



**Wrightsville Beach Board of Alderman
REGULAR MEETING**

5:30 PM THURSDAY, APRIL 10, 2025

Wrightsville Beach Town Hall Council Chambers
321 Causeway Drive, Wrightsville Beach, NC

AGENDA (ALL ITEMS ARE FOR DISCUSSION AND POSSIBLE ACTION)

1. Call to Order

2. Pledge of Allegiance

3. Invocation

4. Public Comments

Notes on Comment Period: Each speaker is asked to limit comments to 3-5 minutes. Citizens should sign up at Town Hall by 5:00 p.m. the day of the meeting. The Board is interested in hearing your concerns, but speakers should not expect Board action or deliberation on subject matter brought up during the Public Comment segment. Topics requiring further investigation will be referred to the appropriate Town officials or staff and may be scheduled for a future agenda.

5. Consent Agenda

Notes on Consent Agenda: All items on the Consent Agenda are considered routine, to be enacted by one motion without discussion. If a member of the Governing Body requests discussion of an item, the item will be removed from the Consent Agenda and considered separately.

- a. Approval of the minutes of the minutes of the 3/10/25 budget workshop and the 3/13/25 regular meeting.
- b. Approval of a recurring special event.
- c. Acknowledgement of previously-approved special events for May.
- d. Approval of Budget Ordinance (2025) 657-B funding the purchase of safety equipment for the Fire Department.
- e. Approval of Budget Ordinance (2025) 658-B funding the purchase of reporting software for the Fire Department.
- f. Approval of a two-year extension of the Franchise Agreement with Caliber Recycling.

- g. Approval of Budget Ordinance (2025) 656-B funding the purchase of replacement batteries for the UPS system.
- h. Approval of Budget Ordinance (2025) 660-B creating a special revenue fund for WB license plate revenue.
- i. Approval of Budget Ordinance (2025) 655-B moving funds from the Capital Reserve Fund for the purchase of a Park Ranger Jeep.
- j. Approval of Budget Ordinance (2025) 661-B funding replacement batteries for golf carts in the Parking Department.
- k. Acceptance of a donation for benches for the new pickleball courts and outside the existing pickleball and tennis courts.

6. Presentations--None.

7. Public Hearing--None.

8. Regular Agenda

- a. Consider approval of a reorganization of the Police Department command structure.
- b. Consider approval of Budget Ordinance (2025) 659-B creating a capital project fund and funding a contract with Andrew Engineering for professional design and construction phase services for the street end headwall replacement project and authorizing the Town Manager to execute the contract.

9. Other Items and Reports

10. Closed Session

- a. Consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer as authorized by NCGS 143-318.11(a)(6).

CITIZENS WITH DISABILITIES REQUIRING SPECIAL NEEDS TO ACCESS THE SERVICES OR PUBLIC MEETINGS OF WRIGHTSVILLE BEACH GOVERNMENT SHOULD CONTACT THE TOWN MANAGER'S OFFICE FIVE DAYS PRIOR TO THE MEETING BY CALLING (910) 256-7900.

BOARD OF ALDERMEN MINUTES

MARCH 10, 2025 9:00AM

TOWN HALL CONFERENCE ROOM, 321 CAUSEWAY DRIVE, WRIGHTSVILLE BEACH

A duly-noticed special called meeting of the Board of Aldermen was called to order at 9:00am by Mayor Mills. The following were present:

Board of Aldermen

F. Darryl Mills, Mayor
Hank Miller, Mayor Pro-tem (via Zoom)
Jeff DeGroote, Alderman (via Zoom)
Ken Dull, Alderman
Vivian (Zeke) Partin, Alderman

Staff

Haynes Brigman, Town Manager
Lance G. Heater, Town Clerk
Matt Holland, Acting Fire Chief
Brian Murray, Finance Director
Bailey Hartsell, Communications Manager

The Board noted the remote participation of DeGroote and Miller.

BUDGET WORKSHOP

Brigman reviewed the agenda as follows: 1) General Fund Balance and Strategic Allocation; 2) Beach Nourishment Fund; 3) Revenue Estimates and Budget Impacts; 4) Capital Improvement Plan; 5) Compensation and Benefits; 6) Reorganization Options; and 7) General Discussion.

Brigman introduced Bailey Hartsell as the Town's Communications Manager, noting that this was her first day of employment.

FUND BALANCE AND ALLOCATION

Murray reported that there was a \$29.6 million cash balance in the General Fund and, although the staff and Board knew the need and purpose for the large balance, it was not immediately apparent to the public. Therefore, it was recommended that in order to enhance financial transparency, a portion of these funds be allocated to specific project funds in order that stakeholders better understand that the funds are designated for future needs.

Murray recommended that there be established a Disaster Recovery Fund with \$10 million to cover recovery, emergency repairs and disaster-related costs. This would ensure that the Town could fund recovery efforts while awaiting FEMA/NCEM reimbursements. Murray also recommended that there be established a Bridge Revenue Stabilization Fund with \$12 million that would be designed to offset lost revenue during the years in which the 3 bridges will be replaced. This would help maintain financial stability during a period in which the Town anticipates lost revenues. Finally, the remaining \$7.6 million would remain in the General Fund balance which would be equivalent to 43% of annual expenditures.

In response to a question from Mills, Brigman stated that the Town was anticipating a 6 year window of bridge replacement, however, this could be 3-4 years depending on NCDOT plans. Mills stated that, although the total impact is unknown, there would definitely be a loss of parking revenue during that time.

BEACH NOURISHMENT FUND

Murray also recommended that a Beach Nourishment Fund be established, funded through the annual CIP that would ensure that funds were available for beach nourishment projects, should they be needed in the event that federal funding were to be lost.

REVENUE ESTIMATES AND BUDGET IMPACTS

Murray reported that, due to reassessment, the property tax base had increased from approximately \$3.9 billion to \$6.7 billion. The resulting revenue neutral tax rate would be \$.0531 per \$100 in assessed valuation versus the \$.0923 per \$100 in assessed valuation in the current budget. Brigman stated that staff had asked New Hanover County for a breakdown of actual tax bills for Town residents based upon the revenue neutral rate, noting that the impact would vary depending on actual assessments. Murray noted that the sales tax distribution from New Hanover County was based on ad valorem tax rates, therefore, if other localities were to have higher tax rates, the Town's share of sales tax revenues would decrease anywhere from \$337,900 to \$830,800. Brigman stated that staff would stay abreast of the situation and inform the Board if other localities were to have a tax increase.

CAPITAL IMPROVEMENT PLAN

Murray recommended that the Capital Reserve Fund be eliminated through a process of transition and that capital projects be budgeted out of the General Fund. The plan would be to eliminate the Capital Reserve Fund over time by transferring out the remaining cash once projects are completed. Instead, funding will now be kept directly in the General Fund and follow a 5-year Capital Improvement Plan. Under this scenario, the year a project is due for completion, it will be budgeted directly in the General Fund's new Capital Investments departmental budget. Each year a CIP allocation will also be budgeted within this department to ensure that enough revenue is being generated to fund future projects in the plan.

In listing significant capital projects proposed for FY25-26, there would be 1/3 of the cost of Town Hall renovation (\$600,000); design work for Loop improvements (\$300,000), and the total cost of a new Fire pumper truck (\$1,075,000). The lead time for ordering the truck is 2+ years and the apparatus would be needed prior to bridge replacement projects beginning. Brigman reviewed the phasing plan for the renovation of Town Hall, which called for spending approximately \$600,000 over the next 3 years so that the project would fall below 50% of the value of the building in any one year in order that the facility would not need to meet current floodplain management standards and to allow for continuing operations while renovations are underway. The Mayor and other Board members expressed support for moving forward with the renovation project as soon as possible.

In reviewing the Loop project, the Board expressed support for the inclusion of the design work in the proposed budget. With regard to the Fire pumper, Brigman stated that he anticipated the Town would need to station a Fire truck on the island during the bridge replacement projects.

Brigman also reviewed in detail capital investments across all departments which will be proposed for FY25-26 as well as a 5-year CIP. In discussing beach walkovers, the Board expressed interest in the development of Beach Access #1. Brigman stated that the staff would add to the budget a project for Beach Access #1 that would be separate from the Dune Walkover replacement study. Partin expressed support for the installation of lighting at the Blue Star Memorial site. Brigman stated that he would obtain estimates for the Board's consideration. Finally, Brigman reviewed future capital needs which, for various reasons, were not yet included in the 5 year CIP.

COMPENSATION AND BENEFITS

Brigman reported that HR and management staff are currently collecting data from surrounding jurisdictions and the private sector, with recommendations for adjustments to be presented during the April budget workshop. Brigman also reviewed challenges associated with the Town's health insurance, stating that the small group size limited options for either cost savings or improved benefits. Brigman also stated that the staff was exploring benefit improvements outside of salary adjustments.

REORGANIZATION OPTIONS

Brigman outlined three areas in which he recommended reorganization: 1) establishment of Parks & Recreation as a stand-alone department reporting to the Town Manager; 2) movement of the Park Rangers under the Police Department in order to provide for better coordination between Police and the Park Rangers; and 3) Police Department reorganization in order to move from a Chief with 2 Captains to a Chief, 1 Captain, and 2 Lieutenants in order to provide for better supervision.

GENERAL DISCUSSION

Brigman asked, in light of the repaving of N. Lumina between Causeway Dr. and Salisbury St., if the Board would be amenable to not replacing the 39 paid parking spaces on the West side of Lumina in this section. Brigman stated that the spaces are not available during weekends and holidays and only generated \$11,500 in annual revenue. Brigman stated that elimination of the spaces would allow for an emergency lane to be maintained, which would definitely be necessary during the bridge replacement projects. After discussion, it was the consensus of the Board for the spaces to not be replaced. Brigman stated that he would confirm the revenue numbers before finalizing that decision.

Brigman reminded the Board that the next budget workshop would be held on April 15 at 9:00am.

The meeting was adjourned at 11:06am.

Respectfully submitted,

Lance G. Heater, Town Clerk

BOARD OF ALDERMEN MINUTES

MARCH 13, 2025, 5:30PM

TOWN HALL COUNCIL CHAMBERS, 321 CAUSEWAY DRIVE, WRIGHTSVILLE BEACH

The meeting was called to order at 5:30pm by Mayor Mills. After the Pledge of Allegiance, the invocation was provided by Doug Lain, Pastor, Wrightsville United Methodist Church. The following were present:

Board of Aldermen

F. Darryl Mills, Mayor
Hank Miller, Mayor Pro-tem
Jeff DeGroote, Alderman (absent)
Ken Dull, Alderman
Vivian (Zeke) Partin, Alderman

Staff

Haynes Brigman, Town Manager
Lance G. Heater, Town Clerk
Grady Richardson, Town Attorney
Bailey Hartsell, Communications Manager
Matt Holland, Acting Fire Chief
Brian Murray, Finance Director
Jason Bishop, Acting Chief of Police
Katie Ryan, Recreation Programs Supervisor
Tony Wilson, Director of Parks & Planning
Robert O'Quinn, Town Planner

PUBLIC COMMENTS

Sue Bulluck, representing the Chamber of Commerce, noted that the Chamber had drafted a resolution for consideration by the Board of Aldermen which would ask NCDOT to delay or repurpose funding for the Military Cutoff overpass project. Bulluck also reported that the Chamber was working with New Hanover County to begin the information and education process for property owners adjacent to Mason's Inlet regarding the dredging of the inlet and the assessment of properties in relation to the dredging project. Mills noted that there is a federal permit which allows the Army Corps of Engineers to do dredging between the north end of Wrightsville Beach and Figure Eight Island. Mills explained that the permit will expire in 2031, and the permit renewal process, which involves a multi-year effort, has begun.

CONSENT AGENDA

Prior to consideration of the Consent Agenda, the Board agreed to discuss items f, g and j. Regarding Item f, consideration of Budget Ordinance (2025) 651-B, Ryan explained that the expenses were for construction administration related to the Park and Town Hall parking lot projects. Regarding Item g, in response to a question from the Board, Brigman noted that he had asked the Town Attorney to add language to the lease with the Garden Club for the Bordeaux Cottage which would require that the Garden Club execute a sub lease with Camp Chris Stone, if such a lease were desired by Camp Chris Stone. Finally, with regard to Item j, Ryan reported that the Town had asked the contractor which is on site doing the parking lot projects to submit a bid for the paving of Bob Sawyer Dr. Upon motion by Miller, seconded by Partin and carried unanimously, the Board approved the Consent Agenda. It consisted of: 1) approval of the open and closed session minutes of the 2/20/25 Board meeting; 2) approval of recurring special events as recommended by the Parks & Recreation Advisory Committee; 3) acknowledgement of previously-approved special events for April; 4) approval of an Agreement for Town Attorney services; 5) adoption of Resolution (2025) 2352 approving the FY24-25 Auditing Contract with Martin Starnes & Associates, CPA; 6) adoption of Budget Ordinance (2025) 651-B funding unanticipated expenses incurred in the Park and Municipal parking lot construction projects; 7) approval of Lease Renewal Agreements between the Town and

3 tenants and authorization for the Finance Officer to execute the agreements on behalf of the Town; 8) approval of Budget Ordinance (2025) 653-B for landscaping expenses associated with the municipal and park parking lot projects; 9) approval of Budget Ordinance (2025) 654-B closing certain project funds that are no longer needed; 10) approval of proposal for demolition and paving of Bob Sawyer drive and adoption of Budget Ordinance (2025) 652-B funding the project; and 11) approval of Rules of Order for the Planning Board.

