



# County of Dare

P.O. Box 1000 | Manteo, NC 27954

## DARE COUNTY BOARD OF COMMISSIONERS

Dare County Administration Building  
954 Marshall C. Collins Dr., Manteo, NC

Monday, May 20, 2019

“HOW WILL THESE DECISIONS IMPACT OUR CHILDREN AND FAMILIES?”

### AGENDA

- 5:00 PM CONVENE, PRAYER, PLEDGE OF ALLEGIANCE**
- ITEM 1** Opening Remarks - Chairman's Update
- ITEM 2** Public Comments
- ITEM 3** Proclamation - Older Americans Month
- ITEM 4** Resolution Requesting Two Multi-Use Paths on Roanoke Island
- ITEM 5** CRMP INC -- Request to Amend CUP 3-2014
- ITEM 6** Presentation of the Manager's 2020 Budget
- ITEM 7** Closed Session
- ITEM 8** Contract for Dare County Dredge Vessel
- ITEM 9** **Public Hearing – 5:30 p.m.**  
1. Timothy Jennette Request to Fill Ditch
- ITEM 10** Consent Agenda  
1. Approval of Minutes (05.07.19)  
2. Budget Amendment of Emergency Management Performance Grant Revenue Increase  
3. Avon Property Owners Association Fireworks Display 2019  
4. Budget Amendment for Disaster Recovery Fund  
5. Budget Amendment - Non-departmental  
6. Sheriff - Budget Amendment  
7. Tax Collector's Report
- ITEM 11** Commissioners' Business & Manager's/Attorney's Business

ADJOURN UNTIL 9:00 A.M. ON JUNE 3, 2019



*Opening Remarks - Chairman's Update*

**Description**

Dare County Chairman Robert Woodard will make opening remarks.

**Board Action Requested**

Informational Presentation

**Item Presenter**

Chairman Robert Woodard



*Public Comments*

**Description**

The Board of Commissioners encourages citizen participation and provides time on the agenda at every regularly scheduled meeting for Public Comments. This is an opportunity for anyone to speak directly to the entire Board of Commissioners for up to five minutes on any topic or item of concern.

Comments can be made at the Commissioners Meeting Room in Manteo or through an interactive video link at the Fessenden Center Annex in Buxton.

Commissioners Meeting Room - Administration Building, 954 Marshall Collins Drive, Manteo  
Video Link - Fessenden Center Annex, 47017 Buxton Back Road, Buxton

**Board Action Requested**

Hear Public Comments

**Item Presenter**

Robert Outten, County Manager



*Proclamation - Older Americans Month*

**Description**

The Albemarle Commission Area Agency on Aging has asked each of their 10 counties to consider adopting a proclamation declaring May as Older Americans Month. The proclamation encourages older adults and their communities to connect with friends, family, and services that support participation and to engage in activities that promote learning, health, and personal enrichment.

**Board Action Requested**

Issue Proclamation

**Item Presenter**

Commissioner Rob Ross



**PROCLAMATION  
OLDER AMERICANS MONTH 2019**

**WHEREAS**, Dare County includes a growing number of older Americans who enrich our community through their diverse life experiences; and

**WHEREAS**, Dare County is committed to strengthening our community by connecting with and supporting older adults, their families, and caregivers and acknowledging their many valuable contributions to society; and

**WHEREAS**, Dare County recognizes the importance of bringing together all generations and engaging in activities that promote physical, mental, and emotional well-being for the benefit of all; and

**WHEREAS**, Dare County can enhance the lives of older Americans in our community by:

- promoting home and community-based services that support independent living;
- involving older adults in community events and other activities; and
- providing opportunities for older adults to work, volunteer, learn, lead, and mentor.

**NOW, THEREFORE**, the Dare County Board of Commissioners hereby proclaims May 2019 to be Older Americans Month and urges every resident to take time during this month to recognize older adults and the people who serve them as essential and valuable members of our community.

This the 20<sup>th</sup> day of May, 2019

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Robert Woodard, Chairman

Attest:

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Gary Gross, Clerk to the Board



*Resolution Requesting Two Multi-Use Paths on Roanoke Island*

**Description**

The Roanoke Island Trails Program requests that the Dare County Board of Commissioners adopt a resolution in support of two (2) multi-use paths on Roanoke Island.

The resolution asks the Albemarle Regional Planning Organization (RPO) to include in its future planing the construction of - - -

1. a multi-use path adjacent to NC Highway 345 from NC Highway 64 to the village of Wanchese.
2. a multi-use path adjacent to Airport Road from NC Highway 64 to the NC Aquarium on Roanoke Island.

**Board Action Requested**

Approve Resolution

**Item Presenter**

Erin Rexin, Roanoke Island Trails Program



**RECOMMENDING CONSTRUCTION OF MULTI-USE PATHS  
ADJACENT TO NC 345 FROM NC 64 TO THE VILLAGE OF WANCHESE, AND  
ADJACENT TO AIRPORT RD FROM NC 64 TO THE NC AQUARIUM ON ROANOKE ISLAND**

**WHEREAS**, Roanoke Island is an historic and culturally significant island located in Dare County and includes the Town of Manteo as well as several other unique villages and neighborhoods including Skyco and Wanchese; and

**WHEREAS**, the Dare County Board of Commissioners has received a request from the Roanoke Island Trails Program Steering Committee for additional safe modes of alternative transportation for the residents and visitors of Roanoke Island; and

**WHEREAS**, the Roanoke Island Trails Program was initiated as a community outreach service of East Carolina University and the Coastal Studies Institute in partnership with the Conservation Trust for North Carolina, and AmeriCorps; and

**WHEREAS**, the Roanoke Island Trails Program is a volunteer initiative created to provide opportunities for healthier living and environmental education to all residents and visitors of Dare County through the discovery, development and mapping of trails on Roanoke Island; and

**WHEREAS**, The Roanoke Island Trails Program is an inclusive and diverse community volunteer program open to all Dare County citizens and includes the participation of community volunteers and leaders from Dare County Planning, Dare County Parks and Recreation, the Manteo Town Manager and Planner; and

**WHEREAS**, The Roanoke Island Trails Program Steering Committee has studied the opportunities and challenges for trails on Roanoke Island and recommends the inclusion of safe multi-use paths for the citizens and visitors of Skyco and Wanchese and for the north end of Roanoke Island; and

**WHEREAS**, The Dare County Comprehensive Transportation Plan dated July 2015 includes recommendations for sidewalks and multi-use paths for Airport Road and NC 345.

**NOW THEREFORE BE IT RESOLVED**, that the Dare County Board of Commissioners enthusiastically supports multi-use pathways as a way of enhancing public safety and providing much needed infrastructure for tourism activities, which furthers economic development opportunities for the region. And, the Dare County Board of Commissioners respectfully requests that the Albemarle Regional Planning Organization include in future planning documents the construction of two (2) multi-use paths on Roanoke Island:

1. Adjacent to NC highway 345 from NC highway 64 to the village of Wanchese, and
2. Adjacent to Airport Road from NC highway 64 to the NC Aquarium on Roanoke Island.

This the 20<sup>th</sup> day of May, 2019

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Robert Woodard, Chairman

Attest:

---

Gary Gross, Clerk to the Board

# ROANOKE ISLAND TRAILS PROGRAM OVERVIEW



## MISSION

The Roanoke Island Trails Program mission is to improve trail safety, provide accessible outdoor education opportunities, awaken an appreciation for nature, and encourage civic engagement in the community through the creation and stewardship of a Roanoke Island trails network.

## VISION

The Roanoke Island Trails Program was established as a grass-roots community-led initiative to promote the development and use of a trails network across Roanoke Island. This network of walking paths, biking routes, and paddle trails is intended to encourage healthy outdoor activity and inform users of relevant historical, cultural, and environmental topics. Program members are also working towards designing and publishing a comprehensive island trails map for use by residents and visitors. Our projects reflect the shared values of safety, access, health, and education.



## PURPOSE

The purpose of the Roanoke Island Trails Program is to meaningfully engage residents and visitors by coordinating and providing opportunities for the creation, enhancement, and stewardship of multi-use trails on Roanoke Island.

## ABOUT

The focus of the Roanoke Island Trails Program is to engage the community with Roanoke Island's natural environs via a system of biking routes, walking paths, and paddle trails. Signage and plaques will highlight the unique identities of each community and provide information on various cultural, historical, and ecological features of the island.

## PROJECT GOALS ARE TO (IN APPROX. ORDER TO PRIORITY)

1. Create and install educational signage, determine wayfinding, and designate trail-heads for the existing and proposed trails on CSI property and surrounding area
2. Create a virtual map with educational materials, wayfinding, and appropriate classifications for proposed and existing trails on CSI property and surrounding area
3. Maintain trails on CSI campus and surrounding areas using recurrent volunteer opportunities (by way of a volunteer program) for gardening and trail tending
4. Create and install educational signage, determine wayfinding, and designate trail-heads for new and existing trails in Wanchese and Manteo
5. Create a virtual map with educational materials, wayfinding, and appropriate classifications for existing and new trails in Manteo and Wanchese
6. Create and publish either a map of south Roanoke Island trails (including CSI campus and surrounding areas) or a map of the entire Roanoke Island trails network with points of interest and important trail features (water, restrooms, lookouts, etc.)



# Proposed Multi-use Path along NC-345 to Wanchese



# Proposed Multi-use Path along Airport Road



"TYPICAL" HIGHWAY CROSS SECTIONS FOR USE IN SPOT ONLINE

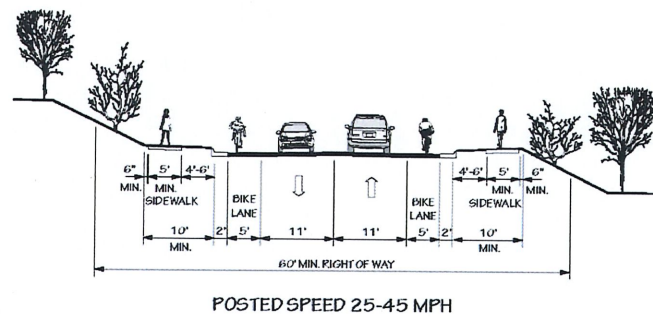
## Typical Section Comparison

Typical Section #	Description	Total Travel Lanes	Total General Purpose Travel Lanes	Total Managed Lanes	Median Type	Access Control	Bike Lanes	Sidewalks/ Sidepath	Speed Limit Range (mph)	Outside Treatment	Min. Right-of-Way needed (feet)	Old Typical Section # (Dec. 2010)
2A	2 Lane Undivided with Paved Shoulders, 55 mph	2	2		Undivided	None	No	No/No	55	Paved Shoulder	60	2A
2B	2 Lane Undivided with Paved Shoulders, 25-45 mph	2	2		Undivided	None	No	No/No	25-45	Paved Shoulder	60	2B
2C	2 Lane Undivided with Paved Shoulders, 25-35 mph	2	2		Undivided	None	No	No/No	25-35	Paved Shoulder	50	2C
2D	2 Lane Undivided with Paved Shoulders and Sidewalks, 25-45 mph	2	2		Undivided	None	No	Yes/No	25-45	Paved Shoulder	90	2D
2E	2 Lane Undivided with Curb & Gutter, Bike Lanes, and Sidewalks, 25-45 mph	2	2		Undivided	None	Yes	Yes/No	25-45	Curb and Gutter	60	2E
2F	2 Lane Undivided with Paved Shoulders and Sidewalks in CAMA Counties, 25-45 mph	2	2		Undivided	None	No	Yes/No	25-45	Paved Shoulder – CAMA County	80	2F
2G	2 Lane Undivided with Curb & Gutter, Parking Both Sides, Bike Lanes, and Sidewalks, 25-45 mph	2	2		Undivided	None	Yes	Yes/No	25-45	Parking Both Sides and Curb and Gutter	85	2G
2H	2 Lane Undivided with Curb & Gutter, Parking One Side, Bike Lanes, and Sidewalks, 25-45 mph	2	2		Undivided	None	Yes	Yes/No	25-45	Parking One Side and Curb and Gutter	75	2H
2I	2 Lane Divided (23' Raised Median) with Curb & Gutter and Sidewalks, 25-45 mph	2	2		23' Raised Median	Partial, None	No	Yes/No	25-45	Curb and Gutter	85	
2J	2 Lane Divided (23' Raised Median) with Curb & Gutter, Bike Lanes, and Sidewalks, 25-45 mph	2	2		23' Raised Median	Partial, None	Yes	Yes/No	25-45	Curb and Gutter	90	2I

## 2E – 2 Lane Undivided with Curb & Gutter, Bike Lanes, and Sidewalks, 25-45 mph

### TYPICAL SECTION No. 2E

2 LANE UNDIVIDED WITH CURB & GUTTER, BIKE LANES, AND SIDEWALKS





*CRMP Inc. Request to Amend CUP 3-2014*

**Description**

CRMP Inc. has submitted a request to amend conditional use permit 3-2014 to allow extended hours of operation at their temporary concrete plant in Waves, NC. A staff report is attached for the Board's consideration along with other pertinent documents.

**Board Action Requested**

Consideration of CRMP request.

**Item Presenter**

Donna Creef

STAFF REPORT: CRMP Inc. Request to Amend CUP 3-2014 to Extend Hours of Operation

DATE: May 20, 2019

FROM: Donna Creef, Planning Director

CRMP Inc. has submitted a request to amend their conditional use permit for the Waves village concrete plant. The request is to extend the hours of operation that were included in the original CUP approved in June 2014. The original CUP includes the following hours of operation condition:

*Normal working hours of operation shall be Monday –Friday from 8:00 a.m. and 5:00 p.m. These normal working hours of operation shall apply to the delivery of materials and supplies to the site, operation of heavy equipment used at the site, movement of aggregate materials at the site, clean-up of trucks and equipment, and all other administrative functions that occur at the site.*

CRMP Inc. seeks to revise the hours of operation to 3:00 a.m. to 5:00 p.m. for any three days Monday to Friday through project completion. This is the only condition they have asked to revise.

Some background information for those of you that were not on the Board of Commissioners when the original CUP for CRMP Inc. was authorized for a temporary concrete plant in Waves, NC. The CUP request was opposed by many property owners and residents of the Rodanthe Waves Salvo villages. The temporary concrete plant was to provide concrete to the Pea Island Bridge and the Rodanthe Bridge. Construction on the Rodanthe Bridge is underway. The CRMP permit contains multiple conditions that were established during review of the original CUP application. The hours of operation of 8:00 a.m. to 5:00 p.m Monday-Friday were established when it was acknowledged by CRMP that concrete for bridge construction could be produced at their Nags Head concrete plant.

CRMP Inc. is a sub-contractor for Flat Iron Corp., the bridge contractor for the Rodanthe bridge. CRMP's request is submitted in conjunction with Flat Iron Corp. and representatives of Flat Iron will present testimony and evidence at the Board meeting to support the need for extended working hours. The request is based on the desire to extend the longevity of the bridge deck.

The Planning Board reviewed the request at their April 8, 2019 meeting. Thirteen people spoke at public comment in opposition to the extended hours of operation. The Planning Board voted to recommend denial of the extended hours of operation. Comments from the Planning Board members before the vote before the vote

indicated a reluctance to disturb residents, especially children, in the neighborhood at 3:00 a.m.

Since this is a conditional use, the matter will be subject to quasi-judicial procedures and anyone addressing the Board will be sworn and only evidence presented at the meeting can be used during the Board's deliberations. I anticipate that there will be multiple property owners at the May 20 meeting speaking in opposition to the request.

The extended hours of operation is the only condition that CRMP has asked to amend and is the only condition considered for amendment. If after hearing testimony, the Board agrees with the Planning Board's recommendation to deny the extended hours, then the original CUP issued to CRMP remains valid and work at the Waves concrete plant can occur during the hours of 8:00 a.m. to 5:00 p.m. Monday to Friday. A vote to deny the extended hours of operation does not nullify the original CUP issued by Dare County in June 2014. A draft amendment for the extended hours of operation is included with this staff report should CUP 3-2014 be amended as requested by CRMP Inc.

**Draft Motions:**

Motion to deny request for extended hours of operation: "I move that the request to amend CUP 3-2014 to allow the hours of operation of 3:00 a.m. to 5:00 p.m. on any three days Monday to Friday be denied as recommended by the Planning Board on April 8, 2019."

Motion to grant extended hours of operation: "I move that CUP 3-2014 issued to CRMP Inc. be amended to allow hours of operation of 3:00 a.m. to 5:00 p.m. on any three days Monday to Friday."

ATTACHMENTS:

Cover letter from CRMP and Flat Iron  
Summary of speakers at April 8 PB Meeting  
Flat Iron Power Point Presentation  
Draft amendment to CUP 3-2014

Cc: Tim Newsome  
Ted Holmes

# Commercial Ready Mix Products, Inc.

P.O. Box 189  
Winton, North Carolina 27986  
Office Phone: (252) 358-5461  
Fax: (252) 358-4912

March 14, 2019

Ms. Donna Creef, Planning Director  
County of Dare - Dept of Planning  
954 Marshall C. Collins Dr.  
Manteo, NC 27954

RE: NC 12 – Rodanthe Breach Long Term Improvements (Phase IIb)  
Contract ID #C203474  
**Dare County conditional Use Permit No. 3-2014: Requested Modifications**

Ms. Creef,

The purpose of this correspondence is to request a modification to the Conditional Use Permit NO. 3-2014 which limits the "Normal Working Hours" described in condition seven (7). The modification that we are requesting is as follows:

- Adjust the working hours from 8:00 am to 5:00 pm to 3:00 am to 5:00 pm for any three days from Monday to Friday through project completion.

The anticipated timeframe that we would require these adjusted working hours should commence in mid-2019 and conclude in early 2021.

Also, we would like to include the attached letter from Mr. Edward Holmes, PE, the Sr. Project Manager with Flatiron Constructors, Inc. detailing the importance of the above requested modifications.

We are requesting that you add this modification to the Dare County Planning Board's agenda for the April 9, 2019 meeting. If you have questions or need more information, please contact me at 252-287-9636.

Regards,



Tim Newsome, VP  
CRMP Inc.





Flatiron Constructors, Inc.  
26200 West Vista Drive  
Waves, NC 27982  
www.flatironcorp.com

March 6, 2019

Letter No. NCDOT-026

Tim Newsome  
Vice President  
Commercial Ready Mix Products, Inc.  
PO Box 189  
115 US Hwy 158 West  
Winton, NC 27986

RE: NC 12 – Rodanthe Breach Long Term Improvements (Phase IIb)  
Contract ID #: C203474  
**Dare County Conditional Use Permit No. 3-2014: Requested Modifications**

Mr. Newsome,

As previously discussed, we've reviewed the subject Conditional Use Permit issued by Dare County and its impact on the project. Whereas it is possible to operate within the stated conditions, the "Normal Working Hours" described in condition seven (7) will have adverse effects on the quality of the bridge deck. For this reason, we are requesting the following modifications to the aforementioned conditional use permit:

- Adjust the working hours from 8:00 am to 5:00 pm to 3:00 am to 5:00 pm for any three days from Monday to Friday through project completion.

Major concrete placements should commence in mid-2019 conclude early 2021. We anticipate requiring these adjusted working hours for approximately this duration.

Should you agree, please request adding this modification to the Dare County Planning Board's agenda for the April 9, 2019 meeting.

We offer the following for the Planning Board's consideration in advance of the meeting:

**I. PROBLEM STATEMENT:**

Our concern regarding the bridge deck quality is the ambient weather condition during concrete placement. Immediately after bridge deck concrete is placed the surface of the concrete is exposed to the environment until curing measures take place. This period is critical to the long-term durability of the bridge deck. The specific concern is the development of plastic shrinkage cracks and maintaining the correct percentage of entrained air.

A simplified sequence of how plastic shrinkage cracks cause premature bridge deck deterioration is as follows:

1. Water enters the plastic shrinkage cracks. For coastal locations, the water typically has a high concentration of chlorides (salt)
2. Freeze thaw cycles cause the water to expand and contract which further cracks the top surface of the deck.
3. The original cracks, as well as the new cracks allow chlorides to infiltrate the concrete protecting reinforcing steel
4. Chlorides cause a reaction that corrodes reinforcing steel.
5. Reinforcing steel expands as it corrodes which, in turn, fails the concrete above the reinforcing steel.

Entrained air allows moisture to disburse within the concrete during freeze/thaw cycles and is a primary lifecycle defense mechanism in properly built decks. Without entrained air, bridge deck deterioration is accelerated in a similar to steps 2 through 5 above.

## **II. RATIONALE:**

The modified working hours allow Flatiron to schedule concrete pours during weather conditions favorable to placement of a durable bridge deck. We are specifically trying to avoid weather where evaporation rates are high.

According to the Portland Cement Association (PCI) (2002) "*These cracks occur when the water evaporates from the surface faster than it can travel to the surface during the bleeding process*" (p. 235). Further, PCI (2002) states "*The following conditions, singly or collectively, increase evaporation of surface moisture and increase the possibility of plastic shrinkage cracking: 1. Low air temperature; 2. High concrete temperature; 3. Low humidity; 4. High wind speed*" (p. 235). Weather conditions at night are historically less problematic for bridge deck placements as evaporation rates are typically lower.

Whereas the Nags Head plant is permitted to operate when required, the travel times associated with testing, hauling to Rodanthe, staging in Rodanthe, and placement are such that air entrainment percentages are compromised. According to PCI (2002), the amount of entrained air can drop 40-70% from over 90 minutes of continued agitation (p. 143) which occurs as the drum on the truck revolves during transit.

The NCDOT, according to section 1000-(B) of the 2012 Standard Specifications for Roads and Structures, requires 1.5% to 5% of entrained air which is in accordance with widely accepted best practice throughout the United States for similar environments (p. 10-2). Further, Table 1000-2 of the same requires concrete to be placed no greater than 75 minutes from initial mixing when the temperature is 90°F (p. 10-6). This requirement is also in agreement with generally accepted best practice. In this regard, the NCDOT specifications are not onerous and modifications to the specifications by the NCDOT will result in premature deck deterioration.

Should the deck prematurely deteriorate, and overlay would be required to correct the deficiency. As the bridge is two lanes wide, with one lane in each direction, an overlay would likely result in one way traffic, controlled by temporary signals (similar to the Alligator River Bridge rehabilitation in 2017/18) for multiple seasons.

## **III. CLOSING:**

There is significant empirical data, and nationally accepted practice, which prescribe optimal conditions for bridge deck placements and the effects of the same on bridge deck durability. Whereas it is possible to construct a bridge deck within the currently permitted "*Normal Working Hours*" Flatiron can provide a better product to the citizens of Dare County with the modified hours.

