any additional five (5) year Lease Term, a pattern of default shall be deemed to have occurred if Lessee shall have been in default of the terms and conditions of this Lease Agreement five (5) or more times, despite the fact that Lessee may have cured such default after having been notified by the County to do so. As to the first thirty (30) years of the original Lease Term, Lessee shall be deemed to have engaged in a pattern of default if Lessee has engaged in a history of repeated defaults having the effect of significantly adversely affecting the delivery of service as contemplated herein, despite the fact that Lessee may have cured such defaults after having been notified by the County to do so.

4. Contingency Period

Notwithstanding the foregoing, the respective rights and obligations of the parties hereto are subject to a contingency period which, if not sooner waived by the parties as set out herein, shall expire on October 31, 2010. During the contingency period, the parties may terminate this Lease Agreement according to the following terms and conditions:

- a. Lessee may terminate this Lease Agreement at any time prior to the expiration of the contingency period by providing written notice of such termination to the County. Upon request, Lessee shall execute a release, in a form suitable for recordation among the land records of Currituck County, evidencing such termination and releasing the County from any further obligations under this Lease Agreement.
- b. The County may terminate this Lease Agreement if:
 - (1) Within 120 days of date of this Lease Agreement Lessee shall not have notified County of Lessee's intent to proceed with the project and provided County with its proposed plan including facility plans and elevations, proposed project timetable, overall site development plan, complete facility operating agreement, complete facility operating agreement, equipment list for each program area, proposed budget and cash flow analysis (the "Comprehensive Development Plan"), or
 - (2) Within 90 days of the date County receives the Comprehensive Development Plan from Lessee the County determines that the Comprehensive Development Plan will not meet the needs of the County and its Community Center.
- c. Either party may terminate this Lease Agreement if the parties have not reached agreement on a final master site plan, final design and construction plans, and specifications for materials for the Community Center (hereinafter "the

Design") within 150 days of the date the County receives the Comprehensive Development Plan. During such period, both parties shall use due diligence and act in good faith to agree on the design and the construction schedule. The Design and the construction schedule shall be consistent with the provisions of paragraph 9 of this Lease Agreement. Lessee shall not begin construction of any portion of the community Center until such time as the contingency period shall have expired, or until such sooner time as both parties may agree that all contingencies have been satisfied or may be waived, in which event the parties shall execute a written addendum to this Lease Agreement noting the mutual waiver of all such contingencies, and the contingency period shall be deemed satisfied as of the date of the addendum.

5. Rent

- a. Lessee covenants and agrees to pay the County, promptly when due as rent for the Premises ("Rent") during the initial Lease Term and any renewal term, the sum of Ten Dollars (\$10.00) per year, due and payable on the effective date of this Lease Agreement and on each successive anniversary thereof. Lessee shall be solely responsible for payment of Premises utilities.
- b. All amounts payable by Lessee to the County under the terms of this Lease, shall be paid to the Finance Officer, Currituck County at P.O. Box 39, Currituck, NC 27929, or at such other places as the County shall from time to time designate by notice to Lessee.
- c. All other sums of money required to be paid by Lessee under the terms of this Lease shall be considered "Additional Rent" hereunder.

6. County and Lessee Responsibilities for Community Center Project

- a. Lessee will be responsible for the design, engineering, and construction management of the Community Center and will operate the Premises. Lessee will work with County on the design, layout, fixtures and furnishings for the Community Center. Lessee will deliver a preliminary design for the Community Center to County within 120 days from the date of this Lease Agreement. Lessee shall contribute the sum of \$10,000 for the purpose of the preliminary design for the Community Center.
- b. County shall provide the site for construction of the Community Center and shall pay the cost for construction of the Community Center and associated sidewalks, sidewalks, parking facilities and landscaping. County shall pay for the initial purchase of furnishings and equipment as mutually agreed upon for the Premises which shall thereafter be maintained, repaired and replaced as necessary by Lessee.

7. Community Center Membership and Use Fees

- a. The fees to be charged by Lessee for use of the Community Center and for annual memberships during the first year of this Lease Agreement shall be the annually adjusted and published rates for the YMCA of South Hampton Roads in effect at the time the Community Center opens. At the conclusion of the first year, Lessee may increase the membership or user fees, but at no time shall such fees exceed the fees in effect at any other YMCA facility owned or operated by Lessee.
- b. Lessee agrees that membership in the Community Center shall entitle a member to utilize YMCA facilities throughout the United States subject to the policies for each YMCA. Moreover, in accordance with Lessee's financial assistance policies in effect as of the Effective Date of this Lease Agreement, or as amended by Lessee from time to time, programs, services, and facilities at the Community Center shall be available to members of the public regardless of an individual's or family's ability to pay standard membership and program fees.

8. Use of Community Center by County

- a. Lessee acknowledges that County will have specific areas designed and constructed within the Community Center as a Senior Center and for activities of County's Parks and Recreation Department and that the use of such areas shall be in accordance with the rules, regulations and policies adopted by the County. The County shall be responsible for the operational, maintenance, and replacement costs strictly related to County's own areas.
- b. Lessee shall cooperate with the County's Senior Center and Parks and Recreation Department to co-sponsor events. Such co-sponsorship may entail, for example, allowing the Senior Center and Parks and Recreation Department to utilize the Premises for programs for which the County shall provide staffing, with Lessee and the County jointly accepting applications for participation and sharing the application fees and costs on an equitable basis.
- c. County shall defend, indemnify and hold harmless Lessee from any liability, suit or action that arises from the uses contemplated in this paragraph 8, provided that such indemnification shall not extend to acts of gross negligence committed by Lessee's employees, agents or officers, and further provided that the County's obligation to indemnify, guarantee or hold harmless the Lessee shall be only to the extent allowed by law. The County shall name the Lessee as an additional insured on any general liability policies owned by the County, but only with respect to the use of the Premises by the Senior Center or Parks and Recreation Department as contemplated by this paragraph 8.

9. Construction, Operation, Ownership, and Maintenance of Community Center and Premises

At its sole expense, Lessee shall operate and maintain the Premises in accordance with the following conditions:

- a. The Premises shall contain a minimum of 50,000 square feet, and shall conform generally to Lessee's the preliminary design contained within Lessee's Comprehensive Development Plan.
- b. County is responsible for funding the construction of the Community Center and the Premises contained therein.
- c. Construction of the Community Center shall be performed by a contractor selected by Lessee. Lessee shall not discriminate against any prospective contractor based upon race, sex, disability, religion or national origin. To guarantee construction of the Community Center, prior to the commencement of any work which could result in a lien on the Premises if the full payment were not made with respect thereto, Lessee or the contractor for the construction shall provide a standard contractor's performance and payment bond, letter of credit, or other surety in amount equal to the estimated construction cost of the Community Center, naming the County as Obligee, in a form and from a reputable financial institution, all as acceptable to the County in the County's reasonable discretion.
- d. Lessee shall not proceed with any material alterations or additions to the Premises without first obtaining the written consent of the County, which consent shall not be unreasonably withheld, and otherwise complying with the terms of this Lease. Lessee shall bear the cost of all alterations made pursuant hereto and shall bear full responsibility for the maintenance and repair thereof. If Lessee wishes to undertake alterations, Lessee will give the County a written preliminary description of any such proposed alteration. The County agrees to not unreasonably withhold its approval and to use reasonable efforts to make a determination within twenty (20) business days after receipt thereof. For any alteration or addition, the County may require a letter of credit, standard contractor's performance bond or other surety in form and amount and from a financial institution all as reasonably acceptable to the County.
- e. During the construction of the Community Center, Lessee shall cooperate with, and freely communicate with and advise, the County's designated representatives regarding the status and progress of construction, and shall allow them to inspect the site as they deem appropriate.
- f. Lessee shall be obligated to commence construction of the Community Center no later than December 1, 2010 or within six (6) months of the termination of the Contingency Period, if sooner, ("Construction Commencement Expiration Date") and to complete construction of the Community Center begin operation of

the Premises no later than December 31, 2011, provided that Lessee shall not be responsible for delays due to extreme weather, natural disaster, or other circumstances reasonably beyond its control. Failure of Lessee to begin construction, or to complete construction of the Community Center and operation of the Premises within the times set out in this subparagraph shall be deemed a material default of Lessee hereunder, and the County shall be entitled to terminate this Lease Agreement, unless the failure was caused by circumstances beyond the control of Lessee.

- g. Lessee shall construct the Community Center in a good workmanlike manner that is consistent with and in accordance with the Design approved by the County, and in accordance with the approved construction schedule.
- h. If Lessee fails to comply with one or more of the foregoing requirements with respect to the Community Center and Premises and such default goes uncured beyond the applicable grace period for curing such default as set forth in paragraph 21, the County shall have the right to terminate this Lease.
- i. Once constructed, the Community Center building shall belong to County. Lessee shall maintain and operate the Premises at its sole expense in good order, in a sanitary, safe and high-quality condition. All maintenance shall be performed in a professional manner.
- j. Except as otherwise provided herein, throughout the Term, Lessee shall, without any cost or expense to the County: i) take good care of and keep in good order and repair, the Premises, including (without limitation) all alterations, renovations, replacements, substitutions, changes and additions therein or thereto and the roofs and foundations thereof, all fixtures and appurtenances therein and thereto, all machinery and equipment therein, including without limitation, all machinery, pipes, plumbing, wiring, gas, steam and electrical fittings, sidewalks, water, sewer and gas connections, heating equipment, air conditioning equipment and machinery, and all other fixtures, machinery and equipment installed in or connected with the Premises or used in its operation; ii) make all repairs inside and outside, ordinary and extraordinary, structural or otherwise, necessary to preserve the Premises in good order and condition; iii) promptly pay or cause the payment of the expense of such repairs; iv) not cause or permit any waste to the Premises; v) on the leased Premises, keep the sidewalks, curbs and parking areas in good repair and reasonably free from snow, ice, dirt and rubbish; vi) give prompt written notice to the County of any fire or casualty that may occur; vii) permit the County to enter the Community Center, the Premises, or any part thereof, after appropriate written notice as provided in Section 6(o) to Lessee under the circumstances (which may be contemporaneous with the County's entry in case of an emergency) to make repairs to the Community Center, to restore the same after damage or destruction by fire or other casualty or by partial condemnation, to complete repairs commenced but not completed by Lessee, to repair, at or before the end of the Term, all injury done by the installation or removal of Lessee's furniture, trade

fixtures and property, and/or to comply with all orders and requirements of any governmental authority applicable to the Community Center or Premises and to any occupation thereof, where, in the County's reasonable judgment, such entry is necessary to prevent waste, physical deterioration, safety hazards and/or other circumstances that threaten the value of the property, or where Lessee is in default of its covenants and obligations herein with respect to any of the foregoing matters.