CONDUCT A PUBLIC HEARING AND CONSIDER APPROVAL OF A SPECIAL USE PERMIT FROM WRIGHTSVILLE UNITED METHODIST CHURCH TO ALLOW FOR THE ADDITION OF A COLUMBARIUM AND MEMORIAL GARDEN AT 4 LIVE OAK DRIVE

O'Quinn stated that the project is intended to provide a dedicated space for the interment of cremated remains and burial of ashes and that the proposed project aligns with local zoning regulations and complies with environmental and aesthetic considerations, ensuring minimal disturbance to the surrounding properties. O'Quinn stated that the project was in compliance with the Town's CAMA Land Use Plan and that a Technical Review had been done on the request, with no comments from the Fire Department or Public Works. The Police Chief recommended installing a lock on the back gate near the landing to enhance security and prevent unauthorized access. O'Quinn reported that public notice had been posted on the site, letters had been sent to adjacent property owners and newspaper advertisements had been published with regard to the hearing. O'Quinn stated that staff recommended approval of the application.

The Mayor opened the public hearing at approximately 5:45pm.

David Ray, attorney for the applicant, stated that 3 witnesses would be testifying: Gwen Hawley, a realtor and Wrightsville Beach resident; Jay Landen, the owner of property immediately adjacent to the site; and Rev. Caroline Jenkins, Pastor of Little Chapel on the Boardwalk. In response to a question from Mills, Ray stated that there had been no material changes in the application since the project was first presented to the Board in a text amendment application for which a public hearing was held on 12/12/2024, noting that the application for the Special Use Permit complied with the ordinance which was adopted at that meeting. Ray stated that the applicant did not desire to install a lock as recommended by the Police Chief during the technical review process. Ray stated that the applicant did not want to create any barriers to entry or exit from the area. Instead, the applicant would rather install security cameras to assist with any security issues.

In response to a question from Richardson, Ray asked that the application materials contained in the agenda packet be labeled as Exhibit 1 as well as the slide presentation presented in connection with the text amendment application of 12/12/2024.

Ray noted that, as the applicant, they had the burden of producing competent, material, and substantial evidence that they are satisfying the conditions in the ordinance necessary to grant the Special Use Permit.

The Clerk then administered the oath to the witnesses identified by Ray.

Ray introduced Gwen Hawley, who stated she was a licensed real estate broker with Intracoastal Realty. Hawley stated she had been in the real estate profession for over 42 years and was a previous resident of Wrightsville Beach who had sold many properties over the years in Wrightsville Beach. She stated that part of her job was to perform a competitive market analysis for clients, providing necessary data for either buying or selling. She stated that she had received the top producer award consistently throughout her career. Hawley reported that, in the last year, there were 69 sales on Wrightsville Beach with an average time on the market of 65 days. Hawley stated that she had visited two areas in which there were neighboring columbarium/memorial gardens such as that which is being proposed: the Windemere Community and Greenville Sound. Hawley stated that, in each case, there were no negative effects from the presence of these facilities on the property values of the surrounding areas. Hawley stated she believed that, due to the high demand and lack of

supply on Harbor Island and Wrightsville Beach, there would be no decrease in property values or in the enjoyment of property in the neighborhood near the Church if the memorial garden and columbarium are built according to the specifications contained in the application.

Ray introduced Jay Landen, who stated that he resided at 20 Live Oak Dr., the property immediately adjacent to the proposed columbarium and memorial garden. Landen stated that the Church had been transparent from the beginning and that he had submitted a written affidavit in support of the project. Landen stated that the project would actually increase the privacy of his property.

Ray introduced Rev. Caroline Jinkins. Jinkins stated that she was Pastor of Little Chapel on the Boardwalk and that she had served as pastor of churches which have such facilities. Jinkins stated that these types of facilities enhanced the properties and had the effect of encouraging family members of the deceased to assist in maintaining the areas. Jinkins expressed support for the approval of the application.

Ray stated that this project would result in no detrimental harm to the public health or general welfare, which was demonstrated in the testimony of Landen and Jinkins. Ray stated that the evidence presented was competent, material and substantial in support of the application. Ray stated that the columbarium and memorial garden would not impair the value or use and enjoyment of property in the neighborhood. Ray stated that Hawley's testimony demonstrated that these facilities do not impact the value of neighboring properties. Ray stated the ordinance required that the development not impede the development of surrounding properties. Ray stated that all of the surrounding properties were already developed, but that the proposed development would not impede anyone from improving their properties. Ray noted that the columbarium would be constructed of the same brick of which the Church was constructed. Ray stated that no additional parking would be required and would not result in any increase in traffic or noise. Ray added that the development would be consistent with the Town's CAMA Land Use Plan, noting the Plan's emphasis on quality of life, community cohesiveness and unique sense of place.

In closing, Ray asked that the Board vote in favor of granting the Special Use Permit.

Upon motion by Miller, seconded by Mills and carried unanimously, the public hearing was closed at 6:05pm.

Individually, members of the Board expressed support for the process which the Church followed and for the project.

Upon motion by Partin, seconded by Miller and carried unanimously, the Special Use Permit was approved.

CONSIDER ADOPTION OF RESOLUTION (2025) 2345 APPROVING A POLICY FOR THE USE OF ELECTRONIC MESSAGE BOARDS, AS RECOMMENDED BY THE PARKS & RECREATION ADVISORY COMMITTEE

Ryan stated that the Parks & Recreation office had received several requests from special event permit holders and local non-profits to add a message to the digital signs regarding events or other private activities. The Parks and Recreation Advisory Committee discussed the use of the EMBs including the possibility of charging a fee for use. However, the Committee voted unanimously in support of a policy that limits the messages to Town-related activities only as identified in the draft policy under consideration. Dull noted that the EMB located on Salisbury Street was in a difficult position for drivers to notice and suggested that it be relocated. Brigman stated that he would investigate relocating the board after the park construction projects were completed. Upon motion by Dull, seconded by Miller and carried unanimously, the Resolution was adopted.

OTHER ITEMS AND REPORTS

A. **Town Clerk Heater:** nothing to report.

- B. Alderman Partin:** noted that she had attended the Carolina Beach Centennial celebration kickoff representing the Town.
- C. Alderman Dull:** stated that he was excited to have Bailey Hartsell, Communications Manager, on board.
- D. Mayor Pro Tem Miller:** reported on MPO activities relating to the Memorial Bridge project and also welcomed Hartsell.
- E. Town Manager Brigman:** 1) noted Grady Richardson's first meeting as the new Town Attorney; 2) also recognized Hartsell; 3) thanked the residents for their patience as the repaving of Causeway Dr. and N. Lumina have taken place; 4) reported on progress regarding the pickle ball courts and parking lot projects; and 5) reminded the Board of the budget workshop scheduled for April 15 at 9:00am.
- F. Town Attorney Richardson:** stated he was excited to be working for the Town and that it was an honor to be given the opportunity.
- G. Mayor Mills:** welcomed Hartsell and Richardson.

There being no further business, the meeting was adjourned at 6:29pm.

Respectfully submitted,

Lance G. Heater, Town Clerk

TOWN OF WRIGHTSVILLE BEACH

PARKS & RECREATION

4 Fran Russ Drive • P.O. Box 626

Wrightsville Beach, N.C. 28480

(910) 256-7925 • ParksAndRecreation@towb.org • www.towb.org

MEMORANDUM

To: Mayor Mills and Board of Aldermen

From: Katie Ryan, Recreation Program Supervisor *Katie Ryan*

Subject: Special Event Permit – North Point Church Easter Sunrise Service

Date: April 4, 2025

Attached for the Board's consideration is the special event permit application for the North Point Church Easter Sunrise Service. This application was just recently received so it has not been reviewed by the Parks and Recreation Advisory Committee. However, it is a recurring Easter event with no staff concerns.

North Point Church Easter Sunrise Service

Sunday, April 20, 2025, 4:30 – 8:30 am (service 7:00 – 8:00 am)

Beach Access 37 (south side of Crystal Pier)

Approximately 400 people

REQUESTED ACTION: Approve special event permit application as presented..

TOWN OF WRIGHTSVILLE BEACH, NC
SPECIAL EVENT PERMIT APPLICATION

A SEPARATE APPLICATION MUST BE COMPLETED FOR EACH EVENT DATE.

PLEASE TYPE OR PRINT LEGIBLY AND INCLUDE THE APPROPRIATE FEE WITH APPLICATION

Wrightsville Beach Parks & Recreation Department
P. O. Box 626, Wrightsville Beach, NC 28480
(910) 256-7925

FOR OFFICE USE ONLY

New ☒ Recurring ☐

PRAC Recommendation:

Approve ☐
Approve w/ Conditions ☐
Do Not Approve ☐

Participants / Fee Per Day:

1-25	\$130
26-100	\$180
101-199	\$250
200-400	\$400
401-600	\$500
601-1,000	\$600
1,001-2,000	\$700
2,001-3,000	\$800
3,001-4,000	\$900
4,001+	\$1,500

SEP Security Deposit:
Participants / Fee

0-199	\$0
200-400	\$200
401-600	\$500
601-1,000	\$1,000
1,001-2,000	\$1,500
2,001+	\$2,000

Non-profit organization?

Yes ☒ No ☐

Tax Exempt ID:

Time between 8 am & 10 pm? Prior to 8 am

Number of Hours 4

Rain date necessary?

Yes ☐ No ☒

Park Facility Reserved?

Yes ☐ No ☒ Not Required

Portable toilets needed?

Yes ☐ No ☒ Not Required

Trash Disposal Service?

Yes ☐ No ☒ Not Required

Health Dept permit?

Yes ☐ No ☒ Not Required

1. Description of event: Easter Sunrise Service Celebration at the Beach
North Point Church

2. Event Day and Date: Sunday, April 20th 2025

Timeframe needed: Set up 4:30 ☒ am ☐ pm to Tear down 8:30 ☒ am ☐ pm

Event start time: 7 ☒ am ☐ pm Event end time: 8 ☒ am ☐ pm

3. Estimated number of participants (including spectators): 400

4. Location: South Side Crystal Pier

5. Individual making request: Hannah Chitwood

Complete Mailing Address: 3305 Burnt Mill Dr. Ste 300 Wilmington, NC 28403

Phone Number: 910 200 7772 E-mail: hannahchitwood@gmail.com

6. Individual who will be on site and in charge of activity: Hannah Chitwood

Complete Mailing address: 3305 Burnt Mill Dr. Ste 300 Wilmington, NC 28403

Phone Number: 910 200 7772 E-mail: hannahchitwood@gmail.com

7. Sponsoring organization/corporation (if applicable): Life 90.5

Contact: Hannah Chitwood

Complete Mailing Address: 3305 Burnt Mill Dr. Ste. 300 Wilmington, NC 28403

Phone Number: 910 200 7772 E-mail: hannahchitwood@gmail.com

8. Briefly describe provisions for the following:

Toilet facilities: public since such short event

Trash disposal: will provide our own receptacles
(Plastic and aluminum must be recycled. Use of styrofoam and glass is prohibited.)

Parking: Speaking with Oceanic Manager

Electrical power and/or water needs: Speaking with Oceanic / generator if needed

9. Will food be served? YES If yes, has permit from Health Dept. been obtained? N/A

Please explain: will serve prepacked/wrapped biscuits

FOR OFFICE USE ONLY

SEP Fee: Must remove all trash

Facility Use Fee: OR Contract:

Security Deposit: COI:

Parking Fees: TOTAL PAID:

Traffic Cones: Check #:

TOTAL DUE:

January 11, 2024

FOR OFFICE USE ONLY

Site plan included?

Yes No Not Required

Permit(s) needed for vehicle on the beach?

Yes No

Number needed:

Vehicle permit issued to:

Vendors requested? If yes, attach a list of the vendors.

Yes No

*Full road closure required?

Yes No

If yes, do you have NCDOT approval?

Yes No

Police support requested?

Yes No Not Required

PD Comments:

Fire Department support requested?

Yes No Not Required

FD Comments:

Ocean Rescue support requested?

Yes No Not Required

OR Comments:

EMS support required?

Yes No

Certificate of Insurance obtained?

Yes No Not Required10. Will there be any music, PA system, or loud activities (if any, briefly describe)? yes, butwill follow dept codes for set upIf yes, provide information specifying location and direction of noise-emanating devices along with proposed noise level, frequency, and duration: will follow dept code / regulationsservice will not last more than an hour11. Will any banners, tents, stages, chairs, nets, decorations, etc., be used at this activity? yesIf so, what company is providing the equipment: Life P.O.S & Fast Signs

Describe equipment in detail and provide a sketched plan:

Flatbed trailer for staging, need permit for 1 four wheeler to place staging

12. Will there be sales of any types of souvenirs, t-shirts, food, drinks or other products on public property?

If so, describe in detail: NO13. Is police assistance necessary? No *Are you requesting the closing of any streets? No

If so, please specify:

*Events requiring a complete road closure must pay a fee of \$0.50 per registered participant. Amount will be submitted with a statement attesting to the number of participants. Payment is due within fourteen (14) days of the event. The NC Department of Transportation requires a permit for road closures on state maintained roads.

Organizers of runs and other race events are responsible for providing traffic and/or crowd control which shall be handled by the Wrightsville Beach Police Department (or New Hanover County Sheriff's Department). Organizers of waterborne activities are responsible for providing adequate water safety resources to assure the safety of participants. Depending on the nature of the event, the Special Events Coordinator, Town Manager, or the Board of Aldermen may require police assistance with traffic/crowd control, additional Ocean Rescue support, and/or Emergency Medical Services support. Additional fees for these services may be incurred.

I understand that if my event requires a complete road closure, I am responsible for paying an additional fee of \$0.50 per registered participant. Payment is due within fourteen (14) days of the event.

I hereby certify that I am the authorized and responsible representative of the applying group and that I am at least 18 years of age. I understand that if any information is found not to be accurate, additional fees and/or fines may be assessed and/or my permit may be revoked.

I agree to comply with all town ordinances, rules, regulations, and other applicable laws.

I agree to save and keep the Town free and harmless from any and all loss or damages or claims for damages, including attorney's fees and litigation costs, arising from or out of the special event.

I agree to, upon request of the Special Events Coordinator, Town Manager, and/or the Board of Aldermen, to provide proof of general liability insurance listing the Town as an additionally insured with limits no less than 1 (one) million dollars.

I understand that if the event is cancelled, I will receive a refund of my application fee less \$15 administrative fee.