It is not our intent to dismiss the concerns of the citizen of Waves and Rodanthe, but rather to insist that these impacts to the community are the less adverse of two choices:

- Approximately 18 months where the plant operates a maximum of 15 additional hours per week.
- A rehabilitation project 10-15 years versus 20-30 years from project completion.

If you have any questions or need anything further, please feel free to contact me at 252-489-5100.

Sincerely,



Edward Holmes, PE  
Sr. Project Manager

**Amendment to Conditional Use Permit No. 3-2014**

Dare County Sections 22-27.1, 22-31,22-68  
and 22-69.

**Application of:** Commercial Ready Mix Products Inc.

On May 20, 2019 the Dare County Board of Commissioners considered an amendment to CUP 3-2014 issued to CRMP Inc. on June 2, 2014 and amended the CUP to include the following conditions:  
follows:

**CONDITIONS:**

1. Normal working hours of operation shall be Monday –Friday from 8:00 a.m. and 5:00 p.m except these hours may be extended to 3:00 a.m to 5:00 p.m. Monday-Friday on any three days of the week. These working hours of operation shall apply to the delivery of materials and supplies to the site, operation of heavy equipment used at the site, movement of aggregate materials at the site, clean-up of trucks and equipment, and all other administrative functions that occur at the site.
2. The Planning Department staff shall monitor the site. The applicant shall be notified in writing of any violation of this condition or other conditions of CUP 3-2014. Appropriate measures to correct any violation identified by the Dare County Planning Department shall be made upon receipt of notice. Failure to correct any violations shall void this CUP and shall result in the assessment of civil penalties as provided for in Chapter 10 of the Dare County Code of Ordinance and/or any other legal remedy available to Dare County.
3. All other conditions authorized as part of CUP 3-2014 remain in full effect and are not amended by this action except as established above. All other terms and provisions of the Code shall remain in full force and effect except as herein lawfully permitted;

This 20th day of May 2019

SEAL:

COUNTY OF DARE

By: \_\_\_\_\_  
Robert L. Woodard, Chairman  
Dare County Board of Commissioners

ATTEST:

By: \_\_\_\_\_  
Gary Gross  
Clerk to the Board

**THIS PERMIT AND THE CONDITIONS HEREIN ARE ACCEPTED**

By: \_\_\_\_\_  
Tim Newsome Vice-President  
Commercial Ready Mix Products, Inc.

APPROVED AS TO LEGAL FORM

By: \_\_\_\_\_  
Robert L. Outten  
County Attorney

## Speakers at April 8 PB Meeting

Leslie Robinson – Laughing Gull Lane, she can hear noise from plant inside her home. They already work past the 5:00 p.m. closing time. She works three jobs and is concerned a 3AM start time would be detrimental to her sleep/health.

Anne Vroman – lives at Lances Landing unit 3B, she submitted photo of the plant from her home. Unacceptable to start at 3AM in residential area. Not able to open windows at night if plant is working overnight. Extra hours will be harmful to community residents.

Thomas Kogat – Laughing Gull Lane resident, has 3 yr old and 7 yr old. Extremely concerned about how 3AM hours would affect his children and their sleep. Neighborhood will suffer, no state of emergency to justify extra hours.

Chandra Rutledge – Laughing Gull Lane – read email from Amber Weeks (attached to summary). Ms. Weeks was assured by Mr. Newsome when she purchased her home that he would not be seeking extended hours. Her rental cottage will be negatively impacted by extended hours. Ms. Rutledge also expressed her opposition to extended hours. Thinks extra hours are requested to complete project for bonus.

Susan Yan – lives in Manns Harbor but owns two rental homes in Sea Isle Hills. Her investment will be drastically affected by extra hours. There are roughly 100 homes in area surrounding CRMP site. Negative reviews on Tripadvisor and other travel sites are difficult to overcome once posted.

Matt Nuzzo – owns property adjacent to CRMP site. Travel reviews online are important and they are already having to defend why plant is there in first place. Will never be able to justify why they rented someone a vacation home knowing the plant would be operating overnight. Visitors will not come back to OBX because of negative experience.

Natalie McIntosh – works at REAL and lives in in area. Residents will be negatively impacted. Doesn't believe 3AM is needed since other bridges have been built without 3AM start.

Donna Peele – manages vacation rentals at Watermen's Retreat and Lance's Landing. Lance's Landing is workforce housing for many residents of RWS. These folks work late hours at restaurants and their sleep will be negatively impacted by 3AM start.

Trip Forman – owner of REAL and Lances Landing – presented written statement (attached). 98 homes adjacent to CRMP site. Concrete plants typically found in industrial areas not residential setting. Extra hours will affect long-term rentals and short-term rentals.

Jason Forest – Manages Lance’s Landing rentals – played video from unit 2A. Watermen’s Retreat gets 5 star Trip Advisor rating. This will not be the case if 3AM hours approved. Once negative reviews posted cannot be undone.

Caroline Gray – co-owner of campground next door to CRMP site. Hours of operation at plant now are fine, don’t extend to 3AM. These hours will negatively impact her campground rentals.

Graham Hunt – owner of Waves Village Market – His business is open every day until midnight. Employs 15 people, some of them live in Lances Landing. Their sleep will be impacted by 3AM start.

Heather Arms – owner of Waves Village Market – Extra hours will be detrimental to residents and visitors.



Donna Creef &lt;donnac@darenc.com&gt;

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**Fw: Meeting**

1 message

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**Chandra Rutledge** <queenofwaves@yahoo.com>  
Reply-To: "queenofwaves@yahoo.com" <queenofwaves@yahoo.com>  
To: Donna Creef <donnac@darenc.com>

Mon, Apr 8, 2019 at 6:17 PM

Sent from Yahoo Mail on Android

----- Forwarded Message -----

**From:** "William Weeks" <kingchewie@att.net>  
**To:** "Chandra Rutledge" <queenofwaves@yahoo.com>  
**Sent:** Mon, Apr 8, 2019 at 2:00 PM  
**Subject:** Meeting

My house is directly impacted by the concrete factory's operation. Before purchasing my house I was assured by the concrete company that the factory would not operate outside of the hours of 8 to 5. I have already booked it for the season and have given my renters the operating hours that had already been set forth. My business will be negatively impacted if guests have to be woken, on vacation, by noise at such an early hour as proposed, not to mention the many year round residents on my street who will be inconvenienced as well. We are understanding of the towns needs for this factory and do not oppose its overall use, we just ask that you put yourself in our shoes. The previous operating hours should remain in place, that is the fair and right thing to do.

Amber Weeks  
25227 laughing gull lane  
Sent from my iPhone

# Requested Working Hour Changes to Conditional Use Permit No. 3-2014



Tim Newsome – Vice President, CRMP  
Edward (Ted) Holmes, PE – Sr. Project Manger, Flatiron





# Agenda

- What are we asking for?
- Why?
  - Specs
  - Background
  - Frequency/Duration
  - Applicability to OBX
- Benefit to Dare County





# What are we asking for?

- We are requesting to.....
  - Adjust the working hours from 8:00 am to 5:00 pm to 3:00 am to 5:00 pm for any three days from Monday to Friday through project completion.





# Why (Specs)?

- To provide a better product than can otherwise be delivered to the NCDOT for the Dare taxpayer.
- Specs: 2012 NCDOT Standard Specifications for Roads and Structures

## Section 420

### 1 420-14 PLACING AND FINISHING BRIDGE DECKS

#### 2 (A) Placing Concrete

25 condition for use. Between April 15 and October 15, begin placing the bridge deck  
26 concrete as early as practical to allow the work to be accomplished during the cooler  
27 hours when forms, beams and reinforcing steel are at ambient air temperatures.

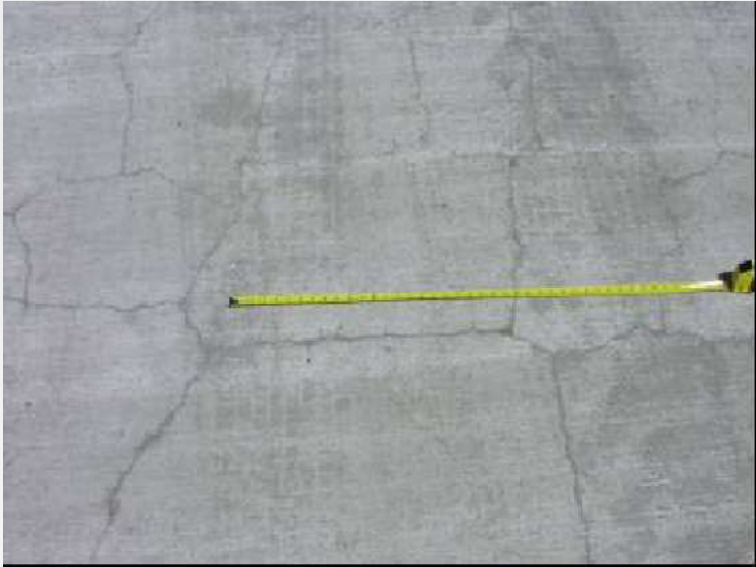
28 Unless otherwise permitted, set the rate of concrete placement and use a set retarder such  
29 that the concrete remains workable until the entire operation of placing, screeding,  
30 rescreeding, surface testing and corrective measures where necessary are complete. Use  
31 of a set retarder is waived when conditions clearly indicate it is not needed.

32 Place concrete in the deck when the concrete temperature at the time of placement is at  
33 least 50°F and no more than 90°F, except where other temperatures are required by  
34 Article 420-7.



# Why spec. that period?

- To provide a durable product
  - Minimizing this.....to avoid this:



FINAL REPORT PERFORMANCE SPECIFICATION FOR HIGH PERFORMANCE CONCRETE OVERLAYS ON BRIDGES - Scientific Figure on ResearchGate. Available from: [https://www.researchgate.net/figure/Shrinkage-Cracks-in-Overlay-Placed-on-Deck\\_fig2\\_240626384](https://www.researchgate.net/figure/Shrinkage-Cracks-in-Overlay-Placed-on-Deck_fig2_240626384) [accessed 4 Apr, 2019]



Use of Ultra-High-Performance Concrete for Bridge Deck Overlays - Scientific Figure on ResearchGate. Available from: [https://www.researchgate.net/figure/Typical-examples-of-bridge-deck-deterioration\\_fig1\\_323883743](https://www.researchgate.net/figure/Typical-examples-of-bridge-deck-deterioration_fig1_323883743) [accessed 4 Apr, 2019]

Shrinkage cracks → Deterioration



## Before we get technical....

- Presentation discusses common durability issues.
- Does not address all potential issues; some steps taken pre-bid and during design to minimize risk
- Environment and remoteness of project aggravating factors.
- Content of presentation is not all inclusive of every factor/issue we manage during deck placements.



## Bridge Deck Quality/Durability

- Why does NCDOT specify pours early in the morning?
- Because, quality, to a degree is weather dependent
  - Humidity, wind speed, temperature → evaporation rate
  - Section 1.42.2.1, of ACI Committee Report 308R-01, says:

*“The rate of evaporation is influenced by air and concrete temperatures, relative humidity, wind, and radiant energy from direct sunshine”*

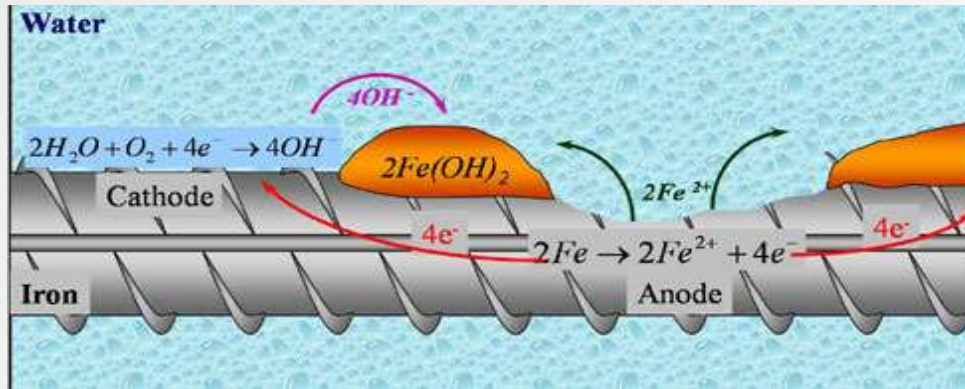
- Chapter 13 of the 14<sup>th</sup> edition of the Portland Cement Association’s publication titled “Design and Control of Concrete Mixtures” says the following regarding plastic shrinkage cracks:

*“These cracks occur when water evaporates from the surface faster than it can travel to the surface during the bleeding process”*



# Bridge Deck Quality/Durability

- Cracks allow chlorides (from salt), to infiltrate concrete surface.

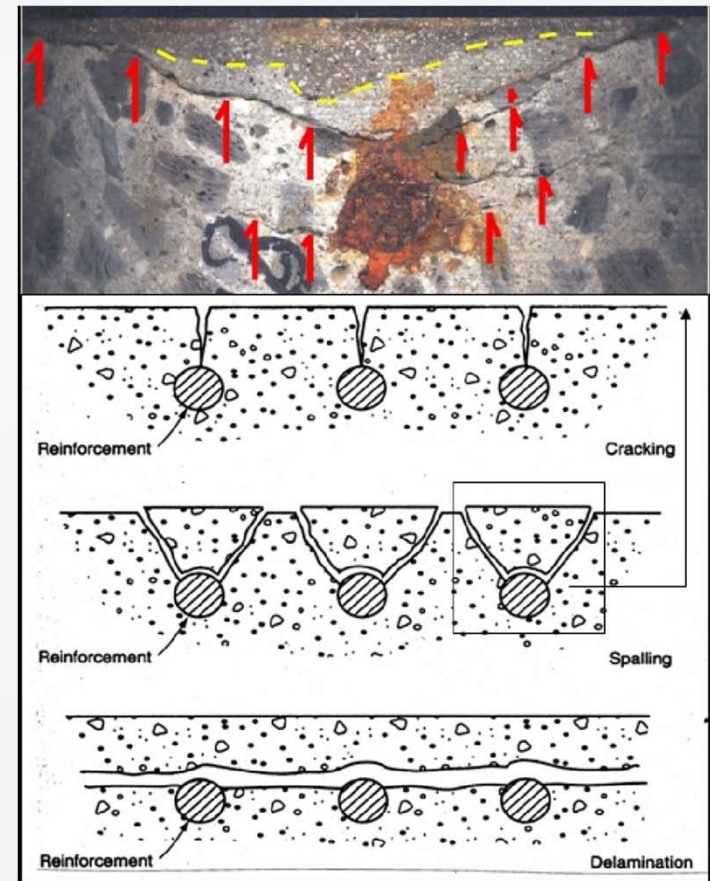


corrosion\_water\_graphic (1) [Digital Image]. Retrieved from <https://www.cement.org/learn/concrete-technology/durability/corrosion-of-embedded-materials>. [accessed 3 April, 2019]

ACI graphic showing cathodic reaction in water; same reaction occurs in concrete if chlorides infiltrate surface & reach rebar.

Same reaction is why anodes are used on boats! Galvanic corrosion occurs because dissimilar metals form an anode and cathode.

Note volume change where rust is. Rust is iron with hydroxide, therefore, more space required.



Delamination - A state-of-the-art review - Scientific Figure on ResearchGate. Available from: [https://www.researchgate.net/figure/Corrosion-of-reinforcing-steel-can-cause-cracking-spalling-and-eventually-delamination\\_fig13\\_267416844](https://www.researchgate.net/figure/Corrosion-of-reinforcing-steel-can-cause-cracking-spalling-and-eventually-delamination_fig13_267416844) [accessed 4 Apr, 2019]



# Bridge Deck Quality/Durability (continued)

- Critical period for long term durability is immediately after finishing and before curing. Consider FHWA guidance:

Publication Number: FHWA-HRT-04-150  
Date: July 2006

## Appendix B. Causes and Prevention of Plastic Shrinkage Cracking

### B.1 CAUSES

Plastic shrinkage cracks occur when the rate of evaporation from the surface of the HCC exceeds the rate of bleeding (see ACI 224R). Bleeding is a process whereby the solids of the HCC, including the cement and other fine particles, settle and water rises to the top. (The process is thought to be a form of syneresis by some.) The bleed water forms a "sheen" on the top of the HCC. When the process proceeds as it should, water is evenly distributed throughout the thickness of the HCC placement. The water sheen on the surface prevents the top portion of the HCC from becoming drier than the bottom portion (i.e., the water on the surface maintains 100-percent humidity throughout the concrete). The condition of 100-percent humidity is required so that there will be sufficient water for the remainder of the hydration to take place and so that the HCC will fill the space appropriately and not shrink.

When the proper humidity is not maintained, the top portion of the HCC becomes drier than the lower portions of the HCC, and shrinkage (loss of volume) occurs within the drier portion. When HCC shrinks, it can no longer fill the space it occupies. The lower portion (where there is 100-percent humidity) does not shrink and, therefore, the entire body does not change size. The drier top (the smaller portion) cracks to accommodate the shrinkage, but remains attached to the larger bottom portion.

When plastic shrinkage cracking of any great extent is observed, careful inquiry into the inspector's records and the observations of others who were near the placement will almost always indicate that one or more of the following occurred:

1. The drying conditions were so severe (see figure 205) that the work should have been postponed until more favorable climatic conditions existed.





# Bridge Deck Quality/Durability (continued)

Publication Number: FHWA-HRT-04-150  
Date: July 2006

## Appendix B. Causes and Prevention of Plastic Shrinkage Cracking

### B.2 PREVENTION

When finishing is completed and the sheen disappears by evaporation of the surface bleed water, curing procedures must begin promptly. At this point, there is no layer of water to protect the HCC from drying or to maintain the 100-percent humidity within the HCC. If there is a wind blowing, the humidity is low, the ambient temperature is high, or the temperature of the HCC is high, the rate of evaporation will be especially rapid.

For ordinary bridge deck concrete, the rate of evaporation should not exceed 0.5 kilograms per square meter per hour (kg/m<sup>2</sup>/h). For latex-modified concrete overlays and other cement concrete with a w/cm less than 0.40, the maximum evaporation rate must not exceed 0.25 kg/m<sup>2</sup>/h (Kuhlman, 1991).

FHWA guidance = 5 kg/m<sup>2</sup>/hr or 0.1 lb/sqft/hr from graph

ACI 308-R22 indicates 1 kg/m<sup>2</sup>/hr or 0.2 lb/sqft/hr is typically specified as a threshold



# Bridge Deck Quality/Durability

(continued)

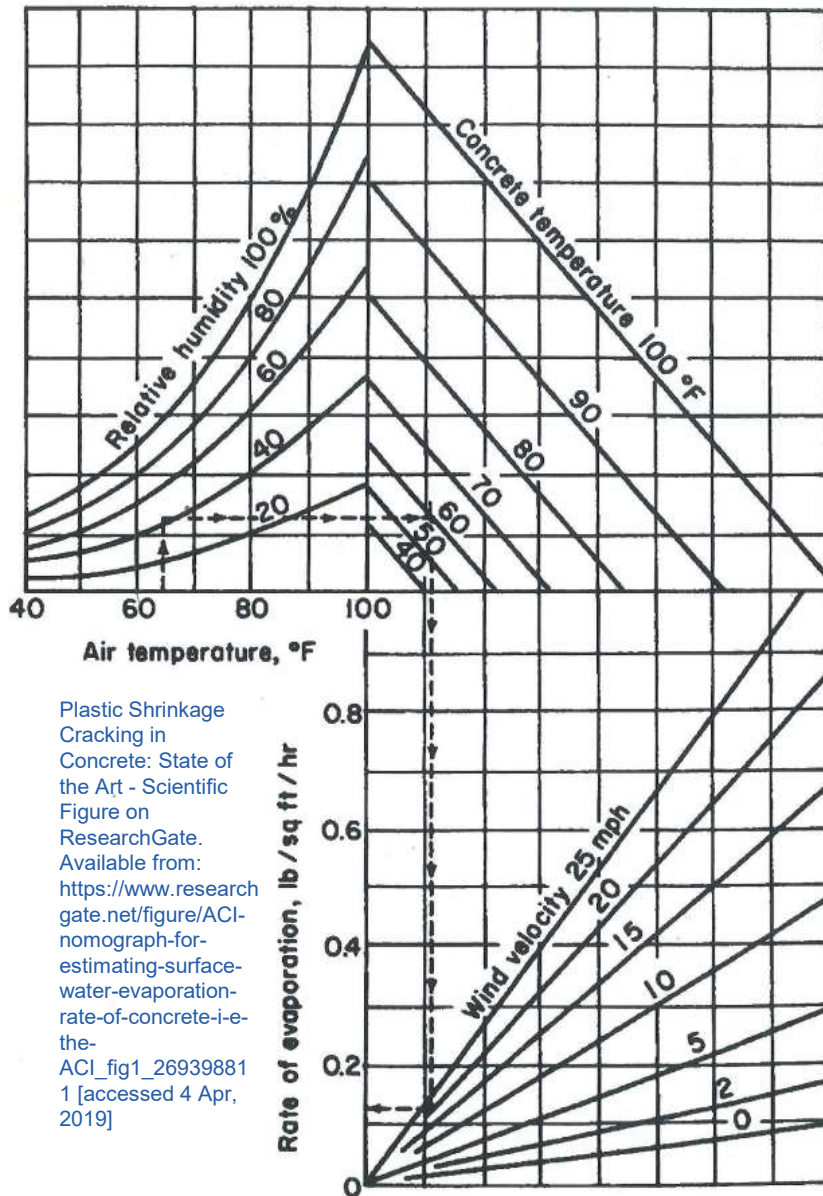
NRMCA Nomograph for estimating evaporation rate for concrete placements;

Cited by, the following:

- FHWA
- FDOT
- VDOT
- PennDOT
- Caltrans
- Multiple other DOT's
- American Concrete Institute
- Portland Cement Association
- National Ready Mix Concrete Association
- National Precast Concrete Association
- et.al.