- k. When used in this Lease, the term "Repairs" shall include routine maintenance, replacements, restoration and/or renewals when necessary, as well as painting and decorating. If the County determines in its reasonable judgment that the Premises is not being maintained in accordance with the terms as set forth herein, the County shall give written notice thereof to Lessee. The County's designee shall during the period ("Discussion Period") of thirty (30) days following the date of such notice, or such shorter time as the County shall reasonably deem necessary in the case of exigent circumstances, meet with Lessee to discuss in good faith maintenance needs for the Premises. All maintenance reasonably required by the County for Lessee to perform in accordance with the terms of this Lease shall be commenced no later than fourteen (14) days after the expiration of the Discussion Period and completed within thirty (30) days thereafter, unless the County approves in writing a request from Lessee for an enlarged time period for completion. The County shall not unreasonably withhold extensions for the specified time requested if Lessee is proceeding with reasonable diligence in its efforts to correct the maintenance deficiency. If Lessee shall fail to perform its maintenance obligations required hereunder after notice thereof and a reasonable opportunity to cure as described herein above, the County, in addition to all other available remedies, may, but shall not be obligated, to enter upon the Premises and perform such failed maintenance obligations of Lessee after notice thereof to Lessee, using any equipment or materials on the Premises suitable for such purpose. Lessee shall, on demand, reimburse the County for its actual costs so incurred, which shall be included among Additional Rent hereunder.
- l. Lessee shall permit the County and its agents to enter the Premises during normal business hours upon at least three (3) days prior notice (except in the case of an emergency, in which event the County may enter at any time the County reasonably deems necessary) at all reasonable times for the purpose of (i) inspection; (ii) making repairs that Lessee has neglected or refused to make in accordance with the agreements, terms, covenants and conditions of this Lease; and (iii) at any time within six (6) months prior to the expiration of the Term, show the Premises to persons or entities interested in renting or buying the Premises, the Community Center, or any part thereof.
- m. Nothing in this Lease shall imply any duty or obligation upon the part of the County to do any work or to make any alterations, repairs (including, but not limited to, repairs and other restoration work made necessary due to any fire,

other casualty or partial condemnation, irrespective of the sufficiency or availability of any fire or other insurance proceeds, or any award in condemnation, which may be payable in respect thereof), additions or improvements of any kind whatsoever to the Premises or to the Community Center. The performance thereof by the County shall not constitute a waiver of Lessee's default in failing to perform the same.

10. Signage; Approval

Lessee shall erect a stone or masonry entrance sign visible from U.S. Highway 158, Shortcut Road, which conforms to all applicable provisions of the Currituck County Unified Development Ordinance. The design of the sign shall be acceptable to the County, and shall be visually identical with the entrance sign constructed with respect to the adjacent cooperative extension building. Lessee may also place one sign on the Community Center, as specified in the approved construction documents.

11. Taxes and Other Charges

- a. The parties acknowledge that Lessee is tax exempt under Section 501 (c)(3) of the Internal Revenue Code. To the extent Lessee takes action to impair this status, or fails to pay taxes otherwise due, it shall indemnify the County from any liability or damage resulting therefrom.
- b. Lessee agrees that it will pay and discharge, or cause to be paid and discharged, all federal, state and local taxes and charges ("Taxes") when and if such become due and payable as required by applicable law, including, without limitation, all real estate taxes, personal property taxes, water charges, sewer charges and assessments associated with the Premises or Lessee's ownership interest therein.
- c. If Lessee shall fail to pay any Taxes as herein are required to be paid, after the same shall become due and payable (and Lessee is not contesting the same in the manner approved hereunder), and at least ten (10) days prior to the expiration of any grace period allowed by law or by the governmental authority imposing such Taxes, the County shall have the right, at its option upon at least three (3) days notice to Lessee, to pay the same with all interest and penalties thereon. The amount so paid shall constitute Additional Rent, but shall bear interest from the date of such payment at the same rate earned by the County on its own investments. Such Additional Rent shall be due and payable by Lessee on the fifteenth day of the month following the month in which payment by the County was made. Lessee shall have the right to contest any Taxes which Lessee, in its exercise of good faith, determines inappropriate.

12. Liability Insurance

- a. At all times during the Term once construction of the Community Center has begun, at its own cost and expense, Lessee shall keep or cause to be kept on the Premises, and on all equipment, fixtures, motors and machinery owned or leased by Lessee and installed in or used in connection with the Premises or

with the Community Center, including all alterations, renovations, replacements, substitutions, changes, and additions thereto, insurance against loss or damage by fire, vandalism, malicious mischief, sprinkler leakage (if sprinklered) and such other hazards, casualties, risks and contingencies now covered by or that may hereafter be considered, as included within the standard form extended coverage endorsement, in an amount equal to the actual replacement cost (the "Full Insurable Value"). Such Full Insurable Value shall be determined from time to time (no more often than once every two (2) years) at no cost to County either by an appraiser selected by Lessee or, at Lessee's option, by the fire insurance company carrying the fire insurance on the Community Center or its agent, such determination to be reviewed and approved by Lessee. Upon request by the County, Lessee shall provide the County with a copy of such appraisal or determination.

- b. At all times during the Term, at its own cost and expense, Lessee shall provide and keep in force comprehensive general liability insurance in standard form, protecting Lessee and the County, as an additional insured, on a primary basis with no participation required by the County's liability policy, against personal injury, including without limitation, bodily injury, death or property damage and contractual liability on an occurrence basis if available and if not, then on a claims made basis, in either case in an amount not less than Two Million Dollars (\$2,000,000) per occurrence and with an annual aggregate limit of not less than Three Million Dollars (\$3,000,000). The County reserves the right to reasonably amend these limits from time to time during the course of the lease. All such policies shall cover the entire Premises, including parking, common areas, means of access and roadways therein, and streets and sidewalks adjacent thereto.
- c. At all times during the Term when Lessee is engaged in the construction of the Community Center, or repairs of the Premises, at its own cost and expense, Lessee shall provide and keep in force for the benefit of the County and Lessee, "all risk" builders risk insurance on the Community Center and other improvements on the Premises under construction.
- d. At all times during the Term, at its own cost and expense, Lessee shall purchase and keep in force worker's compensation insurance and employer's liability insurance for all employees of Lessee in strict compliance with the laws of the State of North Carolina.
- e. All of the policies of insurance required by this Lease shall be i) in form and substance as reasonably approved by the County, ii) underwritten only by companies licensed in the State of North Carolina which have a then current Alfred M. Best Company, Inc. (or if it no longer exists, a then comparable rating service) general policyholder's rating of A or better (or the equivalent thereof) and a financial rating of VII or better (or the equivalent thereof), iii) accompanied by evidence of payment of premiums thereon to the insurance companies or their agents, including evidence of current annual payment, if on an installment payment basis; iv) contain standard waiver of subrogation clauses; and v) provide

that they may not be canceled by the insurer for non-payment of premiums or otherwise until at least thirty (30) days after a receipt of the proposed cancellation, and in any event, shall not be invalidated, as to the interests of Lessee therein, by any act, omission or neglect of Lessee (other than nonpayment of premiums), which might otherwise result in a forfeiture or suspension of such insurance, including without limitation, the occupation or use of the Premises for purposes more hazardous than those permitted by the terms of the policy, any foreclosure of any leasehold deed of trust and any change in title or ownership of the Premises. If requested by the County, copies of all insurance policies required by this Lease shall be delivered by Lessee to the County. All insurance policies shall be renewed by Lessee and proof of such renewals, accompanied by evidence of the payments of the premiums thereon to the insurance companies or their agents, shall be delivered to the County, at least twenty (20) days prior to their respective expiration dates upon written request.

- f. If Lessee fails to obtain and maintain insurance as in this Lease provided, the County may, but shall not be obligated to, effect and maintain any such insurance coverage and pay premiums therefore. All premiums so paid by the County shall constitute Additional Rent and shall bear interest at the Default Rate from the date of such payment by the County. Such Additional Rent shall be payable by Lessee to the County by the fifteenth day of the month following the month in which payment therefore is made by the County. In addition thereto, the County may recover from Lessee, and Lessee covenants and agrees to pay as Additional Rent to the County, any and all damages which the County may have sustained by reason of the failure of Lessee to obtain and maintain such insurance, it being expressly declared that any damages of the County shall not be limited to the amount of premiums thereon. Lessee shall make payment to the County by the fifteenth day of the month following the month in which any payments were made by the County or in which the amount of such damage was determined. The payment by the County of premiums for any such insurance policy shall not be, or be deemed to be, a waiver or release of the default of Lessee with respect thereto or the right of the County to pursue any other remedy permitted hereunder or by law as in the case of any other default hereunder or of default in the payment of Rent.
- g. The County shall add Lessee as an additional insured on its liability insurance; provided, however, the additional insured provision shall extend only to suits or claims arising out of or associated with the operation of the Community Center or the use of the Premises.