See attached memo for additional stipulations.

Signature: [Signature] Date: 3/24/25

This application is hereby approved, this the _____ day of _____, 20_____.

Special Events Coordinator, Town of Wrightsville Beach, North Carolina

January 11, 2024

APPROVED SPECIAL EVENTS

May 2025

Distribution List:

Matt Holland, WBFD
Sam Proffitt, WBFD
Robert Pugh, WBFD
Jason Bishop, WBPB
James Lowe, WBPB
Brian Neague, WBPB
Daniel Gaither, WBPB
Jordan Smith, WBPB

Bill Fay, Public Works
Evan Morigerato, Public Works
Chris Bannerman, Public Works
Stephen Avante, Public Works
Danny Floyd, Public Works
Tony Wilson, Planning & Parks
Katie Ryan, Parks & Rec
Shannon Slocum, Park Ranger
Scott Sprenger, Park Ranger

Haynes Brigman, Town Manager
WB Marketing Advisory Committee
Wrightsville Beach Museum
Josh Yates, Pivot Parking
Board of Aldermen
SVM Janitorial Solutions
Hannah Almeter, Wilmington CVB
Parks & Rec Advisory Committee
Bailey Hartsell, Communications

FOR PARKING PURPOSES: Highlighted Events are reservations/events in WB Park.

Bold print indicates event pending BOA approval. Indicates event requiring a road closure.

DATE	TIME	NUMBER OF PARTICIPANTS	ACTIVITY	NAME	LOCATION	Vehicle on Beach Permit
Fri 5/2	6:45 pm - 8:15 pm	65	AA Meeting	Living Sober Group	Fran Russ Recreation Center	
Sat 5/3	7:00 am - 10:00 am	300	River 2 Sea Bike Ride	WBPR	WB Park Event Stage	
Sat 5/3	12:00 pm - 2:00 pm	45	Wedding	Ballard	Harbor Way Gardens	
Sat 5/3	4:00 pm - 8:00 pm	22	Wedding	McLamb	Beach strand at access 4	
Mon 5/5	8:00 am - 1:00 pm	500	WB Farmers' Market	WBPR	Overflow parking field	
Tue 5/6	4:30 pm - 7:30 pm	50	Wrightsville Beach Lacrosse	Bendjy	WB Park Soccer and Softball Fields	
Fri 5/9	6:45 pm - 8:15 pm	65	AA Meeting	Living Sober Group	Fran Russ Recreation Center	
Sat 5/10	8:00 am - 4:00 pm	200	SUP Prone Surf Event	Ruttkay	Beach strand at Crystal Pier	
Sun 5/11	10:45 am - 12:15 pm	65	AA Meeting	Living Sober Group	Fran Russ Recreation Center	
Mon 5/12	8:00 am - 1:00 pm	500	WB Farmers' Market	WBPR	Overflow parking field	
M-Th 5/12-5/15	6:00 pm - 8:00 pm	30	WB Adult Basketball League	WBPR	WB Park Basketball Courts	
Fri 5/16	6:45 pm - 8:15 pm	65	AA Meeting	Living Sober Group	Fran Russ Recreation Center	
Sat 5/17	6:30 am - 11:30 am	275	Grey Liston Stoked to Go Out Pier to Pier Swim	Liston	Overflow parking field	
Sat 5/17	6:30 am - 11:30 am	275	Grey Liston Stoked to Go Out Pier to Pier Swim	Liston	Beach strand pier to pier	
Sat 5/17	12:00 pm - 3:00 pm	28	Australian Rules Football Game	Parker	WB Park Soccer Field	
Sun 5/18	10:45 am - 12:15 pm	65	AA Meeting	Living Sober Group	Fran Russ Recreation Center	
Sun 5/18	2:00 pm - 6:00 pm	60	Swing Dance Social	Cape Fear Swing Dance	WB Park Event Stage	

APPROVED SPECIAL EVENTS

May 2025

Mon 5/19	8:00 am - 1:00 pm	500	WB Farmers' Market	WBPR	Overflow parking field	
Mon 5/19	12:00 pm - 4:00 pm	35	Wedding	Malm	Beach strand at Shell Island Resort	
M-Th 5/19-5/22	6:00 pm - 8:00 pm	30	WB Adult Basketball League	WBPR	WB Park Basketball Courts	
Wed 5/21	6:00 pm - 9:00 pm	30	All Agency Training	WBPFD & WBPD	South end access 43	
Fri 5/23	6:45 pm - 8:15 pm	65	AA Meeting	Living Sober Group	Fran Russ Recreation Center	
Sun 5/25	10:45 am - 12:15 pm	65	AA Meeting	Living Sober Group	Fran Russ Recreation Center	
Mon 5/26	8:00 am - 1:00 pm	500	WB Farmers' Market	WBPR	Overflow parking field	
M-Th 5/26-5/29	6:00 pm - 8:00 pm	30	WB Adult Basketball League	WBPR	WB Park Basketball Courts	
Fri 5/29	6:45 pm - 8:15 pm	65	AA Meeting	Living Sober Group	Fran Russ Recreation Center	

* indicates vehicle on beach permit issued to L&L Tent Rentals,
Beach Side Occasions, ETC. Party Rentals or Sweet Water Bamboo



Town of Wrightsville Beach
Post Office Box 626
321 Causeway Drive
Wrightsville Beach, North Carolina 28480
(910)256-7900

MEMORANDUM

To: Mayor Mills and Board of Aldermen
From: Matt Holland, Fire Chief
Subject: **Approval of Budget Ordinance (2025) 657-B funding the purchase of safety equipment for the Fire Department.;**
Date: April 10, 2025

Issue/Action Requested:

Purchase of Fire Department safety equipment (Ordinance (2025) 657-B)

Background/Purpose of Request:

Wrightsville Beach Fire Department has implemented a new policy that will improve the safety of first responders while responding to high-threat incidents or scenes where someone may intentionally try to harm responders. The final phase of implementing this policy will be purchasing appropriate safety equipment and providing the firefighters with training on the new equipment. The funding of this equipment has been planned, and we request that the funds be moved from CIP whereby the purchase can be made.

Town Manager's Recommendation:

Approve Budget Ordinance (2025) 657-B, to move the appropriate funds for the purchase of safety equipment from the CIP to the General Fund

Attachments:

1. BA (2025) 657-B - Fire Life Safety Equip

TOWN OF WRIGHTSVILLE BEACH, NORTH CAROLINA
ORDINANCE NO. (2025) 657-B
FISCAL YEAR 2024/2025

BE IT ORDAINED by the Board of Aldermen of the Town of Wrightsville Beach, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2025:

Section I. To amend the General Fund (Fund 10) for unanticipated/unbudgeted expenses during FY 2025. The Town's General Fund (Fund 10) accounts are to be amended as follows:

<u>Account No.</u>		<u>Debit</u>	<u>Credit</u>
10-4340-5000	Capital Outlay	6,000	
10-3984	Transfer from GF CIP		6,000

Section II. To amend the General Fund Capital Reserve (Fund 63) for unanticipated/unbudgeted expenses during FY 2025. The Town's General Fund Capital Reserve (Fund 63) accounts are to be amended as follows:

<u>Account No.</u>		<u>Debit</u>	<u>Credit</u>
63-9800-9649	Transfer to Fund 10	6,000	
63-3991	Appropriated Fund Balance		6,000

Section III. Copies of this Budget Ordinance No. (2025) 657-B shall be furnished to the Town Clerk, the Budget Officer and the Finance Officer, and shall be available for public inspection and audit.

Adopted this 10th day of April, 2025.

DARRYL MILLS
Mayor

ATTEST:

LANCE HEATER
Town Clerk

Seal



Town of Wrightsville Beach
Post Office Box 626
321 Causeway Drive
Wrightsville Beach, North Carolina 28480
(910)256-7900

MEMORANDUM

To: Mayor Mills and Board of Aldermen
From: Matt Holland, Fire Chief
Subject: **Approval of Budget Ordinance (2025) 658-B funding the purchase of reporting software for the Fire Department.;**
Date: April 10, 2025

Issue/Action Requested:

Purchase of Fire Department reporting software (Ordinance (2025) 658-B)

Background/Purpose of Request:

As technology is constantly evolving, there are multiple software options on the market that will better suit the needs of the Fire Department and increase productivity. The records management software that the Department is currently utilizing has been in use since 2018 and other software companies have made significant advancements over the last seven years.

The new software that the Fire Department will be utilizing will combine 3 separate software platforms into one. Records management, scheduling, and asset management will all be on one software package.

Town Manager's Recommendation:

Approve Resolution (2025) 658-B, appropriating the funds to purchase new RMS software for the Fire Department.

Attachments:

1. BA (2025) 658-B - Fire Software

TOWN OF WRIGHTSVILLE BEACH, NORTH CAROLINA
ORDINANCE NO. (2025) 658-B
FISCAL YEAR 2024/2025

BE IT ORDAINED by the Board of Aldermen of the Town of Wrightsville Beach, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2025:

Section I. To amend the General Fund (Fund 10) for unanticipated/unbudgeted expenses during FY 2025, The Town's General Fund (Fund 10) accounts are to be amended as follows:

<u>Account No.</u>		<u>Debit</u>	<u>Credit</u>
10-4210-3520	Maint/Repair Equipment	18,500	
10-3991	Appropriated Fund Balance		18,500

Section II. Copies of this Budget Ordinance No. (2025) 658-B shall be furnished to the Town Clerk, the Budget Officer and the Finance Officer, and shall be available for public inspection and audit.

Adopted this 10th day of April, 2025.

DARRYL MILLS
Mayor

ATTEST:

LANCE HEATER
Town Clerk

Seal



Town of Wrightsville Beach
Post Office Box 626
321 Causeway Drive
Wrightsville Beach, North Carolina 28480
(910)256-7900

MEMORANDUM

To: Mayor Mills and Board of Aldermen
From: Haynes Brigman, Town Manager
Subject: **Approval of a two-year extension of the Franchise Agreement with Caliber Recycling.;**
Date: April 10, 2025

Issue/Action Requested:

Request that the Board approves the two-year franchise extension to Caliber Recycling as allowed under contract with the vendor.

Background/Purpose of Request:

In February of 2021 the Town entered into a franchise agreement with Caliber Recycling for them to be the sole provider for voluntary curbside recycling in Wrightsville Beach. Caliber Recycling collects recyclables at the curb for a fee paid for by the customer and collected by the contractor. Caliber Recycling has provided quality service to its users, and the Town intends to extend the franchise agreement as allowed under the contract.

If granted, this two year extension will be the last allowable extension under the current arrangement.

Town Manager's Recommendation:

Recommend approving the two year extension of the Franchise Agreement with Caliber Recycling.

Attachments:

1. Caliber Recycling

FRANCHISE AGREEMENT

THIS EXCLUSIVE AGREEMENT (the "Agreement") made and entered into on this 12th day of February 2021, by and between the Town of Wrightsville Beach, NC (hereinafter referred to as "TOWN"), a municipal corporation of the State of North Carolina, and Caliber Recycling Services, LLC, a North Carolina Limited Liability Company (hereinafter referred to as "FRANCHISEE").

WITNESSETH:

WHEREAS, the TOWN is desirous of ensuring collection of residential/commercial co-mingled recyclable materials at the curb within the corporate limits of the Town of Wrightsville Beach.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. Grant of Authority

1.1 The TOWN hereby grants to the FRANCHISEE an exclusive Franchise authorizing the FRANCHISEE to provide curbside residential/commercial recyclable materials service along, upon, across, above, or over the public streets within the Service Area.

1.2 The Service Area shall include all of the area within the corporate boundaries of the Town to include all of Wrightsville Island, Harbor Island and satellite area on the western side of the AICWW Bridge.

1.3 The FRANCHISEE shall have the exclusive right to collect recyclables placed by a resident/business on the public right of way. However, residents/businesses will continue to have the right to contract with any recyclable collector of their choice who is willing to go on a resident's/business's private property to collect recyclables.

2. Service

2.1 The services to be provided by FRANCHISEE hereunder shall be curbside collection of all recyclable materials generated by residential/commercial customers in the Service Area. The day of pickup shall be predetermined, and the collection of household/business recyclable materials shall occur a minimum of once weekly.

3. Residential/commercial /Commercial Recyclable Materials, and Collection Services

3.1 Commencing on the Effective Date, FRANCHISEE shall collect and dispose of, in a workmanlike manner, residential/commercial recyclable materials placed at curbside at each subscribing Residential/commercial Unit located within the Service Area at a minimum of once weekly. Recyclable materials will be co-mingled in a dedicated container. Upon request of the customer, FRANCHISEE will provide one recyclable materials container with a hinged lid or cover as approved by the FRANCHISEE AND TOWN. The recyclable materials container for each subscribing Residential/commercial location shall be provided at the FRANCHISEE's published rate.

3.2 All recyclable materials for collection shall be placed at the curb NO SOONER than twenty – four hours prior to 8:00 a.m. on the designated collection day. FRANCHISEE shall require all customers (via FRANCHISEE's contract for service with each customer) to roll back or otherwise remove the recyclable materials container from the curbside to the customer's structure/building/home on the same day of collection no later than 8:00 p.m.

3.3 For the purpose of this Agreement, “recyclable materials” shall include but not be limited to, newsprint with inserts, brown, clear and green glass containers, aluminum beverage containers, plastic bottles, mixed plastic, corrugated cardboard, magazines, office papers, and residential/commercial mixed paper (office papers, junk mail, catalogs and paper board such as cereal/food boxes). TOWN reserves the right to modify the definition of “recyclable materials” from time to time during the term of this Agreement based on the Town’s needs and industry direction and acceptance of materials.

4. Operations

The TOWN makes no representation as to number of Residential/commercial Units that may elect to utilize FRANCHISEE’S services.

4.1 Hours of Operations. Collection Services shall not start before 8:00 a.m. or continue past 8:00 p.m. on the same day. Exceptions to these collection hours shall only occur upon the written mutual agreement of the TOWN and FRANCHISEE.

