

CAROLINA BEACH

Town Council Workshop

Tuesday, October 24, 2023 – 9:00 AM

Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



AGENDA

CALL TO ORDER

CONSENT AGENDA

1. Appropriate match for NCDOT Bike & Ped Plan FY24
2. Appropriate remaining HVAC Loan funds to debt service FY23

DISCUSSION ITEMS

3. Discussion Regarding North Carolina Avenue Traffic Patterns and Surrounding Bike Path Routes
4. Discuss Property Lease at 3 Carolina Beach Avenue South
5. Manager's Update

COUNCIL COMMENTS

ADJOURNMENT



AGENDA ITEM COVERSHEET

PREPARED BY: Debbie Hall, Finance Director

DEPARTMENT: Finance

MEETING: Town Council – 10/24/2023

SUBJECT: Appropriate match for NCDOT Bike & Ped Plan FY24

BACKGROUND:

This Project consists of a Bicycle and Pedestrian Plan for the Town of Carolina Beach. The Department will prepare the plan. The Municipality shall provide a local match of \$6,000 and shall be responsible for any costs that exceed the total available funding of \$60,000.

Appropriations:

Appropriate \$6,000 to account 10-420-046 Executive Professional Services from the General Fund fund balance to cover the Town's matching funds for the project.

BUDGET IMPACT:

The appropriation will affect the budget.

ACTION REQUESTED:

Approve the budget amendment as presented by the Finance Director.

ACCOUNTS RECEIVABLE AGREEMENTS

PAYMENT TERMS AND METHODS



DS
BB

I acknowledge that upon execution of this Agreement, we must submit a down payment, if required. I also acknowledge that we may pre-pay any portion of the estimated cost noted in this Agreement, prior to final billing by the Department.

Please refer to your Agreement's PAYMENT TERMS to correctly remit any payment due to the Department.

<u>PAYMENT TERMS:</u>	<u>PAYMENT TIMING:</u>
PAYMENT UPON AGREEMENT EXECUTION	Please submit the amount of agreed upon payment via one of the below methods, <u>once you have received notice of execution of the Agreement.</u>
PAYMENT PRIOR TO LETTING (OR START OF PHASE)	You will be notified by the Project Manager when payment will be due. Please remit payment within 60 days of notification.
PAYMENT UPON BILLING	The Department will bill at the completion of the Project (or when defined in the Agreement). All payments are due within 60 days of invoicing.

NOTE: You may pre-pay any portion of an estimated cost, prior to Departmental Billing. The Department will adjust final billing to account for any pre-payments made.

LATE PAYMENTS AND INTEREST RATES:

For payments not received within 60 days, the Department must charge a statutory interest rate of prime plus one percent (1%) on all Utility Relocation Agreements. For any other Receivable Agreement, the Department may charge a late fee and/or interest.

PAYMENT METHODS

1. SEND PAYMENT BY CHECK OR

MAIL TO:
 NCDOT – Accounts Receivable
 1514 Mail Service Center
 Raleigh, NC 27699-1514

INCLUDE:

- Agreement ID (10000xxxxx)
- WBS Element

2. SEND PAYMENT VIA ACH (Automated Clearinghouse)

Initiate ACH through your bank* and send an e-mail to:

- ✓ Shamorah Fountain - sfountain1@ncdot.gov
- ✓ Kay Lee - klee@ncdot.gov

INCLUDE:

- Agreement ID# (10000xxxxx)
- WBS Element
- Amount of Payment

**If you need NCDOT's Account information, contact Shamorah Fountain at sfountain1@ncdot.gov*

Failure to follow the above steps and remit payment per the terms in the Agreement may result in delays to project delivery. Please contact your Division Project Manager for questions regarding payment terms.

AGREEMENT OVERVIEW

NORTH CAROLINA
NEW HANOVER

DATE: 8/29/2023

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION (“DEPARTMENT”)

TIP: M-0567HD

AND

WBS Element: 51089.8.4

FEDERAL-AID NUMBER:

TOWN OF CAROLINA BEACH
 (“MUNICIPALITY”)

CFDA:

The purpose of this Agreement is to identify the participation in project costs, project delivery and/or maintenance, by the other party to this Agreement, as further defined in this Agreement.

SCOPE OF PROJECT:

The Project consists of the planning and production of a Bicycle & Pedestrian Plan (Plan) in accordance with the Department’s policies and procedures. The Department’s funding participation in the Project shall be restricted to development of this Plan, as further set forth in this Agreement.