Used to ascertain OBX exposure

- Wind, temperature primary concern
- 5 year weather history used



Plastic Shrinkage Cracking in Concrete: State of the Art - Scientific Figure on ResearchGate. Available from: [https://www.researchgate.net/figure/ACI-nomograph-for-estimating-surface-water-evaporation-rate-of-concrete-i-e-the-ACI\\_fig1\\_269398811](https://www.researchgate.net/figure/ACI-nomograph-for-estimating-surface-water-evaporation-rate-of-concrete-i-e-the-ACI_fig1_269398811) [accessed 4 Apr, 2019]

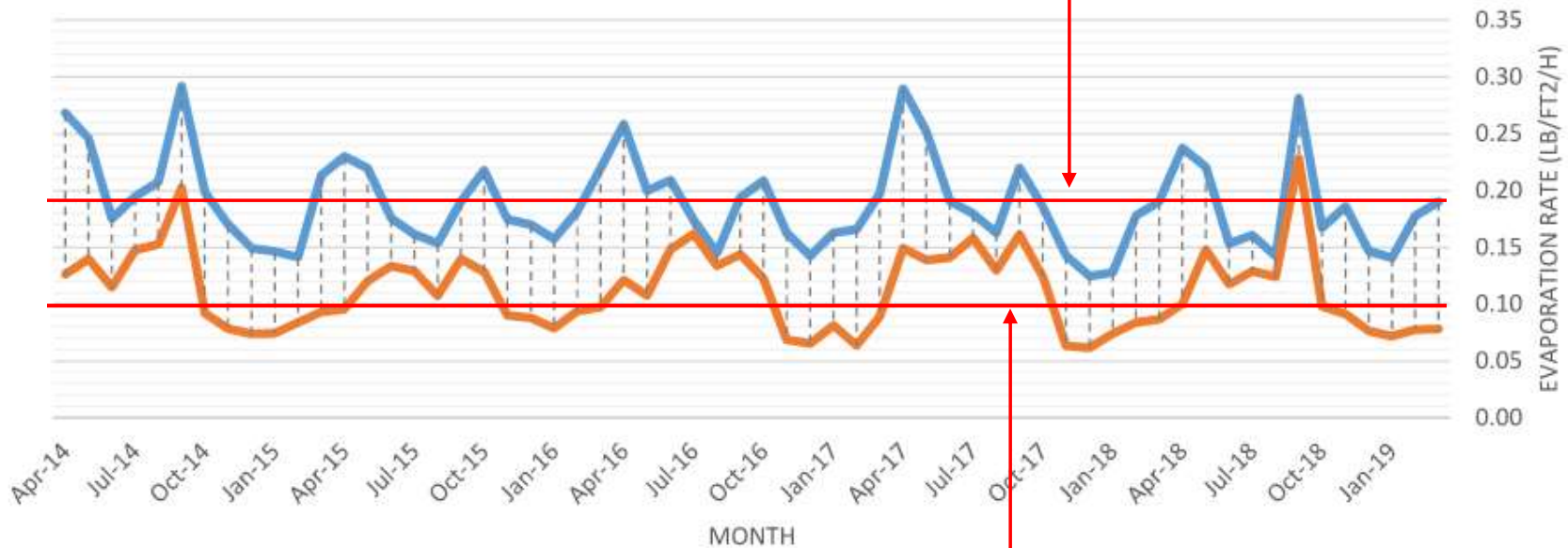


# Bridge Deck Quality/Durability (continued)

## Historical Average Evaporation Rate by Month

Rodanthe, NC

Day Night



Implement control measures

Data for calculation and graphic obtained from [www.weatherunderground.com](http://www.weatherunderground.com) and [www.almanac.com](http://www.almanac.com)



# Bridge Deck Quality/Durability

(continued)

- NCDOT specs – Developed with 40+ years of empirical data and designed to achieve results in similar fashion to FHWA, majority or other state DOT's and international community.
- Spec compliance is minimum standard
  - Does not guarantee quality deck. Not possible to issue “bulletproof spec” without driving market pricing up significantly.
  - Onus to deliver durable product resides with Owner and Design Builder.
- NCDOT measures for to reduce risk
  - CIP concrete – all stainless steel rebar. Significant reduction in rebar corrosion failures, no effect on freeze thaw resistance.
  - Concrete mix design parameters – specified for durability/performance
    - More expensive than residential/curb/sidewalk, etc. concrete
    - Tougher to produce – required to reject non-compliant concrete
    - Parameters vary with weather, source materials, age of materials, haul time, etc. **“Finicky.”**
    - Water/cement ratio @ .426
    - air entrainment @ +/- 5%



# Bridge Deck Quality/Durability

(continued)

- Plastic shrinkage causing chloride intrusion highlighted. Stainless rebar upgrade major step towards curbing chloride corrosion risk , but doesn't eliminate.
- Other concerns, that are equally as critical, and directly resultant of cracks and/or weather are as follows:
  - Thermal strain from quickly rising temperatures; girders expand, concrete not adequately bonded to reinforcing steel
    - Tension cracks form – typically full depth.
  - Carbonation of the concrete
    - Speeds up with permeable concrete surface (PCA, 2002, p.14).
    - Deterioration of concrete itself as opposed to cracking from corroded reinforcing steel causing concrete failure
  - Freeze thaw cycles – water freezes and expands in cracks, fractures concrete further.



# Why not Nags Head?

## Haul times – 2012 Standard Specs – section 1000-4(E)

### 1 (E) Elapsed Time for Placing Concrete

- 2 Regulate the delivery so the maximum interval between the placing of batches at the
- 3 work site does not exceed 20 minutes. Place concrete before exceeding the times in
- 4 Table 1000-2. Measure the elapsed time as the time between adding the mixing water to
- 5 the mix and placing the concrete.

Cold Joints

**TABLE 1000-2**  
**ELAPSED TIME FOR PLACING CONCRETE**

Air or Concrete Temperature Whichever is Higher	Maximum Elapsed Time	
	No Retarding Admixture Used	Retarding Admixture Used
90°F or above	30 minutes	1 hr. 15 minutes
80°F through 89°F	45 minutes	1 hr. 30 minutes
79°F or below <sup>A</sup>	60 minutes	1 hr. 45 minutes
70°F through 79°F <sup>B</sup>	60 minutes	1 hr. 45 minutes
69°F or below <sup>B</sup>	1 hr. 30 minutes	2 hr. 15 minutes

### 8 (F) Use of Set Retarding Admixtures

- 9 Use an approved set retarding admixture in all concrete placed in the superstructure of
- 10 bridges such that the concrete will remain workable until the entire operation of placing
- 11 and finishing, including corrective measures, if necessary, has been completed. The
- 12 Engineer may waive the use of set retarding admixture when conditions clearly indicate
- 13 that it is not needed.



# Why not Nags Head?

9 420-4 PLACING CONCRETE

22 Do not use concrete that does not reach its final position in the forms within the time  
23 stipulated in Subarticle 1000-4(E).

In our case the following timeline prevails:

- Charge truck, initial mixing, plant QC .....15 minutes
  - Travel to project..... 60 minutes (35 by car in winter)
  - Jobsite QC testing.....15 minutes
  - Back up point of placement..... 20 minutes (over 1 mile)
  - Discharge..... 10 minutes
- 
- 2 hours, 10 minutes





## Why not Nags Head?

Why does NCDOT specify this?

**Once again, durability and performance! The spec is right and agrees with decades of guidance and national accepted practice.....**

Several concerns exist:

- Cold Joints – occur when leading edge of a placement “sets” before next load of concrete is placed against it.
- Decrease of entrained air content (PCA, 2002, p.143).
  - 2012 NCDOT Std. Spec. Section 1000-4(B) requires 6% +/- 1.5%.
  - Reduced freeze thaw resistance (PCA, 2002, p.130).
- Temperature rise of concrete in transit (PCA, 2002, p.181).





## Cold Joints

- Common scenario –
  - Project Owner has tight mix performance controls to ensure performance and durability.
  - Producer, receives multiple material deliveries, and weather conditions change
  - Load of concrete gets rejected.
  - Truck timing specified to avoid placing too slow or fast (leads to wasted concrete or “timing out”).
  - Next truck is 2x spacing away
  - Leading edge of concrete sets up.
  - A cold joint occurs.....



# Cold Joints

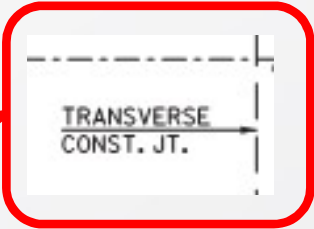
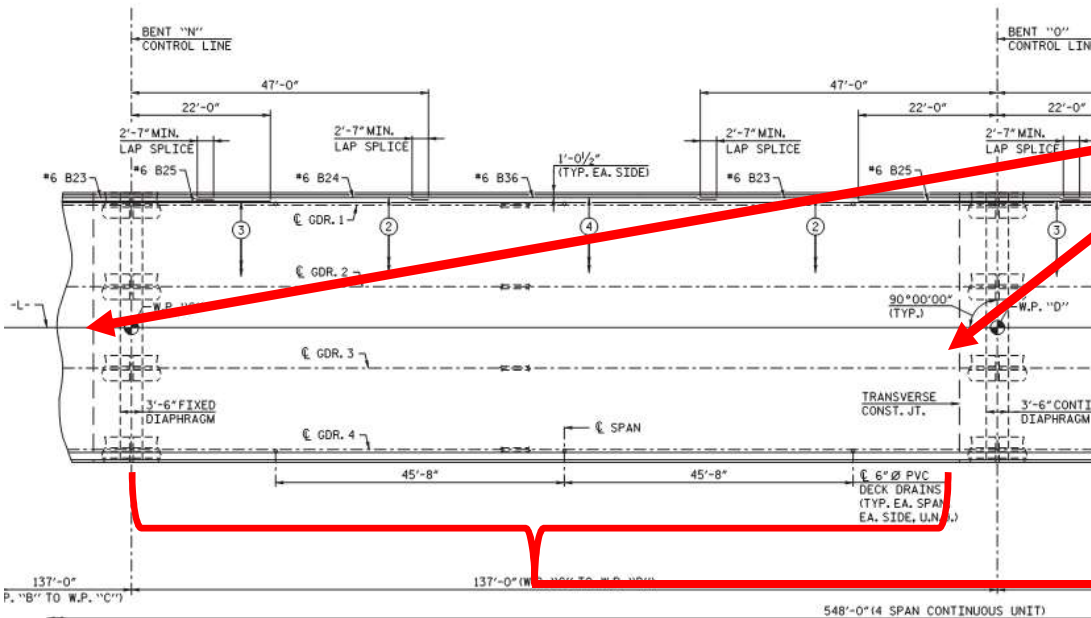


Leading edge hardens; next load fails to adequately bond to the leading edge

=

Weak point for Shear transfer

Construction Joints in bridges planned during design to ensure proper load transfer; normally @ end of span



Unplanned Joint in this region will require extensive repair or deck replacement



# Loss or Air Entrainment



## Air-entrained Concrete

Air-entrained concrete contains billions of microscopic air cells per cubic foot. These air pockets relieve internal pressure on the concrete by providing tiny chambers for water to expand into when it freezes. Air-entrained concrete is produced using air-entraining portland cement, or by the introduction of air-entraining agents, under careful engineering supervision, as the concrete is mixed on the job. The amount of entrained air is usually between four and seven percent of the volume of the concrete, but may be varied as required by special conditions.

### Production Procedures, Construction Practices, and Field Conditions

The way concrete is produced and handled can also have a significant effect on its air content and entrained air-void system. Variables associated with concrete production include the methods of batching, mixing procedures, and time and speed of mixing. Construction-related variables and field conditions such as transport and delivery, retempering, placement, consolidation, finishing, and temperature also can affect the air content of concrete. Table 3 summarizes the effect of some of these variables on air content.



CONCRETE TECHNOLOGY  
**TODAY**

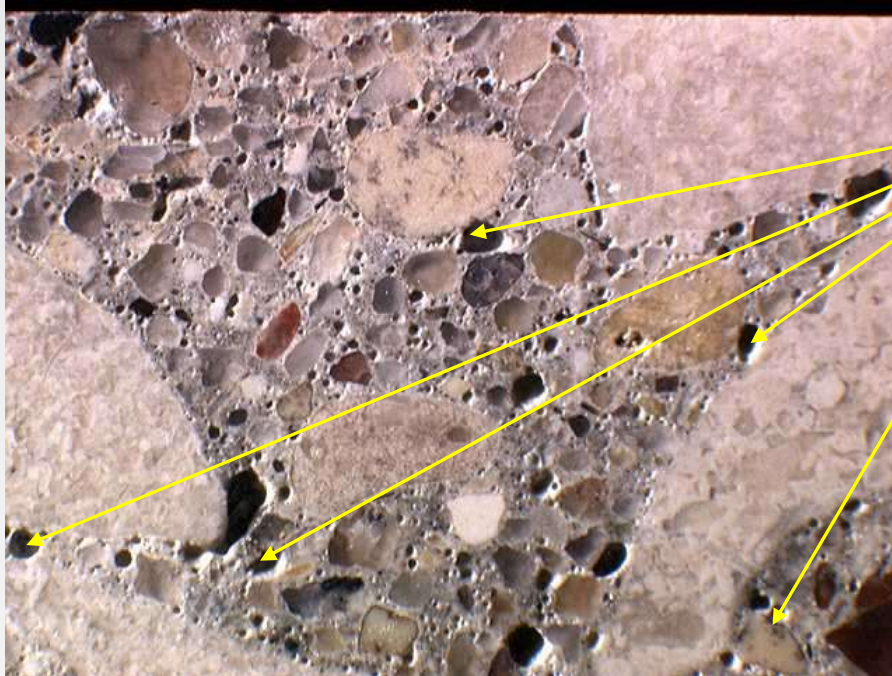
Volume 19/Number 1

**Table 3. Effects of Production and Construction Variables on Air Content**

Variable	Effects	Guidance
Mixer capacity	Air increases as capacity is approached.	Run mixer close to full capacity. Avoid overloading.
Temperature	Air content decreases with increase in temperature.	Increase air-entraining agent dosage as temperature increases.
Haul time and agitation	Long hauls, even without agitation, reduce air, especially in hot weather.	Optimize delivery schedules. Maintain concrete temperatures in recommended ranges.
Pumping	Reduction in air content ranges from 2 to 3%.	Use loop in descending pump line. Keep the pumping pressure as low as possible.
Internal vibration	Air content decreases under prolonged vibration or at high frequencies.	Do not overvibrate. Avoid high-frequency vibrators (>10,000 vpm).



# Air Entrainment



Entrained air voids in concrete. (Approx. 5mm Full Width) [Photo by Paul Stutzman, NIST]

Examples of entrained air voids

Air entraining agents can be added at project when permitted, however, require additional mixing, and is less precise than plant mixing.

Is not a reliable way to maintain proper air content in a homogenous fashion throughout the placement.

Re: additional mixing required –

- ASTM C94 – requires no more than 300 revolutions per load
- May grind aggregates
- Raises temperature
- Without added water, reduces air content
- Slump changes; may push out of spec.

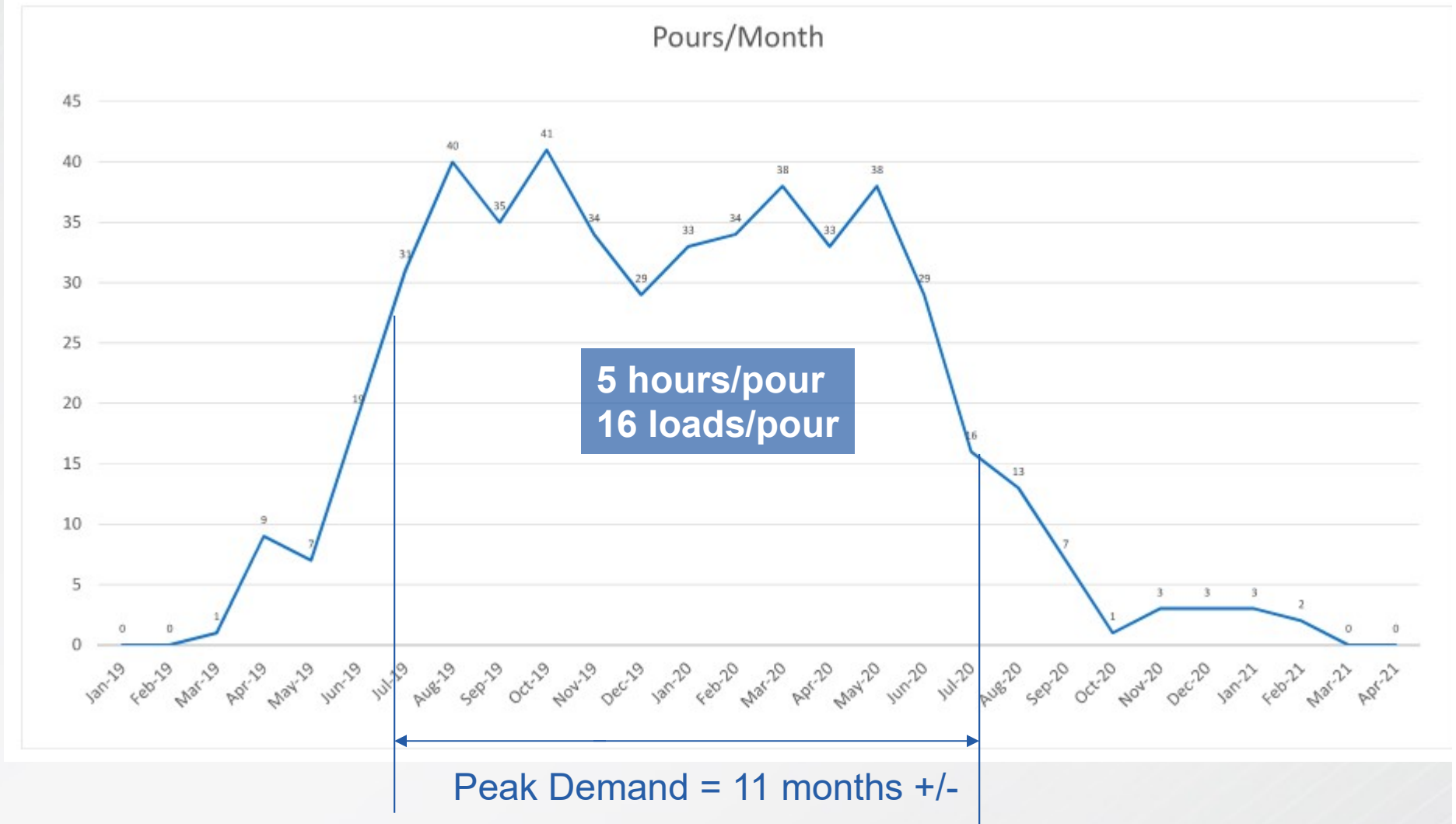


# Temperature Rise of Concrete in Transit

- Longer transit times = higher placement temperatures
- Cooling measures
  - Water on Aggregate
    - Limited effect on summer days, works well for early am pours, doesn't slow HOH significantly.
  - Chilled mix water or ice
    - Batch water = small component, moderately effective; slows HOH, but once started, progresses steadily.
  - LN
    - Very effective at cooling; experienced operators can be precise
    - Deleterious effects on truck mixing drums
    - Can extend set times
      - Extended set times for slabs – generally bad
      - Sun comes up, temperatures change, concrete begins to set = increased chance of thermal cracking
    - Potential for unknown effects on various admixtures



# Frequency



Usually two early a.m. placements a week; rarely over three; occasionally four



## Premise

- Additional plant operating hours won't effect project being completed
- ...But will have a direct effect on project quality; specifically bridge decks
- NCDOT specs designed to achieve durable product which meets design criteria.
  - Specs In-line with Federal, industry association, and other DOT practices/guidance.
- Delivering “good” concrete a balance of weather, raw material quality, raw material availability, local requirements, and science.
- **Multiple variables involved in placing a quality product. All must be controlled to extent possible**
  - Two of the largest variables, weather and travel/mixing time can be controlled with extended operating hours.
  - Solutions (i.e. evaporation countermeasures, significant concrete temperature reduction) to placements during current hours less reliable, and themselves, variables. Corrosive environment aggravates.
- **Highly corrosive environment – over sound/adjacent to ocean**
- Total placements = 106; 1-3 / week typical; 11 months peak schedule



# Why should Dare County allow the hours change?

- Flatiron/CRMP ability to provide the desired product to NC taxpayers significantly improved with extended operating hours.
  - No added taxpayer cost for an inherently better product.
  - Will, by default, last longer.
- Not a “do or die” scenario. Bridge will be built regardless of recommendation, however, likelihood of issues requiring re-work, or latent defects that present after warranty period concludes are significantly increased.
- Major corrective work, which will result from plastic shrinkage cracks or cold joints, should they occur, will delay project 4-6 months (min) as permit modification will be required for demolition. As currently scheduled, this pushes into another hurricane season
- We will, by default, finish quicker than otherwise as we will have greater freedom to select favorable conditions for deck placements.
  - We finish quicker = concrete plant leaves quicker = reliable access to Hatteras Island delivered to taxpayers quicker.





# Why should Dare County allow the hours change?

- Because durable decks prolong this type of rehabilitation on a two lane bridge with no alternate access.



NCDOT.(2005). *Hydro-demolition work on bridge deck* [Digital Image]. Raleigh, NC: NCDOT Communications.



Ozyildirim, Celik and Nair, Hari Krishnan.(2010). *(b) Placing overlay* [Digital Image] Charlottesville, VA: Virginia Transportation Research Council

- Overlays more sensitive during placement; local plant required!  
Evaporation rate 4x faster than concrete.
- Rehabilitation = much larger community impact than added hours!



# References

- North Carolina Department of Transportation. (2012). *Standard Specifications for Roads and Bridges*. Raleigh, NC: Contract Standards and Development Unit.
- Kosmatka, Steven; Kerkoff, Beatrix; Panarese, William. (2002). *Design and Control of Concrete Mixtures, 14<sup>th</sup> Edition*. Skokie, Ill.: Portland Cement Association
- ACI Committee 308. (2001). *Guide to Curing Concrete*. Farmington Hills, MI: American Concrete Institute.
- ACI Committee 305. (2006). *Specification for Hot Weather Concreting*. Farmington Hills, MI: American Concrete Institute.
- ACI Committee 304. (2000). *Guide for Measuring, Mixing, Transporting, and Placing Concrete*. Farmington Hills, MI: American Concrete Institute.
- Kosmatka, Steve and Farny, Jaime. (1998). *Control of Air Content in Concrete*. Concrete Technology Today, Volume 19 (Issue 1), pp. 1-7.
- Federal Highway Administration. (2006). *Petrographic Methods of Examining Hardened Concrete: A Petrographic Manual; Appendix B*. McLean, VA: Virginia Department of Transportation and Federal Highway Administration.



*Presentation of the Manager's 2020 Budget*

**Description**

The County Manager will present the Manager's fiscal year 2020 budget.