13. Applicable Laws and Regulations

Throughout the Term hereof Lessee shall at its own cost and expense, observe and comply with all laws, rules, orders, ordinances and regulations of the County, State, and Federal governments and of each and every department, entity, bureau and duly authorized official thereof and of any successor or future governmental authority, department, entity, bureau and duly authorized official thereof having jurisdiction and/or

any other corporation body or organization possessing similar authority and exercising similar functions, which laws, requirements, rules, orders, ordinances and regulations are now operative, or which at any time during the Term of this Lease may be operative and in force and effect and applicable to the Premises including the Community Center.

14. Alterations and Additions

Lessee agrees that it will not (i) demolish any portion of the Community Center or Premises for the purpose of reconstruction, renovation or otherwise, or (ii) make any alterations, renovations, additions, changes or substitutions which would weaken or impair the structural integrity of the Community Center, lessen the market value thereof, or change the exterior thereof without, in the case of each of the foregoing, the prior written consent of the County which consent shall not be unreasonably withheld.

15. Indemnification

- a. Nothing in this Lease shall be deemed to be construed in any way as constituting the consent or request of the County for the performance of any labor or the furnishing of any materials for any construction, rebuilding, alteration or repair of or to the Premises or the Community Center, or as giving Lessee any right, power, or authority to contract for or permit the rendering of any services or the furnishing of any materials which might in any way give rise to any lien against the County's interest in the Premises or the Community Center. Notwithstanding the foregoing provisions, if such lien against the Premises, or any part thereof is filed, Lessee shall either pay the same and have it discharged of record within a reasonable time after the date of filing the same, not to exceed sixty (60) days after Lessee shall have been notified of such lien, or take such action as may be required to legally object to such lien, and in all events to have such liens discharged prior to the foreclosure thereof and the imposition of any penalty upon the County.
- b. Lessee is and shall be in exclusive control and possession of the Premises excluding those areas designated and operated by the County and the County shall not in any event whatsoever be liable for any injury or damage to any property or to any person happening on, in or about the Premises or the appurtenances thereto, or for any injury or damage to the Premises, or to property, whether belonging to Lessee or any other person, caused by any fire, breakage, leakage, defect or bad condition in any part or portion of the Premises or from steam, gas, electricity, water, rain or snow that may leak into, issue or flow from any part of the Premises, from the drains, pipes or plumbing work of the same, or from the street, subsurface or any place or quarter, or due to the use, misuse or abuse of any or all of the hatches, openings, installations, or hallways of any kind whatsoever, or from any kind of injury which may arise from any other cause whatsoever on the Premises, including defects in construction, latent or otherwise; provided, however, that Lessee shall not be responsible for cleanup of any

pollution, "hazardous substances" or "hazardous waste" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq. (as amended), or "toxic substances" as defined in the Toxic Substance Control Act, 15 U.S.C. § 2601 et seq. (as amended), to the extent that such pollution, waste or substances were introduced to the Premises i) by the County; or ii) prior to the Effective Date and not the result of actions by Lessee or its agents, employees or independent contractors. The provisions of this Lease permitting the County, after notice, to enter and inspect the Premises are made for the purpose of enabling the County to become informed as to whether Lessee is complying with the agreements, terms, covenants and conditions thereof, but the County is under no obligation to perform such acts as Lessee shall fail to perform.

- c. Lessee shall indemnify and hold the County harmless from and against any and all costs, expenses, liabilities, losses, damages, injunctions, suits, fines, penalties, claims and demands, including attorneys' fees, or injury to person or property arising out of, by reason of, or in account of:
- (1) Any breach, violation or nonperformance of any covenant, condition, provision or agreement in this Lease set forth and contained on the part of Lessee to be fulfilled, kept, observed and performed, and
 - (2) Claims of every kind or nature, arising out of the use and occupancy of the Premises and/or the Community Center (and/or the construction, alteration, etc. thereof) by Lessee, including without limitation, any damage to property occasioned or arising out of the use and occupancy thereof by Lessee, or any injury to any person, including death resulting at any time therefrom, occurring in or about the Premises; provided this indemnification shall not apply should the claim arise as a result of its negligent act or acts of the County or its employees.

16. Damage and Destruction

If during the Term the Community Center and Premises shall be destroyed or damaged in whole or in part by fire or any other cause, except condemnation, and whether or not such destruction or damage is covered by insurance, Lessee shall give to the County immediate notice thereof, and Lessee shall promptly repair, replace and rebuild the same or cause the same to be repaired, replaced or rebuilt, at least to the conditions thereof immediately prior to such occurrence ("Restoration"). If Lessee shall fail to comply with the provisions of this paragraph, County may declare Lessee in material default of this Lease Agreement. Without waiving any other remedy it may have at law or at equity, County may at its option direct the payment to it of any proceeds payable under any insurance policy held by Lessee.

17. Condemnation

If, at any time during the Term of this Lease, the whole or substantially all of the Premises shall be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain, or by any agreement between the County, Lessee and those authorized to exercise such right, this Lease shall terminate on the date of such taking and the Rent, Additional Rent and other sums of money and other charges herein provided to be paid by Lessee shall be apportioned and paid to the date of such taking. In the event of any such condemnation, no matter what portion of the Premises or the Community Center shall be taken, the award for the value of the land and the building shall be distributed between County and Lessee in accordance with the value of their respective interests therein.

18. County's Right to Inspect

Upon reasonable notice and during normal weekday working hours, the County shall have the right to inspect the Premises for the purpose of determining compliance with the Lease terms and conditions.

19. Tenant Default

An "Event of Default" shall be deemed to have occurred if any one or more of the following events shall occur:

- a. Lessee shall desert or abandon the Premises or utilize the Premises for any purpose other than a YMCA recreational facility for a period of sixty (60) days; or
- b. Lessee shall default in making timely payment to the County of any Rent or of any money advanced by the County or otherwise collectible as Additional Rent, and the same shall not be paid within thirty (30) days after Lessee receives notice of the delinquency; or
- c. Lessee shall fail to pay any tax, assessment, water charge, sewer charge, or other governmental imposition, or any other charges or lien against the Premises or which Lessee is required to pay under this Lease and the same shall not be paid within thirty (30) day after Lessee receives notice of the delinquency; or
- d. Lessee shall fail to begin construction of the Community Center or to complete such construction by the dates set out in paragraph 9 (f), above; or
- e. This Lease or the estate of Lessee hereunder is transferred, assigned, or subleased (in a single transaction or a series of related transactions) without the prior written consent of the County, except in an approved financing. In an Event of Default, the County may thereafter serve a written thirty (30) day notice of cancellation and termination of this Lease, any other notice to quit required hereunder or by law being expressly waived by Lessee, and upon the expiration of such thirty (30) days, this Lease shall end and expire as fully and completely as if the date of expiration of such thirty (30) day period were the day herein definitely

fixed for the end and expiration of this Lease, and Lessee shall then quit and surrender to the County the Premises, the Community Center and any other improvements on, under or above the Premises, and the County may enter into or repossess the same, either by force, summary proceedings or otherwise. If an Event of Default shall have occurred, in addition to other rights of the County hereunder, the County shall have the right of injunction to restrain the same and the right to invoke any remedy allowed hereunder by law or in equity, as if specific remedies, indemnity or reimbursement were not herein provided. The rights and remedies given to the County in this Lease are distinct, separate and cumulative, and no one of them, whether or not exercised by the County, shall be deemed to be in exclusion of any of the others herein, or by law or in equity provided, except as otherwise provided herein.

20. Landlord Default

In the event of any default by the County under this Lease ("Landlord Default"), Lessee may give the County written notice specifying such Landlord Default and, if Lessee shall do so, then the County shall have 60 days in which to cure any such Landlord Default; provided, however, that if the nature of the Landlord Default is such that more than 60 days are required for its cure, then the County shall not be in default if the County commences to cure within said 60 days and thereafter diligently prosecutes the same to completion. In the event that the County shall remain in default following its said right to cure, then, in addition to all other rights and remedies available to Lessee at law and in equity, Lessee may cure such Landlord Default on behalf of the County by doing the necessary work and/or making the necessary payments, and billing the County for the reasonable costs thereof, which the County agrees to pay to Lessee within 60 days of receipt of Lessee's demand therefore and reasonable evidence of the cost of the same. If the County shall fail to pay within said 60 day period, Lessee may deduct the entire cost from any rent and other charges due hereunder.

21. Cure Periods for Default

In the event of a default by either party, the non-defaulting party shall not be entitled to take any action with respect to such default to terminate this Lease Agreement, to suspend any portion of the non-defaulting party's obligation hereunder, or to suspend any portion of the defaulting party's rights hereunder, or to seek a legal or equitable remedy for such default, until the defaulting party shall have been given written notice of such default and an opportunity to cure, as set out in this paragraph:

- a. With respect to a default of any obligation to pay rent, additional rent, or other charges or contributions, the non-defaulting party shall provide written notice of such default and the defaulting party shall have thirty (30) days following receipt of such notice to cure the default.
- b. For any other default, except as may be set out otherwise in this Lease Agreement, the non-defaulting party shall provide written notice of such default, and the defaulting party shall have sixty (60) days following receipt of such

notice to cure the default. If such default is not reasonably susceptible of a cure within such sixty (60) day period, the non-defaulting party shall take no action with respect to such default if the defaulting party shall commence to cure the default within such sixty (60) days and thereafter continues in good faith and with diligence to complete the cure.