COSTS TO THE OTHER PARTY: \$6,000

ESTIMATED COST OF THE PROJECT: \$60,000

PAYMENT TERMS: Municipality will provide payment upon execution.

EFFECTIVE DATES OF AGREEMENT:

START: Upon Full Execution of this Agreement

END: Agreement remains in effect for two years, and thereafter, unless terminated

This **AGREEMENT** is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the **DEPARTMENT** and the **TOWN OF WOODFIN**, hereinafter referred to as the **MUNICIPALITY**, and collectively as the **PARTIES**.

The parties to this Agreement, listed above, intend that this Agreement, together with all attachments, schedules, exhibits, and other documents that both are referenced in this Agreement and refer to this Agreement, represents the entire understanding between the parties with respect to its subject matter and supersedes any previous communication or agreements that may exist.

WHEREAS STATEMENTS

WHEREAS, 23 USC 505 allows State Planning and Research (SPR) federal funds to funds to be available for certain specified transportation activities; and

WHEREAS, in accordance with G.S. 136-66.2, the NC General Assembly requires each **MUNICIPALITY** to develop a comprehensive transportation plan that will serve present and anticipated travel demand; and

WHEREAS, the **DEPARTMENT's** Integrated Mobility Division (IMD) and the Transportation Planning Division have created a matching grant program to encourage the development of comprehensive municipal bicycle plans and pedestrian plans, which may serve as a component of the comprehensive transportation plan; and

WHEREAS, the **DEPARTMENT** has allocated state matching funds to augment the federal funds available for these activities; and

WHEREAS, the **MUNICIPALITY** has requested funding for the development of a Bicycle and/or Pedestrian Plan, as more fully described in this Agreement and hereinafter referred to as the Project; and

WHEREAS, the **MUNICIPALITY** has requested that the **DEPARTMENT** administer the Project in coordination with the **MUNICIPALITY**; and

WHEREAS, the **MUNICIPALITY** has agreed to participate in the cost of the project as hereinafter set out; and

WHEREAS, this Agreement is made under the authority granted to the **DEPARTMENT** by the North Carolina General Assembly including, but not limited to, the following applicable legislation: General Statutes of North Carolina (NCGS) Section 136-66.2 and Section 136-71.6, , to participate in the planning, construction and/or implementation of the Project approved by the Board of Transportation.

NOW THEREFORE, this Agreement states the promises and undertakings of each party as herein provided, and the **PARTIES** do hereby covenant and agree, each with the other, as follows:

DEVELOPMENT OF PLAN

1. The **DEPARTMENT**, and or its agent, shall prepare the Bicycle and Pedestrian Plan (Plan) in accordance with the Department's policies and procedures for the **MUNICIPALITY**, following the IMD's Content Standards for NCDOT Bicycle and Pedestrian Plans.
2. The **MUNICIPALITY** shall participate in providing data and logistical support for public meetings and other required public notices.
3. The **DEPARTMENT** will provide a preliminary draft of the Plan to the **MUNICIPALITY** for review and comment. The **MUNICIPALITY** shall provide comments to the Department within three (3) months. Upon receipt of comments from the Municipality, the Department will provide a final draft.

COMPLETION AND ADOPTION OF PLAN

6. The governing body of the **MUNICIPALITY** shall consider the adoption of the Plan as provided in the Final Draft by the **DEPARTMENT**. If the Council requests significant changes prior to adoption, the Plan will be modified and resubmitted to the **MUNICIPALITY** for final approval within three (3) months.
7. The **MUNICIPALITY** shall receive digital files and hard copies of the approved Plan. The **MUNICIPALITY** shall be responsible for the distribution of the final documents to the appropriate local agencies and interested parties.

TIME FRAMES

8. The **DEPARTMENT** has a required time frame of two years to complete the Project. It is important that the **MUNICIPALITY** provide necessary support and responses to the **DEPARTMENT** in a timely manner. Any delays on the part of the **MUNICIPALITY** may affect the ability of the **DEPARTMENT** to provide financial support for the Project.