**Board Action Requested**

Set Public Hearing for June 3, 2019 and instruct the Clerk to the Board to publish the notice.

**Item Presenter**

Bobby Outten, County Manager



*Closed Session*

**Description**

The Dare County Board of Commissioners will go into Closed Session pursuant to provisions of the North Carolina General Statutes (NCGS) as specified by the County Manager.

**Board Action Requested**

Approve Going Into Closed Session

**Item Presenter**

County Manager, Robert Outten



*Contract for Dare County Dredge Vessel*

**Description**

The Board of Commissioners will review the contract pertaining to the acquisition of a dredge vessel for Dare County

**Board Action Requested**

Discuss and take appropriate action

**Item Presenter**

Robert Outten, County Manager

**DREDGE WORK PLAN AND FORGIVABLE LOAN AGREEMENT**

**THIS AGREEMENT** made and entered into this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between EJE Recycling Disposal, Inc., and EJE Dredging Service, LLC, each organized and existing under the laws of the State of North Carolina (hereinafter collectively known as “EJE”), and Dare County, a political subdivision organized and existing pursuant to the laws of the State of North Carolina (hereinafter “County”).

**WITNESSETH:**

**WHEREAS**, EJE has agreed to design, have constructed, operate and maintain a new ocean certified, shallow draft, special purpose, split-hull hopper dredge vessel (the “Dredge”), in cooperation with and with guidance from County through the Oregon Inlet Task Force (hereinafter “OITF”); and

**WHEREAS**, EJE has agreed to provide dredging services for Oregon Inlet, Hatteras Inlet and the other shallow draft inlets of North Carolina as directed by the OITF and as provided under the terms of this Agreement and in compliance the provisions of Senate Bill 99, Section 13.7(a-h) of the 2018 Session Laws of the NC General Assembly.

**NOW, THEREFORE**, in consideration of the terms and conditions set forth herein, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

**ARTICLE I:**

**FORGIVEABLE LOAN**

- A. County shall, pursuant to the provisions of Senate Bill 99, Section 13.7(a-h) of the 2018 Session Laws of the NC General Assembly, (the “Enabling Legislation”) lend to EJE the principal sum of FIFTEEN MILLION and 00/100 Dollars (\$15,000,000.00) pursuant to the terms of the Promissory Note attached hereto as Exhibit A,
- B. County’s loan to EJE is contingent upon the appropriation and receipt by the County of FIFTEEN MILLION and 00/100 Dollars (\$15,000,000.00) from the State of North Carolina as provided in the Enabling Legislation. In no event shall County have any obligation, duty, or liability to lend or provide funds other than the sums received from the State of North Carolina pursuant to the Enabling Legislation. The loan proceeds from County to EJE shall be disbursed pursuant to the Draw Schedule attached as Exhibit A to the Promissory Note.
- C. The loan proceeds shall be used by EJE exclusively for the costs necessary to design, build and equip the Dredge, suitable for use in Oregon Inlet, Hatteras Inlet and other shallow draft inlets of the state, having a minimum capacity of 500 cubic yards, and capable of removing 1 million cubic yards of sand per year under normal operating conditions.

- D. The obligations of the Maker under the terms of the aforesaid Promissory Note and all attachments to the Promissory shall be secured by a Preferred Ship Mortgage, in a first lien position upon the Dredge, It shall be the responsibility of the County to prepare and file all documents related to a Preferred Ship Mortgage, EJE shall, prior to delivery of the Dredge, provide County with a list of all equipment and furnishings to include a complete list of vendors and suppliers. EJE shall provide all information and execute all documents required by County necessary to the County's preparation, perfecting and filing of a Preferred Ship Mortgage and a security interest in all equipment, furnishings as built plans and drawings, as built specifications, and operations manuals associated with the Dredge. The Preferred Ship Mortgage and security agreement will be in a form and contain provisions substantially similar to Exhibit B attached.
- E. By execution hereof, as additional security for its obligations under the terms of this agreement and its exhibits, the Promissory Note and its exhibits, and the agreements to be assigned, EJE shall execute an assignment of all documents necessary to design, construct, own, and operate the Dredge including, but not limited to, the architect's contract, the construction manger's contract, the Dredge builder's contract, the license for the design documents, operations manuals, all as provided in the Assignment Agreement attached hereto as Exhibit C.

## **ARTICLE II:**

### **DREDGE CONSTRUCTION**

- A. EJE Dredging Services, LLC, with approval of the County through the OITF, such approval not being unreasonably withheld, shall select a naval architect and a construction project manager, neither associated with the dredge builder, to assist in the design and supervision of construction, the Dredge. The plans and specifications for the vessel shall be developed by EJE Dredging Services, LLC and its architect in consultation with the County through the OITF. The County through the OITF shall have final approval of all plans and specifications. The contracts between EJE and the architect and between EJE and the project manager shall be approved by County through the OITF prior to execution by EJE.
- B. The final plans and specifications shall be approved by County through the OITF prior to EJE entering a contract with builder. Upon approval of the final plans and specifications by County through the OITF, EJE and the project manager shall prepare and advertise an RFQ seeking qualified builders to submit their qualifications and experience in building dredges similar to the specifications provided. EJE Dredging Services, LLC shall select the builder from those responding, and negotiate a construction contract to construct the dredge as specified. The terms of the construction contract, exclusive of construction costs, shall be approved by County through the OITF prior to execution by EJE Dredging Services, LLC . County through the OITF may approve or disapprove at its discretion for any reason or no reason.

The dredge shall be constructed in the United States, and the dredge shall be documented by the United States Coast Guard. The dredge shall be titled in the name of, and owned

and operated by, EJE Dredging Services, LLC, a North Carolina corporation based exclusively in the United States. Without changing the liability, duties and obligations of EJE Recycling Disposal, Inc. under the terms of this agreement, the Promissory note or any other written agreements to which EJE Recycling Disposal, Inc. is a party, with the approval of the State of North Carolina, County may pay draws of the loans proceeds directly to EJE Dredging Services, LLC

- C. In the event County through the OITF is unwilling in its sole discretion, to approve the plans and specifications or the terms and conditions of the contracts specified in Paragraphs A-D above for any reason or no reason, within 90 days from written notice to EJE by County that such approvals shall not be given, the deliverables that have been created under the aforesaid contracts shall be delivered by EJE to County and they become the property of County, EJE shall provide County an accounting of all sums received and disbursed, and EJE shall return any unspent funds or funds improperly spent (collectively “excess funds”) to County. Upon receipt of the deliverables and the repayment of excess funds within the time specified, this agreement shall terminate and the outstanding balance under the terms of the Promissory Note shall be waived and neither party shall have any other or further obligation or liability to the other. Upon EJE’s failure to deliver to County the deliverables and excess funds within the specified time, EJE shall be deemed in default and County may exercise all remedies available at law, in equity, and under the terms of this agreement, the Promissory Note, or any of the other documents executed by the parties.

**ARTICLE III:**

**DREDGE OPERATIONS**

- A. EJE Dredging Services, LLC shall own, keep, operate and maintain the dredge at its own expense. EJE shall be responsible for all liabilities associated with the dredge and its operation. EJE shall own and operate the dredge in compliance with all applicable Federal, State and local laws, rules, codes, regulations, and permits (“applicable law”), and EJE shall indemnify and hold harmless the County from any loss, fine, penalty or any other liability from same. Provided, however, nothing herein shall operate to require EJE to indemnify the County for the County’s own negligence.
- B. During the term of this Agreement, together with any extensions, EJE Dredging Services, LLC shall keep the dredge insured at all times in an amount equal to the replacement cost to construct and equip a similar dredge, shall maintain workers compensation insurance on its employees as required by state and federal statutes, shall carry commercial and marine liability insurance in an amount not less than Five Million Dollars and shall comply with all Jones Act coverage requirements.
- C. Upon delivery of the dredge, EJE Dredging Services, LLC shall perform, unless otherwise authorized by the County through the OITF, dredging operations exclusively in the waterways of the State of North Carolina, and at locations designated by the County through the OITF. EJE Dredging Services, LLC will only dredge as permitted by applicable permits.



- D. EJE Dredging Services, LLC agrees to operate the dredge pursuant to the terms of this agreement, from the date the dredge is delivered to EJE Dredging Services, LLC for a period of ten years or the loan repayment period plus any extensions, whichever is longer. EJE s Dredging Services, LLC shall operate the dredge a minimum of 12 hours per day, 340 days per year, subject to weather conditions, maintenance, repair, mobilizations, permit conditions, funding limitations, or acts of God that may reduce the number of days of operation. Should EJE Dredging Services, LLC’s operations be subject to a permit(s) with dredging “windows”, EJE Dredging Services, LLC shall operate the dredge 24 hours per day during the work “windows” established by the relevant permit(s), subject to weather conditions, maintenance, repair, mobilizations, funding limitations or acts of God.
- E. Upon delivery of the dredge, and prior to beginning any dredging operations, EJE Dredging Services, LLC shall employ, and at all times thereafter keep in its employ, such captain(s), experienced in dredge operations, and such crew as may be necessary to operate the dredge on the schedule set forth above. Preference in hiring shall be given to captain(s) experienced in dredge operations in Oregon Inlet, Hatteras Inlet, and the waterways of the State of North Carolina. All Captains and other crew shall at all times have all required licenses and certifications to operate the dredge as provided herein.

During the term of this Agreement, the parties agree that the “usual and customary rates” for dredging services as of the date the last party executes this agreement shall be: \$14.33 per cubic yard of material loaded and placed in a permitted disposal area and for material removed from Hatteras Inlet and placed in a permitted disposal area(s), each inclusive of survey boat costs, with the exception of the following:

\$19.58 per cubic yard of material loaded from inside the bar and placed in a permitted disposal area outside the bar, inclusive of survey boat costs.

The line of demarcation between “inside the bar” and “outside the bar” shall be a line one statute mile radius east of the center of the Marc Basnight Bridge.

“Inside the bar” shall be the permitted disposal area generally west of “landward” of the line of demarcation and “outside the bar” shall be any permitted disposal area generally east (seaward) of the line of demarcation.

These rates shall be deemed the Base Rates. The Discounted Rate shall be a minimum of \$1.50 per cubic yard less than the applicable Base Rate. The Base Rate will adjust up or down annually on the 1<sup>st</sup> day of October each year by the same percentage as the average percentage change in the US Army Corps of Engineers daily rate for the Dredge Murden (or its equivalent if the Murden is not operational for a period in excess of 6 months during the previous 12 months) for the previous 12 month period.

- G. EJE shall charge Dare County not greater than the Discounted Rate for materials removed from Oregon Inlet, Hatteras Inlet and vicinity, and the waterways of Dare County, up to the aggregate \$3 million dollars of County funding budgeted annually for Oregon Inlet and \$250,000 dollars of County funding budgeted annually for Hatteras

Inlet based upon cubic yards of material removed. EJE Dredging Services, LLC shall not perform work in excess of the forgoing budgeted amount without the approval of the County. It is acknowledged that the State of North Carolina maintains a Shallow Draft Inlet Management Fund which currently provides a 2/3 match to local funding for shallow draft inlet projects in Tier 2 and Tier 3 counties and a 3/4 match to local funding for shallow draft inlet projects in Tier 1 counties. The 2/3 and 3/4 matches are the “state share” For projects within North Carolina waters, but outside of Dare County, (exclusive of Hatteras Inlet a portion of which is in Hyde County) EJE Dredging Services, LLC may charge a negotiated rate per cubic yard of material removed not to exceed the base rate as adjusted. If permitted by County through the OITF to dredge outside North Carolina, EJE Dredging Services, LLC may charge a negotiated rate based upon cubic yards of material removed for projects outside North Carolina waters.

- H. It is the intent of the parties that EJE Dredging Services, LLC shall perform dredging operations only in the waterways of North Carolina unless otherwise authorized and approved in advance by County through the OITF. If, however, at any time during the terms of this Agreement, no dredging permits or funds are available for dredging operations in the waterways of North Carolina, the County through the OITF shall, if authorized by law, approve a request by EJE Dredging Services, LLC to perform dredging operations in the waterways of adjacent states until permits and/or funding becomes available for dredging in North Carolina waters. Further, EJE Dredging Services, LLC shall perform dredging operations in the waterways of North Carolina in locations and at times designated by the County through the OITF, and EJE shall not perform dredging operations in any waterway not approved by the County through the OITF. All dredging operations shall be performed to the permitted specifications of the waterway being dredged and in compliance with all permits, rules, and regulations, State and Federal.
- I. EJE Dredging Services, LLC shall keep the following records monthly, shall provide these monthly records with each invoice, and make these records available to County at any other time upon request:
1. Month, year and Location dredging was performed;
  2. Total vessel time billed;
  3. Total cost for each month;
  4. Total dredge and haul each month;
  5. Cost per dredge and haul hour;
  6. Monthly production by cubic yard;
  7. Production per dredge hour and haul hour in cubic yards;
  8. Production cost per cubic yard; and
  9. Times, dates duration of weather, and explanation of mechanical and other delays.
  10. A Hopper Dredge Quality Control Report containing the information and in substantially the same form as Exhibit D.
- J. EJE Dredging Services, LLC shall bill for its services to the following address:

Dare County  
Attention: County Manager  
PO Box 1000  
Manteo, NC 27949

- K. County shall approve or make objection to any invoice received within 10 business days after receipt. Within 15 days after receipt County shall remit payment of its share of such invoice and shall request the State to remit its share of such invoice unless the invoice is contested. County will remit the state share upon receipt from state. County shall have no obligation to take legal or other actions to collect the state share but agrees to cooperate with EJE Dredging Services, LLC in EJE Dredging Services, LLC's efforts to collect the state share, including the assignment to EJE Dredging Services, LLC of the county's right, if any, to collect the state share. EJE Dredging Services, LLC shall be responsible for all costs and expense associated with the collection of the State share and shall hold County harmless from same. In no event shall County be liable to EJE Dredging Services, LLC for the state share.
- L. In the event an invoice is contested, County shall pay, and shall request the State to pay, their respective shares of any uncontested amount. The parties agree to use reasonable efforts to resolve any contested amounts, but EJE Dredging Services, LLC may, within 60 days of date of the invoice, request mediation pursuant to the American Arbitration Association rules and procedures. If mediation is not requested within 60 days from the date of the invoice, EJE Dredging Services, LLC will be deemed to have waived the contested portion of the invoice. In the event the disputed invoice is submitted to but not resolved in mediation, any party may institute legal proceedings in a court of competent jurisdiction in the State of North Carolina.
- M. Dare County, North Carolina shall be the homeport of the dredge. When the dredge is not in operation, it shall be docked in Dare County. When performing dredging operations in other waters, however, the dredge may be docked in those areas during the term of those dredging operations.
- N. EJE Dredging Services, LLC at all times after delivery of dredge and during the term of this Agreement, together with any extensions thereto, shall own or lease, or have a valid, written access agreement for dock space in Dare County and shall provide evidence of same to County annually and upon request.
- O. During the term of this Agreement, together with any extensions thereto, EJE shall obtain and maintain a written agreement with, the North Carolina Ferry Division for the use of the NC Ferry Division's dry dock located in Manns Harbor, North Carolina, to haul the dredge vessel for maintenance and repair. Alternatively, EJE Dredging Services, LLC may enter into a written agreement with another facility in Dare County, North Carolina capable to perform repairs and maintenance as needed. The dredge shall not leave the waters of Dare County, North Carolina for maintenance or repair without the prior approval of the County through its Oregon Inlet task Force.

**ARTICLE IV:  
OTHER TERMS**

- A. The terms of this Agreement shall begin upon the date set forth above and shall remain in effect for a minimum of 10 years from the date of delivery of the Dredge to EJE or until the date all sums due under the Promissory Note and any extensions thereto have been repaid, forgiven or otherwise satisfied, whichever is longer.
- B. Any funds used by EJE in furtherance of the dredge construction project shall be used at EJE's risk, and in no event shall the State of North Carolina or County shall be liable to EJE for same.
- C. County shall be responsible for obtaining the environmental permits necessary to dredge in Oregon Inlet and Hatteras Inlet, and to place dredged materials. Obtaining environmental permits to dredge any other waterway of the State of North Carolina or any other state shall be the responsibility of the entity requesting the dredging operations. All other permits, licenses or approvals necessary to operate the dredge shall be the responsibility of and be obtained by EJE.
- D. Notwithstanding any agreement to the contrary, the County's only financial obligations to EJE are: (1) to administer the forgivable loan from the funds provided by the state; and (2) to pay for the County's local match requirement pursuant to statute or regulation, for dredging services in Oregon Inlet and Hatteras Inlet, actually performed, for agreed upon quantities, and at the rates set forth in this Agreement, not to exceed \$3,000,000.00 annually for Oregon Inlet and \$250,000.00 annually for Hatteras Inlet.
- E. This Agreement constitutes the entire agreement of the parties, and may not be changed except by written amendment duly executed by the parties.
- F. This Agreement shall be binding upon each of the parties' respective heirs, executors, administrators, successors and assigns.
- G. Should the County or EJE breach this Agreement by failing to perform in strict accordance with the terms of this Agreement, the non-breaching party shall provide the breaching party with a written notice of default, served by U.S. Certified Mail. Should the defaulting party within five (5) days after receipt of written notice of default fail to commence and continue satisfactory correction of such default with diligence and promptness, then the non-breaching party may avail itself of all remedies, at law or in equity, which it may have under this Agreement or as otherwise provided by law.
- H. Except actions necessary to enforce the terms of the Preferred Ship Mortgage, this Agreement shall be governed by the laws of the State of North Carolina, and jurisdiction for any legal proceedings arising from this agreement shall be the North Carolina General Court of Justice with in Dare County, North Carolina.
- I. Neither this Agreement nor the duties and obligations set forth in this Agreement may be assigned, whether by purchase, grant, or otherwise, by either party, except as specifically

specified herein, without the prior written consent of the other party. Notwithstanding the forgoing provisions, the parties hereto agree that ownership of the vessel constructed pursuant to this Agreement as well the responsibility for the dredging operations specified in this Agreement, may be assigned, once the vessel's construction is completed, to EJE Dredging Service, L.L.C.

J. Each provision of this Agreement is separate from the other provisions of this Agreement. If any provision is determined to be unenforceable, all other provisions shall remain in full force and effect.

K. The parties agree that they shall execute any further documents and will perform any further acts that are or may become necessary to effectuate the intent of the parties expressed herein.

L. Breach by EJE of any of the conditions of the Promissory Note, the attachments thereto, the Ships Mortgage contemplated herein, the contracts between EJE and others for which County has approval rights, and any other documents, agreements, security agreements contemplated herein, shall be deemed a breach of this agreement and a breach and an event of default in all other agreements between the parties.

M. Contingencies

1. EJE's performance of its obligations under terms of this agreement are contingent upon:

- 1) The receipt by County permits satisfactory to EJE to authorize dredging in Oregon Inlet.
- 2) Approval by EJE of the Dredge construction contract; provided however EJE may approve or disapprove the Dredge construction contract at its discretion for any reason or no reason.
- 3) EJE shall exercise its right to terminate under these provisions by issuing written notice to County within 60 days from the date the permit was issued as to contingency 1 above and within 60 days from the date the proposed construction contract is received by EJE if as to contingency 2 above. Failure to provide written notice with the time specified shall be deemed a waiver of these contingencies.
- 4) Upon proper termination by EJE it shall, within 90 days from its written notice to terminate, deliver to County the deliverables that have been created and they shall become the property of County, provide County an accounting of all sums received and disbursed, return any unspent funds or funds improperly spent (collectively "excess funds") to County, give notice to the appropriate parties of County's right to exercise the assignment provisions of Exhibit C to

this agreement. Upon receipt of the deliverables, reconciliation of the accounting, the repayment excess funds, and notice to the appropriate parties relative to the assignment, each within the time specified, this agreement shall terminate and the outstanding balance under the terms of the Promissory Note shall be waived and neither party shall have any other or further obligation or liability to the other. Upon EJE's failure to deliver to County the deliverables, the accounting, the repayment excess funds, and notice to the appropriate parties relative to the assignment within the specified time, EJE shall be deemed in default and County may exercise all remedies available under the terms of this agreement, the Promissory Note, or any of the other documents executed by the parties and may exercise any other remedy at law or in equity.

- N. EJE shall comply with all terms and conditions of the Memorandum of Agreement between the State of North Carolina and County (the "State Agreement") which sets forth, among other things, the terms and conditions of the transfer and use of the Fifteen Million and 00/100 dollars (\$15,000,000.00) by County to EJE. EJE shall use the loan proceeds only for purposes permitted in the State Agreement. EJE shall keep all documents and records associated with the use of the loan proceeds and make those records available to the State or county at any time, upon request. Such records shall include receipts, invoices, contracts, checks, wiring receipts and all other documents associated with the expenditure of the loan proceeds and shall follow and be in accordance with generally accepted accounting principles, practices and procedures. The State Agreement is attached hereto as Exhibit E and incorporated herein by reference as if fully set out.
- O. In the event that at any time during the terms of this agreement, the promissory note or extensions thereto, or any other written agreements to which EJE Recycling Disposal, Inc. is a party, EJE Recycling Disposal, Inc. shall dispose, whether voluntarily or involuntarily, more than 50% of the value of its assets as shown on its financial statements for year end 12/31/2018, EJE Recycling Disposal, Inc. shall provide notice to the County of such sale or transfer within 10 days of the execution of any agreement or contract in furtherance of such sale or transfer and at least 10 days prior to the transfer of such assets.

IN WITNESS WHEREOF, the Parties have caused this instrument to be signed and sealed the day and year first above written.

E.J.E RECYCLING DISPOSAL, INC.