4.2 Access to Service. FRANCHISEE shall comply at all times with all applicable Federal, State and Local laws and regulations relating to nondiscrimination. FRANCHISEE shall not deny or discriminate against any group of actual or potential Subscribers in Town on access to or the rates, terms and conditions of Services because of the income level or other demographics of the local area in which such group may be located.

4.3 Municipal Contact. FRANCHISEE shall provide a separate phone number and management level person for TOWN staff to contact on customer service-related matters and in case of emergency. Such person and number shall be for the use of the TOWN and not for the general public.

4.4 Customer Billing. FRANCHISEE shall be solely responsible for FRANCHISEE’S billing and collections for FRANCHISEE’s services. The Town shall have no obligation with respect to FRANCHISEE’S billing and/or collections.

4.5 Property Damage – Private. If a customer reports damage to private property due to the acts or omissions of FRANCHISEE, FRANCHISEE will investigate the report of damage and the dispute shall be resolved within 60 days of the complaint being filed, either through FRANCHISEE implementing repairs or reimbursing customer for repairs.

4.6 Property Damage – Public. If FRANCHISEE has an accident that results in damages to public property, FRANCHISEE shall begin corrective action on the date of notification, with damages resolved or reimbursed to the TOWN within 60 days of the date the damage occurred

4.6.1 Spills – Liquid. FRANCHISEE shall equip all trucks with “spill kits” (absorbent material) to immediately address spills of liquids from the hydraulic system or from the compressed recyclables, and shall report spills to the TOWN immediately. Upon TOWN evaluation of damages and notification of such to FRANCHISEE, FRANCHISEE shall begin any additional corrective action determined necessary on the date of notification. Any Damages to the integrity of the asphalt will be resolved or reimbursed to the TOWN within sixty days of the date the damage occurred.

4.7 Reports. FRANCHISEE shall submit monthly reports to the Town Public Works Office detailing the amount of recycled materials collected by weight along with the percentage of households/businesses participating in the recyclable materials service by month. FRANCHISEE shall keep complete and accurate records and submit reports to comply with the Town’s reporting requirements which shall include, at a minimum, the following:

- The names, addresses and telephone numbers of all customers; and
- A list of all customer complaints including name, address, date, nature of complaint and how resolved.

These reports will serve to apprise the Town's staff of the status of recycling activities. FRANCHISEE will also be required to provide certifiable, accurate monthly weight receipts for all materials collected in the program. Weight records shall be kept using a scale, which is inspected by the State of North Carolina Department of Agricultural Standards Division.

4.8 Holidays. The FRANCHISEE may determine the observance of any holidays by suspension of collection service on the holiday. In such an event, FRANCHISEE will collect recyclable materials on an otherwise non-scheduled day during the calendar week in which the holiday occurs. FRANCHISEE will notify participating residents/businesses in advance of changes to the collection schedule when holidays are observed by publishing on the back of customer bills and on FRANCHISEE website. No collections shall be permitted on Independence Day, Thanksgiving Day and Christmas Day.

4.9 Collection. FRANCHISEE shall provide an adequate number of vehicles and manpower for regular collection services of all the aforementioned collectables to meet the schedules for collection set forth herein. All vehicles and other equipment shall be kept in good repair, appearance, and in sanitary condition at all times. All recyclable material collection vehicles must have closed tops on the load portion of the vehicle so that contents will not spill, blow out or leak there from. FRANCHISEE shall keep all equipment used in the performance of the work required by this Franchise Agreement in good operating condition and in a clean, sanitary condition and such equipment shall be subject to inspection by the TOWN at any time. The FRANCHISEE will be responsible for the proper operation of equipment to include turning and backing of vehicles.

4.10 Hauling. All recyclable materials hauled by FRANCHISEE shall be so contained, tied or enclosed that leaking, spilling or blowing is prevented to the best of their ability, and in accordance with TOWN's ordinances or policies. Incidents of trash blowing onto public and private property due to failure to comply with Section 4.10 shall be classified as unlawful dumping and shall be addressed on the date of notification by the TOWN.

4.11 Disposal. All recyclable materials collected for disposal by FRANCHISEE shall be hauled to such recyclable materials center for processing, as FRANCHISEE and TOWN shall determine (hereinafter referred to as "Disposal Site").

4.12 Security of the Recyclable Materials Container. FRANCHISEE shall take all reasonably necessary steps to secure the recyclable materials containers during adverse weather events. These steps shall include, but not be limited to, having a contractual clause with FRANCHISEE's customers that require the customer to take reasonable steps to secure the containers. Notwithstanding the foregoing, FRANCHISEE shall be responsible for the security of the containers irrespective of the aforementioned contractual clause.

5. Franchise Fee

5.1 Franchise Fee. N/A.

6. Compensation

6.1 Town-Wide Rates. FRANCHISEE will establish standard rates for the collection of residential/commercial recyclable materials as the base rate.

6.2 Exclusive Rates. FRANCHISEE may, at its discretion, offer negotiated rate reductions for neighborhoods electing to utilize the service of FRANCHISEE at the exclusion of other service providers.

7. Indemnification and Insurance

7.1 Indemnification. FRANCHISEE shall indemnify, hold harmless and defend the TOWN against any claims, actions or suits including court costs and reasonable attorney's fees, arising out of any acts or

omissions of FRANCHISEE in providing the services herein required or in the operation of FRANCHISEE's equipment in connection with the performance of such services.

7.2 Insurance. The FRANCHISEE shall, at all times during the term of this Franchise Agreement and for a period of three years after the termination of this Agreement, maintain in full force and effect employer's liability, workers' compensation, public liability and property damage insurance, including contractual liability coverage. All insurance shall be by insurers and for policy limits acceptable to the TOWN. Before commencement of work hereunder the FRANCHISEE agrees to furnish the TOWN certificates of insurance or other evidence satisfactory to the TOWN to the effect that such insurance has been procured and is in force. The certificates shall contain the following express obligation:

"This is to certify that the policies of insurance described herein have been issued to the insured for whom this certificate is executed and are in force at this time. In the event of cancellation or material change in a policy affecting the certificate holder, thirty (30) days prior written notice will be given the certificate holder."

For the purpose of the contract (franchise agreement), the Contractor shall carry the following types of insurance in at least the limits specified below:

<u>Coverage</u>	<u>Limits of Liability</u>
Workman's Compensation	Statutory
General Liability	\$1,000,000
Bodily Injury Liability \$1,000,000 Aggregate	\$1,000,000 each occurrence
Property Damage \$1,000,000 aggregate	\$1,000,000 each occurrence

In addition to the foregoing, FRANCHISEE shall at all time maintain an excess or umbrella policy in the amount of \$1,000,000, which coverage shall be applicable to all coverages set forth above in this Section 7.2. All such insurance policies will be primary without the right of contribution from any other insurance coverage maintained by TOWN. All policies required herein shall be written by insurance carriers with a rating of A.M. Best of at least "A-" and a financial size category of at least VII. Upon TOWN's request, FRANCHISEE shall furnish TOWN with a certificate of insurance, evidencing that such coverage's are in effect. Such certificate (i) will also provide for 30 days prior written notice of cancellation to the TOWN; (ii) shall show TOWN as an additional insured under the Automobile and General Liability policies; and (iii) shall contain waivers of subrogation in favor of TOWN (excluding Worker's Compensation policy). In addition, the following requirements apply:

- The Commercial General Liability policy must include Contractual Liability coverage specifically covering FRANCHISEE's Indemnification of TOWN herein.
- FRANCHISEE shall cause TOWN to be both named and endorsed as an additional insured on FRANCHISEE's Commercial General Liability policy.
- Coverage must be provided for Products/Completed Operation.
- The policy shall also contain a cross Liability/Severability of Interest provision assuring that the acts of one insured do not affect the applicability of coverage to another insured.

8. Licenses and Taxes

8.1 FRANCHISEE shall obtain all licenses and permits (other than the license and permit granted by the Agreement) and promptly pay all taxes lawfully required by the TOWN and by the State of North Carolina.

9. Force Majeure

9.1 If the TOWN or FRANCHISEE is unable to perform, or is delayed in its performance of, any of its obligations under this Agreement by reason of any event of force majeure, such inability or delay shall be excused at any time during which compliance therewith is prevented by such event and during such period thereafter as may be reasonably necessary for the TOWN or FRANCHISEE to correct the adverse effect of such event of force majeure.

9.2 An event of "Force Majeure" shall mean any events or circumstances beyond the reasonable control of the affected party to the extent that they delay the TOWN or FRANCHISEE from performing any of its obligations under this Agreement; including the following:

9.2.1 Strikes, work stoppages, and other labor unrest;

9.2.2 Acts of God, tornadoes, hurricanes, floods, sinkholes, fires, and explosions (except those caused by negligence of FRANCHISEE, its agents, and assigns), landslides, earthquakes, epidemics, quarantine, pestilence, and extremely abnormal and excessively inclement weather; and public enemy acts of war, terrorism, effects of nuclear radiation, blockages, insurrections, riots, civil disturbances, or national or international calamities.

9.3 In order to be entitled to the benefit of this section, a party claiming an event of force majeure shall be required to give prompt written notice to the other party specifying in detail the event of force majeure and shall further be required to use its best efforts to cure the event of force majeure. The parties agree that, as to this section, time is of the essence.

9.4 The TOWN will grant such variances in routes and schedules as are reasonably required in the event of force majeure and will negotiate with FRANCHISEE fees for any additional work which FRANCHISEE may agree to perform in such event.

10. Termination

10.1 TOWN may immediately terminate this contract (franchise agreement) if FRANCHISEE fails to provide all curbside collection services at least once in any ten (10) day period to every residential/commercial customer inside the TOWN who has placed recyclable materials at the curb at the appointed collection time and whose account is in good payment standing. The TOWN may not terminate this contract under this section for an "Act of God" (flood, wind, fire, or earthquake). The TOWN may also terminate this contract with 30-days written notice in the event that the TOWN determines, in TOWN's sole discretion, that it is in the TOWN's best interest to terminate this agreement.

11. Governing Law and Venue

11.1 This contract shall be governed by the laws of the State of North Carolina both as to interpretation and performance. The parties agree the exclusive venue to litigate any claims arising out of or related to this Franchise Agreement shall be New Hanover County, North Carolina.

11.2 This Agreement shall insure to the benefit of and be binding upon the successors and permitted assigns of the parties hereto.

12. Point Of Contact

Communication and correspondence should be directed to:

Timothy W. Owens, AICP
Town Manager
P.O. Box 626
321 Causeway Drive
Wrightsville Beach, 28480
(910) 239-1770 – Work
(910) 232-3788 – Cell
(910) 256-7910 – Fax
towens@towb.org

13. Term

13.1 The initial term of the Contract will be for twenty-four (24) months; the period from February 12, 2021 through February 11, 2023. After the initial term, the Agreement may be extended for two additional two (2) year terms upon mutual written agreement of the parties.

14. Monthly Collection Fee

14.1 The FRANCHISEE agrees to perform recyclable materials collection services to the residents/businesses of the Town of Wrightsville Beach for a monthly fee in an amount to be determined by FRANCHISEE, per residential/commercial subscriber, in accordance with this agreement.

IN WITNESS WHEREOF; the parties hereto have caused this Agreement to be executed by its duly authorized officers this 12th day of February 2021.

THE TOWN OF WRIGHTSVILLE BEACH


F. Darryl Mills, Mayor

CALIBER RECYCLING SERVICES

By: Miller Diggs
president
[print name and title]

Dated as of the 25 day of February, 2021.

FRANCHISEE WITNESS

By: Janet Jacques
Name: Janet Jacques
Title: Accountant

TOWN OF WRIGHTSVILLE BEACH WITNESS

By: Sylvia J. Holleman
Name: Sylvia J. Holleman
Town Clerk



Certificate of Finance Officer

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

Melvin M. Wor
Finance Officer

Certificate of Attorney

I hereby certify that I am the duly appointed Attorney for the TOWN and that I have examined the foregoing instrument and insurance documents and insurance documents and I have approved the same as being legal and in proper form.

This 23 Day of February, 2021

[Signature]
Attorney at Law



Town of Wrightsville Beach
Post Office Box 626
321 Causeway Drive
Wrightsville Beach, North Carolina 28480
(910)256-7900

MEMORANDUM

To: Mayor Mills and Board of Aldermen
From: Brian Murray, Finance Director
Subject: **Approval of Budget Ordinance (2025) 656-B funding the purchase of replacement batteries for the UPS system.;**
Date: April 10, 2025

Issue/Action Requested:

Replacement of Server Backup Batteries (Ordinance No. (2025) 656-B)

Background/Purpose of Request:

On **Tuesday, March 25, 2025**, a power fluctuation occurred that impacted the Town's primary server. Following this event, the server failed to automatically reboot as expected. Our IT service provider, **Infranet**, investigated the issue and determined that the **uninterruptible power supply (UPS) units** connected to the server had degraded and were no longer providing adequate backup power. UPS systems are critical for safeguarding server operations during power inconsistencies, ensuring continuous uptime, and preventing potential data loss.

Proposal:

To address this vulnerability, Infranet recommends replacing the two existing UPS units with new, reliable backup batteries. This proactive measure will enhance the resilience of the Town's IT infrastructure against future power fluctuations and outages.

Town Manager's Recommendation:

Staff requests approval of **Ordinance No. (2025) 656-B**, authorizing a budget amendment to appropriate **\$3,000** for the procurement and installation of two new server backup batteries. This investment is essential to maintain the integrity and reliability of the Town's server operations.