FUNDING

9. The total estimated cost of the Project is \$60,000. The **DEPARTMENT** shall provide a maximum amount of \$54,000. The Municipality shall provide \$6,000 and all costs that exceed the estimated cost of \$60,000.
10. Upon full execution of the Agreement, the **MUNICIPALITY** shall submit payment for \$6,000 to the **DEPARTMENT**, in accordance with the cover memo attached to this Agreement.
11. Upon completion of the project, if actual costs exceed the total estimated cost of \$60,000 the **MUNICIPALITY** shall reimburse the **DEPARTMENT** the underpayment within sixty (60) days of invoicing by the **DEPARTMENT**. The **DEPARTMENT** shall charge a late payment penalty and interest on any unpaid balance due in accordance with G.S. 147-86.23.
12. Upon completion of the project, if actual costs are less than the total available funding of \$60,000, the **DEPARTMENT** shall reimburse the **MUNICIPALITY** any overpayment at the above matching share.

REPORTING REQUIREMENTS

13. The **DEPARTMENT** is subject to NC Article 2, Chapter 36 (136-41.5), which mandates an annual report on use of bicycle and pedestrian planning grant funds. By entering into this agreement with the **DEPARTMENT**, the **MUNICIPALITY** acknowledges their participation in annual reviews of the status of implementation of projects identified in the completed plan.

STANDARD PROVISIONS

AGREEMENT MODIFICATIONS

14. Any modification to scope, funding, responsibilities, or time frame will be agreed upon by all **PARTIES** by means of a written Supplemental Agreement.

ASSIGNMENT OF RESPONSIBILITIES

15. The **DEPARTMENT** must approve any assignment or transfer of the responsibilities of the Local Public Agency set forth in this Agreement to other parties or entities.

AGREEMENT FOR IDENTIFIED PARTIES ONLY

16. This Agreement is solely for the benefit of the identified parties to the Agreement and is not intended to give any rights, claims, or benefits to third parties or to the public at large.

OTHER AGREEMENTS

17. The **MUNICIPALITY** is solely responsible for all agreements, contracts, and work orders entered into or issued by the **MUNICIPALITY** to meet the terms of this Agreement. The **DEPARTMENT** is not responsible for any expenses or obligations incurred for the terms of this Agreement except those specifically eligible for the funds and obligations as approved by the **DEPARTMENT** under the terms of this Agreement.

TITLE VI

18. The other party to this Agreement shall comply with Title VI of the Civil Rights Act of 1964 (Title 49 CFR, Subtitle A, Part 21) and related nondiscrimination authorities. Title VI and related authorities prohibit discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

FACSIMILE

19. A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the Agreement as binding as an original, and the parties agree that this Agreement can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the Agreement.

AUTHORIZATION TO EXECUTE

20. The **PARTIES** hereby acknowledge that the individual executing this Agreement has read this Agreement, conferred with legal counsel, fully understands its contents, and is authorized to execute this Agreement and to bind the respective parties to the terms contained herein.

DEBARMENT POLICY

21. It is the policy of the **DEPARTMENT** not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, the **MUNICIPALITY** certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Agency or **DEPARTMENT** and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

INDEMNIFICATION

22. To the extent authorized by state and federal claims statutes, the **MUNICIPALITY** shall be responsible for its actions under the terms of this agreement and save harmless the FHWA (if applicable), the **DEPARTMENT**, and the State of North Carolina, their respective officers, directors, principals, employees, agents, successors, and assigns to the extent allowed by law, from and against any and all claim for payment, damages and/or liabilities of any nature, asserted against the Department in connection with this Agreement. The **DEPARTMENT** shall not be liable and shall be held harmless from any and all third-party claims that might arise on account of the **DEPARTMENT's** negligence and/or responsibilities under the terms of this agreement.

AVAILABILITY OF FUNDS

23. All terms and conditions of this Agreement are dependent upon, and, subject to the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

GIFT BAN

24. By Executive Order 24, issued by Governor Perdue, and NCGS 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e. Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

SIGNATURE PAGE

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

TOWN OF CAROLINA BEACH

FED TAX ID: 566001193

REMITTANCE ADDRESS:

1121 N Lake Park Blvd, Carolina Beach NC 28428

AUTHORIZED SIGNER

DocuSigned by:

Bruce Oakley

3EAAAB895EC547C...

DATE SIGNED: 10/12/2023

PRINT NAME: Bruce Oakley

TITLE: Town Manager

IF APPLICABLE, this Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

FINANCE OFFICER:

DocuSigned by:

Debbie Hall

8C87C9F915DC4D1...