- c. The provisions of this paragraph shall not apply to the requirements of paragraphs 4 c. and 9 f. with respect to agreement on a Design for, or commencement or completion of construction of, the Community Center.

22. End of Term Reversion of Leased Property

Upon expiration or earlier termination of this Lease, whether by default or otherwise, Lessee's leasehold interest in the Premises shall terminate and title to all fixtures, equipment, furnishings and related improvements shall automatically pass to, vest, belong to, and become the property of the County. Lessee shall, if the County shall deem it appropriate, execute any further documents to confirm this transfer of title to the County with cost of charge to the County. Lessee shall be responsible for the removal of its personal property upon expiration or earlier termination of this Lease, provided that Lessee shall be responsible for the cost of repair of any damage caused during such removal.

23. Assignment and Subletting

Except as expressly otherwise provided in this Lease, Lessee shall not sell, assign or in any manner transfer this Lease or any interest therein or the estate of Lessee hereunder, or rent, sublet, sublease or underlet the Premises as an entirety in a single transaction or a series of related transactions, without the prior written consent of the County first had and obtained in each case, which consent may be granted or withheld in the sole and absolute discretion of the County. Nothing however shall prevent Lessee from subleasing a portion of the Community Center to a Lessee sponsored program which may be offered in conjunction with area organizations as contemplated in paragraph 2 a., above.

24. Landlord's Title

The County warrants and covenants that the County has good and clear record and marketable title to the Premises, in fee simple absolute, and free of all title matters except for matters of record. The County warrants and covenants that, as of the date hereof, there are no restrictive covenants or other agreements, and no legal restrictions and no other legal impediment, any of which would prevent Lessee from constructing, renovating or using the Community Center as herein provided, or from occupying the Premises for the purposes herein provided. The County warrants and covenants that the County shall not enter into any restrictive covenants or other agreements, which would prevent Lessee from occupying the Premises for the purposes herein provided. The County warrants and represents to Lessee that, on the date of delivery of possession of the Premises to Lessee,

to the best of the County's knowledge, the Premises are properly zoned for the intended use and shall be free of all violations, orders, or notices of violations of laws.

25. Quiet Enjoyment

The County warrants and agrees that Lessee, on paying the rent and other charges due hereunder and performing all of Lessee's other obligations pursuant to this Lease, shall and may peaceably and quietly have, hold, and enjoy the Premises for the full Term, free from molestation, eviction, or disturbance by the County.

26. Estoppel Certificate

The County and Lessee agree to deliver to each other, from time to time as reasonably requested in writing, and within a reasonable period of time after receipt of such request, an estoppel certificate certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), and the dates to which any rent due hereunder has been paid in advance, if any, together with such other information as the County or Lessee may reasonably require with respect to the status of the Lease and Lessee's use and occupancy of the Premises.

27. Notices

Whenever it is provided herein that notice, demand, request or other communication shall or may be given to, or served upon, either of the parties by the other, and/or whenever either of the parties shall desire to give or serve upon the other any notice, demand, request or other communication with respect hereto or with respect to the Premises or Community Center, each such notice, demand, request or other communication shall be in writing and, any law or statute to the contrary notwithstanding, shall not be effective for any purpose unless the same shall be given or served in writing by first class mail (postage prepaid) directed to the individuals identified below. Either party may amend the identity of the individual to whom notice is to be directed by notifying the other party, in writing, of the change.

County:

County Manager
153 Courthouse Road
P. O. Box 39
Currituck, North Carolina 27929

with a copy to:

County Attorney
153 Courthouse Road
P. O. Box 39
Currituck, North Carolina 27929

Lessee:

YMCA of South Hampton Roads
President/CEO
250 West Brambleton Avenue
Norfolk, Virginia 23510

Every such notice, demand, request or other communication hereunder shall be deemed to have been given or served for all purposes hereunder on the date on which it is received or by the party to whom it was sent.

28. Governing Law

This Lease shall be governed by and construed in accordance with the laws of the State of North Carolina, and any action brought to enforce its provisions shall be brought in the General Court of Justice for the County of Currituck.

29. Severance

If any provision of this Lease is deemed unenforceable by a court of competent jurisdiction, the remainder of the Lease terms shall not be affected thereby.

30. County Approvals

In each case when this lease calls for an approval by the "County," unless otherwise specified herein, such approval may be granted by the County Manager or his designee and shall not require action by the Board of Commissioners.

31. Recordation

Either party may, at its own cost, record a copy of this agreement among the land records of Currituck County.

32. Duplicate Originals

This agreement may be executed in duplicate originals, each of which shall be deemed an original, any one of which may be produced in court as evidence of the terms and conditions hereof.

IN WITNESS WHEREOF, the County and Lessee have hereunto set their hands and seals, the day and year first above written:

COUNTY OF CURRITUCK

ATTEST:

Clerk to the Board

By _____
Chairman, Board of Commissioners

(COUNTY SEAL)

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

Currituck County Finance Officer

NORTH CAROLINA, CURRITUCK COUNTY

I, a Notary Public, of the County of _____, and State aforesaid, certify that Gwen H. Keene personally appeared before me this day and acknowledged that she is the Clerk to the Board of Commissioners for Currituck County, and that by authority duly given and as the act of the County of Currituck, the foregoing instrument was signed in its name and on its behalf as its act and deed by the Chairman of the Board of Commissioners and attested and sealed by her as the said Clerk to the Board of Commissioners.

Witness my hand and notarial seal or stamp this ____ day of _____, 2009.

Signature of Notary Public

Typed or Printed Name of Notary Public

(AFFIX NOTARY SEAL)

My Commission expires: _____

YOUNG MEN'S CHRISTIAN ASSOCIATION
OF SOUTH HAMPTON ROADS

By: _____

Title: _____

ATTEST:

Secretary

(CORPORATE SEAL)

STATE OF _____, COUNTY/CITY OF _____

I, _____, a Notary Public of the County/City of _____ and State aforesaid, certify that _____ personally appeared before me this day and acknowledged that ___he is the Secretary for Young Men's Christian Association of South Hampton Roads, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name and on its behalf as its act and deed by the _____ of the corporation and attested and sealed by himself/herself as the said Secretary.

Witness my hand and notarial seal or stamp this ____ day of _____, 2009.

Signature of Notary Public

Typed or Printed Name of Notary Public

(AFFIX NOTARY SEAL)

My Commission expires: _____

EXHIBIT A

Description of Parcel of Land for County's Community Center Site

**APPLICATION
PUBLIC SCHOOL BUILDING CAPITAL FUND
NORTH CAROLINA EDUCATION LOTTERY**

Approved: _____

Date: _____

County: Currituck

Contact Person: James K. McClellan

LEA: 270 - Currituck County Schools

Title: Finance Officer

Address: 2958 Caratoke Hwy, Currituck NC 27929

Phone: (252) 232-2223 ext. 236

Project Title: Replacement & Overhaul of Chiller Units

Location: Currituck County High School & Knotts Island Elementary School

Type of Facility: Currituck High School - 1,185 students, Knotts Island Elementary - 125 students

North Carolina General Statutes, Chapter 18C, provides that a portion of the proceeds of the North Carolina State Lottery Fund be transferred to the Public School Building Capital Fund in accordance with G.S. 115C-546.2. Further, G.S. 115C-546.2 (d) has been amended to include the following:

- (3) No county shall have to provide matching funds...
- (4) A county may use monies in this Fund to pay for school construction projects in local school administrative units and to retire indebtedness incurred for school construction projects incurred on or after January 1, 2003.
- (5) A county may not use monies in this Fund to pay for school technology needs.

As used in this section, "Public School Buildings" shall include only facilities for individual schools that are used for instructional and related purposes, and does not include central administration, maintenance, or other facilities.

Short description of Construction Project: Replacement of 30-ton chiller unit at Knotts Island and a complete overhaul on the 255-ton chiller unit at Currituck County High School.

Estimated Costs:

Purchase of Land	_____	\$	_____
Planning and Design Services	_____		_____
New Construction	_____		_____
Additions / Renovations	_____		45,000.00
Repair	_____		55,000.00
Debt Payment / Bond Payment	_____		_____
TOTAL	_____	\$	100,000.00

Estimated Project Beginning Date: 12/01/2009 Est. Project Completion Date: 1/31/2010

We, the undersigned, agree to submit a statement of state monies expended for this project within 60 days following completion of the project.

The County Commissioners and the Board of Education do hereby jointly request approval of the above project, and request release of \$ 100,000.00 from the Public School Building Capital Fund (Lottery Distribution). We certify that the project herein described is within the parameters of G.S. 115C-546.

(Signature — Chair, County Commissioners)

(Date)

Pat Stretan

39

10/18/09

(Signature — Chair, Board of Education)

(Date)

**COUNTY OF CURRITUCK
CAPITAL PROJECT ORDINANCE**

BE IT ORDAINED by the Currituck County Board of Commissioners, 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 project authorized is design and construction of a multi-use path in Corolla, North Carolina. This is contract # 2633, project # 2009-595 titled Corolla Greenway. This projects is for the period 11/1/2009 through 10/31/2012.

SECTION 2. The following amounts are appropriated for the project:

Paved greenway trail, pocket park with amenities, landscaping, utilities, planning and construction costs, and contingency	\$ 1,360,549
	<u>\$ 1,360,549</u>

SECTION 3. The following revenues are available to complete this project:

PARTF Grant Funds	\$ 500,000
Transfer from Occupancy Tax	\$ 860,549
	<u>\$ 1,360,549</u>

SECTION 4. The Finance Director is hereby directed to report, on a quarterly basis, on the financial status of each project element delineated in Section 2 above.