By: \_\_\_\_\_ (SEAL)  
Judson T. Whitehurst, President

EJE DREDGING SERVICE, LLC

By: \_\_\_\_\_ (SEAL)  
Judson T. Whitehurst, Manager

DARE COUNTY

By: \_\_\_\_\_ (SEAL)  
Chairman, Dare County Board of Commissioners

Attest: \_\_\_\_\_  
Clerk

**PROMISSORY NOTE**

\$15,000,000.00

Manteo, North Carolina  
March \_\_\_\_, 2019

FOR VALUE RECEIVED, E.J.E. Recycling Disposal, Inc., a North Carolina corporation and EJE Dredging Service, LLC, a North Carolina limited liability company (hereinafter collectively, “Maker”), jointly and severally promise to pay to the order of Dare County, a political subdivision organized and existing pursuant to the laws of the State of North Carolina (“Payee”), at P.O. Box 1000, 954 Marshall Collins Dr., Manteo, North Carolina 27954 or at such other place or to such other party or parties as the holder of this Note may from time to time designate, the principal sum of FIFTEEN MILLION and 00/100 Dollars (\$15,000,000.00), together with interest at the rates designated herein, computed on the basis of a 365 day year for the actual number of days in each interest period, both principal and interest payable in lawful money of the United States which shall be legal tender in payment of all debts and dues, public and private at the time of payment by bank wire or by check. Until an Event of Default, this promissory note (the “Note”) shall bear interest at a rate of two percent (2.0%) per annum. The loan proceeds are to be applied to the costs to design and build an ocean certified, shallow draft, special purpose, split-hull hopper dredge vessel (the “Dredge”) and secured as provided herein. The aforesaid sum shall be disbursed to Maker in draws pursuant to the Draw Schedule attached hereto as Exhibit A and incorporated herein by reference as if fully set out. Principal and interest shall be calculated and paid as follows:

- A. Interest at the aforesaid rate shall begin accruing, as provided in Paragraph C below, on any outstanding principal balance on the date that the fully operable Dredge is physically delivered and titled to Maker (the “Interest Commencement Date”). Maker and Payee agree to execute, as soon as practicable, a written statement specifying the Interest Commencement Date in the form attached hereto as Exhibit B (the “Interest Commencement Date Agreement”). If Maker fails to execute and deliver such agreement within thirty (30) days of receipt of written request by Payee to execute such agreement, Maker shall be conclusively deemed to have acknowledged and agreed with Payee’s determination of the Interest Commencement Date, as set forth on the Interest Commencement Date Agreement sent to it by Payee.
- B. As long as there has not been an Event of Default under this Note, during the initial term of this Note and any extension thereto, Payee shall forgive that portion of the principal in an amount equal to the difference between the Base Rate and Discounted Rate for services which were provided to Payee under the terms of the Dredge Work Plan and Forgivable Loan Agreement between the parties dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “Work Plan”) which is incorporated herein by reference as if fully set out.
- C. If not sooner paid or upon default, Maker shall repay all outstanding principal, together with accrued interest at 2% per annum from the interest commencement date, in one lump sum on the first day of the one hundred twentieth (120th) month following the Interest Commencement Date or such later date as is provided in any amendment to this Note, or upon default.



- D. Unless otherwise agreed in writing, each installment shall be applied: (i) first to any unpaid expenses of collection pursuant to Section \_\_\_\_\_ of this Note; then to the payment of interest then accrued and due on the unpaid principal balance, and then to any unpaid principal owed on this Note.
- E. Unless elsewhere defined in this Note, capitalized terms used herein shall have the meanings as defined in the Dredge Work Plan and Forgivable Loan Agreement.
- F. This Note may be prepaid in whole or in part at any time without penalty.

Maker shall repay all outstanding principal, together with interest at the rate of 2% per annum on the outstanding principal, in one lump sum on the first day of the 120<sup>th</sup> month following the delivery of the dredge vessel to Maker or on the due date provided in any requested loan extensions, or upon default.

#### ARTICLE 1. EVENTS OF DEFAULT; REMEDIES

Section 1.1. *Events of Default.* The happening or continuing of any one or more of the following events or conditions shall be an “Event of Default” under this Note:

- (a) the failure of Maker to make a payment of interest or principal already due on this Note within the later of (i) 10 days after the same shall become due or (ii) 5 days after receipt of written notice of default hereunder;
- (b) the occurrence of an Event of Default under the Work Plan, any contract with the Naval Architect, the contract for the construction of the Dredge, any security agreement signed by Maker (or either of them), any preferred ship mortgage, any assignment of leases, rents and profits, or any written agreement by Maker related to the Dredge;
- (c) if Maker (or either of them) files a voluntary petition of bankruptcy, or a petition seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, reorganization, insolvency, readjustment or debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in a proceeding under such law;
- (d) if an order, judgment or decree shall be entered, without the application, approval or consent of Maker (or either of them), by any court of competent jurisdiction, approving a petition seeking reorganization or liquidation of Maker (or either of them) or a substantial part of the assets of Maker (or either of them), or appointing a receiver, trustee, custodian or liquidator of Maker (or either of them), and such order, judgment or decree shall not be dismissed within sixty (60) days;
- (e) If Maker (or either of them) applies for or consents to the appointment of a receiver, trustee, custodian or liquidator of itself or for all or a substantial part of its property;
- (f) If Maker (or either of them) makes a general assignment for the benefit of creditors;

(g) If Maker (or either of them) is adjudicated bankrupt or insolvent;

Section 1.2. *Acceleration.* Upon the occurrence of any Event of Default, Payee may, without further notice, declare the unpaid principal amount of this Note, together with all interest accrued thereon immediately due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time.

Section 1.3. *Default Interest Rate.* Upon the occurrence of any Event of Default and upon acceleration of the entire unpaid principal balance of the amount owed by the Maker to Payee hereunder, interest shall continue to accrue thereafter to the extent legally permissible at the rate of eight percent (8.00%) per annum, until the entire principal amount of this Note and any other amounts due hereunder shall have been paid in full, including the period following entry of any judgment. Both before and after any Event of Default, interest shall be computed on the basis of a 365-day year.

Section 1.4 *Expenses of Collection; Rights Cumulative.* Maker and any and all assumers, sureties, endorsers, or guarantors further agree, jointly and severally, that they will pay any collection expense, court costs and reasonable attorneys' fees, not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses which may be incurred in the collection or enforcement of the Note or any part hereof. The rights and remedies of the holder as provided in this Note and any instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against any funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

## ARTICLE 2. SECURITY

This Note shall be secured by a First Preferred Ship Mortgage on the Dredge, one or more Security Agreements on the Dredge and the personal property, equipment and fixtures related thereto, as well as an Assignment of Leases, Rents and Profits, Assignment of Construction Documents, Assignment of Contract with Builder, and Assignment of Architect Contract, all such documents being of even date herewith, to which reference is made for the terms thereof, and the same are hereby incorporated by reference and made a part of this Note.

## ARTICLE 3. SPECIFIC WAIVERS; OFFSET

Section 3.1 *Specific Waivers.* Except as expressly provided herein, all parties to this Note, including Maker and all assumers, sureties, endorsers, guarantors (if any), and all persons liable or to become liable on this Note hereby jointly and severally waive: demand, protest, presentment, notices of presentment, nonpayment, protest, demand, and dishonor; and notice of acceleration of maturity, and also waive the benefit of any homestead exemption or any other exemption. All such parties consent to any and all renewals and extensions of the time of payment hereof, agree to continue to remain bound for the payment of principal interest and all other sums due under this Note and further agree that at any time and from time to time without notice, the terms of payment herein, including the rate of interest applicable to this Note, may be modified or the security described in the lien documents securing this Note may be released in whole or in part, or

increased, changed or exchanged by agreement between the holder or holders hereof and any owner of the premises affected by said lien documents securing this Note without in any way affecting the liability of any party to this instrument or any person liable with respect to any indebtedness evidenced hereby including any endorsers, guarantors, or accommodation parties. None of the rights and remedies of the holder or holders hereof are to be waived or affected by failure or delay to exercise them. Subject to the forgoing requirement, all remedies conferred on a holder by this Note or any other instrument or agreement shall be cumulative and none is exclusive. Such remedies may be exercised concurrently or collectively at the holder's option. **The holder of this Note shall first rely on the collateral for the payment of the Note in the event of default by the Makers prior to exercising other remedies. The holder shall use reasonable efforts to maximize the value of collateral to be applied to the payment of the Note.**

Section 3.2 No Right of Offset. Maker shall not be entitled to offset any sum which it owes Payee under this Note against any sum which Maker is owed by Payee.

#### ARTICLE 4. MISCELLANEOUS PROVISIONS

Section 4.1 Notices. All notices hereunder shall be in writing, shall specify the Section hereunder pursuant to which it is given or being made, and shall be deemed to have been duly given upon receipt or upon refusal by a party to accept receipt, whether delivered personally or by nationally recognized overnight courier or by certified or registered mail, postage prepaid, deposited in the United States Mail, return receipt requested, addressed to the parties at the addresses set forth below or at such other addresses as shall be specified in writing:

If to Payee: Dare County  
Attention: County Manager  
Post Office Box 1000  
954 Marshall Collins Drive  
Manteo,

If to Maker: EJE Dredging Service, LLC  
Attention: Judson T. Whitehurst  
802 Recycling Lane  
Greenville, NC 27834

And Poyner Spruill LLP  
Attention: Thomas H. Davis, Jr., Esq.  
301 Fayetteville Street, Suite 1900  
Raleigh, NC 27601

Section 4.2 Governing Law. This Note shall be governed by and construed in accordance with the laws of the State of North Carolina, without reference to that state's choice of law rules.

Section 4.3. Severability. Should any one or more of the provisions of this Note or of any agreement entered into pursuant to this Note be determined to be illegal or unenforceable, all other provisions of this Note and of each such other agreement shall be given effect separately from the provision or provisions determined to be illegal or unenforceable and shall not be affected thereby.

Section 4.4 No Assignment. Maker's obligations hereunder may not be assigned by operation of law or otherwise, except with the written permission of the Payee, its successors and assigns, which consent may be withheld in Payee's sole discretion. If such consent is given, Maker shall not be relieved of any of the obligations under this Note, and shall cause the assignee to perform all of the respective obligations hereunder to the same extent as if such assignment had not occurred, and Payee, its successors and assigns may be, at its sole election, entitled to enforce all of the duties and obligations under this Note of the other party against either or both of such other party and its assignee. Any attempted assignment by Maker in violation hereof shall be null and void. Payee's rights hereunder may be assigned upon written notice to Maker.

Section 4.5. General Waivers. Any waiver of a provision of this Note must be in writing signed by the party waiving its rights and shall apply only in the specific instance and for the specific purpose given. The giving of a waiver in one instance or for one purpose shall not create any implied obligation to give a waiver in another instance or for another purpose.

Section 4.6 Benefit. This Note is for the benefit of and may be enforced only by the parties hereto, and is not for the benefit of any other person or entity, including without limitation any employees of the Maker, and may not be enforced by any such third party.

Section 4.7 NO TRIAL BY JURY. ALL PARTIES TO THIS NOTE WAIVE ANY AND ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT OR COMMENCED BY EITHER PARTY WHICH IS DIRECTLY OR INDIRECTLY RELATED TO THIS NOTE. BY EXECUTION OF THIS NOTE, MAKER HEREBY REPRESENTS THAT IT IS REPRESENTED BY COMPETENT COUNSEL WHO HAS FULLY AND COMPLETELY ADVISED MAKER OF THE MEANING AND RAMIFICATIONS OF THE WAIVER OF THE RIGHT TO A TRIAL BY JURY.

Section 4.8 Jurisdiction and Venue. Maker (a) submits to personal jurisdiction in the State of North Carolina, the courts thereof and the United States District Courts sitting therein, for the enforcement of this Note, (b) waives any and all rights under the law of any jurisdiction to object on any basis (including, without limitation, inconvenience of forum) to jurisdiction or venue within the State of North Carolina for the purpose of litigation to enforce this Note, and (c) agrees that service of process may be made upon it in any manner prescribed by applicable federal rules of civil procedure or by applicable local rules or law of civil procedure for the giving of notice to the undersigned. Nothing herein contained, however, shall prevent Payee from bringing any action or exercising any rights against any security and against the undersigned personally, and against any assets of the undersigned, within any other state or jurisdiction.

Section 4.9 Construction of Note. This Note is the product of negotiations between Payee and Maker and their respective attorneys, and no provision shall be construed for or against either party by reason of ambiguity in language.

Section 4.10 Headings. The headings in this Note are for convenience of reference only and shall not constitute a part of this Note not be construed to alter or vary the text.

Section 4.11 *Attorneys*. In any action between Payee and Maker at law or in equity arising out of or related to this Note, the prevailing party shall be entitled to reasonable attorney's fees and court costs, in addition to any other relief to which that party may be entitled.

Section 4.12 *Reproduction of Documents*. Maker acknowledges that Payee may reproduce (by electronic means or otherwise) this Note or any of the documents evidencing and/or securing this Note and thereafter may destroy the original documents. Maker hereby agrees that any document so reproduced shall be the binding obligation of Maker enforceable and admissible in evidence against him to the same extent as if the original documents had not been destroyed.

Section 4.13 *Entire Agreement*. Except as may otherwise be specifically provided herein, this Note and the documents referred to in Article 2 of this Note constitute the entire agreement of the parties with respect to the debts owed by Maker to Payee, and all prior representations, covenants, proposals and understandings, whether written or oral, not contained in such documents are superseded and merged herein. This Note may be modified or amended only by an instrument in writing executed by the parties hereto and specifically stating that is intended as a modification or amendment to this Note. No oral statements or representations not contained herein shall have any force or effect.

IN WITNESS WHEREOF, the Makers have caused this instrument to be signed and sealed the day and year first above written.

E.J.E RECYCLING DISPOSAL, INC.

By: \_\_\_\_\_ (SEAL)  
Judson T. Whitehurst, President

EJE DREDGING SERVICE, LLC

By: \_\_\_\_\_ (SEAL)  
Judson T. Whitehurst, Manager

**Exhibit A**  
**LOAN DRAW SCHEDULE**

DRAW #      PURPOSE                      EJE                      LOAN                      TOTAL AMOUNT

TOTAL DRAWS \_\_\_\_\_

The first draws #1- # are to be the draws for the expenses or portions of the expenses prior to EJE's execution of a contract with the ship builder, not to exceed \$500,000 and are without EJE contribution. TheseThe remaining draws are to be scheduled pursuant to the contract between EJE and the ship builder. EJE will contribute to each of these draws in a percentage of the draw amount equal to the percentage of the ships total construction cost not covered by the loan funds remaining after the initial draws. For example, if the ship costs \$28 mil to build, \$500k has been spent on preconstruction costs leaving \$14.5 mil of loan proceeds. Then EJE's share of each draw would be 48%. (\$28,000,000 - \$14,500,000 = \$13,500,000 (EJE share) divided by \$28,000,000 = .48)

No draws will be given until previous draw has been reconciled and approved by County.

**Exhibit B**

**INTEREST COMMENCEMENT DATE AGREEMENT**

THIS INTEREST COMMENCEMENT DATE AGREEMENT, made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between E.J.E RECYCLING DISPOSAL, INC., a North Carolina corporation, and E.J.E DREDGING SERVICE, LLC, a North Carolina limited liability company (collectively, “Maker”) and DARE COUNTY, a political subdivision organized and existing pursuant to the laws of the State of North Carolina (“Payee”);

W I T N E S S E T H

THAT WHEREAS, Maker and Payee entered into that certain promissory note dated \_\_\_\_\_, 2019 (the “Note”), in the maximum principal amount of Fifteen Million Dollars (\$15,000,000); and

WHEREAS, the Note provides that interest shall not begin accruing until a fully operable Dredge is physically delivered and titled to Maker (the “Interest Commencement Date”); and

WHEREAS, the parties desire to establish the Interest Commencement Date, and the expiration date of the initial term of the Note as set forth below;

NOW, THEREFORE, in consideration of the mutual and reciprocal promises herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Maker and Payee hereby agree that the Note be, and the same is hereby modified in the following particulars:

1. For all purposes under the Note, the Interest Commencement Date shall be \_\_\_\_\_, 201\_\_.
3. The Final day of the Initial Term of the Note shall be \_\_\_\_\_, 20\_\_.
4. Except as modified and amended by this Interest Commencement Date Agreement, the Note shall remain in full force and effect.

IN WITNESS WHEREOF, Maker and Payee have caused this Interest Commencement Agreement to be duly executed, as of the day and year first above written.

E.J.E RECYCLING DISPOSAL, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
E.J.E DREDGING SERVICE, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

DARE COUNTY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**FIRST PREFERRED SHIP MORTGAGE**

**Vessel:**  
**(Official Number \_\_\_\_\_ )**

**Date:**

**Amount:**

THIS FIRST PREFERRED SHIP MORTGAGE, made by:

**EJE DREDGING SERVICE, LLC**, a North Carolina limited liability company, ("Owner"), , whose address is \_\_\_\_\_, the sole owner of the whole of the vessel \_\_\_\_\_ (Official Number \_\_\_\_\_), to

**DARE COUNTY**, a political subdivision organized and existing pursuant to the laws of the State of North Carolina, whose address is: \_\_\_\_\_, and its successors and assigns ("Mortgagee"), as follows.

**WITNESSETH:**

THAT WHEREAS, Owner is in the business of maintenance and navigation dredging, beach nourishment, habitat creation, and environmental restoration; and

WHEREAS, E.J.E. Recycling Disposal, Inc., a North Carolina corporation authorized to do business in North Carolina ("EJE Recycle"), joins in the execution of this Mortgage; and

WHEREAS, EJE Recycle and Owner are justly indebted and obligated to Mortgagee as a result a term loan and a work plan agreement as evidenced by, among other things, the following:

- (a) A Promissory Note dated \_\_\_\_\_ from Owner and EJE Recycle in the principal amount of \_\_\_\_\_ payable to the order of Mortgagee; and
- (b) A Dredge Work Plan and Forgivable Loan Agreement dated \_\_\_\_\_ between Owner and EJE Recycle and Mortgagee;
- (c) All Exhibits to the Note and Work Plan

(as in effect from time to time, and as modified, extended, replaced, or restated, the foregoing documents in (a), (b) and (c) are collectively the "Notes") and further may be evidenced by certain additional loan documents executed contemporaneously herewith (the "Loan Documents")—all

capitalized terms used in this Mortgage, but not otherwise defined herein, having the meanings ascribed to them in the Loan Documents; and

WHEREAS, in consideration of the Notes and Loan Documents, Owner has agreed to secure the Notes and Loan Documents with a preferred ship mortgage on the Vessel (as defined below);

NOW, THEREFORE, in consideration of the foregoing recitals, the loans and obligations made pursuant to the Notes and Loan Documents, the promises made herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner hereby mortgages and conveys the whole of the following vessel (the “Vessel”) to the Mortgagee, its successors and assigns to secure payment of all sums owed by it and EJE Recycle under the Notes (including without limitation interest, late charges, attorney’s fees, and other sums) and performance of Owner and EJE Recycle’s obligations under the Notes and the Loan Documents, as they may be amended, modified, supplemented, restated, and/or replaced.

Vessel Name	Official Number

The term “Vessel” shall include any and all of the following described items, now or hereafter belonging to the vessel or normally carried thereon, if any, all of which are subject to the security interest and lien of this Mortgage: all dredging equipment, masts, spars, capstans, spare parts, towers, boilers, cables, engines, machinery, bowsprits, sails, rigging, auxiliary boats, anchors, chains, apparel, furniture, tackle, fittings, tools, pumps, pumping equipment, radar, depth sounder, AIS equipment; electronic equipment, radios, other equipment and supplies, and any and all fishing and other appurtenances, accessories and additions, improvements and replacements now or hereafter belonging thereto, whether or not removed therefrom.

Except as may otherwise be stated herein, United States Code Title 46, Chapter 313, as amended, shall govern this Mortgage.

## I. COVENANTS AND WARRANTIES OF OWNER

1. Owner and EJE Recycle covenants, represents, and warrants to Mortgagee that:

1.1. Each is and shall remain a citizen of the United States and Owner is entitled to own and operate the Vessel under its Certificate of Documentation and coastwise and other operational endorsements, which Owner shall maintain in full force and effect; all actions necessary for the execution, delivery and validity of this Mortgage have been taken; Owner is duly organized as a North Carolina corporation and is and shall continue in good standing under the laws of the State of North Carolina and in any other state where Owner does business, and Owner is authorized to execute this Mortgage.

1.2. Owner owns and possesses the Vessel free and clear from all liens, sanctions, and encumbrances. Owner shall warrant and defend title to and possession of the Vessel for the benefit

of Mortgagee against all other persons and entities. Owner shall not set up any claim of ownership of the Vessel against Mortgagee.

1.3. Owner shall comply with, and not permit the Vessel to be operated contrary to, the laws, treaties, conventions, rules, regulations or orders of the United States, and any state or jurisdiction where they are operated, nor remove the Vessel from the territorial limits of the United States, nor abandon the Vessel in any foreign port. Owner shall do everything necessary to establish and maintain this Mortgage as a First Preferred Ship Mortgage on the Vessel. Owner shall comply with, and not permit the Vessel to be operated contrary to, any navigation limits and other requirements of the insurance carried on the Vessel.

1.4. Owner (a) agrees to be bound by the provisions of this Mortgage; (b) consents to being joined, if necessary for complete relief to be granted, in any enforcement action on the Notes (or any of them) or Mortgage, or under the Loan Documents, and (c) acknowledges that the Mortgagee is loaning or disbursing funds on the condition that the Notes and Loan Documents are secured by this Mortgage.

1.5. Owner, by executing this Mortgage, by EJE Recycle receiving money loaned from Mortgagee and executing this Mortgage, by having actual knowledge of EJE Recycle having executed the Notes and other Loan Documents that the Mortgagee intends to secure the Notes with this Mortgage, and/or by having such knowledge at any time and not promptly notifying the Mortgagee in writing by certified mail that the Owner did or does not consent to this Mortgage, hereby agrees to this Mortgage.

1.6. Owner gives Mortgagee the right, upon the occurrence of an "Event of Default", as defined herein, to arrest and repossess the Vessel wherever it may be found and sell it, and if, after deducting from the proceeds of sale all amounts due Mortgagee under the Notes or other Loan Documents, including but not limited to costs and attorneys' fees incurred in arresting, repossessing, storing, protecting, and selling the Vessel and costs of cleaning, transporting, commissions, repairs, reconditioning, new equipment, storage and dockage fees, and all other costs determined by Mortgagee, in its reasonable discretion, to be in its interests to incur, there is a deficiency, in that the proceeds are insufficient to pay Mortgagee all amounts due to it, Mortgagee may sue Owner for the deficiency in any appropriate state or federal court and in the event of suit, recover any costs and attorneys' fees it incurs in such suit and any costs and attorneys' fees previously mentioned in this paragraph.