DATE SIGNED: 10/16/2023

PRINT NAME: Debbie Hall

TITLE: Finance Director

DEPARTMENT OF TRANSPORTATION

DocuSigned by:

Julie White

B1309F15DE4B46B...

BY: _____

(DEPUTY SECRETARY FOR MULTIMODAL TRANSPORTATION)

DATE: 10/16/2023

PRESENTED TO THE BOARD OF TRANSPORTATION: 10/4/2023 (DATE)



Integrated Mobility Division

AGREEMENTS TRANSMITTAL FORM

Date: 8/24/2023

From: John Vine-Hodge
 Name
 through Brennon Fuqua
 Interim Director of IMD

Deputy Director, Planning & Programming
 Title
 DocuSigned by:
 Signature: F21F90D3B0CA4AF...

Brennon Fuqua
 Signature: F21F90D3B0CA4AF...

DocuSigned by:
 Signature: F0D6D2C834CD...

10/16/2023
 Date

10/16/2023
 Date

Project: TIP # M-0567HD WBS# 51089.8.4 County: New Hanover

For Signature From:

- Transportation Secretary
- Chief Deputy Secretary
- Deputy Secretary of Multi-Modal Transportation
- Other

[Signature Line]

Attorney General Review:

- Approved as to Form

[Signature] [Date]

Parties to the Agreement:

Towns of Carolina Beach

Description of Work:

Preparation of a Bicycle & Pedestrian Plan

Estimated Cost to NCDOT:

\$60,000 (Federal + State)

Amount to be reimbursed to NCDOT:

[Empty Box]

BOT approval date:

Item I: 06/05/2023

BOND DEBT SERVICE

Town of Carolina Beach, NC Customer # 9933000645 NAICS 921140
 HVAC System Note No. 00033

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service	Bond Balance	Total Bond Value
02/07/2022						687,953.00	687,953.00
05/07/2022	68,795.30	2.140%	3,680.55	72,475.85		619,157.70	619,157.70
06/30/2022					72,475.85	619,157.70	619,157.70
05/07/2023	68,795.30	2.140%	13,249.97	82,045.27		550,362.40	550,362.40
05/26/2023	40,757.23	2.140%	621.60	41,378.83		509,605.17	509,605.17
06/30/2023					123,424.11	509,605.17	509,605.17
05/07/2024	68,795.30	2.140%	10,329.98	79,125.28		440,809.87	440,809.87
06/30/2024					79,125.28	440,809.87	440,809.87
05/07/2025	68,795.30	2.140%	9,433.33	78,228.63		372,014.57	372,014.57
06/30/2025					78,228.63	372,014.57	372,014.57
05/07/2026	68,795.30	2.140%	7,961.11	76,756.41		303,219.27	303,219.27
06/30/2026					76,756.41	303,219.27	303,219.27
05/07/2027	68,795.30	2.140%	6,488.89	75,284.19		234,423.97	234,423.97
06/30/2027					75,284.19	234,423.97	234,423.97
05/07/2028	68,795.30	2.140%	5,016.67	73,811.97		165,628.67	165,628.67
06/30/2028					73,811.97	165,628.67	165,628.67
05/07/2029	68,795.30	2.140%	3,544.45	72,339.75		96,833.37	96,833.37
06/30/2029					72,339.75	96,833.37	96,833.37
05/07/2030	68,795.30	2.140%	2,072.23	70,867.53		28,038.07	28,038.07
06/30/2030					70,867.53	28,038.07	28,038.07
05/07/2031	28,038.07	2.140%	600.01	28,638.08			
06/30/2031					28,638.08		
	687,953.00		62,998.82	750,951.82	750,951.82		



AGENDA ITEM COVERSHEET

PREPARED BY: Debbie Hall, Finance Director

DEPARTMENT: Finance

MEETING: Town Council – 10/24/2023

SUBJECT: Appropriate remaining HVAC Loan funds to debt service FY23

BACKGROUND:

The Municipal HVAC System came in under budget. There was \$41,378.83 left in the project fund account that was applied towards the principal and interest for the loan.

Appropriations:

Appropriate \$41-378.83 to account 10-409-015 General Fund Debt Service and account 10-397-000 Transfer from other funds to record as a debt service payment for FY23.

BUDGET IMPACT:

The appropriation will not affect the budget.

ACTION REQUESTED:

Approve the budget amendment as presented by the Finance Director.