SECTION 5. SPECIAL APPROPRIATIONS AND RESTRICTIONS

The Budget Officer is hereby authorized to transfer appropriations within the fund as contained herein under the following conditions:

- a. He may transfer amounts between object line items within the fund up to One Thousand dollars (\$1,000).

SECTION 6. CONTRACTUAL OBLIGATIONS

The County Manager is hereby authorized to execute contractual documents under the following conditions:

- a. He may execute contracts for construction or repair projects which do not require formal competitive bid procedures.
- b. He may execute contracts for (1) purchases of apparatus, supplies, and

materials, or equipment which are within the budgeted departmental appropriations; (2) leases of personal property for a duration of one year or less and within budgeted departmental appropriations; and (3) services which are within budgeted departmental appropriations.

- c. He may execute contracts, as the lessor or lessee of real property, which are of a duration of one year or less which are within the budgeted departmental appropriations.

SECTION 7. USE OF BUDGET ORDINANCE

The Budget Officer and the Finance Director shall use this capital project ordinance for administration of the budget and for the accounting system.

ADOPTED this 2nd day of November 2009.

J. Owen Etheridge, Chairman
Board of Commissioners

ATTEST:

Gwen H. Keene
Clerk to the Board

**APPLICATION
PUBLIC SCHOOL BUILDING CAPITAL FUND
NORTH CAROLINA EDUCATION LOTTERY**

Approved: _____

Date: _____

County: Currituck Contact Person: James K. McClellan
 LEA: 270 - Currituck County Schools Title: Finance Officer
 Address: 2958 Caratoke Hwy, Currituck NC 27929 Phone: (252) 232-2223 ext. 236

Project Title: Replacement of Rooftop HVAC Units at Currituck County Middle School

Location: Currituck County Middle School

Type of Facility: Middle School, grades 6-8, approximately 400 students

North Carolina General Statutes, Chapter 18C, provides that a portion of the proceeds of the North Carolina State Lottery Fund be transferred to the Public School Building Capital Fund in accordance with G.S. 115C-546.2. Further, G.S. 115C-546.2 (d) has been amended to include the following:

- (3) No county shall have to provide matching funds...
- (4) A county may use monies in this Fund to pay for school construction projects in local school administrative units and to retire indebtedness incurred for school construction projects incurred on or after January 1, 2003.
- (5) A county may not use monies in this Fund to pay for school technology needs.

As used in this section, "Public School Buildings" shall include only facilities for individual schools that are used for instructional and related purposes, and does not include central administration, maintenance, or other facilities.

Short description of Construction Project: Replacement of one 40-ton rooftop air handler HVAC unit, and one 30-ton air handler HVAC unit servicing twenty classrooms.

Estimated Costs:

Purchase of Land	\$	_____
Planning and Design Services		_____
New Construction		_____
Additions / Renovations		120,000.00
Repair		_____
Debt Payment / Bond Payment		_____
TOTAL	\$	120,000.00

Estimated Project Beginning Date: 12/01/2009 Est. Project Completion Date: 6/30/2010

We, the undersigned, agree to submit a statement of state monies expended for this project within 60 days following completion of the project.

The County Commissioners and the Board of Education do hereby jointly request approval of the above project, and request release of \$ 120,000.00 from the Public School Building Capital Fund (Lottery Distribution). We certify that the project herein described is within the parameters of G.S. 115C-546.

 (Signature — Chair, County Commissioners) (Date)
Pat Stretan 42 10/12/09
 (Signature — Chair, Board of Education) (Date)

NAME OF FIRE DISTRICT Poplar Branch Mainland COUNTY Currítuck

DISTRICT IS SERVED BY Lower Currítuck VFD Inc.

Mail to the N.C. Department of Insurance, Office of State Fire Marshal, 1202 Mail Service Center, Raleigh, N.C., 27699-1202

IT IS RECOMMENDED THIS REPORT BE RETURNED BY CERTIFIED MAIL

NOTE: This report must be filed out completely, must be signed and sworn to, and returned to the Insurance Commissioner before October 31st or no later than January 31. Reports postmarked after this date are in non-compliance and the fire department will not be eligible to receive their Firefighter's Relief Fund monies.



**NORTH CAROLINA
RURAL FIRE DISTRICT
REPORT OF FIRE CONDITIONS**



As required by General Statute 58-84-46 of North Carolina, I Clerk do hereby make the following report on the Rural Fire District:
County of Currítuck

LOCAL FIREFIGHTER'S RELIEF FUND BOARD

N.C. General Statutes 58-84-30

(This information must be provided each year)

IF DEPARTMENT DOES NOT WISH TO PARTICIPATE, PLEASE INDICATE IN THIS SECTION

Firefighter's Relief Fund Trustees appointed by Fire Department (2)

1. Mr. Rob Hopkin 2. Mr. Josh Tipton

Address 312 Reggie Owens Dr. Address 205 Owens Beach Rd

Harbinger, NC 27941 Harbinger, NC 27941

Firefighter's Relief Fund Trustees appointed by County Commissioners (2)

3. Mr. Maureen O'Shea 4. Mr. Aaron Gay

Address P.O. Box 13 Address 209 Worth Guard Rd

Harbinger, NC 27941 Coinjock, NC 27923

Firefighter's Relief Fund Trustee appointed by the Insurance Commissioner (1)

5. Mr. James D. Moseman Same as last year? Yes No

Address P.O. Box 211 If no; attach a copy of former Insurance Commissioner

Grandy, NC 27939-0211 appointee's letter of resignation AND a copy of Fire Chief's letter of recommendation.

Select position number of Firefighter's Relief Fund Treasurer: 1 2 3 4 5

I, _____ Clerk/Finance Officer of _____ County, NC

do hereby certify that the foregoing is a true, full, and correct report of the Fire Department and fire conditions in said county, made by me as required under General Statute 58-84-46 of North Carolina.

Signature

Sworn and subscribed before me, this _____ day of _____, 20 _____

Notary Signature

[SEAL]

NOTE: This report can not be accepted unless sworn to before a Notary or other officer with Seal.

CONTRACT CHANGE ORDER

**Mainland Water Treatment Plant Reverse Osmosis Expansion
Currituck County, North Carolina**

To: Crowder Construction Company, Inc.
1111 Burma Drive
Apex, NC 27539

Date
Project No.
Contract No.
Change Order No.

September 28, 2009
NC706021.3000
-
6

You are hereby requested to comply with the following changes from the Contract Documents:

Item Number	Description of Changed Quantities, Units, Unit Prices, Changes in Completion Schedule, etc.	Change in Contract Price	Change in Contract Time (Calendar Days)
(1)	(2)		(4)
1	Final Project Credit	(\$57,000.00)	0
2	Relocation of Eyewash Shower in Caustic Room	\$1,772.00	0
Net Change in Contract due to this Change Order		(\$55,228.00)	0
Contract Summary			
Original Contract Amount		\$10,234,084.00	426
Added (Deducted) By Previous Change Order(s)		\$242,141.34	29
Subtotal		\$10,476,225.34	455
Added (Deducted) By This Change Order		(\$55,228.00)	0
Total Adjusted Contract		\$10,420,997.34	455
The Original Contract Substantial Completion Date is:			May 12, 2009
The Revised Substantial Completion Date based upon this and previous Change Orders is:			June 10, 2009
This document shall become an amendment to the Contract and all provisions of the contract shall apply hereto.			

Recommended By:

Daniel C. Williams
ARCADIS G&M of North Carolina, Inc.

Date: 9/28/2009

Accepted By:

Carlos W. News
Crowder Construction Company, Inc.

Date: 10/6/2009

Approved By:

Currituck County

Date: _____

DISTRIBUTION: (Original documents to be provided as follows:)

Currituck County
Crowder Construction Company, Inc.

ARCADIS
Contractor's Surety

RECEIVED

OCT 08 2009

ARCADIS G & M
of North Carolina, Inc.

CONTRACT CHANGE ORDER NO. 6

NARRATIVE

Mainland Water Treatment Plant RO Expansion

Currituck County, North Carolina

ARCADIS Project No. NC706021.3000

Prepared by Dan Williams

Total Dollar Amount Requested by this Change Order: \$55,228 (Credit)

Total Time Extension Requested by this Change Order: 0 Calendar Days

New Substantial Completion Date Established by this Change Order: June 10, 2009

Item 1 –Credit to Repair Damaged Roof Finish

During installation of the standing seam roof panels, the outer finish of the roof panels was scratched and marred due to poor construction practices by the subcontractor's installing the materials. Excessive mud carried up to the roof on the installers' shoes, use of installed panels as a lay down area, and poor operating practices while utilizing the seaming machine were the primary reasons for the roof panel damage. This damage created by these activities caused the specified 35 year manufacturer's finish warranty to be void in all areas where scratches occurred. The Owner requested the Contractor provide three separate coatings over the life of the roof to provide a warranty of 30 years, which would be comparable to the specified 35 year finish warranty. In addition, the Owner requested the cost to provide the three coatings be provided as a project credit to allow the Owner to expedite and oversee the application of the roof coatings as deemed necessary and release the Contractor for final payment on the project. Crowder Construction has submitted a contract credit in the amount of \$57,000.00 to accommodate the owner's request as noted above. ARCADIS recommends approval of this item.

Item 2 – Relocation of Eyewash Shower in Caustic Room

Due to the revised layout for the Caustic Room issued as part of Work Change Directive #10, an eyewash shower was relocated to accommodate the revised layout. Crowder Construction has submitted a request for a contract change in the amount of \$1,772.00 to complete the work noted above. ARCADIS recommends approval of this item.