1.7. Neither Owner, nor Owner's agent or masters of the Vessel, has or shall have any right, power or authority to create, incur or permit to be placed or imposed on the Vessel any lien other than to Mortgagee or for crew's wages or salvage, without Mortgagee's written consent. Owner shall keep prominently posted on the Vessel, a U. S. Coast Guard certified copy of this Mortgage and a notice that the Vessel is subject to a Mortgage in favor of Mortgagee, that no liens may be placed upon the Vessel without the written permission of Mortgagee, and that the Vessel may not be leased to or chartered by any third party other than EJE Recycle without Mortgagee's prior written consent, which consent shall not be unreasonably withheld. Owner will also promptly cause a copy of this Mortgage, certified by the U. S. Coast Guard, to be kept on the Vessel and in the office of Owner from which the Vessel is chartered, available for inspection, and will exhibit

the same and with the Vessel's papers upon demand to any person having business with the Vessel. Owner will take such other appropriate steps from time to time as will give notice to the world that Owner's right, title and interest in and to the Vessel is subject to this Mortgage, and that, except for this Mortgage and the other Loan Documents, Owner has no right, power or authority to suffer or permit any liens or claims against the Vessel.

1.8. Owner shall pay when due all taxes, assessments, license fees, governmental charges, fines and penalties imposed upon the Vessel and promptly discharge any and all liens and claims upon the Vessel. Owner shall at all times keep the Vessel in good repair, appearance and working order. If on the date of this Mortgage the Vessel has an ABS or other Classification Certificate and/or Load Line Certificate, Owner shall take all action necessary to maintain the Vessel's current Classification, and Owner shall maintain the Vessel according to its standards, including all repairs, replacements, and dry-dockings. Owner shall take all action necessary to maintain the Vessel's Load Line Certificate, and Owner shall maintain the Vessel according to its standards, including all repairs, replacements, and dry-dockings. Owner will provide the Mortgagee with copies of the renewals of the Classification and the Load Line Certificate.

1.9. If the Vessel shall be libeled, arrested, attached, detained or repossessed by any third party, seized or levied upon or taken into custody under process or under color of liens and claims upon the Vessel, Owner shall immediately notify Mortgagee, confirmed in writing, by letter sent by certified mail and discharge or release, and use commercially reasonable efforts to recover the Vessel within twenty (20) days.

1.10. Owner shall at all reasonable times afford Mortgagee complete opportunity to inspect the Vessel and immediately upon request by Mortgagee, Owner shall state the exact location of the Vessel. Owner shall promptly, and in any event when due, pay all charges for repairs or other services to the Vessel, goods, supplies, wages, fuel, dockage, storage fees, or any other necessities, not disputed, within thirty (30) days to the creditor, with immediate written notice of any such disputed amount sent to Mortgagee. Owner shall promptly inform Mortgagee in writing whenever the total of undisputed charges for the above items not paid within thirty (30) days after the due date exceeds Five Thousand and 00/100 Dollars (\$5,000.00). Owner shall also notify Mortgagee promptly of any collision, allision, or other accident in which the Vessel is involved, or of damage to the Vessel that requires repair or which may affect its value.

1.11. Owner shall not, without the prior written consent of Mortgagee, sell, transfer, or mortgage the Vessel, or any interest in the Vessel, or merge or consolidate with any other person, firm or corporation, or dissolve.

1.12. From time to time, Owner shall execute and deliver such other instruments and assurances as Mortgagee may require to perfect or continue this Mortgage and to enforce the terms of this Mortgage, the Notes, or other Loan Documents, for operation of the Vessel, or sale of the Vessel by Mortgagee upon the occurrence of an "Event of Default" as defined below.

## II. INSURANCE

2.1 Owner shall, at its expense, keep the Vessel fully insured under a marine insurance policy or policies providing (1) hull and machinery coverage in an amount not less than the full replacement value of the Vessel; (2) protection and indemnity coverage in the standard form and amounts acceptable to Mortgagee; (3) collision liability coverage; (4) Jones Act, workers compensation and employers' liability coverage if not included in the Protection and Indemnity coverage; (5) Oil Pollution Act liability coverage in an amount not less than One Million Dollars (\$1,000,000.00), (6) CERCLA environmental/pollution liability coverage in an amount not less than Five Million and 00/100 Dollars (\$5,000,000.00), and (7) such further risks as may be commercially reasonable or reasonably specified by Mortgagee from time to time.

2.2 The hull and machinery policy shall provide that losses payable under the policy shall be paid to Mortgagee, its successors and assigns, and shall include a Breach of Warranty endorsement in favor of Mortgagee, protecting Mortgagee's interest in an amount not less than the full market value of the Vessel, which interest shall not be impaired or invalidated by any breach of a warranty or condition under the policy, other than a change in title or ownership of the Vessel.

2.3 The policies shall include all additional endorsements or coverages reasonably specified by Mortgagee. All such policies shall be taken in Owner's name, shall identify Mortgagee as a mortgagee and additional insured, and shall be in amounts or policy limits subject to Mortgagee's approval unless the amounts or policy limits are otherwise specified herein. Owner shall notify, and Owner and/or Mortgagee shall request all insurers and their agents to agree to notify Mortgagee, at least thirty (30) days in advance, of any cancellation or material change in any insurance coverage. Certified copies of policies and binders shall be delivered to Mortgagee with satisfactory evidence that all premiums and charges have been paid. Owner shall maintain such insurance unimpaired by any act, breach of warranty or otherwise, during the life of this Mortgage. Mortgagee may at any time request proof from the Owner that the insurance is in force. Failure by Owner to furnish proof within seven (7) days of receiving a request from Mortgagee shall constitute an "Event of Default" as defined below, and, in addition to any other rights or remedies, Mortgagee shall have the option, but shall not be required, to procure such insurance at Owner's sole cost and expense, to be paid by Owner upon demand by Mortgagee.

### III. DEFAULT

3.1. Any one or more of the following events shall be an "Event of Default":

- (a) **Payment Defaults.** If any payment due on the Notes or under the other Loan Documents is not made when due.
- (b) **Other Defaults.** Owner's or EJE Recycle's failure to comply with or to perform any term, obligation, covenant or condition in this Mortgage, or any other agreement between the Owner and Mortgagee. EJE Recycle's failure to comply with or to perform any term, obligation, covenant or condition in the Notes, other Loan Documents, or any other agreement between the EJE Recycle and Mortgagee.
- (c) **Insolvency.** The dissolution, merger, consolidation or termination of Owner's or EJE Recycle's existence as a going business, Owner's or EJE Recycle's insolvency

or inability to pay debts as they mature, the appointment of a receiver for Owner's or EJE Recycle's property, any assignment by Owner or EJE Recycle for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Owner or EJE Recycle (except as creditor of a third party).

- (d) **Creditor or Forfeiture Proceedings.** The entry of a judgment against Owner or EJE Recycle, or the commencement of foreclosure or forfeiture proceeding, repossession, or any other act by any creditor of Owner or EJE Recycle, or by any governmental agency, against the Vessel or any collateral securing the indebtedness, including garnishment of any of Owner's or EJE Recycle's deposit accounts with Mortgagee; provided, however, the foregoing shall not apply to garnishment against third-parties from Owner's or EJE Recycle operating account.
- (e) **Breach of Warranties.** The breach of any of Owner's covenants, representations or warranties in this Mortgage or in the in the Notes, or other Loan Documents. The breach of any of EJE Recycle's covenants, representations or warranties in the Notes, or other Loan Documents.
- (f) **Deterioration of Vessel.** Any deterioration or impairment of the Vessel or any depreciation in the value of the Vessel, which causes the Vessel, in the reasonable judgment of Mortgagee, to become unsatisfactory as to value. Mortgagee may from time to time require that the Vessel be surveyed and appraised, and Owner shall cooperate with Mortgagee's surveyor to permit access to, and inspection of, the Vessel. Each survey and appraisal shall be performed at Owner's sole cost and expense; provided, however, Owner shall not be obligated to pay the cost of surveys or appraisals performed more frequently than once every two (2) years.
- (g) **Fraud or Misrepresentation.** Owner or EJE Recycle commits fraud or makes a material misrepresentation, or omits to disclose facts necessary to keep any representation made from being misleading, at any time in connection with this Mortgage or the Notes.

Notwithstanding the foregoing, if Owner has not been given more than one (1) notice of the same breach or default within the preceding twelve (12) months, the breach or default may be cured (and no Event of Default shall be deemed to have occurred) if Owner, after written notice from the Mortgagee to Owner demanding cure of such default: (i) cures the default within seven (7) days if it is a payment default and (ii) thirty (30) days if it is a default other than a payment default. The Owner's right to cure, however, shall not apply to (a) default of Owner's obligation to insure the Vessel, (b) defaults which are not susceptible to cure (such as without limitation a report, certificate or financial information statement or incorrect representation or warranty which is false or misleading), (c) default in payment at maturity, (d) appointment of a receiver or other custodian of the Owner's or guarantor's assets, (e) sale or other transfer of the Vessel, (f) a lien on the Vessel other than allowed by the Loan Documents, (g) financial reporting requirements, or (f) defaults for which cure periods are already stated. Further, if during any cure period the Mortgagee's collateral

or lien priority is threatened, the Mortgagee may take reasonable actions at the Owner's expense to protect the Mortgagee's interests.

3.2. If an Event of Default occurs, in addition to any other rights and remedies provided to Mortgagee under applicable law, the Notes or other Loan Documents, Mortgagee may:

- (a) Accelerate and declare immediately due and payable all the unpaid principal, accrued interest, any late charges, and, as permitted by applicable law, any other amounts due under the Notes, the other Loan Documents, or this Mortgage, after which these amounts shall earn interest at the default rate of interest provided in the Notes. Any arrest and repossession of the Vessel by Mortgagee, or suit on the Mortgage, Notes, or other Loan Documents or other action taken by Mortgagee authorized in (b) through (e) below, shall also constitute such a declaration by Mortgagee, even if no such declaration, or demand for payment, has been made previously to Owner.
- (b) Bring suit in federal or state court against the Vessel and/or Owner, and in such action, recover all costs of suit, including reasonable attorneys' fees. Owner consents to the appointment of a substitute custodian selected by Mortgagee. Mortgagee may also obtain appointment of a receiver for the Vessel. Mortgagee may at any time dismiss any action and take possession of the Vessel and exercise all powers given under this Mortgage, including those given in section (d) below.
- (c) Recover judgment for any amounts due and collect it out of the property of Owner.
- (d) In addition to all other remedies provided, repossess the Vessel without legal process, or use state legal process to do so, at any time, wherever the Vessel may be, and, without being responsible for loss or damage, hold and in Mortgagee's or Owner's name, sell, lease, charter, operate, transfer, or otherwise use the Vessel for the time and upon the terms as Mortgagee deems advisable. Mortgagee may sell the Vessel free from any claim by Owner, and the sale may include all appurtenances on board the Vessel at the time it or they are retaken by Mortgagee or normally on board but removed by Owner; provided, however, Mortgagee shall not have any rights in or to any cargo on board the Vessel. If Mortgagee elects, repossession and sale may take place under state law and this Mortgage shall not be used to prevent election to use state law remedies. To the extent permitted by law, the sale may be public or private, with at least twenty-one (21) days prior written notice to Owner, without having the Vessel present, and Mortgagee may be the purchaser and for payment may pay all or part of the indebtedness secured by this Mortgage. Owner agrees that it will cooperate fully to permit peaceful repossession, and will disclose promptly the exact location of the Vessel to permit Mortgagee to obtain possession of any or all of them.
- (e) For purposes of dealing with the Vessel following any Event of Default, Mortgagee and its agents are irrevocably appointed the true and lawful attorneys of Owner in Owner's name and stead for all purposes, including but not limited to selling the

Vessel and doing all things (including execution of documents) necessary to the sale and to protect Mortgagee's interest.

3.3. If an Event of Default occurs, Owner and any other person aboard the Vessel shall immediately leave the Vessel upon the oral or written request of Mortgagee, and shall leave the Vessel in good, clean and neat condition. If the Vessel is arrested or detained by any officer of any Court or by any authority, Owner hereby authorizes Mortgagee, its agents and appointees, to receive or take possession of the Vessel, load and/or discharge cargo, and to defend any action or discharge any lien. All expenses incurred by Mortgagee as a result of such action shall be added to the indebtedness secured by this Mortgage. If the Mortgagee pays any lien or claim, this shall be an Event of Default by Owner, and Mortgagee may immediately enter on and use the Vessel as it sees fit and this shall be regarded as a lawful repossession.

3.4. Each and every power or remedy given to Mortgagee shall be cumulative, and in addition to all powers or remedies now or hereafter existing in admiralty, in equity, at law or by statute, and may be exercised as often as deemed necessary by Mortgagee. No delay or omission by Mortgagee shall impair any right, power or remedy, and no waiver of any default shall waive any other default.

3.5. Mortgagee may apply the net proceeds of any judicial or other sale, and any charter, management, operation or other use of the Vessel by Mortgagee, of any claim for damages, of any judgment, and of any insurance proceeds received by Mortgagee (except to the extent paid to Owner or applied in payment or repairs or otherwise for Owner's benefit) (hereinafter "Proceeds") as follows:

FIRST: to the payment of all reasonable attorneys' fees, court costs, and any other expenses, losses, charges or damages incurred or advances made by Mortgagee in the protection of its rights or caused by Owner's default with interest at the default rate of interest in effect hereunder, and to provide adequate indemnity against any liens claiming priority over this Mortgage.

SECOND: to the payment of all interest (including any interest accruing at the default rate of interest), to date of payment, on the Notes and any or all sums secured by this Mortgage, and to any balances of such proceeds to the payment next of all matured installments of principal and then of all unmatured installments or principal in the inverse order of their maturity.

If, after deducting from the Proceeds the amounts above, there is a deficiency, Mortgagee may collect the deficiency from the Owner and, in doing so, may apply, without prior notice, any deposits or other assets of the Owner to payment of the deficiency.

3.6. All advances and expenditures which Mortgagee in its reasonable discretion may make for repairs, insurance, payment of liens or other claims, defense of suits, or for any other purpose related to this Mortgage, the Notes or under the Loan Documents, and all damages sustained by Mortgagee because of a default, shall be paid by Owner on demand or, at Mortgagee's option, shall be added to the unpaid balance of the Notes and paid by Owner. Mortgagee shall not be



obligated to make any such advances or expenditures; nor shall their making relieve Owner of any obligation or default related to the advances or expenditure.

#### **IV. POSSESSION UNTIL DEFAULT**

Until an Event of Default occurs, Owner shall be permitted to retain actual possession and use of the Vessel.

#### **V. MISCELLANEOUS PROVISIONS**

5.1. Time is material and of the essence in this Agreement. Mortgagee waives no rights by accepting late or partial payments, or by delaying enforcing any of its rights hereunder. No changes, additions, or deletions in any terms shall be valid unless signed by an authorized officer of Mortgagee.

5.2. Any provisions deemed invalid under any law, rule or regulation of any governmental agency shall not affect any other provision hereof.

5.3. This Mortgage is additional security given to Mortgagee as incentive to advance funds under the Notes and pursuant to the terms of the other Loan Documents.

5.4. This Mortgage shall be governed according to the laws of the United States and the State of North Carolina, without reference to any law regarding choice of law.

5.5. Nothing shall be construed to impose any obligation on Mortgagee to extend, or continue to extend, any credit at any future time.

5.6. To the extent there is a conflict between the terms of this Mortgage and other documents between the parties, the provisions of this Mortgage shall control.

5.7. E.J.E. Recycling Disposal, Inc. joins in the execution of this Mortgage to acknowledge its authorization and approval of the same, , and to reaffirm its obligations, liabilities and duties under the terms of the Notes, Loan Documents and other documents executed between the parties and to acknowledge and agree that the terms and obligations under those documents are also secured by the this mortgage.

As of the date first written above, Owner has caused this Mortgage to be executed in its name by a person authorized to do so.

**EJE DREDGING SERVICE, LLC**, a North Carolina limited liability company

By: \_\_\_\_\_  
\_\_\_\_\_, President

STAMP

STATE OF NORTH CAROLINA  
CITY/COUNTY OF \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a notary in and for the State and City or County aforesaid, personally appeared \_\_\_\_\_, President of \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification, and executed foregoing instrument, on behalf of said corporation.

\_\_\_\_\_  
Notary Public

Notary Registration Number: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, Executive Vice President

STAMP

STATE OF NORTH CAROLINA  
CITY/COUNTY OF \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a notary in and for the State and City or County aforesaid, personally appeared \_\_\_\_\_, Executive Vice President of \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification, and executed foregoing instrument, on behalf of said corporation.

\_\_\_\_\_  
Notary Public

Notary Registration Number: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**E.J.E. RECYCLING DISPOSAL, INC., a North Carolina Corporation**

By: \_\_\_\_\_  
\_\_\_\_\_, President

STAMP

STATE OF NORTH CAROLINA  
CITY/COUNTY OF \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a notary in and for the State and City or County aforesaid, personally appeared \_\_\_\_\_, President of \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification, and executed foregoing instrument, on behalf of said corporation.

\_\_\_\_\_  
Notary Public

Notary Registration Number: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, Executive Vice President

## EXHIBIT C

### CONDITIONAL ASSIGNMENT

In addition to, and not by way of limitation of, the Preferred Ship Mortgage provided in Article I of the Dredge Work Plan And Forgivable Loan Agreement (Loan Agreement), EJE grants, assigns, transfers, conveys and sets over to the County, for the benefit of the County, EJE's entire right, title and interest in and to the Architect/Engineer's Agreement, the design documents for the shallow draft dredge created pursuant to the Architect/Engineer's Agreement, and the Contract between the dredge builder and EJE for the construction of the dredge in accordance with the design documents created pursuant to the Architect/Engineer's Agreement (collectively, "Collateral"); provided that such grant, assignment, transfer and conveyance shall be and become of force and effect only (1) upon or after the occurrence and during the continuance of an Event of Default and (2) either (a) upon the written demand of the County at any time during such continuance or (b) immediately and automatically (without notice or action of any kind by the County) upon an Event of Default for which acceleration of the loan is automatic under the Loan Agreement or upon the sale or other disposition of or foreclosure upon the Collateral pursuant to the terms of the Loan Agreement or the Promissory Note and applicable law (including the transfer or other disposition of the Collateral by EJE to the County in lieu of foreclosure).

**QUALITY CONTROL REPORT-HOPPER DREDGE**

PAGE NO. Page 1 of 2

<b>CONTRACT NO.</b> OREGON INLET, NC	<b>CONTRACT TITLE</b> FY17 OREGON INLET, NC 22 JUN - 16 JUL 17	<b>CONTRACTOR</b>
<b>REPORT NO.</b>		2

<b>CHARACTER OF REPORT</b>	<input checked="" type="checkbox"/> MAINTENANCE <input type="checkbox"/> NEW WORK	<b>DATE</b> 24 Jun 2017 - Saturday
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<b>DREDGE</b> (USACE Dredge MURDEN)	HOPPER CAP: <u>515</u> CY	AVG VOL OF BIN WATER: <u>0</u> CY	AVG UNFILLED CAP: <u>0</u> CY		
	NO. OF CREW MEMBERS	DREDGE	OTHER PLANT	WORK SCHEDULE	DAYS PER WEEK
	8	0			7

<b>LOCATION OF WORK</b>	<b>LOCATION CHANNEL</b> Oregon Inlet	<b>REACH DREDGED; STA TO STA</b> East of Bonner Bridge	<b>DISPOSAL AREA USE</b> SE of Bridge	<b>QTY DEPOSITED GROSS(CY)</b> 2,350	<b>CUMULATIVE AND QTY DEPOSIT FOR DA(CY)</b> 2,975
	AVG LENGTH OF CUT <u>1,000</u> FT		AVG WIDTH OF CUT <u>200</u> FT	AVG DIST TO DUMP <u>1</u> NM	

<b>CHARACTER OF MATERIAL</b>	DENSITY OF MATERIALS	GMS/LITER <u>0</u>
	DENSITY OF WATER	GMS/LITER@ <u>0</u> °F

<b>RIVER/TIDE STAGE</b>	MIN	0	TIME	00:00	MAX	0	TIME	00:00	<b>GAGE LOCATION</b> NA
	MIN	0	TIME	00:00	MAX	0	TIME	00:00	<b>GAGE DATUM</b> NA

<b>WEATHER CONDITION</b>	<b>WEATHER</b> Weather Caused No Delay	<b>TEMP (min / max)</b> 75 °F / 88 °F	<b>VISIBILITY</b> 8	<b>WIND</b> W @ 17
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<b>DRAFT</b>	<b>DISTRIBUTION OF TIME AND MILES RUN</b>
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<b>FORWARD</b>	<b>LIGHT</b>	<b>LOADED</b>	3	10	AGITATING (MIN)	DREDGE & HAUL (MIN)	MILES RUN (NAUT MI)	
<b>AFT</b>			5	10	<b>EFFECTIVE WORKING TIME:</b>			
					<b>PUMPING:</b>	00:00	06:00	0.0
					<b>TURNING:</b>	00:00	01:10	0.0
<b>DRAG DEPTH</b>	<b>MAX</b>	<b>MIN</b>	25	5	<b>TO DUMP:</b>	00:00	00:46	0.0
<b>INDICATORS LAST CHECKED ON</b> _____					<b>CONNECTING:</b>	00:00	00:00	0.0
<b>AVERAGE SPEED OF DREDGE DURING LOADING</b>					<b>DUMPING:</b>	00:00	00:21	0.0
					<b>DISCONNECTING:</b>	00:00	00:00	0.0
<b>AVERAGE SPEED OF DREDGE DURING AGITATING</b>					<b>TO CUT:</b>	00:00	00:28	0.0
					<b>TOTALS:</b>	00:00	08:45	0.0
<b>GALLONS OF FUEL OIL CONSUMED</b>					<b>NON-EFFECTIVE WORKING TIME:</b>			
					<b>TAKING ON FUEL AND SUPPLIES:</b>	00:00	00:00	0.0
<b>GALLONS OF WATER CONSUMED</b>					<b>TO AND FROM WHARF OR ANCHORAGE:</b>	00:00	02:35	0.0
					<b>LOSS DUE TO NATURAL ELEMENTS:</b>	00:00	00:00	0.0

<b>WORK PERFORMED</b>					<b>LOSS DUE TO TRAFFIC AND BRIDGES</b>	00:00	00:00	0.0
<b>DREDGING AND HAULING</b>			<b>AGITATING</b>		<b>MINOR OPERATING REPAIRS:</b>	00:00	00:15	0.0
<b>NO. OF LOADS</b>	<b>TOTAL CYS</b>	<b>DISPOSAL AREA</b>	<b>TOTAL CYS</b>		<b>TRANSFERRING BETWEEN WORKS:</b>	00:00	00:00	0.0
7	2,350	Designated	0		<b>LAY TIME:</b>	00:00	12:00	0.0
					<b>FIRE AND BOAT DRILLS:</b>	00:00	00:00	0.0

<b>ATTENDANT PLANT</b>					<b>MISCELLANEOUS:</b>	00:00	00:25	0.0
<b>ITEM</b>	<b>NAME OR NUMBER</b>	<b>H.P.</b>	<b>HOURS</b>		<b>TOTALS:</b>	00:00	15:15	0.0
					<b>LOST TIME:</b>			
					<b>MAJOR REPAIRS AND ALTERATIONS:</b>	00:00	00:00	0.0
					<b>CESSATION:</b>	00:00	00:00	0.0
					<b>COLLISIONS:</b>	00:00	00:00	0.0
					<b>TOTALS:</b>	00:00	00:00	0.0
					<b>TOTAL TIME/MILES:</b>	00:00	24:00	0.0

**QUALITY CONTROL REPORT-HOPPER DREDGE**

PAGE NO. Page 2 of 2

<b>CONTRACT NO.</b> OREGON INLET, NC	<b>CONTRACT TITLE</b> FY17 OREGON INLET, NC 22 JUN - 16 JUL 17	<b>CONTRACTOR</b>	<b>REPORT NO.</b> 2
<b>DREDGE</b>	<b>NAME AND TYPE</b> USACE Dredge MURDEN	<b>DATE</b> 24 Jun 2017 - Saturday	

**LOADS**

LOAD NUMBER	DREDGING AREA DISPOSAL AREA	START TIME, STOP TIME (HH:MM)	PUMPING TURNING (MIN)	TO DUMP DUMPING TO CUT (MIN)	TOTAL TIME DREDGED AMOUNT AGITATED AMOUNT (MIN/CYS)
1	Priority 3; Load # 3 Designated	07:20 08:30	55 15	5 3 2	80 350 0
2	Priority 3; Load # 4 Designated	08:40 09:50	55 15	6 3 6	85 350 0
3	Priority 3; Load # 5 Designated	10:05 11:20	65 10	6 3 6	90 380 0
4	Priority 3; Load # 6 Designated	11:35 12:45	60 10	6 3 6	85 380 0
5	Priority 3; Load # 7 Designated	13:00 14:00	50 10	8 3 4	75 340 0
6	Priority 3; Load # 8 Designated	14:15 14:45	25 5	8 3 4	45 250 0
7	Priority 3; Load # 9 Designated	15:15 16:10	50 5	7 3 0	65 300 0

**QC NARRATIVE(S)**

**Crewmember Preparing Report**  
Christopher Smith

**Delays (Explain)**  
MOR: Cleared obstruction from port outdrive.

**General Comments**  
Misc: Engine warm-up and secure, pre-sail checklist completion.

**Summary Dredging Report Remark**  
Dredge priorities per dredging orders.

**CONTRACTOR CERTIFICATION** On behalf of the contractor, I certify that this Report is complete and correct and all equipment and material used and work performed during this Reporting period are in compliance with the contract plans and specifications, to the best of my knowledge, except as noted above.