AGENDA ITEM COVERSHEET

PREPARED BY: Kim Ward, Town Clerk

DEPARTMENT: Clerk

MEETING: Town Council 10/24/2023

SUBJECT: Discussion Regarding North Carolina Avenue Traffic Patterns and Surrounding Bike Path Routes

BACKGROUND:

Council and staff will discuss options for the intersections on North Carolina Avenue and nearby bicycle routes.

ACTION:

Provide staff direction on any changes to the traffic patterns on and around North Carolina Avenue.



AGENDA ITEM COVERSHEET

PREPARED BY: Kim Ward, Town Clerk

DEPARTMENT: Clerk

MEETING: Town Council 10/24/2023

SUBJECT: Discuss Property Lease at 3 Carolina Beach Avenue South

BACKGROUND:

Council will review the current lease for the Town owned property at 3 Carolina Beach Avenue South.

ACTION:

Provide staff direction on the renewal of the lease that is set to expire on January 1, 2024.

THIS LEASE AGREEMENT ("Lease") made and entered into this the 16 day of May 2023 ("Effective Date"), by and between the CAROLINA BEACH LAND HOLDINGS LLC whose address is 1202 N Lake Park Blvd (hereinafter collectively called "Tenant") and The Town of Carolina Beach, a municipality, whose address is: 1121 N. Lake Park Boulevard, Carolina Beach, North Carolina, 28428 (hereinafter called "Owner")

WITNESSETH

In consideration of the rentals to be paid to the Owner by the Tenant, as hereinafter provided, and of the covenants and agreements upon the part of the Owner and the Tenant to be kept and performed, the Owner hereby leases to the Tenant, and the Tenant leases from the Owner, that real property known as 3 CAROLINA BEACH AVE S and as described on Exhibit A ("Leased Premises").

1. **Term of Lease.** The term of the Lease shall begin on May 16, 2023 and shall terminate on January 1, 2024 ("Term"), unless the term is sooner terminated in accordance with the provisions herein. Notwithstanding the foregoing, either party may terminate this Lease by providing fifteen (15) days' notice of its intent to terminate to the other party. Notice shall be given in accordance with Paragraph 16 of this Lease.
2. **Rental.** Except as otherwise expressly provided herein, during the term of this Lease, Tenant shall pay to Owner Four hundred dollars per month (\$400.00) ("Rent") for Rental which shall be due without demand on the first day of each month. In addition to the Rent, Tenant agrees to accommodate placement of a minimum of two (2) photo props and a minimum of six (6) tables designed to accommodate four or more persons each and that are available for public use.
3. **Utilities.** During the terms of this Lease, Tenant shall pay for all utilities used in or about the Leased Premises.
4. **Events of Default.** The happening of any one or more of the following events (hereinafter any one of which may be referred to as an "Event of Default") during the term of this Lease, or any renewal or extension thereof, shall constitute a breach of this Lease on the part of the Tenant: (a) Tenant fails to pay the Lease Rental as provided for herein; (b) Tenant abandons or vacates the Leased Premises; (c) Tenant fails to comply with or abide by and perform any other obligation imposed upon Tenant under this Lease.
5. **Remedies Upon Default.** Upon the occurrence of Event of Default, Owner may pursue any one or more of the following remedies separately or concurrently, without prejudice to any other remedy herein provided or provided by law; (a) if the Event of Default involves nonpayment of Lease rental and Tenant fails to cure such default within five (5) days after receipt of written notice thereof from Owner, or if the Event of Default involves a default in performing any of the terms or provisions of the Lease other than the payment of the Lease rental and Tenant fails to cure such default within fifteen (15) days after receipt of written notice of default from Owner, Owner may terminate this Lease by giving written notice to Tenant and upon such termination shall be entitled to recover from Tenant damages as may be permitted under applicable law; or (b) if the Event of Default involves any matter other than those set forth in item (a) of this paragraph, Owner may terminate this Lease by giving written notice to Tenant and, upon such termination, shall be

may terminate this Lease by giving written notice to Tenant and, upon such termination, shall be entitled to recover from the Tenant damages in an amount equal to all rental which is due and all rental which would otherwise have become due throughout the remaining term of this Lease, or any renewal or extension thereof (as if this Lease had not been terminated); or (c) upon any Event of Default, Owner, as Tenant's agent, without terminating this Lease, may enter upon and rent the Leased Premises, in whole or in part, at the best price obtainable by reasonable effort, without advertisement and by private negotiations and for any term Owner deems proper, with Tenant being liable to Owner for the deficiency, if any, between Tenant's rent hereunder and the price obtained by Owner on reletting, provided however, that Owner shall not be considered to be under any duty by reason of this provision to take any action to mitigate damages by reason of Tenant's default. In the event Owner hires an attorney to enforce its rights upon default, Tenant shall in addition be liable for reasonable attorney's fees and all costs of collection.