Attachments:

1. BA (2025) 656-B - Server Batteries

TOWN OF WRIGHTSVILLE BEACH, NORTH CAROLINA
ORDINANCE NO. (2025) 656-B
FISCAL YEAR 2024/2025

BE IT ORDAINED by the Board of Aldermen of the Town of Wrightsville Beach, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2025:

Section I. To amend the General Fund (Fund 10) for unanticipated/unbudgeted expenses during FY 2025, The Town's General Fund (Fund 10) accounts are to be amended as follows:

<u>Account No.</u>		<u>Debit</u>	<u>Credit</u>
10-4210-2600	Departmental Supplies	3,000.00	
10-3991	Appropriated Fund Balance		3,000.00

Section II. Copies of this Budget Ordinance No. (2025) 656-B shall be furnished to the Town Clerk, the Budget Officer and the Finance Officer, and shall be available for public inspection and audit.

Adopted this 9th day of January 2024.

DARRYL MILLS
Mayor

ATTEST:

LANCE HEATER
Town Clerk

Seal



Town of Wrightsville Beach
Post Office Box 626
321 Causeway Drive
Wrightsville Beach, North Carolina 28480
(910)256-7900

MEMORANDUM

To: Mayor Mills and Board of Aldermen
From: Brian Murray, Finance Director
Subject: **Approval of Budget Ordinance (2025) 660-B creating a special revenue fund for WB license plate revenue.;**
Date: April 10, 2025

Issue/Action Requested:

Special Revenue Fund Ordinance (2025) 660-B – Wrightsville Beach Specialty License Plate Revenue

Background/Purpose of Request:

The Town receives a portion of the proceeds from the sale of Wrightsville Beach specialty license plates through the North Carolina Division of Motor Vehicles. These funds are intended to support and enhance public recreational opportunities for both residents and visitors. In prior years, this revenue has been recorded within the General Fund.

Purpose of the Ordinance:

To improve transparency and financial tracking, staff recommends establishing a dedicated **Special Revenue Fund** to account for all revenues associated with the specialty plate program. This will ensure that the receipt of these restricted funds is clearly documented and managed in compliance with state guidance and local priorities.

Summary of Proposed Action:

The attached ordinance formally establishes the **Wrightsville Beach Specialty License Plate Fund (Fund 60)** as a Special Revenue Fund. It includes:

- **\$3,000** in anticipated DMV plate revenue for the remainder of FY25.
- A **\$46,290** transfer from the General Fund for prior year's revenue.
- A **\$20,000** transfer from the General Fund Capital Reserve for prior contributions.

- A **\$69,290** transfer to the General Fund to reimburse eligible expenditures related to public recreational improvements.

Town Manager's Recommendation:

Staff recommends approval of ordinance (2025) 660-B to establish the Wrightsville Beach Specialty License Plate Fund as a Special Revenue Fund beginning in FY25.

Attachments:

1. BA (2025) 660-B License Plate Special Revenue Fund

**SPECIAL REVENUE FUND ORDINANCE
WRIGHTSVILLE BEACH SPECIALTY LICENSE PLATE FUND
TOWN OF WRIGHTSVILLE BEACH
ORDINANCE NO. (2025) 660-B**

BE IT ORDAINED by the Board of Aldermen of the Town of Wrightsville Beach, North Carolina, that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following special revenue fund ordinance is hereby adopted:

SECTION 1: AUTHORIZATION AND PURPOSE

The purpose of this ordinance is to establish a Special Revenue Fund to account for revenues received from the sale of Wrightsville Beach specialty license plates through the North Carolina Division of Motor Vehicles. In addition to these dedicated license plate revenues, the fund includes transfers from the General Fund and General Fund Capital Reserve to support designated expenditures that enhance public recreational opportunities within the Town. This fund structure ensures transparency and proper accounting of all related revenues and expenditures.

SECTION 2: ESTIMATED COSTS AND REVENUES

The estimated revenues and expenditures for the project are as follows:

A. Revenues

Source of Funds	Account Number	Amount (\$)
WB Specialty Plate Revenue	60-3865	3,000
Transfer from General Fund	60-3952	46,290
Transfer from General Fund Capital Reserve	60-3984	20,000
Total Estimated Revenues		69,290

B. Expenditures

Expense Category	Account Number	Amount (\$)
Transfer to General Fund	60-9800-9600	69,290
Total Estimated Expenditures		69,290

SECTION 3: FUNDING AND MANAGEMENT

1. The Finance Officer, Brian Murray, is directed to establish a Special Revenue Fund in accordance with NC General Statute § 159-13.2.
 2. The Finance Officer shall ensure that all funds are expended solely for the purposes authorized in this ordinance.
 3. All financial activity related to this fund shall comply with generally accepted accounting principles (GAAP) and the Local Government Budget and Fiscal Control Act.
-

SECTION 4: BUDGETARY CONTROL AND AMENDMENTS

1. Any changes to this ordinance must be approved by the Board of Aldermen.
 2. The Finance Officer is authorized to make transfers between line items within the fund budget, provided the overall fund total does not increase.
 3. This ordinance shall remain in effect until all funds are expended or reappropriated by the Board of Aldermen.
-

SECTION 5: DISTRIBUTION AND EFFECTIVE DATE

Copies of this ordinance shall be provided to the Town Clerk, the Board of Aldermen, the Budget Officer, and the Finance Officer for guidance in carrying out the purposes of the fund.

This ordinance shall become effective upon adoption and shall remain in force until amended or repealed by the Board of Aldermen.

Adopted this 10th day of April 2025

DARRYL MILLS
Mayor

ATTEST:

LANCE HEATER
Town Clerk

Seal



Town of Wrightsville Beach
Post Office Box 626
321 Causeway Drive
Wrightsville Beach, North Carolina 28480
(910)256-7900

MEMORANDUM

To: Mayor Mills and Board of Aldermen

From: Brian Murray, Finance Director

Subject: **Approval of Budget Ordinance (2025) 655-B moving funds from the Capital Reserve Fund for the purchase of a Park Ranger Jeep.;**

Date: April 10, 2025

Issue/Action Requested:

Replacement of Park Ranger Vehicle (Ordinance No. (2025) 655-B)

Background/Purpose of Request:

The Town currently has **\$50,000 set aside in the General Fund Capital Reserve Fund** for the replacement of a **vehicle assigned to the Planning Department** and used by the Town's **Park Rangers** for beach patrol and island-wide enforcement. The vehicle slated for replacement is a **2017 Ford F-150**, which has reached the end of its useful service life.

Proposal:

Based on several years of operational use, the Planning Department has determined that the **Ford F-150 is not an ideal fit** for the terrain and conditions Park Rangers routinely face when patrolling the beach strand. The truck's **large size and weight** make it difficult to maneuver in soft sand and in narrow beach access areas. As a more effective alternative, staff recommends replacing the F-150 with a **Jeep Gladiator**. The Gladiator offers several features that make it better suited for beach and off-road patrols, including:

- **Lighter weight and improved traction** in sandy environments
- **Shorter wheelbase and tighter turning radius**, ideal for navigating tight access points and soft terrain
- **Enhanced off-road capabilities**, including available 4x4 systems, locking differentials, and off-road tires

- **Higher ground clearance**, reducing the risk of getting stuck in soft sand or uneven surfaces
- **Better sight lines** for maneuvering in crowded areas

Town Manager's Recommendation:

Staff recommends approval of **Budget Amendment Ordinance No. (2025) 655-B** to transfer and appropriate **\$50,000** for the purchase of a **Jeep Gladiator** to replace the 2017 Ford F-150 currently used by the Park Rangers under the Planning Department. This vehicle upgrade will improve the department's ability to conduct safe and efficient patrols on the beach strand.

Attachments:

1. BA (2025) 655-B - Ranger Truck

TOWN OF WRIGHTSVILLE BEACH, NORTH CAROLINA
ORDINANCE NO. (2025) 655-B
FISCAL YEAR 2024/2025

BE IT ORDAINED by the Board of Aldermen of the Town of Wrightsville Beach, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2025:

Section I. To amend the General Fund (Fund 10) for unanticipated/unbudgeted expenses during FY 2025, the Town's General Fund (Fund 10) accounts are to be amended as follows:

<u>Account No.</u>		<u>Debit</u>	<u>Credit</u>
10-4900-5000	Capital Outlay	50,000	
10-3984	Transfer from GF CIP		50,000

Section II. To amend the General Fund Capital Reserve (Fund 63) for unanticipated/unbudgeted expenses during FY 2025. The Town's General Fund Capital Reserve (Fund 63) accounts are to be amended as follows:

<u>Account No.</u>		<u>Debit</u>	<u>Credit</u>
63-9800-9649	Transfer to Fund 10	50,000	
63-3991	Appropriated Fund Balance		50,000

Section III. Copies of this Budget Ordinance No. (2025) 655-B shall be furnished to the Town Clerk, the Budget Officer and the Finance Officer, and shall be available for public inspection and audit.

Adopted this 10th day of April 2025.

DARRYL MILLS
Mayor

ATTEST:

LANCE HEATER
Town Clerk

Seal



Town of Wrightsville Beach
Post Office Box 626
321 Causeway Drive
Wrightsville Beach, North Carolina 28480
(910)256-7900

MEMORANDUM

To: Mayor Mills and Board of Aldermen
From: Brian Murray, Finance Director
Subject: **Approval of Budget Ordinance (2025) 661-B funding replacement batteries for golf carts in the Parking Department.;**
Date: April 10, 2025

Issue/Action Requested:

Budget Amendment – Golf Cart Battery Replacement

Background/Purpose of Request:

The Town's parking contractor, **Pivot Parking**, uses a fleet of six golf carts for daily parking enforcement throughout Wrightsville Beach. These carts are critical to providing quick, efficient coverage during the busy season. Currently, **three of the six carts have dead batteries** and are out of service.

Pivot has previously upgraded one cart with a **Trojan OnePack 170AH lithium battery**, and the performance has been exceptional. It runs an entire day on a single charge and requires no ongoing maintenance—unlike traditional lead-acid batteries, which must be watered regularly, charge slowly, and typically only last 3–5 years. By contrast, **lithium batteries**:

- Have a longer lifespan (8–10 years)
- Require zero maintenance
- Charge more quickly
- Weigh less, improving efficiency
- Include a built-in battery management system
- Come with an **8-year manufacturer warranty** (4 years full replacement + 4 years prorated)

While lithium systems are significantly more expensive up front—about **\$3,500 per unit**—they offer substantial savings over time by reducing labor, downtime, and battery replacement frequency. Because two of the remaining carts are nearing the end of their

useful life (approximately 8 years old), staff recommends upgrading only the three carts with failed batteries.

Town Manager's Recommendation:

Staff recommends approval of the attached budget amendment in the amount of **\$11,000** to fund the purchase of three Trojan OnePack lithium batteries for use in Pivot Parking's golf carts. This upgrade will restore the fleet to full enforcement capacity and support more efficient, reliable operations throughout the upcoming season.

Attachments:

1. BA (2025) 661-B - Golf Cart Batteries

TOWN OF WRIGHTSVILLE BEACH, NORTH CAROLINA
ORDINANCE NO. (2025) 661-B
FISCAL YEAR 2024/2025

BE IT ORDAINED by the Board of Aldermen of the Town of Wrightsville Beach, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2025:

Section I. To amend the General Fund (Fund 10) for unanticipated/unbudgeted expenses during FY 2025. The Town's General Fund (Fund 10) accounts are to be amended as follows:

<u>Account No.</u>		<u>Debit</u>	<u>Credit</u>
10-4540-5000	Capital Outlay	11,000	
10-3984	Transfer from GF CIP		11,000

Section II. To amend the General Fund Capital Reserve (Fund 63) for unanticipated/unbudgeted expenses during FY 2025. The Town's General Fund Capital Reserve (Fund 63) accounts are to be amended as follows:

<u>Account No.</u>		<u>Debit</u>	<u>Credit</u>
63-9800-9649	Transfer to Fund 10	11,000	
63-3991	Appropriated Fund Balance		11,000

Section III. Copies of this Budget Ordinance No. (2025) 661-B shall be furnished to the Town Clerk, the Budget Officer and the Finance Officer, and shall be available for public inspection and audit.

Adopted this 10th day of April, 2025.

DARRYL MILLS
Mayor

ATTEST:

LANCE HEATER
Town Clerk

Seal

TOWN OF WRIGHTSVILLE BEACH

PARKS & RECREATION

4 Fran Russ Drive • P.O. Box 626

Wrightsville Beach, N.C. 28480

(910) 256-7925 • ParksAndRecreation@towb.org • www.towb.org

MEMORANDUM

To: Mayor Mills and Board of Aldermen

From: Katie Ryan, Recreation Program Supervisor 

Subject: Donation for Benches

Date: April 2, 2025

The Town of Wrightsville Beach has received a check totaling \$7,218 for benches for the new pickleball courts and outside the existing pickleball and tennis courts.

Dr. Fara and Mrs. Phyllis Elikai have donated the funds to purchase benches in honor of their parents and grandparents. A memorial plaque will be placed on the benches with the following inscription:

In Honor and Loving Memory of
Our Parents and Grandparents
Always in our thoughts.
Forever in our hearts.
Dr. Fara and Mrs. Phyllis Elikai

REQUESTED ACTION: Accept donation for benches as presented.



Town of Wrightsville Beach
Post Office Box 626
321 Causeway Drive
Wrightsville Beach, North Carolina 28480
(910)256-7900

MEMORANDUM

To: Mayor Mills and Board of Aldermen
From: Jason Bishop, Chief of Police
Subject: **Consider approval of a reorganization of the Police Department command structure.;**
Date: April 10, 2025

Issue/Action Requested:

Consider approval of a reorganization of the Police Department command structure.

Background/Purpose of Request:

As part of my duties as Chief of Police, I must ensure the police department is utilizing all the resources available to guarantee the department is giving the community the best services and running efficiently on a daily basis. This proposal aims to address the day-to-day operation specifically by modifying roles and responsibilities. The proposed restructure consists of eliminating a Captain position and replacing it with two Lieutenants.

Background

During my tenure with the Police Department, I have experienced a couple of restructurings over the years. The restructurings mainly address command staff positions. We have gone from two Lieutenants to two Captains and no Lieutenants, to one Captain and two Lieutenants all in an effort to better supervise and develop those that occupy those positions. As we continue to increase the number of officers, the proposed restructuring will better suit the needs of the department now, as well as in the future. As it stands now, there are four Sergeants supervising four squads, (A,B,C,and D squad), one Captain overseeing support services and one Captain overseeing the patrol division. Under the proposed structure, one Lieutenant will oversee A and B squad, and one Lieutenant will oversee C and D squads.