Ref: Change Proposal Request No. #027 dated March 18, 2009

Item 2 Supporting Documentation

1111 Burma Drive
Apex, NC 27539
www.crowdercc.com



CROWDER CONSTRUCTION COMPANY
CIVIL & ENVIRONMENTAL DIVISION

(919) 367-2000 Phone
(919) 367-2096 Administrative Fax
(919) 367-2097 Estimating Fax
(919) 367-2098 Project Teams

March 18, 2009

ARCADIS G&M of North Carolina, Inc.
446 Maple Road
Maple, NC 27956

Attn: Daniel Williams

Re: Mainland Water Treatment Plant RO Expansion
Quotation #027 rev. 1 – Relocate Safety Shower/Eyewash

Dear Mr. Williams,

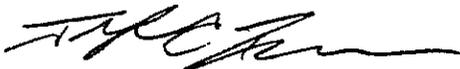
Crowder Construction Company submits Quotation No. 027 revised per your request. This quotation includes the relocation of a safety shower/eyewash station as directed. Crowder Construction Company requests the firm lump sum add amount of One Thousand Seven Hundred Seventy Two Dollars (\$1,772) to the current contract amount. A cost breakdown is enclosed for your review.

This cost proposal is only for items as specified herein and on the attached breakdown. Any additional items of work encountered shall be subject to additional cost proposals. Crowder Construction Company trusts that this quotation meets with your approval and that a formal contract change order shall be issued in the immediate future.

Crowder Construction Company reserves the right to request an equitable extension to the contract completion time and subsequent delay costs if for any reason the delivery and installation of this work delays the completion of the project.

If there are any questions and/or comments please do not hesitate to contact Crowder Construction Company.

Sincerely,
CROWDER CONSTRUCTION COMPANY



John C. Ivan
Project Manager

PROPOSAL/ESTIMATE FOR CONTRACT MODIFICATION Date: 18-Mar-09

PROJECT TITLE: Mainland WTP RO Expansion PROJECT NO.: NC706021.3000

ENGINEER: ARCADIS G&M of North Carolina, Inc. CROWDER JOB NO.: 40207

DESCRIPTION: RFI #092 - Pressure Reducing Valves CROWDER QUOTATION NO.: 027 rev.1

PRIME CONTRACTOR'S WORK			Revisions/Comments
1. Direct Material		\$0	
2. Sales Tax on Materials	6.75% of line 1	6.75% \$0	
3. Direct Labor		\$220	
4. Insurance, Taxes, and Fringe Benefits	50.98% of line 3	50.98% \$112	
5. Rental Equipment		\$0	
6. Sales Tax on Rental Equipment	6.75% of line 5	6.75% \$0	
7. Equipment Ownership and Operation Expenses		\$0	
8. SUBTOTAL (add lines 1-7)		\$332	

Prime Remarks:
The following items are specifically excluded - any items not specifically indicated in the breakdown of costs.

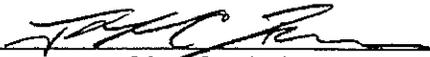
SUB-CONTRACTOR'S WORK	Name of Subcontractor	Revisions/Comments
9. Subcontractor 1	Acorn Industrial	
10. Subcontractor 2		
11. Subcontractor 3		
12. Subcontractor 4		
13. Subcontractor 5		
14. Total Subcontractor Amount from Breakdown	\$1,316	

Sub's Remarks:
See attached subcontractor proposal(s).

SUMMARY			Revisions/Comments
15. Prime Contractor's Work (from line 8)		\$332	
16. Sub-contractor's Work (from line 16)		\$1,316	
17. SUBTOTAL (add lines 17 & 18)		\$1,648	
18. Contractor Fee on Sub-contractor	5.00% of line 16	5.00% \$66	
19. Contractor's Fee	15.00% of line 15	15.00% \$50	
20. SUBTOTAL (add lines 19-21)		\$1,763	
21. Prime Contractor's Bond Premium	0.49% of line 21	0.49% \$9	
22. TOTAL COST (Add Lines 22 & 23)		\$1,772	

Estimated time extension and justification:

Prime Contractor Name: Crowder Construction Company

Signature & Title of preparer: 
John C. Ivan, Project Manager

DATE: 18-Mar-09

Breakdown of Direct Costs

CROWDER JOB NO.: 40207

Date: 18-Mar-09

CROWDER QUOTATION NO.: 027 rev. 1

PROJECT NO.: NC706021.3000

Item No.	Items of Work	QTY	UNIT	MATERIAL		LABOR		R=1 O=0	EQUIPMENT			Sub-Contractors
				Unit Cost	Total Cost	Unit Cost	Total cost		Days	Rate	Total	
A.	Pressure Reducing Valves (not required per Owner/Engineer)											
B.	Relocate Shower/Eyewash Station											
	1 See attached Acorn Proposal 02/17/09.	1	LS									\$1,253.00
C.	1 Safety & Health		LS									
	2 Project Vehicles		DY									
	3 Per Diem		DY									
	4 Small Tools (6% of tradesmen labor)		LS									
	5 Fuel & Lubricates (30% of Equipment)		LS									
	6 As-Builts		LS									
	7 Daily Clean Up (5% of tradesmen labor)		LS									
	8 1-year warranty (5% of M,L,E,&S Cost)	1	LS									\$62.65
D.	1 Project Manager	0.5	DY			\$440.00	\$220.00					
	2 Project Electrical Manager		DY									
	3 Project Superintendent		DY									
	4 Project Electrical Superintendent		DY									
	5 Project Mechanical Engineer		DY									
	6 Project Civil Engineer		DY									
	7 Project Electrical Engineer		DY									
	8 Project Safety Coordinator		DY									
	9 Project Co-Op Engineer		DY									
	10 Project Admn		DY									
	11 Quality Control Officer		DY									
	12 Surveyor		DY									
Totals:					\$0.00		\$220.00		\$0.00	\$0.00	\$0.00	\$1,315.65



COUNTY OF CURRITUCK

Tax Department
P.O. Box 9
Currituck, North Carolina 27929

Tracy Sample, Tax Administrator
(252) 232-3005
(252) 232-3568 (FAX)

MEMORANDUM

TO: Board of County Commissioners

FROM: Tax Office ^{TS}

DATE: October 16, 2009

SUBJECT: Charge Levy on Motor Vehicles for August Renewals

Please charge to the Tax Collector the levy on motor vehicles for August. The following is a breakdown of the assessment and the total tax due.

ASSESSMENT

\$ 19, 129, 284

TAX AMOUNT

\$ 61, 187.24

TS/lew

10/15/2009 11:19 ICOUNTY OF CURRITUCK
 WILSON MOTOR VEHICLE TAX SCROLL - CYCLE 8, 2009
 2009 MOTOR VEHICLE SUMMARY

1 PG 263
 1MVNCSCT1

TAX CHARGES

ACCOUNT	DESCRIPTION	VALUE	LEVY	TAX
601	2008 COUNTY WIDE \$0.32	468,956	1,500.69	1,500.69
601	2009 COUNTY WIDE \$0.32	18,651,768	59,685.69	59,685.69
601	2009 GUINEA MILL WATERSHED	8,560	.86	.86

GRAND TOTALS VALUE: 19,129,284 LEVY: 61,187.24 TAX: 61,187.24

** END OF REPORT - Generated by Lillian Wilson **

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57
DR#	ACCOUNT	DESCRIPTION	DEBIT	CREDIT																																																				
10000	0010-0000-111009	TAXES REC - 2009 LEVY	61,186.38	00																																																				
10000	0010-0000-228100	DEFERRED REVENUE - TAXES REC	.00	61,186.38																																																				
25000	0025-0000-111009	TAXES REC - 2009 LEVY	.86	00																																																				
25000	0025-0000-228100	DEFERRED REVENUE - TAXES REC	.00	.86																																																				
JOURNAL TOTALS			61,187.24	61,187.24																																																				

CURRITUCK COUNTY
NORTH CAROLINA
October 19, 2009

The Board of Commissioners met at 7:00 p.m. for its regularly scheduled meeting at the Historic Courthouse in the Commissioners Meeting Room with the following members present: Chairman Etheridge, Commissioners O'Neal, Rorer, Nelms, Aydlett, Gregory, and Taylor.

Approval of Agenda

Commissioner O'Neal moved to amend the agenda by adding Appointment to Economic Development Board and Tourism Board and a Resolution opposing Option B of the Mid County Bridge. Commissioner Aydlett seconded the motion. Motion carried.

Invocation
Pledge of Allegiance

Item 1 Approval of Agenda

Item 2 Public Comment

Please limit comments to items not appearing on the regular agenda, please limit comments to 3 minutes.

Item 2A Resolution opposing Option B for the Mid-County Bridge.

Item 3 **Public Hearing and discussion** on funding for Nightingale Helicopter

Item 4 **Public Hearing and Action** PB 09-29 Sumit Gupta (OM Management Group, LLC): Request to amend the Currituck County Unified Development Ordinance, Chapter 2: Zoning Districts to allow multi-family dwellings in the Limited Business Hotels Allowed (LBH) zoning district with a special use permit.

Item 5 **Pat Irwin, Presentation of County-wide Fats, Oil and Grease (FOG) Program**

Item 6 **Appointment to Fire and EMS Advisory Board**

Item 6A Appointment to Tourism Advisory Board

Item 6B Appointment to Economic Development Board

Item 7 **Budget Amendments:**

Moyock Library (50790) - To transfer funds from professional services to contracted services for fuel used in generator awaiting power installation in the amount of \$4,898; watchlights in the amount of \$9,674; water tap fee in the amount of \$5,500 and grading and seeding along Campus Dr. in the amount of \$6,985.