6. **Insurance.** Tenant agrees to and hereby does indemnify and save Owner harmless against all claims for damages to persons or property by reason of Tenant's use or occupancy of the Leased Premises, and all expenses incurred by Owner because thereof, including attorney's fees and court costs. Supplementing the foregoing and in addition thereto, Tenant shall during the term of this Lease and any extension or renewal thereof, and at Tenant's expense, maintain in full force and effect comprehensive general liability insurance with limits of \$1,000,000 per person and \$1,000,000.00 per incident, and property damage limits of \$1,000,000.00, which insurance shall contain a special endorsement recognizing and insuring any liability accruing to Tenant under the first sentence of the paragraph, and naming Owner as additional insured. Tenant shall provide evidence of such insurance to Owner prior to the commencement of the term of this Lease and from time to time as reasonably requested.

7. **Environmental.** Lessee shall keep and maintain the Premises in compliance with and shall not cause or permit the premises to be in violation of any federal, state, or local laws, ordinances or regulations relating to environmental conditions on, under or about the Premises, including but not limited to, soil and groundwater conditions.

8. **Effect of Termination of Lease.** No termination of this Lease prior to the normal ending thereof, by lapse of time or otherwise, shall affect the Owner's right to collect rent for the period prior to termination thereof.

9. **Quiet Enjoyment.** So long as Tenant observes and performs the covenants and agreements contained herein, it shall at all times during the Lease term peacefully and quietly have and enjoy possession of the Leased Premises, but always subject to the terms hereof. Provided, however, that in the event Owner shall sell or otherwise transfer its interest in the Leased Premises, Tenant agrees to attorn to any new owner or interest holder and shall, if requested by Owner, execute a separate agreement reflecting such attornment, provided that said agreement requires the new owner or interest holder to recognize its obligations and Tenant's rights hereunder.

10. **Holding Over.** If Tenant remains in possession of the Leased Premises after expiration of the term hereof, with Owner's acquiescence and without any express agreement of the parties, the Tenancy shall be a week-to-week tenancy.

11. **Attorney's Fees.** In the event that any action or proceeding is brought to enforce any term, covenant, or condition of the Lease on the part of Owner or Tenant, the prevailing party in such litigation shall be entitled to recover reasonable attorney's fees and costs.

12. **Rights Cumulative.** All rights, powers and privileges conferred hereunder upon parties hereto shall be cumulative and not restrictive of those given by law.

13. **Waiver of Rights.** No failure of Owner to exercise any power given Owner hereunder or to insist upon strict compliance by Tenant of its obligations hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Owner's right to demand exact compliance with the terms hereof.

14. **Time of Essence.** Time is of the essence in this Lease.

15. **Definitions.**

(a) "Owner" as used in this Lease shall include the undersigned, its heirs, representatives, assigns, and successors in title to the Leased Premises.

(b) "Agent" as used in this Lease shall mean the party designated as same by Owner, its heirs, representatives, and successors.

(c) "Tenant" shall include the undersigned and its heirs, representatives, assigns, and successors; and if this Lease shall be validly assigned or sublet, shall also include Tenant's assignees or sublessees as to the Leased Premises covered by such assignment or sublease.

(d) "Owner", "Tenant", and "Agent" include male or female, singular and plural, corporation, partnership or individual, as may fit the particular parties.

16. **Notices.** All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent U.S. certified mail, return receipt requested, postage prepaid. Notices to Tenant shall be delivered or sent to the address shown at the beginning of this Lease, Notices to Owner shall be delivered or sent to the address shown at the beginning of this Lease and notices to Agent, if any, shall be delivered or sent to the address where rental payments are made.

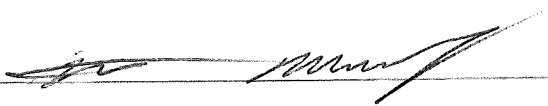
All notices shall be effective upon delivery. Any party may change its notice address upon written notice to the other parties, given as provided herein.