Benefits

There are several potential benefits to the proposed restructuring. Even though we are

growing, we are a small department with not much opportunity for advancement. The implementation of the two Lieutenant model will create upward movement not only for the current Sergeants, but for the officers under them as well. My hope is to keep everything internal. Thus, two current Sergeants will be promoted to Lieutenant, two current Corporals will be promoted to Sergeant, and two Master Police Officers will be reclassified to Corporal. The chance for upward movement can work positively in officer retention as it gives current officers a goal that may be obtained in a reasonable timeframe as opposed to the possibility of becoming stagnant. Each position carries added responsibilities that prepares the officer for succession. In response to critical incidents, having a Lieutenant assigned to a shift allows them to command the incident and resources while the Sergeant and officers respond to the scene. As it stands currently, if a critical event were to happen on a weekend, the responding Sergeant and three officers would have to go to the scene, and at the same time, think about how to manage the incoming resources along with the chaos of the scene. Under this new model there will always be a Lieutenant working. I propose a modified schedule so they can address their administrative duties during the day as well as manage the day and night shift squads. If they are needed after they leave for the night, they will be subject to call back to address whatever the issue may be.

Analysis

The cost to implement these proposed changes is minimal. The opportunity to rise in ranks, take on more responsibility, and make more money would boost morale and possibly increase retention.

Town Manager's Recommendation:

Approve the proposed reorganization plan by changing the budgeted authorized position chart to remove one Captain position and add 2 Lieutenant positions.

Attachments:

None



Town of Wrightsville Beach
Post Office Box 626
321 Causeway Drive
Wrightsville Beach, North Carolina 28480
(910)256-7900

MEMORANDUM

To: Mayor Mills and Board of Aldermen

From: Brian Murray, Finance Officer

Subject: **Consider approval of Budget Ordinance (2025) 659-B creating a capital project fund and funding a contract with Andrew Engineering for professional design and construction phase services for the street end headwall replacement project and authorizing the Town Manager to execute the contract.;**

Date: April 10, 2025

Issue/Action Requested:

Capital Project Ordinance (2025) 659-B – Town Bulkhead Repair & Replacement Project

Background/Purpose of Request:

Background: Several bulkhead structures within the Town are aging or in need of repair due to storm damage, erosion, and regular wear over time. Maintaining these structures is critical for shoreline stabilization, infrastructure protection, and public safety.

Purpose of the Ordinance: The attached ordinance establishes a dedicated **Capital Project Fund** to support a multi-year initiative for the design, repair, and replacement of bulkheads throughout the Town of Wrightsville Beach. The first phase of the project will focus on professional design, engineering, and inspection services, to be completed by October 2025. Completion of the design phase is intended to position the Town for a competitive grant application to the North Carolina Emergency Management Division for construction funding.

Summary of Proposed Action:

This ordinance authorizes:

- A **\$416,000 transfer from the Capital Reserve Fund (Fund 63)**
- Establishment of a **Capital Project Fund (Fund 59)**

- Initial use of funds for design and engineering work in FY25

Town Manager's Recommendation:

Staff recommends approval of the attached Capital Project Ordinance (2025) 659-B to initiate the Town's Bulkhead Repair & Replacement Project and support future grant readiness and authorizing the Town Manager to execute the contract with Andrew Engineering.

Attachments:

1. BA (2025) 659-B Bulkhead Repair Project Fund
2. Agreement with Andrew Engineering

**CAPITAL PROJECT ORDINANCE
TOWN BULKHEAD REPAIR & REPLACEMENT PROJECT
TOWN OF WRIGHTSVILLE BEACH
ORDINANCE NO. (2025) 659-B**

BE IT ORDAINED by the Board of Aldermen of the Town of Wrightsville Beach, 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: AUTHORIZATION AND PURPOSE

The purpose of this ordinance is to establish a capital project fund for the **Town Bulkhead Repair & Replacement Project**, a multi-year initiative to design, repair, and replace bulkheads in various locations throughout the Town. The project will begin with professional design, engineering, and special inspection services to be completed by **October 2025**, followed by construction phases scheduled in coordination with the project engineer and Town leadership. Completion of the design phase is expected to position the Town for a successful grant application to the **North Carolina Emergency Management Division** to support the construction portion of the project.

SECTION 2: ESTIMATED COSTS AND REVENUES

The estimated revenues and expenditures for the project are as follows:

A. Revenues

Source of Funds	Account Number	Amount (\$)
Transfer from Fund 63	59-3984	416,000
Appropriated Fund Balance	63-3991	416,000
Total Estimated Revenues		416,000

B. Expenditures

Expense Category	Account Number	Amount (\$)
Transfer to Fund 59	63-9800-9659	416,000
Design and Engineering	59-4710-5000	416,000
Total Estimated Expenditures		416,000

SECTION 3: PROJECT FUNDING AND MANAGEMENT

1. The Finance Officer, **Brian Murray**, is directed to establish a **Capital Project Fund** in accordance with **NC General Statute § 159-13.2**.
2. The Finance Officer shall ensure that all funds are expended only for the purposes authorized in this ordinance.
3. The project shall be accounted for in accordance with generally accepted accounting principles (GAAP) and North Carolina Local Government Budget and Fiscal Control Act regulations.

SECTION 4: BUDGETARY CONTROL AND AMENDMENTS

1. Any necessary changes to this ordinance must be approved by the Board of Aldermen.
 2. The Finance Officer is authorized to make transfers between line items within the project budget as long as they do not increase the overall cost of the project.
 3. The ordinance remains in effect until the project is completed, unless formally amended or closed by the Board of Aldermen.
-

SECTION 5: DISTRIBUTION AND EFFECTIVE DATE

Copies of this capital project ordinance shall be furnished to the Clerk, the Board of Aldermen, the Budget Officer, and the Finance Officer for direction in carrying out this project.

This ordinance shall be effective upon adoption and shall remain in force until the completion of the project.

Adopted this 10th day of April 2025

DARRYL MILLS
Mayor

ATTEST:

LANCE HEATER
Town Clerk

Seal



March 25, 2025

Town of Wrightsville Beach
321 Causeway Drive
Wrightsville Beach, NC 28480
Attn: Haynes Brigman

Reference: Town of Wrightsville Beach – Street End Headwalls Replacement
Wrightsville Beach, NC 28480
ACE Project No. 25012

Dear Mr. Brigman:

We are pleased to propose the following Agreement for providing Professional Services on the above referenced project.

DESCRIPTION OF PROJECT

The project involves the replacement of existing bulkheads or the improvement of shoreline protection at the western street ends of West Asheville Street, West Fayetteville Street, West Henderson Street, West Greensboro Street, Bay Street, Bermuda Drive, Bahama Drive, and Palmetto Drive in Wrightsville Beach. The new bulkheads will tie into existing bulkheads at the neighboring properties on each end. We will explore alternate shoreline protection options at the street ends that do not have bulkheads in place. We will serve as the design team manager and provide structural design and construction documents for the new bulkheads. We will also provide bid phase, construction phase, and Special Inspection services for these eight street ends and for West Oxford Street and West Atlanta Street (previously designed).

We have included the services of a professional surveyor to provide us with a bathymetric and topographical survey for each project site to include existing grade, surface, and water elevations, stormwater management structures within 50 feet of high-water mark, and locations of subsurface utilities in the areas adjacent to the bulkheads.

Also included is the video camera investigation of the existing stormwater piping within 50 feet of high-water mark at each street end. The extent of the investigation is from the drop inlets at the end of the pavement for each street out to the end of the pipes. We will provide limited civil design and construction documents for minor pipe repairs and drop inlet adjustments. These are the specific tasks included in our investigation and design services:

1. Closed-circuit television (CCTV) investigations of existing stormwater drainage pipes at westward ends of streets West Asheville Street, West Fayetteville Street, West Henderson Street, West Greensboro Street, Bay Street, Bermuda Drive, Bahama Drive and Palmetto Drive.
2. CCTV footage will be used to review the alignment at joints between stormwater pipes and catch basins.
3. If limited minor pipe repairs are warranted based on the investigation findings, we will provide the design and plans for the recommended remediation work.

We have also included the services of a geotechnical engineer to perform a limited subsurface exploration and prepare a written report with recommendations on design soil parameters for new sheet pile bulkheads and helical tieback anchors. The geotechnical services consist of these tasks:

Field Exploration

1. Prior to drilling, contact NC811.
2. Contracting with a private utility locator to identify near surface utilities in the immediate vicinity of planned exploration locations.
 - We shall not be held responsible for damages to any utilities or the tieback structures, nor for damages to pavements, landscaping, or irrigation systems.
3. Supply a track-mounted drill rig with drill crew.
4. A total of sixteen (16) proposed sounding locations have been selected. Two (2) are planned at each of the street end sites, with one near existing headwalls and one approximately 50 feet behind existing headwalls. These will be located based on accessibility within the existing asphalt pavement and are subject to change based on utility location.
5. Set up traffic cones and caution tape around our equipment during drilling operations.
6. Cut 6-inch diameter cores within the asphalt pavement to access underlying soils. Once drilling is completed, the asphalt at these locations will be patched using asphalt cold patch material.
7. Perform cone penetration test (CPT) soundings using a tracked rig as follows:
 - In a CPT sounding, an electronically instrumented cone penetrometer is hydraulically pushed through the soil to measure point stress, pore water pressure, and sleeve friction in general accordance with ASTM D 5778. The CPT data is used to determine soil stratigraphy and to estimate soil parameters such as pre-consolidation stress, friction angle, and undrained shear strength.
 - At each street-end site, will perform two (2) soundings to depths of 40 feet each beneath the existing ground surface. Soundings will be extended to these depths or refusal, whichever occurs first.

Geotechnical Report

At the conclusion of field and laboratory work, prepare a written report. The report will be delivered in electronic (pdf) format. The report will include:

1. A brief description of sampling and testing procedures, as well as field test data, including the CPT sounding logs and test location sketches for each street-end site.
2. A discussion of findings, including a description of the subsurface soil behavior types observed and water levels measured at the time of exploration.
3. Recommended soil profile parameters for the bulkhead and tieback design, including soil classification, unit weight, shear strength, and wall friction/adhesion for steel sheet piles.

◆ Excluded Geotechnical Related Services

Without attempting to describe a complete list of all items that are excluded from the scope of this exploration, the following items are specifically excluded from the scope of geotechnical services:

- Coring of rock or limestone.
- Shallow hand auger borings at the CPT locations.
- Environmental site assessments, CAMA permitting.
- Sampling of water.
- Identification of ecologic, geologic or hydrologic hazards.
- Seismic site classification, seismic design category, or determination of spectral acceleration response parameters SS, S1, SDS, SD1, FA, FV, and PGA or PGAM.
- Wetlands delineation.

- Assessment of construction pollution impacts.
- Surveying, including ground surface elevations at boring locations.
- Removal of the existing fence(s) or existing features to gain closer access to the headwall structures.
- Water side borings by barge or other means.
- Traffic control.
- Repairs to landscape or existing pavements, other than patching of our core hole locations.
- Laboratory testing of subsurface soils.

SCOPE OF SERVICES

These services are more specifically described in the Summary of Services (Exhibit A) and Terms and Conditions (Exhibit B).

These items are not included in the scope of services or fee:

Shoring and bracing design required for construction of project.

The design of anchorage of non-structural elements.

The preparation of documents for alternate bids.

Services required because of significant changes in the project, including changes in size, quality, complexity, schedule or methods of bidding.

The modification of specifications to formats other than Masterspec.

Providing details for repair of defective construction.

Providing calculations.

Material testing.

COMPENSATION FOR PROFESSIONAL SERVICES

Basic Services (Exhibit A)

Compensation for Basic Services shall be a lump sum fee of Four Hundred Sixteen Thousand dollars (\$416,000.00). The fees for Special Inspections is included in this total and is estimated to be \$95,000. This fee is based upon all projects being designed and constructed as one large project.

If the project becomes a Fast Track Project, or if it entails Multiple Bid Packages, the engineering fees stated above shall be subject to renegotiation.

PROGRESS PAYMENTS:

Progress payments for Basic Services shall be made on a monthly basis in accordance with the percentage of professional services completed.

REIMBURSABLE EXPENSES

Reimbursable expenses as defined in the Terms and Conditions shall be billed at a multiple of 1.2 times the cost incurred.

ADDITIONAL PROVISIONS

This Agreement, and Exhibits A and B attached hereto, constitute the entire Agreement between the parties. A digital copy of this Agreement has been provided to you. Please examine these documents and sign and return one copy. We will begin services within 30 days after receipt of the signed Agreement and retainer, if applicable. If this letter correctly sets forth the terms of our agreement regarding compensation, please sign and return a copy of this letter to us acknowledging your acceptance of the above terms. If you do not sign and return this engagement letter and after receipt of this letter you request or accept services from the firm in connection with this or any other engagement, your request or acceptance of such services will be deemed to be an acquiescence or agreement with the terms provided in this letter.

We are looking forward to working with you on this project.

Sincerely:	DocuSigned by: <i>Neal Andrew</i> 330AAE236A904CC...	Agreed to and Accepted by:
_____ (Signature)	_____ (Signature)	
3/25/2025		
_____ (Date)	_____ (Date)	
Neal W. Andrew, P.E., NABIE/President		
_____ (Printed Name/ Title)	_____ (Printed Name/ Title)	
Andrew Consulting Engineers, P.C.		
_____ (For) Structural Engineer	_____ (For) Owner	

EXHIBIT A – Summary of Services

This is an exhibit attached to and made part of the Letter Agreement dated March 25, 2025, between

Andrew Consulting Engineers, P.C.	Town of Wrightsville Beach
(For) Structural Engineer	(For) Owner

The services of the Structural Engineer (SE) for this proposal include those summarized below.