QC REPRESENTATIVE'S SIGNATURE	DATE	SUPERINTENDENT'S INITIALS	DATE
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STATE OF NORTH CAROLINA  
 COUNTY OF WAKE

DARE COUNTY'S FEDERAL  
 IDENTIFICATION  
 NUMBER: \*\* - \*\*\*0293

**Agreement Between the North Carolina Department of Environmental Quality  
 And County of Dare, Implementing N.C. Session Law 2018-5, Section 13.7**

This agreement ("Agreement") is hereby made and entered into this \_\_\_\_\_, 2019, by and between the **NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY** (the "Department") and **COUNTY OF DARE** ("Dare County") (together the "Parties").

1. **Purpose.** The Parties enter into this Agreement for the purpose of implementing N.C. Session Law 2018-5, Section 13.7 (the "Session Law") which is attached to this Agreement as Attachment A and incorporated by reference.
2. **The Session Law.** The Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund ("Shallow Draft Navigation Fund") is administered by the Department pursuant to various authorities, including N.C. Gen. Stat. § 143-215.73F. The Session Law allocates \$15,000,000 from the Shallow Draft Navigation Fund to Dare County to provide a forgivable loan to a Private Partner for the purchase of a shallow draft hopper dredge to be used under the direction of the Oregon Inlet Task Force. The Session Law requires Dare County to select the Private Partner and to enter into a forgivable loan agreement with the Private Partner. The Session Law requires Dare County to be responsible for all aspects of administering and overseeing the forgivable loan to the Private Partner. The shallow draft hopper dredge will be owned and operated by the Private Partner and repayment of the loan is based on cost-savings for dredging services. Any excess Funds from the loan amount shall [HAD1] revert to the Shallow Draft Navigation Fund as set forth in the Session Law.

The Session Law allocates funds to Dare County for Dare County to loan to a Private Partner. To the extent those funds constitute "financial assistance" to Dare County, Dare County is subject to oversight and audit by the Local Government Commission and is, therefore, not a "grantee" or a "recipient" as those terms are defined in N.C. Gen. Stat. § 143C-6-23 and 09 NCAC 03M .0102.<sup>1</sup>

To the extent that the State funds are providing "financial assistance" to the Private Partner, the Private Partner must comply with all reporting, compliance and auditing requirements under State law except as exempted by the Session Law. Additionally, the Session Law requires Dare County to oversee all financial components of the forgivable loan.

3. **Contract Documents.** The Agreement between the Parties consists of this document (the "Contract Cover") and its attachments, which are identified by name as follows:
  - a. Session Law 2018-5, Section 13.7 (Attachment A)
  - b. State's General Terms and Conditions (Attachment B)
  - c. Dare County's Request for Allocated Funds, (Attachment C)
  - d. Notice of Certain Reporting and Audit Requirements (Attachment D)

Together, these documents (the "Contract Documents") constitute the entire agreement between the Parties, superseding all prior oral or written statements or agreements.

4. **Contract Period.** This Agreement shall be effective upon the last signature of the Parties and will remain effective until the Private Partner fully repays Dare County for the forgivable loan, including interest, or the funds revert to the Shallow Draft Navigation Fund as set forth in the Session Law, whichever occurs first.
5. **Dare County's Duties.** Dare County agrees to:
  - a. Comply with all local, State and federal laws, including all applicable reporting and auditing requirements.

<sup>1</sup> See also, 9 NCAC 03M .0101(1).

- b. Impose contractual requirements upon the Private Partner to ensure that the Private Partner ~~and its contractors and subcontractors~~ comply with all applicable local, State, and federal laws, including all applicable reporting and auditing requirements, which includes: [HAD2]
  - (i) Requiring the Private Partner ~~and its contractors and subcontractors~~ to comply with Chapter 143C, Part 3 of the N.C. General Statutes; [HAD3]
  - ~~(ii)~~ Requiring the Private Partner ~~and its contractors and subcontractors~~ to comply with Chapter 143, Articles 3 and 8 to the extent that those requirements do not conflict with the Session Law. [HAD4]
  - ~~(iii)~~(ii) Requiring the Private Partner ~~and its contractors and subcontractors~~ to comply with the requirements of 09 NCAC 03M .0101, *et seq.* (Uniform Administration of State Awards of Financial Assistance), including, but not limited to, those provisions relating to audit oversight, access to records, and availability of audit work papers in the possession of any auditor of any recipient of State funding to the extent that those requirements do not conflict with the Session Law; [HAD5]
  - ~~(iv)~~(iii) Requiring the Private Partner ~~and its contractors and subcontractors~~ to comply with the State's General Terms and Conditions (see Attachment B) and the State's Notice of Certain Reporting and Audit Requirements (see Attachment D) to the extent that those provisions do not conflict with the Session Law or a provision in this Contract Cover; and [HAD6]
  - ~~(v)~~(iv) Requiring the Private Partner ~~and its contractors and subcontractors~~ to use the allocated funds only for the purposes set forth in the Session Law. [HAD7]
- c. Comply with the Session Law, which among other things, requires Dare County to enter into and enforce a loan agreement with the Private Partner.
- d. ~~Funds loaned to the Private partner prior to delivery of the vessel are loaned unsecured. Upon the delivery of the vessel to Private Partner, Enter into a security interest agreement with the Private Partner that obtains a first priority lien and security interest in all assets constructed or acquired with State funds. Dare County may agree to subordinate its lien to the lien of a State or Federally licensed banking institution in an amount not exceed~~ and for a term not exceed [HAD8]
- e. Provide the Department with an annual report on the forgivable loan as required in the Session Law.
- f. Take reasonable measures to ensure that the Private Partner ~~and its contractors and subcontractors~~ [HAD9] comply with the Session Law.
- g. Be a good steward of State funds and use reasonable measures to ensure that State funds are loaned to and used by the Private Partner and its contractors and subcontractors only for the purposes set forth in the Session Law.
- h. Require the Private Partner to repay Dare County within 90 calendar days of termination of the ~~Promissory Note or extensions thereof loan agreement for~~ [HAD10] the outstanding loan balance plus interest. In the event the Private Partner defaults on the forgivable loan, Dare County must take all reasonable measures to recoup State funds from the Private Partner ~~and its contractors and subcontractors~~. Dare County must repay any and all recouped State funds, including ~~recouped~~ interest, to the Office of State Budget and Management (to be credited to the Shallow Draft Navigation Fund) within thirty calendar days of receiving the funds from the Private Partner ~~and its contractors and subcontractors~~.
- i. Maintain all records related to the forgivable loan for at least five years beyond the end of the forgivable loan term or until all applicable audit exceptions have been resolved, whichever is longer.
- j. Impose the same records retention requirements upon the Private Partner ~~and its contractors and subcontractors~~ [HAD11] as set forth in this Contract Cover.
- k. Provide the Department copies of the forgivable loan agreement between Dare County and the Private Partner and any other legal agreements between Dare County and the Private Partner.



- l. Notify the Department when Dare County discovers non-compliance or violations of local, State, and federal laws by Dare County, the Private Partner, or any other entity involved in implementing the Session Law.
- m. Acknowledge, in writing, receipt of allocations from the Department.
- n. Upon receipt of allocations from the Department, place the funds in an interest-bearing account and ensure all interest revenues revert to the Shallow Draft Navigation Fund. Funds may revert via transfer of those revenues to the Shallow Draft Navigation Fund, or via offsets to the State cost-share requirements for use of the shallow draft hopper dredge subject to this agreement.
- o. Comply with the requirements and prohibitions in N.C. Gen. Stat. § 14-234.
- p. Provide the Department with Dare County's policy addressing conflicts of interest, certify compliance with the policy, and continue to comply with the policy.

**6. Department's Duties.** The Department shall allocate to Dare County funds from the Shallow Draft Navigation Fund in the manner and amounts specified below.

The total amount of funds allocated under the Session Law is **FIFTEEN MILLION DOLLARS (\$15,000,000.00)**. Once this Agreement is executed by the Parties, the Department will allocate Five Million Dollars (\$5,000,000.00) within thirty (30) calendar days. Subsequent to the first allocation, the remaining Ten Million Dollars (10,000,000.00) will be made in two (2) quarterly allocations of Five Million Dollars (\$5,000,000.00).

The Department will use the following account coding information

*Funding:*

Type of Funds	Funding Source	CFDA No.
Appropriation	North Carolina General Assembly	N/A

*Account Coding Information:*

Dollars	GL Company	GL Account	GL Center
\$15,000,000.00	1602	536990	2182

- 7. **Dare County's Fiscal Year.** Dare County represents that its fiscal year is from July 1 to June 30.
- 8. **Availability of Funds.** Allocation of funds to Dare County is subject to legislative amendment and the availability of funds in the Shallow Draft Navigation Fund. Upon execution of this Agreement, the Department will encumber \$15,000,000 for purposes of implementing the Session Law.
- 9. **Reversion of Funds.** [Any excess loan](#) [HAD12] funds shall revert back to the Shallow Draft Navigation Fund as set forth in the Session Law, other applicable laws, and as set forth in paragraph 5(hg) of this Contract Cover.
- 10. **Contract Administrators.** Each party shall submit notices, questions and correspondence related to this Agreement to the other party's Contract Administrator. The contact information for each party's Contract Administrator is set out below. Either party may change its Contract Administrator and/or the associated contact information by giving timely written notice to the other party.

Dare County Contract Administrator	Department's Contract Administrator
Ann Daisy, Contract Administrator County of Dare [PO Box 1000 954 Marshall C Collins Dr. Manteo, NC 27954	Coley Cordeiro, Ph.D. Coastal Infrastructure Projects Manager Division of Water Resources 1611 Mail Service Center Raleigh, NC 27699-1611

Telephone: 252-475-5628

Telephone: 919-707-9013

Email: ann.daisey@darenc.com

Email: Coley.Cordeiro@ncdenr.gov

11. **Successors and Assignment.** This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and assigns. Dare County may not assign its obligations or its rights to receive funds hereunder. Dare County understands and agrees that the loan provided to the Private Partner shall not relieve Dare County from any duties or responsibilities herein set forth.
  
12. **Title VI and Other Nondiscrimination Requirements.** Throughout the course of its performance hereunder, Dare County shall comply with all applicable State and Federal laws, regulations, executive orders and policies relating to nondiscrimination, including, but not limited to:
  - Title VI of the Civil Rights Act of 1964, as amended;
  - Civil Rights Restoration Act of 1987, as amended;
  - Section 504 of the Rehabilitation Act of 1973, as amended;
  - Age Discrimination Act of 1975, as amended;
  - Titles II and III of the Americans with Disabilities Act of 1990, as amended;
  - Title IX of the Education Amendments of 1972, as amended;
  - Part III of Executive Order No. 11246 (September 24, 1965), as amended; and
  - Section 13 of the Federal Water Pollution Control Act Amendments of 1972.
  
13. **Modifications.** Modifications to this Contract Cover may only be made through written amendments processed by the Department's Financial Services Division. Any such written amendment must be duly executed by an authorized representative of each party.
  
14. **Choice of Law.** This Agreement is governed by the laws of North Carolina and the Parties agree that the courts of North Carolina have exclusive jurisdiction and that Wake County is the exclusive venue for any legal dispute or proceedings relating to this Agreement.
  
15. **Severability.** In the event that a court of competent jurisdiction holds that a provision or requirement of this Agreement violates any applicable law, each such provision or requirement shall continue to be enforceable to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Agreement shall remain in full force and effect.
  
16. **Sovereign Immunity.** The Department does not waive its sovereign immunity by entering into this Agreement and fully retains all immunities and defenses provided by law.
  
17. **Survival.** Any provision contained in this or any other Contract Document that contemplates performance or observance subsequent to the termination or expiration of this Agreement shall survive the termination or expiration hereof and continue in full force and effect.
  
18. **Gratuities, Kickbacks or Contingency Fees.** The Parties certify and warrant that no gratuities, kickbacks, or contingency fees are paid in connection with this Agreement, nor are any fees, commission, gifts, or other considerations made contingent upon the allocation of funds under this Agreement.

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

20. **Signature Warranty.** The undersigned represent and warrant that they are authorized to bind their principals to the terms and conditions of this Contract Cover and the Agreement generally, including those incorporated by reference to applicable law.

IN WITNESS WHEREOF, the Dare County and the Department execute this Agreement, the day and year first above written.

**DARE COUNTY**

**NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY**

By \_\_\_\_\_  
Signature

By \_\_\_\_\_  
Signature

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

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

\_\_\_\_\_  
Organization

Financial Services Division, Purchasing and Contracts  
Division/Section

**ORIGINAL**



*Timothy Jennette - Request to Fill Ditch -- Public Hearing*

**Description**

Chapter 51 of the Code of Ordinance states that no ditch or drainage improvement can be filled or impeded unless authorized by Dare County after a hearing on whether such action would result in possible harm to public health. I have contacted NCDOT about the culvert that runs under NC 12 from the Jennette property and hope to have comments from them by May 20. Mr. Jennette was advised to obtain additional information on what impacts the filling of the ditch would have on area drainage. Adjoining property owners have been notified of the hearing and the property posted. I have spoken to three adjoining property owners and I anticipate written comments or comments at the public hearing from some of these folks. Draft motions for the Board's consideration are attached with the cover sheet.

**Board Action Requested**

Conduct public hearing and act on matter.

**Item Presenter**

Donna Creef

## DRAFT MOTIONS

### **Motion to Approve Jennette Request:**

“I move that Timothy Jennette be authorized to fill a ditch on parcel 016967900 in Buxton, NC. The ditch may not be filled with vegetative debris unless authorized by the State of North Carolina Division of Solid Waste. Other materials such as trash, junk, household goods or other litter may not be used to fill the ditch.”

### **Motion to Deny Jennette Request**

I move that Mr. Jennette’s request to fill a ditch on parcel 016967900 not be authorized. Information presented at the public hearing fails to indicate that no public health will occur if the ditch is filled as set forth in Chapter 51.01 of the Dare County Code.”

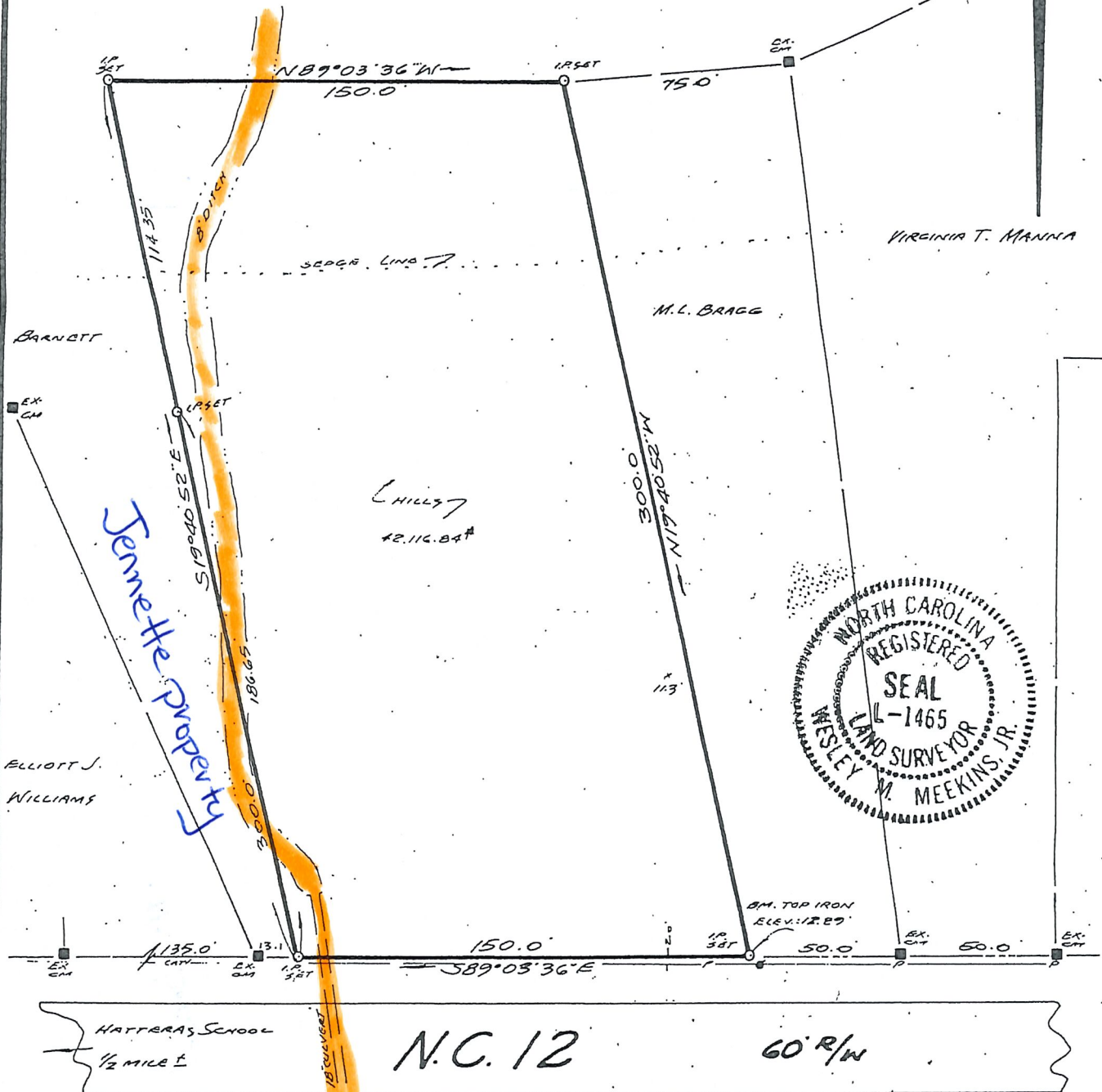


BUXTON  
0526 0768 6387



← Peter's Ditch →

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I, WESLEY M. MEEKINS, JR. CERTIFY THAT UNDER MY DIRECTION AND SUPERVISION THIS PLAT WAS DRAWN FROM AN ACTUAL FIELD LAND SURVEY; THAT THE ERROR OF CLOSURE AS CALCULATED BY LATITUDES AND LONGITUDES IS 1:10,000 THAT THE AREA IS DETERMINED BY THE D. M. D. METHOD; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G. S. 47-30 AS AMENDED.

WESLEY M. MEEKINS, JR. BY MY HAND AND SEAL THIS 3 DAY OF

June 19 86

Wesley M. Meekins, Jr.  
REGISTERED LAND SURVEYOR L-1465

SURVEY FOR

THOMAS R. & GAYLE D. DOLAN



WESLEY M. MEEKINS, JR. & ASSOCIATES  
 LAND SURVEYORS AND PLANNERS  
 P. O. Box 1998  
 MANTEO, N. C. 27954  
 Box-348-86

BURTON ~ HATTERAS TNSR  
 DARE COUNTY ~ NORTH CAROLINA

SCALE: 1" = 50'

1460 E Ridgefield Dr  
Hernando, FL 34442  
May 7, 2019

Dare County Board of Commissioner  
PO Box 1000  
Manteo, NC 27954

Re: Parcel 016967900 Buxton, NC

Commissioners:

This letter is being written with regard to Chapter 51.01 of the Dare County Code of Ordinance. We are adamantly opposed to the filling of the ditch adjacent to our property.

We have owned this parcel since 1986. Some time in the 90's we had plans drawn up for a restaurant and at that time we were advised CAMA needed to verify no wetland were on the property. CAMA came back with a line at the rear about a foot from the end of the property and said there were in fact evidence wetlands. Our property drops off at the rear and was soggy at that time. There was plant life that was considered wetlands. I still have the documents to support this information, however, they are at my Tennessee residence.