17. **Entire Agreement.** This Lease contains the entire agreement of the parties hereto, and no representatives, inducements, promises or agreements, oral or otherwise, between the parties, not embodied herein shall be of any force or effect. This Lease may not be modified except by a writing signed by all parties hereto.

18. **Authorized Lease Execution.** Each individual executing this Lease as director, officer, partner, member, or agent of a corporation, limited liability company, or partnership represents

and warrants that he is duly authorized to execute and deliver this Lease on behalf of such corporation, limited liability company, or partnership.

TENANT: CAROLINA BEACH LAND HOLDINGS LLC

By:  _____

Print Name: MATTHEW MURPHY

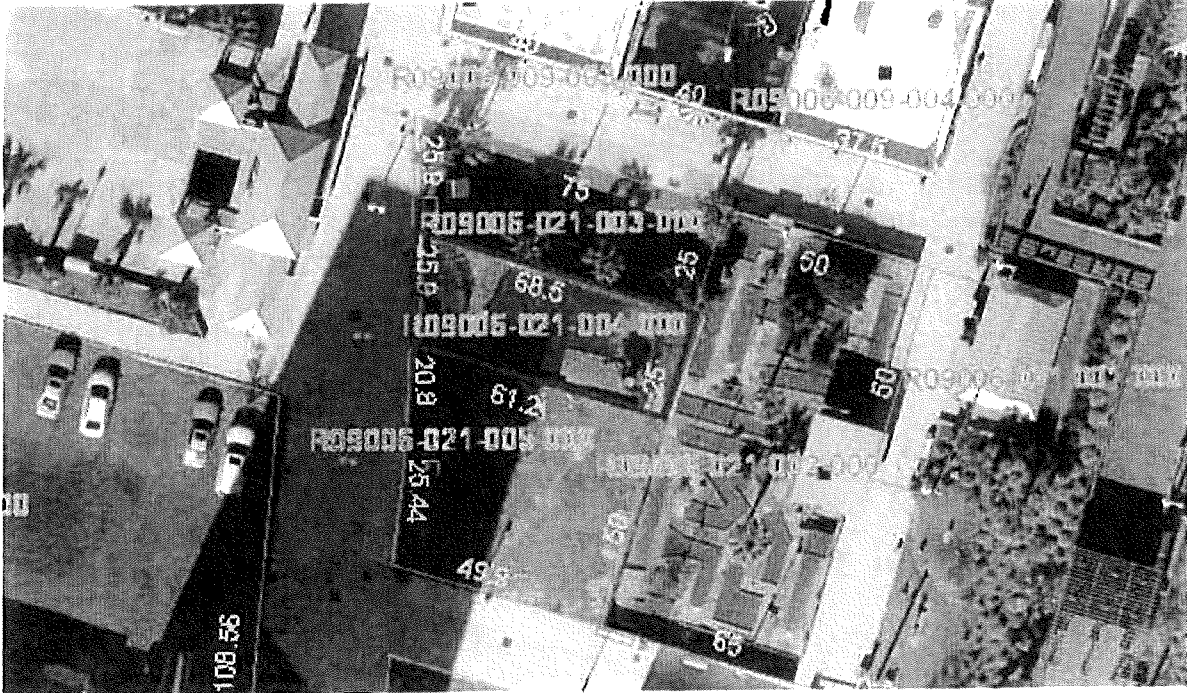
OWNER: TOWN OF CAROLINA BEACH

By:  _____

Print Name: BRUCE OAKLEY

EXHIBIT A

IN THE TOWN OF CAROLINA BEACH: BEING ALL OF LOT NO. TWO (2) ACCORDING TO THE PLAN OR MAP OF EFIRD DIVISION, WHICH SAID PLAN OR MAP IS RECORDED IN MAP BOOK 2 AT PAGE 104 AND BEING THE SAME PROPERTY CONVEYED TO J. E. WEBB BY DEED RECORDED FEBRUARY 11, 1935, IN BOOK 233 AT PAGE 445; BOTH OF THE RECORDS OF THE OFFICE OF THE REGISTER OF DEEDS OF NEW HANOVER COUNTY.





AGENDA ITEM COVERSHEET

PREPARED BY: Bruce Oakley, Town Manager

DEPARTMENT: Executive

MEETING: Town Council 10/24/2023

SUBJECT: Manager's Update

BACKGROUND:

Town Manager Bruce Oakley will give an update on current and future projects.