See Exhibit B - Terms and Conditions, for further details.

SCOPE OF BASIC SERVICES

Services	Included	Not Included	Remarks
PROJECT DEVELOPMENT PHASE			
1. Assist in Definition of Project	☐	☒	
2. Assist in Scope of Services Definition	☐	☒	
3. Assist in Development of Schedule	☐	☒	
4. Assist in Determining Channels of Communication	☐	☒	
SCHEMATIC DESIGN PHASE			
1. Review Owner's Program to Set Project Requirements	☒	☐	
2. Perform Preliminary Evaluation of Schedule	☒	☐	
3. Perform Preliminary Evaluation of Owner's Budget	☒	☐	
4. Consult with Public Agencies	☒	☐	
5. Perform Special Studies	☐	☒	
6. Study Design Alternatives	☒	☐	Only at street ends that do not currently have bulkheads
7. Prepare Schematic Design Drawings from Owner Approved Alternates	☒	☐	
DESIGN DEVELOPMENT PHASE			

1. Prepare Design Development Drawings based on approved Schematic Design	☒	☐	
2. Prepare Outline Specifications	☒	☐	
3. Review Results of Special Studies	☐	☒	
4. Prepare Opinion of Probable Construction Cost	☒	☐	
5. Participate in Value Analysis (VA) or Prepare Design Revisions Due to VA Process	☐	☒	
CONTRACT DOCUMENTS PHASE			
1. Complete Drawings and Specification (CD's) Based on Approved Design Development Documents	☒	☐	
2. Coordinate with Building Code Officials and Other Appropriate Public Agencies	☒	☐	
3. Prepare Statement(s) of Special Inspection	☒	☐	
4. Assist in Preparation of General Conditions and Bid Forms	☒	☐	
5. Revise Opinion of Probable Construction Cost	☒	☐	
6. Revise to CD's as Required by Building Officials	☒	☐	
7. Revise to CD's as Required by Project Peer Review	☐	☒	
BIDDING OR NEGOTIATION PHASE			
1. Reproduce and Distribute Bidding Documents	☒	☐	Digital PDFs only
2. Assist in Evaluating Bidder Qualifications	☒	☐	
3. Conduct or Participate in Pre-bid Conference	☒	☐	
4. Issue Addenda and Clarifications	☒	☐	
5. Conduct or Participate in Bid Opening	☒	☐	
6. Assist in Bid Evaluation	☒	☐	
CONSTRUCTION ADMINISTRATION PHASE			
1. Pre-Construction Services			

a. Conduct Pre-Construction Meeting	☒	☐	
b. Establish Communication Procedures	☒	☐	
c. Establish Submittal Procedures	☒	☐	
d. Establish Procedures for Testing & Inspection	☒	☐	
e. Assist in Selection of Testing & Inspection Agency	☒	☐	
f. Respond to Building Department Comments	☒	☐	
2. Submittal Review			
a. Review Specified Submittals	☒	☐	
b. Review Contractor Proposed Substitutes or Design Alternates	☐	☒	
3. Site Visits			
a. Make Site visits at Intervals Appropriate to the Stages of Construction	☒	☐	
b. Prepare Site Visit Reports	☒	☐	
4. Materials Testing and Observation			
a. Review Testing and Inspection Reports	☒	☐	
b. Initiate Appropriate Action to Testing and Observation Reports, if Required.	☒	☐	
5. Review Contractor's Requests for Payment	☒	☐	
6. Respond to Contractor's Requests for Information (RFI)	☒	☐	
7. Provide Recommendations Regarding Claims, Disputes and Other Matters Relating to Execution or Progress of the Work	☒	☐	
8. Determine Whether Non-Conforming Work Shall be Rejected (Investigative or redesign services for non-conforming work shall be considered an "Additional Service")	☒	☐	
9. Review and/or Issue Change Orders	☒	☐	
10. Conduct Observations to Determine Date of Substantial Completion of the Work	☒	☐	

11 Conduct Observation to Develop Punch List of Items Required for Final Completion	☒	☐	
12 Verify Completion of Punch List Items and Determine Date of Final Completion	☒	☐	
13 Endeavor to Obtain Required Written Warranties and Related Documents and Submit to Owner	☒	☐	
14 Issue Final Certificate for Payment	☒	☐	

SPECIAL SERVICES			
1. Field Investigation or Surveys of Existing Buildings	☐	☒	
2. Special Consultants or Services			
a. Geotechnical Engineer	☒	☐	
b. Environmental Services	☒	☐	CAMA Permitting
Discovery, testing, monitoring, clean-up or neutralization of pollutants and hazardous substances.	☐	☒	
Determination, advice or services related to the identification, existence, removal or containment of asbestos or lead based paint; modification, installation, or removal of a product, material or process containing asbestos or lead based paint.	☐	☒	
c. Traffic Studies	☐	☒	
d. Wind Tunnel Tests	☐	☒	
e. Site & Utility Surveys	☒	☐	
f. Seismic Risk Analysis	☐	☒	
g. Studies to Accommodate Special Energy Requirements	☐	☒	
3. Preparation of Demolition Documents	☒	☐	
4. Design for Future Expansion	☐	☒	
5. Design of Swimming Pools	☐	☒	
6. Services Connected with the Preparation of Documents for Alternate bids.	☐	☒	
Services Connected with the Preparation of Documents for Segregated Contracts for Phased or Fast-Track Construction.	☐	☒	
8. Tenant Related or Finish out Design Services	☐	☒	
9. Filing Application for and Obtaining a Building Permit	☐	☒	
10. Special Inspections as Required by the Applicable Building Code	☒	☐	

11	Review of Contractor Resubmittals in Excess of the Number of Resubmittals Specified under Basic Services	☐	☒	
12	Design or Field Observations of Shoring and Bracing for Excavations and Buildings or Underpinning of Adjacent Structures.	☐	☒	
13	Preparation of Shop or Fabrication Drawings, for Example, Tilt-up Wall Panel Drawings, Reinforcing and Structural Steel Detailing, etc.	☐	☒	
14	Supply of CAD Files to Contractor(s)	☒	☐	
15	Investigative Services Associated with Nonconforming Construction	☐	☒	
16	Redesign Services Due to Non-conforming Construction	☐	☒	
17	Preparation of Record Drawings	☒	☐	
18	Preparation of Operation/Maintenance/Inspection Manuals	☐	☒	

EXHIBIT B – TERMS and CONDITIONS

This is an exhibit attached to and made part of the Letter Agreement dated March 25, 2025, between

Andrew Consulting Engineers, P.C.
(For) Structural Engineer

Town of Wrightsville Beach
(For) Owner

Section 1 - General

1.1 This Agreement

- 1.1.1 These Terms and Conditions, along with the signed Agreement, and Exhibit A – Summary of Services form the Agreement as if they were part of one and the same document.
- 1.1.2 The Agreement and Exhibit A may modify the applicability of these Terms and Conditions. Such modification shall take precedence over provisions of this Exhibit.

1.2 General obligations of the Structural Engineer and the Owner

- 1.2.1 The Structural Engineer (SE) shall provide those professional services as specified in Exhibit A and detailed in these Terms and Conditions. In rendering these services, the SE shall apply the skill and care ordinarily exercised by structural engineers at the same time and locale the services are rendered.
- 1.2.2 The SE and Owner shall each designate, in writing, a representative to act with authority on their behalf with respect to all aspects of the Project.
- 1.2.3 Upon written request, the Owner shall verify and provide reasonable evidence in writing, that the project will be financed adequately, including provisions for contingencies, to accomplish the stated and desired goals and commitments.
- 1.2.4 The Owner shall provide all criteria and information with regard to their requirements for the Project. This shall include, but not be limited to, review and approval of design in the schematic design phase, design development phase, and contract documents phase. These approvals shall include a written authorization to proceed to the next phase.
- 1.2.5 The Owner shall provide testing necessary to identify hazardous materials and pollutants, and shall provide test results to the SE, and be responsible for the remediation in accordance with the governing laws, if required.
- 1.2.6 The SE shall request, and the Owner shall provide those geotechnical investigations, property surveys, utility surveys, reports and other data necessary for performance of the project team (unless these services are to be provided through subcontracts to this agreement.).
- 1.2.7 The SE shall submit to the Owner a schedule for the performance of the professional services.
- 1.2.8 Professional services provided by the Owner shall be performed by professionals licensed in the state of the project and experienced with respect to the service being provided.
- 1.2.9 The SE is entitled to rely on the accuracy and completeness of services provided by other design professionals retained by the Owner.

1.3 Definitions

- 1.3.1 **Structural Engineer (SE)** is an individual, partnership, corporation or other legally recognized entity authorized to provide design services for new structures and/or renovations of existing structures.
- 1.3.2 **Fast Track Projects** are projects in which any portion of the contract drawings are released for pricing/bid/fabrication or are submitted for building permit prior to such issuance of the full design team documents.
- 1.3.3 **Multiple Bid Packages** are bid documents which are submitted for phased construction of portions of the project under separate trade contracts.
- 1.3.4 **Owner** is the individual, agency, corporation or other legally recognized entity or the officers, directors, or employee of any of them, which engages the services of the SE.
- 1.3.5 **Reimbursable Expenses** are expenses incurred by the SE directly in connection with the project such as, but not limited to, transportation, out-of-town travel and subsistence, electronic communications, overnight deliveries, courier services, additional specialized professional services, sales taxes, permits and filing fees for securing approvals from government authorities, renderings or models, Owner authorized overtime above the current hourly rates, expenses for professional liability insurance or additional insurance beyond the normal amount carried by the SE and the cost of reproductions.
- 1.3.6 **Site Visits** are visits to the site at intervals appropriate to the stage of construction to observe and become generally familiar with the quality and progress of the work and to endeavor to guard the Owner from defects or deficiencies in the work.
- 1.3.7 **Special Inspections** are those inspections required by governing or local authorities to be performed by a qualified person, approved by the building official, during the construction phase of the project.

Section 2 -- Basic Services

2.1 General

- 2.1.1 The Basic Services of the SE are those services designated in Exhibit A.

Section 3 -- Extra Services

3.1 General

- 3.1.1 Extra Services are those services that arise during the design or construction process and are not included in Basic Services. Examples include, but are not limited to:
- a. Services resulting from changes in scope or magnitude of the project as described and agreed to under the Basic Services Agreement.
 - b. Services resulting from changes necessary because of a construction cost overrun which is outside the control of the SE.
 - c. Services resulting from revisions which are inconsistent with approvals or instructions previously given by the Owner.
 - d. Services resulting from revisions due to the enactment or revision of codes, laws, or regulations subsequent to the start of preparation of construction documents.
 - e. Services resulting from Owner initiated Change Orders.
 - f. Services resulting from corrections or revisions required because of errors or omissions in construction by the Contractor, or in designs provided by the Contractor or any third party.
 - g. Services resulting from construction procedures over which the SE has no control.
 - h. Services due to extended design or construction time schedules.
 - i. Services in connection with litigation, mediation, arbitration or public hearings, with respect to the project.
 - j. Services resulting from damage, as the result of fires, man-made disasters, or acts of God.
 - k. Review and design of alternate or substitute systems.
 - l. Review of additional shop drawing submittals when occasioned by improper or incomplete submittals.
 - m. Services required to make changes resulting from value analysis review or project peer review.
 - n. Services for conditions discovered after the execution of this Agreement.

Section 4 -- Fees and Payments

4.1 Fees and Other Compensation

- 4.1.1 Fees for Basic Services and Extra Services and Compensation for Reimbursable Expenses are set forth in the Letter Agreement.

4.2 Payments on Account

- 4.2.1 Invoices for the SE's services shall be submitted on a monthly basis. Invoices shall be payable when rendered and shall be considered past due if not paid within 30 days of the invoice date.
- 4.2.2 Retainers, if applicable to this project, shall be credited to the final invoice.
- 4.2.3 Questions concerning the substance or content of an invoice shall be made to the SE, in writing, within 10 days of receipt of the invoice. A failure to notify the SE within this period shall constitute an acknowledgment that the service has been provided and payment is due.

4.3 Late Payments

- 4.3.1 A service charge will be charged at the rate of 1.5% (18% true annual rate) per month or the maximum allowable by law on the then outstanding balance of past due accounts. In the event any portion of an account remains unpaid 30 days after billing, the Owner shall pay all costs of collection, including reasonable attorney's fees. Payments on account will be credited first to any service charge and then due to any outstanding balances.
- 4.3.2 In the event that any portion of an account remains unpaid 30 days after billing, the SE may, without waiving any claim or right against the Owner, and without liability whatsoever to the Owner, suspend or terminate the performance of all services and in that event the SE will in no way be responsible for any resultant delay.

Section 5 - Insurance, Indemnification & Risk Allocation

5.1 Insurance

- 5.1.1 The SE shall secure and endeavor to maintain professional liability insurance, commercial general liability insurance and automobile liability insurance to protect the SE from claims for negligence, bodily injury, death or property damage which may arise out of the negligent performance of the SE's services under this Agreement. The SE shall also carry Worker's Compensation Insurance. The SE shall, if requested in writing, provide certificates of insurance to the Owner.
- 5.1.2 The Client shall secure commercial general liability insurance, and automobile liability insurance to protect the Client from claims for negligence, bodily injury, death or property damage which may arise out of the Client's performance under this Agreement. The Client shall also carry worker's compensation insurance and procure all-risk or builder's risk property insurance and include the interests of the SE on such policy. The Client shall provide certificates of insurance to the SE.