Airport (10550) - \$5,000 To increase appropriations to purchase an ice machine, golf cart, secure the front counter area and a pressure washer from NC Flyports funding.

Item 8 **Consent Agenda:**

1. Amendment to Home Care Community Block Grant
2. Approval of October 5, 2009, Minutes
3. Resolution for surplus property damage by Lightning 7/17/2009
4. Report of Rural Fire Conditions; Corolla Fire and Rescue
5. Report of Rural Fire Conditions; Moyock Fire Department
6. Report of Rural Fire Conditions; Carova Beach
7. Report of Rural Fire Conditions; Crawford
8. Request to destroy Finance Records
9. Permission for Inter County Public Transit Authority to transfer the unspent portion of Currituck County's EDTAP Supplemental funding, in the amount of \$7,623.53 to Pasquotank County.

Item 9 Commissioner's Report

Item 10 County Manager's Report

Adjourn

Special Meeting

Currituck County Tourism Development Authority

Call to Order

TDA Budget Amendments

1 - increase appropriations for the Corolla Bike Path. This project will be funded by \$500,000 PARTF funds and up to \$860,549 in Occupancy Tax funding. There was \$500,000 allocated in the original budget and this amendment will make up the additional funding as required by the grant;

2 - increase appropriations for the AM radio signal to broadcast information in Corolla. \$30,000 was appropriated in the budget and this will bring the funding to \$36,000 for this project.

Adjourn

Invocation Pledge of Allegiance

The Reverend David Blackman, Mt. Zion/Hebron Methodist Church was present to give the invocation.

Public Comment

Please limit comments to items not appearing on the regular agenda, please limit comments to 3 minutes.

Chairman Etheridge opened the public comment period.

Mike Doxey, Aydlett, opposes Option B for Mid County Bridge.

Mike Barclay, Aydlett, opposes Option B for Mid County Bridge.

Penny Leary Smith, opposes Option B for the Mid County Bridge as presented by the Turnpike Authority.

Jim Rickman, opposes option B for the Mid County Bridge.

Vicky Jackson, opposes option B for the Mid County Bridge

Karen Pierce, opposes the Mid County Bridge.

Cynthia Hampton, questions when the resolution would be presented to oppose option B.

Sylvia Kirk, questioned the meeting with Turnpike Authority.

Commissioner Nelms stated he supported the residents of Aydlett opposing Option B.

Commissioner Aydlett also supports the residents of Aydlett.

Commissioner Taylor supports the residents of Aydlett.

There being no further comments, Chairman Etheridge closed the public comment period.

Resolution opposing Option B for the Mid-County Bridge.

Commissioner O'Neal moved to approve the following Resolution. Commissioner Aydlett seconded the motion. Motion carried.

RESOLUTION OF THE BOARD OF COMMISSIONERS FOR CURRITUCK COUNTY, NORTH CAROLINA SUPPORTING THE COMMUNITIES OF AYDLETT AND WATERLILY IN OPPOSITION TO U.S. 158/MID-CURRITUCK BRIDGE INTERCHANGE (OPTION B) AND BARRIER WALL PREVENTING SAFE AND CONVENIENT TRAVEL FROM WATERLILY ROAD

WHEREAS, since conceptualization of the Mid-Currituck Bridge in the 1970's the communities of Aydlett and Church's Island have requested, and the Board of Commissioners for Currituck County have agreed, that to the greatest extent possible there be minimal impact on quality of life and the safe movement within Aydlett and Church's Island; and

WHEREAS, there has been a community expectation that the Mid-Currituck Bridge toll plaza would be located near U.S. Highway 158, that Mid-Currituck Bridge traffic and Aydlett local traffic would not be merged and that the Church's Island community would be able to access U.S. Highway 158 from Waterlily Road in the same or similar manner as now accessed; and

WHEREAS, there is proposed an interchange design plan known as U.S. 158/Mid-Currituck Bridge Interchange (Option B) that if constructed will locate the Mid-Currituck Bridge toll plaza in the middle of the Aydlett community; a community of rural residential development and farmland, and require local Aydlett community traffic to merge with Mid-Currituck Bridge

traffic increasing the possibility of traveling public traffic detrimentally impacting the serenity of the Aydlett community; and

WHEREAS, there is proposed as part of the Mid-Currituck Bridge design the location of barrier walls at the intersection of Waterlily Road and U.S. Highway 158 that will require south bound traffic from Waterlily Road to travel north on U.S. Highway 158 across the Coinjock Bridge before making a hazardous traffic movement into the south bound lanes of U.S. Highway 158 which will cause great inconvenience to the Church's Island community and unnecessarily expose the community to an unsafe condition; and

WHEREAS, plans for U.S. 158/Mid-County Bridge Interchange (Option B) and barrier wall at Waterlily Road fail to meet the expectation and requirement of the Aydlett and Church's Island communities and the Board of Commissioners for Currituck County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for Currituck County, North Carolina that:

Section 1. Currituck County opposes an interchange design plan known as U.S. 158/Mid-Currituck Bridge Interchange (Option B) and supports an interchange design plan that locates the Mid-County Bridge toll plaza near U.S. Highway 158 and retains Aydlett Road (SR 1140) as the common and ordinary route for local traffic to and from the Aydlett community.

Section 2. Currituck County opposes the location of barrier walls at the intersection of Waterlily Road (SR 1142) and U.S. Highway 158 that will require south bound traffic from Waterlily Road to travel north on U.S. Highway 158 across the Coinjock Bridge before making a hazardous traffic movement into the south bound lanes of U.S. Highway 158 and requests consideration for the location of a service road extending underneath the Coinjock Bridge to allow southbound traffic from Waterlily Road to safely merge into the southbound lanes of U.S. Highway 158.

Section 3. The Clerk to the Board is directed to forward a certified copy of this resolution to Senator Marc Basnight, Representative Bill Owens, North Carolina Department of Transportation Secretary Eugene A. Conti, Jr., in his capacity as Chairman of the North Carolina Turnpike Authority, and David W. Joyner, Executive Director of the North Carolina Turnpike Authority.

Public Hearing and discussion on funding for Nightingale Helicopter

Dan Scanlon, County Manager, stated that Sentara Foundation is replacing their Nightingale Helicopter for a more advanced helicopter. The cost is 7 million and they are requesting Currituck County contribute 1 million.

Chairman Etheridge opened the public hearing.

Butch Petree, Grandy, expressed his concerns if the County could afford to support such a request.

Commissioner O'Neal questioned Chief Carter on the number of transports from Currituck.

Commissioner Taylor stated that funding could be over 7 years from occupancy tax.

Chairman Etheridge, commented that we are included in the Hampton Roads area and we should contribute to the area.

Commissioner Nelms questioned why Sentara was asking Currituck County for funds.

Commissioner O'Neal stated that this should be taken up during the budget process.

Commissioner Gregory stated that the county needed to make a contribution for this much needed service.

There being no further comments, the public hearing was closed.

Public Hearing and Action PB 09-29 Sumit Gupta (OM Management Group, LLC): Request to amend the Currituck County Unified Development Ordinance, Chapter 2: Zoning Districts to allow multi-family dwellings in the Limited Business Hotels Allowed (LBH) zoning district with a special use permit.

Ben Woody, Planning Director, stated that the enclosed text amendment submitted by Sumit Gupta requests that multi-family dwellings be allowed in the Limited Business Hotels Allowed (LBH) zoning district with a special use permit. Currently the Unified Development Ordinance (UDO) allows for multi-family dwellings in the General Business (GB) zoning district with a special use permit. This request basically extends the GB multi-family use to the LBH district.

Multi-family uses are defined as townhomes, condos and apartments. In addition to the GB zoning district, the UDO also provides for multi-family dwellings in the Residential Multi-family (RMF) and Planned Unit Development (PUD) overlay zoning districts. If this request is approved, it will create a fourth zoning option for multi-family developments.

The context for this request is the establishment of a mixed use development on a parcel of land zoned LBH in the Corolla area. As presented the text amendment will provide for multi-family dwellings with a special use permit in the LBH zoning district, but does not require accompanying commercial development. As is the case with any text amendment, the resulting changes will apply county wide.

This request appears to be consistent with Policy CD8 of the 2006 Land Use Plan provided the addition of multi-family uses in the LBH zoning district are established in the context of a mixed use development.

The Planning Board considered Mr. Gupta's request at their September 15th meeting and unanimously recommended approval provided that when multi-family is located within the LBH zoning district it shall contain mixed-uses, including but not limited to offices, hotels, retail, recreation, entertainment, and a variety of housing types. Attached please find the Planning Board meeting minutes.

PLANNING BOARD DISCUSSION

Mr. Valdivieso stated the request is for an oceanfront property located in Pine Island, and he understands that this request would go countywide if approved. This would not be the fourth zoning tool to allow multi-family condos in this situation because the RMF overlay district is not allowed in the Outer Banks. The property is currently zoned LBH at 14 acres; the minimum size for a PUD is 50 acres, site specific.

They would like to put a hotel on this property and it is important to know as well that this site, as is, allows 20 hotel units per acre not condos. The conceptual site specific is mixed use development. The request is to allow multi-family in the LBH zoning district and currently GB is the only zoning district which allows it. Mr. Valdivieso stated he is only aware of two other stand alone pieces which are zoned LBH in the County. There are other LBH districts associated with a PUD.