5.2 Indemnification

- 5.2.1 The SE shall indemnify and hold harmless the Owner and its officers, members, directors, partners, agents, employees, and subconsultants against any and all claims, damages, losses and expenses to the extent they are caused by the negligent; acts, errors, or omissions of the SE or its officers, members, directors, partners, agents, employees, and subconsultants in the performance of its services under this Agreement, subject to the Risk Allocation provisions in Article 5.3 below. The Owner shall indemnify and hold harmless the SE and its officers, members, directors, partners, agents, employees and subconsultants from and against any and all claims, damages, losses and expenses arising out of or resulting from the Owner's performance of its obligations under this Agreement, provided that any such claims, damage, loss or expense is caused in whole or in part by the negligent act or omission and/or strict liability of the Owner, anyone directly or indirectly employed by the Owner (except the SE) or anyone for whose acts any of them may be liable. This indemnification shall include any claim, damage or loss due to the presence of hazardous materials. Neither party shall have any obligation to defend or pay for the defense costs of the other party until such time as there is a determination of fault of the parties and in that event, the party found at fault shall only be obligated to reimburse the other party for its reasonable defense costs on a percentage basis in direct proportion, as determined by the court, to the percentage of fault of the party who was found at fault.
- 5.2.2 The Owner shall indemnify and hold harmless the SE and all of its personnel, and other design team members, from and against any and all claims, damages, losses and expenses (including reasonable attorney's fees) arising from the presence, discharge, release or escape of asbestos, hazardous waste, or other contaminants at the site.
- 5.2.3 For third party claims, to the fullest extent permitted by law, the Owner hereby agrees to indemnify, hold harmless and defend the SE, including its officers, members, directors, partners, agents, employees, and subconsultants from and against all third party claims, including bodily injury, property damage, products liability, demands, damages and losses, causes of actions, judgments, fines, penalties and claims expense including attorney fees litigation costs, expert witness fees and any other expenses, caused by or alleged to have been caused by anything other than negligent performance by the SE of services under the agreement related to this project. Said indemnification shall also apply to any deductible that the SE may be obligated to pay under its Professional Liability Policy resulting therefrom.
- 5.2.4 The indemnifications as stated in Articles 5.2.1, 5.2.2 and 5.2.3 shall apply to the respective officers, members, directors, partners, agents, employees, and subconsultants of the SE and the Owner.
- 5.2.5 The Owner shall require that its construction contractor(s) endorse commercial general liability coverage to include the Owner, the SE and the SE's consultants as additional insureds for claims caused in whole or in part by the contractor's negligent acts or omissions during the contractor's operations. All such additional insured coverage shall be primary and non-contributory, with provision for separation of insureds.

5.3 Risk Allocation

- 5.3.1 In recognition of the relative risks, rewards and benefits of the Project to both the Owner and the SE, the risks have been allocated such that the Owner agrees that, to the fullest extent permitted by law, the SE's total liability to the Owner or any third party for any and all injuries, claims, losses, expenses, damages, expert fees, court costs or claim expenses arising out of this Agreement, from any cause or causes, inclusive of all costs including attorney and expert fees, shall not exceed the amount of \$500,000, or the amount of the SE's fees (whichever is greater). Such cause or causes include, but are not limited to, the SE's negligent acts, errors, omissions, strict liability, breach of contract, breach of expressed or implied warranty, or any other theory of legal liability. This limitation of liability shall apply to the SE and its officers, members, directors, partners, agents, employees, and subconsultants. Owner understands that SE's fee is based, in part, on Owner's agreement to limit SE's liability in accordance with this paragraph and that greater limits of liability are available for increased SE fees, but that Owner has agreed to forego those greater limits of liability in exchange for the SE fee herein.

Section 6 - - Miscellaneous Provisions

6.1 Ownership and Use of Documents

- 6.1.1 All documents, drawings, specifications, computer files, CAD files, design calculations and survey notes are instruments of service and belong to and remain the property of SE, regardless of whether the instruments were copyrighted or whether the Project for which they were prepared is executed. The SE retains all copyright interests and rights in all such documents. The Owner may, at its expense, obtain reproducible copies of drawings and copies of other documents, in consideration of which there will be mutual agreement that the Owner will use them solely in connection with the specific Project for which they were prepared.
- 6.1.2 Any reuse of the Drawings or Specifications for, among other things, development of another project, or completion of this project by others, revisions, alterations, deletions from, additions to, or other modifications of the Drawings or Specifications, shall constitute an "unauthorized reuse" and be prohibited unless performed by or at the written consent of the SE. The Owner further agrees to defend, indemnify and hold the SE harmless from and against any and all claims, demands, damages, losses or expenses, including court and arbitration costs, and attorneys' fees, arising out of or resulting from any such unauthorized reuse.
- 6.1.3 CAD files shall not be used by the Contractor for the preparation of shop drawings without the written consent of the SE and such fee that the SE may establish.

6.2 Opinion of Probable Construction Cost

- 6.2.1 The SE's evaluations of the Owner's probable project budget and any opinions of probable construction costs, if rendered as a service under this Agreement, will be made on the basis of the SE's experience and qualifications and will represent the SE's best judgment as a qualified design professional familiar with the construction industry. Because the SE has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over the competitive bidding process or future market conditions, the SE does not guarantee or represent that proposals, bids, negotiated prices, or actual construction costs will not vary from the opinions of probable construction costs prepared or agreed upon by the SE. The Owner is strongly encouraged to engage the services of an independent cost estimator to provide estimates of construction costs.

6.3 Deficient Conditions

6.3.1 If the SE has reason to believe that a deficient condition may exist, the SE shall notify the Owner who shall authorize and pay for all costs associated with the investigation of such a condition, and, if necessary, all costs necessary to correct said condition. If (1) the Owner fails to authorize such investigation or correction after due notification, or (2) the SE has no reason to believe that such a condition exists, the Owner is responsible for all risks associated with this condition, and the SE shall not be responsible for the existing condition nor any resulting damages to persons or property. The SE shall have no responsibility for the discovery, presence, handling, removal, disposal or exposure of persons to hazardous materials of any form.

6.4 Review of Contractor's Work

6.4.1 The SE shall not supervise, direct, or have control over the Contractor's work. The SE shall not be responsible for the Contractor's means, methods, procedures, techniques, or sequences of construction, nor for safety programs and procedures employed by the contractor on the job site. The SE shall not be responsible for the Contractor's failure to carry out the work in accordance with the Contract Documents.

6.4.2 If included in the SE's Scope of Services (Exhibit A), the SE shall review and take appropriate action with respect to shop drawings, product data, samples, and other submittals required under the contract documents to be submitted by contractor. The SE's review shall be only for the limited purpose of ascertaining general compliance with the design concept for the project and the information given in the contract documents. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of details such as dimensions, quantities, weights, gauges, or fabrication processes, nor for substantiating instructions for installation or performance of systems designed by contractor, nor for coordination with the work of other trades. Review of a specific item shall not indicate acceptance of an assembly of which the item is a component. When professional certification, by other licensed professionals or the Owner or contractor for performance characteristics of materials, systems, or equipment is required by the contract documents, the SE shall be entitled to rely upon such certification as verification that the materials, systems, or equipment will meet the performance criteria set forth in the contract documents.

6.5 Termination, Successors, Assigns and Third-Party Beneficiary

6.5.1 This agreement may be terminated upon 10 days written notice by either party should the other party fail to perform its obligations hereunder. In the event of termination, the Owner shall pay the SE for all services rendered to the date of termination, all reimbursable expenses and reasonable termination expenses.

6.5.2 The Owner and the SE each binds themselves, partners, successors, executors, administrators, assigns and legal representatives to the other party of this Agreement and to the partners, successors, executors, administrators, assigns, and legal representatives of such other party in respect to all covenants, agreements, and obligations of this Agreement.

6.5.3 Neither the Owner nor the SE shall assign, sublet or transfer any rights under, or interest in (including, but without limitations, monies that may be due or monies that are due) this Agreement, without the written consent of the other, except as stated in the paragraph above, and except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent the SE from employing such independent consultants, associates and subcontractors as he or she may deem appropriate to assist in the performance of services hereunder.

6.5.4 The SE and the Owner agree that the services performed by the SE pursuant to this Agreement are solely for the benefit of the Owner and are not intended by either the SE or the Owner to benefit any other person or entity. To the extent that any other person or entity is benefited by the services performed by the SE pursuant to this Agreement, such benefit is purely incidental and such other person or entity shall not be deemed a third-party beneficiary to this Agreement.

6.6 Dispute Resolution

6.6.1 The SE and the Owner agree to negotiate any claim(s) or dispute(s) arising out of or related to the agreement between them in good faith prior to exercising any other provision of this Agreement.

6.6.2 If a claim or dispute between the SE and the Owner cannot be settled within 30 days by good faith negotiations the SE and the Owner agree to submit it to mediation in accordance with the mediation rules of the American Arbitration Association.

6.6.3 If the claim or dispute cannot be settled by good faith negotiations or mediation, then either party may exercise their rights under law.

6.6.4 In no event shall a claim or dispute be made or sustained if it would be barred by the applicable statute of limitations.

6.7 Governing Laws

6.7.1 This Agreement shall be governed by the laws of the principal place of business of the SE.

6.8 Waiver of Certifications

6.8.1 No party to this Agreement shall be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement. No party to this Agreement shall be required to sign any documents which would result in that party having to certify, guarantee, or warrant the existence of conditions which they cannot ascertain.

6.9 Corporate Protection

6.9.1 It is intended by the parties to this agreement that the SE's services in connection with the project(s) shall not subject the SE's individual owners, officers, or employees to any legal exposure for the risks associated with this project. Therefore, and notwithstanding anything to the contrary contained herein, the client agrees that as the client's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against the SE firm, and not against any of SE firm's individual owners, officers or employees.

6.10 Claim Validation

6.10.1 The Client shall make no claim for professional negligence, either directly or by way of a cross complaint against the SE unless the Client has first provided the SE with a written certification executed by an independent consultant currently practicing in the same discipline as the SE and licensed in the state where the project is located. This certification shall: a) contain the name and license number of the certifier; b) specify the acts or omissions that the certifier contends are not in conformance with the standard of care for a consultant performing professional services under similar circumstances; and c) state in detail the basis for the certifier's opinion that such acts or omissions do not conform to the standard of care. This certificate shall be an express condition precedent to initiation of any claim by mediation, arbitration or litigation and shall be provided to the SSE not less than thirty (30) calendar days prior to the presentation of any claim or the institution of any arbitration or judicial proceeding. Failure to comply with this Art. 6.10 shall constitute a waiver of any such claims.

6.11 Electronic Document Provisions

- 6.11.1 Client and SE may transmit, and shall accept, project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure project website, in accordance with a mutually agreeable protocol.
- 6.11.2 If this Agreement does not establish protocols for electronic or digital transmittals, then Client and SE shall jointly develop such protocols.
- 6.11.3 Original electronic document files will be retained by SE for a period of time determined by SE. Client may be permitted to retain copies of drawings and specifications prepared on electronic document files for Client's information in its use of the project. Due to the potential that the information set forth in the electronic document files can be modified by Client, unintentionally or otherwise, SE reserves the right to remove all indicia of its ownership and/or involvement from each electronic display.
- 6.11.4 SE's electronic document files are compatible with the current release of SE's software, using SE's current operating system.
- 6.11.5 Data stored on electronic media can deteriorate undetected or be modified without SE's knowledge. Therefore, Client agrees that it will accept responsibility for the completeness, correctness, and readability of the electronic media after an acceptance period of 7 days after delivery of the electronic files. Client also agrees that upon the expiration of this acceptance period, Client will indemnify and hold harmless SE for any and all claims, losses, costs, damages, awards or judgments arising from the use of electronic media files or output generated from them.
- 6.11.6 In the event that a conflict arises between the signed/certified documents prepared by SE and electronic document files, the signed/certified documents shall govern.
- 6.11.7 Electronic document files will be prepared by SE and delivered to Client in accordance with SE's standard electronic document specification. All costs associated with providing electronic document files to comply with Client's electronic document specification are considered Additional Services and may require the extension of the project design phase schedule.
- 6.11.8 Information set forth in the electronic document files will not be used by the Client on other projects, for additions to this project, or for completion of this project by another design professional. Any such use or reuse by Client or others, without written verification or adaptation by SE for the specific purpose intended, will be at Client's sole risk and without liability or legal exposure to SE. Furthermore, Client shall, to the fullest extent permitted by law, indemnify and hold harmless SE from all claims, damages, losses and expenses, including attorneys' fees, arising out of or resulting therefrom. Any such verification or adaptation will entitle SE to further compensation at rates to be mutually agreed upon by Client and SE.

Section 7 - Supplemental Conditions

7.1 Supplemental Conditions:

- 7.1.1 Inasmuch as the remodeling and/or rehabilitation of the existing structure requires that certain assumptions be made by the Consultant regarding existing conditions, and because some of these assumptions may not be verified without the Client's expending substantial sums of money or destroying otherwise adequate or serviceable portions of the structure, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless to Consultant, its officers, directors, employees and subconsultants (collectively, Consultant) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising out of or in any way connected with this Project, excepting only those damages, liabilities or costs attributed to the sole negligence and willful misconduct by the Consultant.
- 7.1.2 Services performed under this agreement will be performed in a manner consistent with that degree of skill and care ordinarily exercised by members of the same profession currently practicing under similar circumstances. No warranties, express or implied, are made in connection with services performed under this Agreement. Nothing in this Agreement shall be construed to establish a fiduciary relationship between the parties.
- 7.1.3 All legal actions by either party against the other arising out of or in any way connected with this Agreement of the services to be performed hereunder shall be barred and under no circumstances shall any such legal action be initiated by either party after two (2) years from the date of Substantial Completion, unless the Agreement shall be terminated earlier, in which date in which case the date of termination of this Agreement shall be the date on which such period shall commence.
- 7.1.4 The Client shall promptly report to the Consultant any defects or suspected defects in the Consultant's services which the Client becomes aware, so that the Consultant may take measures to minimize the consequences of such a defect. The Client further agrees to impose a similar notification requirement on all contracts in its Client/Contractor contract and shall require all subcontracts at any level to contain a like requirement. Should legal liability for the defects exists, failure by the Client and Client's contractors or subcontractors to notify the Consultant shall relieve the Consultant of any liability for costs of remedying the defects above the sum such remedy would have cost had prompt notification been given when such defects were first discovered.