Mr. Gupta stated that under the LBH zoning they are planning a hotel site and technically they are allowed 20 units per acre which is approximately 280 potential hotel units. They are not looking for this many units but are looking at a resort style hotel with approximately 100 units mixed with retail and restaurant. If this request is approved, it would allow up to 35 condos in the multi-family use which would add value to the project. They would like to incorporate condos in the project up to 35 units.

The Planning Board discussed the effects of implementing the proposed text amendment countywide.

Ms. Wilson stated she would like to make a recommendation that retail and some food be available on the site which might contain some of the traffic and keep the residents/visitors on site.

Mr. Kovacs asked if there was any way that you could incorporate mixed-use to the multi-family overlay in the LBH zoning district.

Mr. Valdivieso stated the applicant is open to adding some language to the text amendment.

Ms. Voliva stated the Planning Board could make a recommendation to add language to the text amendment. Ms. Voliva stated that you could not just apply this language to the Outer Banks, but you could establish additional special requirements.

ACTION

Mr. Kovacs motioned to recommend approval of PB 09-29 Sumit Gupta to allow multi-family dwellings in the LBH zoning district provided staff add language for the addition of a mixed use element requirement for multi-family overlay district in the LBH zone. Ms. Wilson seconded the motion. Motion carried unanimously.

**Sumit Gupta - LBH Zoning District
PB 09-29
UDO AMENDMENT REQUEST**

An amendment to Chapter 2 and Chapter 3: Zoning Districts to allow multi-family dwellings in the Limited Business Hotels Allowed (LBH) zoning district with a special use permit.

BE IT ORDAINED by the Board of Commissioners of the County of Currituck, North Carolina that the Unified Development Ordinance of the County of Currituck be amended as follows:

Item 1: That Chapter 2: Zoning Districts, Section 2.5 Permitted Uses Table is amended by adding the following underlined language:

Section 2.5 Permitted Uses Table

Use	LUC	Zoning Districts											Special Requirements
		A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM	
Multi-family (townhomes, condos, apartments)	III							S		<u>S</u>			3.2.6

Item 2: That Chapter 3: Special Requirements, Section 3.2.6.1. Use is amended by adding the following underlined language:

C. In the LBH zoning district multi-family developments shall contain a mixed-use element that would include commercial uses permissible in accordance with the Permitted Uses Table, LBH zoning district. Such commercial uses would include offices, hotels, retail, recreation, and entertainment.

Item 3: The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Chairman Etheridge opened the public hearing.

Eddie Valdivieso, Engineer, reviewed the request and was there to answer questions.

There being no further comments, Chairman Etheridge closed the public hearing.

Commissioner Aydlett moved to approve due to its consistency with the policies of the 2006 Land Use Plan and that the request is reasonable and in the public interest and promotes orderly growth and development. Further, the following language shall be included:

1. Multifamily uses within the LBH zoning district shall only be allowed in a mixed-use development, including but not limited to office, retail, hotel, recreation, and entertainment uses.
2. The multifamily component of a mixed use development shall not exceed 30% of the cumulative gross floor area.

Commissioner O'Neal seconded the motion. Motion carried.

Pat Irwin, Presentation of County-wide Fats, Oil and Grease (FOG) Program

Pat Irwin, Public Utilities Director, reviewed the Fats, Oils, and Grease Program. Mr. Irwin recommends the adoption of the FOG Program to reduce the amounts of sanitary sewer overflows due to the concentration of fats, oils and grease in the county operated wastewater collection systems.

Commissioner Nelms moved to approve the program. Commissioner Gregory seconded the motion. Motion carried.

Appointment to Fire and EMS Advisory Board

Commissioner O'Neal moved to appoint Stanley Griggs. Motion carried.

Tourism Advisory Board

Chairman Etheridge moved to appoint Paul Robinson. Motion carried.

Economic Development Board

Chairman Etheridge moved to appoint Dr. Ed Cornet. Motion carried.

Budget Amendments:

Moyock Library (50790) - To transfer funds from professional services to contracted services for fuel used in generator awaiting power installation in the amount of \$4,898; watchlights in the amount of \$9,674; water tap fee in the amount of \$5,500 and grading and seeding along Campus Dr. in the amount of \$6,985.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
50790-594500	Contracted services	27,057	
50790-596100	Professional Services		\$ 27,057
		<u>\$ 27,057</u>	<u>\$ 27,057</u>

Explanation: *Moyock Library (50790) - To transfer funds from professional services to contracted services for fuel used in generator awaiting power installation in the amount of \$4,898; watchlights in the amount of \$9,674; water tap fee in the amount of \$5,500 and grading and seeding along Campus Dr. in the amount of \$6,985.*

Net Budget Effect: County Governmental Construction Fund (50) - No change.

Airport (10550) - \$5,000 To increase appropriations to purchase an ice machine, golf cart, secure the front counter area and a pressure washer from NCFlyports funding.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10550-590000	Capital Outlay	5,000	
10330-449900	Miscellaneous Grants		\$ 5,000
		<u>\$ 5,000</u>	<u>\$ 5,000</u>

Explanation: *Airport (10550) - To increase appropriations to purchase an ice machine, golf cart, secure the front counter area and a pressure washer from NCFlyports funding.*

Net Budget Effect: Operating Fund (10) - Increased by \$5,000.

Commissioner Taylor moved to approve. Commissioner Gregory seconded the motion. Motion carried.

Consent Agenda:

1. Amendment to Home Care Community Block Grant
2. Approval of October 5, 2009, Minutes
3. Resolution for surplus property damage by Lightning 7/17/2009
4. Report of Rural Fire Conditions; Corolla Fire and Rescue
5. Report of Rural Fire Conditions; Moyock Fire Department
6. Report of Rural Fire Conditions; Carova Beach
7. Report of Rural Fire Conditions; Crawford
8. Request to destroy Finance Records
9. Permission for Inter County Public Transit Authority to transfer the unspent portion of Currituck County's EDTAP Supplemental funding, in the amount of \$7,623.53 to Pasquotank County.

Commissioner Gregory moved to approve. Commissioner Taylor seconded the motion. Motion carried.

Commissioner's Report

Commissioner O'Neal questioned staff for an update on the ambulance for Lower Currituck Fire Department. He also directed staff to send a violation notice to the railroad for not maintaining the ditch in Moyock.

Commissioner Nelms stated that the CDBG Director at the Albemarle Commission is no longer there.

Commissioner Taylor stated that she attended Judge Cole's swearing in for Superior Court Judge.

The Board commended Randall Edwards, PIO, for his work on the home page.

Commissioner O'Neal requested staff to send a letter to the Secretary of the Navy on the deliberate harassment of Currituck County by flying the Navy Jets over the county. Commissioner Aydlett seconded the motion. Motion carried.

County Manager's Report

No comments

Adjourn

There being no further business, the meeting adjourned.

Special Meeting

Currituck County Tourism Development Authority

Call to Order

TDA Budget Amendments

1 - increase appropriations for the Corolla Bike Path. This project will be funded by \$500,000 PARTF funds and up to \$860,549 in Occupancy Tax funding. There was \$500,000 allocated in the original budget and this amendment will make up the additional funding as required by the grant;

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
15447-587050	T T - Co Govt Construction Fund	\$ 360,549	
15380-481000	Investment Earnings		\$ 360,549
		\$ 360,549	\$ 360,549

Explanation: *Occupancy Tax Fund (15)* - Transfer funds for additional match funding for the Corolla Greenway project, which will be funded through \$500,000 PARTF grant and \$860,549 Occupancy Tax funds.

Net Budget Effect: Occupancy Tax Fund (15) - Increased by \$360,549.

2 - increase appropriations for the AM radio signal to broadcast information in Corolla. \$30,000 was appropriated in the budget and this will bring the funding to \$36,000 for this project.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
15442-590441	Technology over \$1,000	\$ 6,000	
15380-481000	Investment Earnings		\$ 6,000
		\$ 6,000	\$ 6,000

Explanation: *Occupancy Tax Fund (15)* - Increase appropriations for additional funding needed for AM radio information on the Currituck Outer Banks.

Net Budget Effect: Occupancy Tax Fund (15) - Increased by \$6,000.

Commissioner Aydlett moved to approve. Commissioner O'Neal seconded the motion. Motion carried.

Adjourn

There being no further business, the meeting adjourned.



BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 2nd day of November 2009, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2010.

		Debit	Credit
<u>Account Number</u>	<u>Account Description</u>	<u>Decrease Revenue or Increase Expense</u>	<u>Increase Revenue or Decrease Expense</u>
27608-545000	Contracted Services	15,000	
27390-499900	Fund Balance Appropriated		\$ 15,000
		<u>\$ 15,000</u>	<u>\$ 15,000</u>

Explanation: *Moyock Watershed District (27608)* - To appropriate fund balance for drainage in the Moyock Watershed District.

Net Budget Effect: Moyock Watershed District Fund (27) - Increased by \$15,000.

Minute Book # _____, Page # _____

Journal # _____

Clerk to the Board



BUDGET AMENDMENT

The Currituck County Board of Commissioners, at a meeting on the 2nd day of November 2009, passed the following amendment to the budget resolution for the fiscal year ending June 30, 2010.

<u>Account Number</u>	<u>Account Description</u>	Debit <u>Decrease Revenue or Increase Expense</u>	Credit <u>Increase Revenue or Decrease Expense</u>
10430-532000	Supplies	3,368	
10330-449900	Miscellaneous Grants		\$ 3,368
		<u>\$ 3,368</u>	<u>\$ 3,368</u>

Explanation: *Elections (10430)* - To record grant funding from the NC State Board of Elections to upgrade bells at polling sites.

Net Budget Effect: Operating Fund (10) - Increased by \$3,368.

Minute Book # _____, Page # _____

Journal # _____

Clerk to the Board