The drainage ditch was placed there for a reason. In the past we have seen water in that ditch. We have been told by the County prior to this that the ditch could not be filled. Again, I believe there are supporting documents at my Tennessee home.

Can the County guarantee me there will be no adverse effect on my property?

Apparently, Mr Jeanette has filled the ditch with cut timbers without permission from the county to do so! Mr Jeanette quick claimed that property years ago with the knowledge that there was a ditch and access to that property was a problem. I noticed last year the property was listed for sale with a realtor.

I believe Mr Jeanette should be made to clear the ditch and restore it to the original condition. He should do that without the use of my property which include no trespassing signs. I also believe this was done without a permit or compliance to the county code in the winter when no one would be aware of what was being done. A fine should be imposed.

Thanking you in advance for your attention in this matter.

Respectfully,

Gayle Dolan



[Print](#)

## Dare County, NC Code of Ordinances

**§ 51.01 RESTRICTING DRAINAGE DITCHES.**

(A) It is dangerous and prejudicial to the public health to alter, restrict or impede the flow of water in drainage ditches, creeks, streams, rivers and other water courses.

(B) No drainage ditch, creek, stream, river or other water course shall henceforth be blocked or filled in to any degree with any substance or device whatever such that the flow of water toward natural creeks, rivers and water bodies is restricted or impeded except by a written permit issued by the Board of Commissioners. No permit shall be issued except after a public hearing after 10-days' notice on the question whether the proposed restriction or impediment would result in possible harm to the public health.

(Prior Code, § 51.01) (Ord. passed 7-5-1988)



Donna Creef &lt;donnac@darenc.com&gt;

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**Drainage ditch on parcel #016967900 in Buxton**

1 message

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**Russell Kiddy** <capt.russ@yahoo.com>

Sun, May 12, 2019 at 7:49 PM

To: "donnac@darenc.com" &lt;donnac@darenc.com&gt;

The ditch that has been blocked off under highway 12 is/was the only outlet left to drain that and surrounding properties. There is a "high" area between there and Peters Ditch that will not allow for complete drainage in that direction. There used to be a ditch that ran from over that way to behind what is now Qidleys trailer park and joining up with Peters Ditch.

On another note back in the 1980's we looked at that piece of land I believe it was 2 different parcel's.

Just a comment,  
Russell D. Kiddy Sr.



*Consent Agenda*

**Description**

1. Approval of Minutes (05.07.19)
2. Budget Amendment of Emergency Management Performance Grant Revenue Increase
3. Avon Property Owners Association Fireworks Display 2019
4. Budget Amendment for Disaster Recovery Fund
5. Budget Amendment - Non-Departmental
6. Sheriff - Budget Amendment
7. Tax Collector's Report

**Board Action Requested**

Approval

**Item Presenter**

County Manager, Robert Outten



*Approval of Minutes*

**Description**

The Board of Commissioners will review and approve their previous Minutes, which follow this page.

**Board Action Requested**

Approve Previous Minutes

**Item Presenter**

County Manager, Robert Outten



# County of Dare

P.O. Box 1000 | Manteo, NC 27954

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## MINUTES

### DARE COUNTY BOARD OF COMMISSIONERS MEETING

Dare County Administration Building, Manteo, NC

**9:00 a.m., Tuesday, May 7, 2019**

Commissioners present: Chairman Robert Woodard, Vice Chairman Wally Overman  
Rob Ross, Steve House, Jim Tobin, Ervin Bateman

Commissioners absent: Danny Couch

Others present: County Manager/Attorney, Robert Outten  
Deputy County Manager/Finance Director, David Clawson  
Clerk to the Board, Gary Lee Gross

A full and complete account of the entire Board of Commissioners meeting is archived on a video that is available for viewing on the Dare County website [www.darenc.com](http://www.darenc.com).

At 9:00 a.m. Chairman Woodard called to order the regularly scheduled meeting with appropriate prior public notice having been given. He invited Rev. Tom Murphy to share a prayer, and then he led the Pledge of Allegiance to the flag. Chairman Woodard noted that Commissioner Couch had an excused absence due to a prior engagement.

### ITEM 1 – OPENING REMARKS – CHAIRMAN’S UPDATE

Following is a brief outline of the items mentioned by Chairman Woodard during his opening remarks, which can be viewed in their entirety in a video on the Dare County website –

- As a member of the College of the Albemarle (COA) Board of Trustees, Chairman Woodard gave an update on the new facility planned for the Dare County campus. He reported that the projections for the fall student enrollment are encouraging and described how dual enrollment represents a tremendous savings for Dare County families.
- Described a recent lunch meeting the school Superintendent and noted that the Dare County Board of Education is in support of the County’s efforts to promote COA.
- Reported on a trip to Raleigh where the Chairman, Vice Chairman, and County Manager worked to combat a possible adjustment of sales tax revenue that, if passed by the Legislature, would have a severe negative impact on Dare County and its municipalities.
- Congratulated Michael Tillett on a very successful OBX Rod & Custom Festival that attracted a large crowd of people.

## **ITEM 2 – PRESENTATION OF COUNTY SERVICE PINS**

- 1) Brooke Atwell, EMS Paramedic, received a 10-year pin.
- 2) Linda Webb, Detention Officer, received a 20-year pin.

## **ITEM 3 – EMPLOYEE OF THE MONTH – MAY 2019**

Ashley Johnson received the Employee of the Month award from Deputy Chief Terry Sheehy who described the many ways that Ms. Johnson is an asset to Dare County Emergency Medical Services. Ms. Johnson was also honored by the local Veterans of Foreign Wars (VFW) Post as their First Responder of the Year. Commissioner House congratulated the Employee of the Month and thanked the Veterans for their service noting that on this date in history Germany surrendered, which marked the end of World War 2.

## **ITEM 4 – PUBLIC COMMENTS**

At 9:21 a.m. the Manager outlined the procedure for making public comments in Manteo and via the video link to the Fessenden Center Annex in Buxton. Following is a summary of all citizen remarks, which can be viewed in their entirety in a video on the County website –

*The following comments were made in Manteo –*

1. Roy Valentine outlined a series of concerns including traffic congestion, plastic bags, improvements needed for multiuse paths, and proposed North Carolina legislation that would require bicycle license plates.
2. John Robbins described an oyster lease application that is just 80 feet from the Hatteras Island shoreline and the detrimental impact it would have on the kiteboarding industry. He asked the Board to adopt a resolution opposing the application.

*There were no comments made in Buxton*

The County Manager closed Public Comments at 9:38 a.m.

## **ITEM 5 – AWARD FROM AMERICAN SHORE AND BEACH PRESERVATION ASSOC.**

County Manager Robert Outten gave an overview of the beach nourishment project involving Dare County and the municipalities of Duck, Southern Shores, Kitty Hawk, and Kill Devil Hills. He reported that the collaborative effort was recognized by the American Shore and Beach Preservation Association (ASBPA) as a 2018 Best Restored Beach. Mr. Outten noted that the self-funded endeavor saved about \$10 million in mobilization costs and is being held out as a model by other jurisdictions.

## **ITEM 6 – PROCLAMATION FOR 2019 EMS WEEK**

Emergency Medical Services (EMS) Deputy Chief Terry Sheehy presented a proclamation for the 2019 commemoration of EMS Week highlighting the theme “Beyond the Call.”

### **MOTION**

Commissioner House motioned to approve the EMS Week Proclamation.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

### **ITEM 7 – REPORT FROM THE A.B.C. BOARD**

Ray White, Chairman of the Dare County A.B.C. Board, briefed Commissioners on local A.B.C. activity. He gave a history of the A.B.C. system and described how everything is done in a responsible way with accountability. He noted that the Dare County A.B.C. Board strives to operate the system by providing good customer service and carefully managing expenses. The Board asked questions about revenue and profits for the local A.B.C. system. Mr. White also briefed the Board on an NC House Bill that would privatize the retail sale and wholesale distribution of liquor. He outlined why the proposed legislation would be detrimental and asked the Board of Commissioners to vehemently oppose privatization. In discussing the issue, Commissioner House noted that it will be challenging for the proposed bill to meet the crossover date under the General Assembly's procedural rules.

### **ITEM 8 – CLOSED SESSION**

The County Manager asked for a Closed Session pursuant to NCGS 143-318.11(a)(3) to consult with an attorney employed or retained by the County in order to preserve the attorney-client privilege; and NCGS 143-318.11(a)(5) concerning the position to be taken by or on behalf of the County in negotiating the price and other material terms of a contract or proposed contract, for the acquisition of real property by purchase, option, exchange, or lease in the matter of the parcel adjoining the Buxton Transfer Station; and pursuant to NCGS 143-318.11(a)(6) to review the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; and to approve the minutes of the last Closed Session.

#### **MOTION**

Vice Chairman Overman motioned to go into Closed Session pursuant to the provisions of the North Carolina General Statutes cited by the County Manager.

Commissioner House seconded the motion.

VOTE: AYES unanimous

At 10:35 a.m., the Commissioners exited the room to meet in Closed Session. They reconvened at 11:58 a.m. and Mr. Outten reported that during the Closed Session the Board approved previous Closed Session Minutes, consulted with the County Attorney, discussed a real estate matter involving a parcel adjoining the Buxton Transfer Station, considered an employee matter and took no action.

Mr. Outten noted that during the Closed Session the Board discussed the Clerk to the Board position and considered the hiring of a replacement for the retiring Clerk.

#### **MOTION**

Commissioner Tobin motioned to approve the hiring of Cheryl Anby for the position of Clerk to the Board of Commissioners with terms established by the Human Resources Department. Commissioner House seconded the motion.

VOTE: AYES unanimous

### **ITEM 9 – CONTRACT FOR DARE COUNTY DREDGE VESSEL –**

The County Manager reported that this item was being pulled from the agenda in order to work on some last minute details

## **ITEM 10 – CONSENT AGENDA**

The Manager announced the items as they were visually displayed in the meeting room.

### **MOTION**

Vice Chairman Overman motioned to approve the Consent Agenda:

- 1) Approval of Minutes (04.15.19 & 04.17.19 Budget Workshop) **(Att. #1)**
- 2) Water Line Relocation Agreement – NCDOT Hwy 12 Rodanthe Long-Term Improvements
- 3) Private Land Burning Agreement Between Dare County and U.S. Fish & Wildlife Service
- 4) Town of Manteo Request – Delegate Approval of Pyrotechnics Permits **(Att. #2)**
- 5) NCDOT Utility Relocation Agreement – Skyco Road & Toler Road
- 6) Social Services Division – 14-month Contract with Information, Inc.
- 7) Public Health Division – Contract with Outer Banks Womens Care
- 8) Register of Deeds – Software License and Support Agreement
- 9) Assistant Medical Director Agreement
- 10) Audit Contract for Fiscal Year 2019
- 11) Tax Collector's Report

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

## **ITEM 11 – BOARD APPOINTMENTS**

### 1) Dare County Board of Adjustment

Commissioner Tobin motioned to reappoint Shelly Jones and Thomas Murphy.  
Commissioner Ross seconded the motion.

VOTE: AYES unanimous

### 2) Senior Tar Heel Legislative Delegates

Vice Chairman Overman motioned to appoint Sue Kelly as Alternate.  
Commissioner House seconded the motion.

VOTE: AYES unanimous

### 3) Veterans Advisory Council

Vice Chairman Overman motioned to –

- o Reappoint Steve Goodheart
- o Appoint Richard Probst to the seat held by Jack Leonard who resigned
- o Appoint Robert Yanacek to the seat held by Russell Laney who resigned

Commissioner House and Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

### 4) Upcoming Board Appointments

The upcoming appointments for June, July, and August were announced.

## **ITEM 12 – COMMISSIONERS' BUSINESS & MANAGER'S/ATTORNEY'S BUSINESS**

Commissioners and the County Manager frequently make extensive remarks, which can be viewed in their entirety in a video on the Dare County website. Following is a brief summary outline of the items mentioned by Commissioners during this segment –



### Commissioner Ross

- Described a disturbing situation in Wanchese where the S.P.C.A. had to step in and intervene on behalf of 81 animals. He thanked the volunteers who assisted in the community outreach effort to help the animals.
- Noted that census training is scheduled later this month at the Albemarle Commission.
- Gave an update on the plans that are in development for the new Animal Shelter.

### Commissioner House

- Gave an update on the status of House Bill 486, which would redefine commercial fishing.
- Commented on the OBX Rod & Custom Festival, which he said was a great event.
- Mentioned that this week is special because it is National Nurses Week. He also noted that on this date in history, Germany surrendered marking the end of World War 2. He asked everyone to salute our veterans and remember what Memorial Day is about.
- Commissioner House presented two names, outlined in the following motion, to fill 3-year terms for vacant commercial fishing seats on the Commission For Working Watermen.

#### **MOTION**

Commissioner House motioned to approve appointing Joey Vandyke & Amanda Hooper Walters to each fill a vacant commercial fishing seat on the Commission for 3-year terms. Commissioner Tobin seconded the motion.

VOTE: AYES unanimous

### Vice Chairman Overman

- Congratulated the service pin recipients and the Employee of the Month
- The Vice Chairman expressed thanks to Rev. Tom Murphy for his invocation.

### Commissioner Bateman

- Reported on the inspiring session he attended for the Dare County Recovery Court and thanked the Board of Commissioners for supporting this endeavor. He noted that Vice Chairman Overman has worked tirelessly to launch the Recovery Court, which he said will help our community by changing people's lives, one at a time.
- Reported on his participation in the St. Baldrick's campaign to raise funds for childhood cancer research where over \$20,000 was raised by people having their heads shaved.
- Commended Michael Tillett on OBX Rod & Custom Festival which provided a boost for tourism related businesses.
- Asked the County Manager when the NCDOT stormwater study of Roanoke Island would be completed and was told that the report is anticipated in July.

### Commissioner Tobin

- Gave a briefing on the recent North Carolina Beach Inlet and Waterway Association (NCBIWA) meeting. He said Willo Kelly gave an informative insurance update, which is worthy of press coverage. And, he noted that County Manager Outten had a well-received presentation on Dare County's dredge project.
- Reported on a special meeting of the Oregon Inlet Task Force that was held recently regarding the dredge project and mentioned that he and County Manager will be going to Raleigh to follow-up on this important project.
- Described the favorable navigational conditions at Oregon Inlet this past week and expressed hope that it is a good preview of things to come.

Chairman Woodard

- Voiced support for Dare County’s Recovery Court and noted that he has a relative who is a Circuit Court Judge and handles Recovery Court cases in another jurisdiction.
- Provided details about a Mayor’s Roundtable in opposition of offshore drilling that will be held at the Dare County Center featuring Michael Regan, Secretary of the North Carolina Department of Environmental Quality.

**MANAGER’S/ATTORNEY’S BUSINESS**

1. Mr. Outten reported that the COA Dare County campus building project is moving forward and the next step will be a review of architectural requests by the Capital Improvements Planning Committee.
2. The County Manager provided background information about the State of North Carolina going to a privatized Medicaid reimbursement system and the impact it could have on the County’s EMS system and Health & Human Services. He said the County has been presented with two provider contracts and advised that more may be coming. Mr. Outten noted that the participation contracts are non-negotiable with the rate being determined by the State. He reported that although Wake County has hired specialized outside counsel, other counties have signed their agreements. After discussing options available to the County, the Board took the following action -

**MOTION**

Commissioner Ross motioned to authorize the County Manager to sign the contract with Blue Cross and move forward on the agreement with WellCare of NC.

Commissioner House seconded the motion.

VOTE: AYES unanimous

3. Mr. Outten gave an update on the Manteo Shallowbag Bay dredging project and reported that Ken Willson is working on it.
4. Chairman Woodard led in a discussion of the oyster lease outlined by Mr. Robbins during Public Comments. The Board discussed the adverse impact that an oyster lease, less than 80 feet from the Hatteras Island shoreline, could have on the vibrant kiteboarding industry that is a significant part of the County’s tourism economy. In discussing the matter the Board identified two issues – the first being the need to oppose the oyster lease application that is now before the Division of Marine Fisheries because it interferes with a pre-existing use. Secondly, to appeal to the North Carolina legislature and the Division of Marine Fisheries to reexamine the Shellfish Lease and Franchise Program to assure that it restricts lease activity in areas with pre-existing identified public uses. Commissioners agreed to have a resolution prepared reflecting the Board’s position. Commissioner House offered to take the resolution and present it at an upcoming Division of Marine Fisheries meeting in Rodanthe.

**MOTION (Att. #3)**

Commissioner House motioned to authorize a resolution subject to the Chairman’s approval and signature.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

At the conclusion of the meeting, Chairman Woodard asked for a motion to adjourn.

**MOTION**

Commissioner House motioned to adjourn the meeting.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

At 12:57 p.m., the Board of Commissioners adjourned until 5:00 p.m., May 20, 2019.

Respectfully submitted,

[SEAL]

By: \_\_\_\_\_  
Gary Lee Gross, Clerk to the Board

APPROVED: By: \_\_\_\_\_  
Robert Woodard, Chairman  
Dare County Board of Commissioners

Note: copies of attachments (Att.), ordinances, resolutions, contracts, presentations, and supporting material considered by the Board of Commissioners at this meeting are on file in the office of the Clerk to the Board.



*Budget Amendment of Emergency Management Performance Grant Revenue Increase*

**Description**

Second cost report provided by the state, generated additional Emergency Management Performance Grant revenue. This amendment incorporates the additional revenue in the Emergency Management Department budget.

**Board Action Requested**

Approval

**Item Presenter**

Drew Pearson

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# **DARE COUNTY**

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## **BUDGET AMENDMENT**

**F/Y 2018/2019**

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<u>Department: Emergency Management</u>					
<u>Revenues:</u>					
Emergency Management	103542	422221		3,524	
<u>Expenditures:</u>					
Emergency Management	104542	517000		3,524	

**Explanation:**

Second cost report provided by the state, generated additional Emergency Management Performance Grant revenue. This amendment incorporates the additional revenue in the Emergency Management Department budget.

**Approved by:**

Board of Commissioners: \_\_\_\_\_

Date: \_\_\_\_\_

County Manager: \_\_\_\_\_

Date: \_\_\_\_\_

(sign in red)

*Finance only:*

Date entered: \_\_\_\_\_ Entered by: \_\_\_\_\_ Reference number: \_\_\_\_\_



*Avon Property Owners Association Fireworks Display 2019*

**Description**

Avon Property Owners Association in association with Pyrotecnico-Vitale Family Fireworks have applied for a permit to conduct a fireworks display on July 4, 2019 at the Avon Fishing Pier. Pyrotecnico has submitted all needed paperwork for the issuance of the required County permit per NCGS 14-413. Fire Marshal Kovacs will be on-site to conduct required fire inspection and issue operational permit for the show per North Carolina Fire Code requirements.

**Board Action Requested**

Approval of permit.

**Item Presenter**

Steven Kovacs, Deputy Director of EM/Fire Marshal



**PYROTECNICO™**

VITALE FAMILY FIREWORKS \* 1889

Avon Property Owners Association

Avon, NC

07.04.2019





Hello Fire Marshall Kovacs,

Pyrotecnico Fireworks, Inc has the pleasure of producing a fireworks display for the Avon Property Owners Association, Inc at the Avon Fishing Pier Hatteras Island 41001 Hwy 12 Avon, NC 27915. Kindly find enclosed Pyrotecnico's permit application packet for the July 4, 2019 display. This packet contains:

- PYROTECNICO FIREWORKS DISPLAY PERMIT APPLICATION
- Jason Sills will serve as the lead pyrotechnic for this fireworks display. His mobile phone number is 828.442.9144. His outdoor pyrotechnics display operators license is also attached.
- Pyrotecnico's Display Site Plan
- Pyrotecnico's Fireworks Display Product Recap
- Pyrotecnico's Certificate of Liability Insurance
- Pyrotecnico's ATF License
- Pyrotecnico's Standard Operating Procedure NFPA 1123 - Safety Plan

The following entities have also been contacted:

- USCG
- FAA

A Pyrotecnico technician will make a sweep of the area after cool down and pick up any immediate debris.

Upon your review and approval, may I kindly request to receive via email at [gaugustine@pyrotecnico.com](mailto:gaugustine@pyrotecnico.com), the signed approved permit / your verbal confirmation that Pyrotecnico is good to proceed with this display.

Should you have any questions or require additional information, please do not hesitate to contact me directly at 723.923.6602.

We look forward to working with your department to conduct the safest Oohs and Aahs.

Thank you,

George Augustine  
Permitting Coordinator | PYROTECNICO  
Office 724.923.6602 | [www.pyrotecnico.com](http://www.pyrotecnico.com)





# COUNTY OF DARE

Department of Emergency Management  
Office of the Fire Marshal

P.O. Box 1000, Manteo, North Carolina, 27954

## Firework - Permit Application

### Show Information

Show Name: Avon Property Owners Association 4th of July Celebration  
Show Date: 07.04.2019 Show Time: 9:15 PM Duration: 25 min Rain Date: 07.05.2019  
Show Location: Avon Fishing Pier (Hatteras Island) 41001 NC Highway 12 Avon, NC 27915  
Show Sponsor: Avon Property Owners Association, Inc  
Address: PO Box 9  
City: Avon, NC ZIP: 27915  
Sponsor Contact: Pat Weston  
Phone: 252.305.1705 Cell: 252.305.1705  
Email: obxblondie@aol.com FAX: unknown

### Pyrotechnic Contractor

Name: Pyrotecnico Fireworks, Inv ATF License: 8-PA-073-23-1J-12122  
Address: PO Box 149  
City: New Castle State: PA ZIP: 16103  
Phone: 724.923.6602 Cell: \_\_\_\_\_  
Email: gaugustine@pyrotecnico.com FAX: 724.652.1288  
Contact Name: George Augustine Cell: \_\_\_\_\_

### Technician Information

#### Operator

Name: Jason Sills NC License: 3081  
Phone: \_\_\_\_\_ Cell: \_\_\_\_\_  
Email: jason.sills12@gmail.com

#### Assistants

Name: see attached list NC License: \_\_\_\_\_  
Name: \_\_\_\_\_ NC License: \_\_\_\_\_


### Site Information (Load in site)

Owner Name: See attached timeline  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_  
Phone: \_\_\_\_\_ Cell: \_\_\_\_\_  
Email: \_\_\_\_\_ FAX: \_\_\_\_\_  
Contact Name: \_\_\_\_\_ Cell: \_\_\_\_\_

### Barge Operator

Owner Name: NA  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_  
Phone: \_\_\_\_\_ Cell: \_\_\_\_\_  
Email: \_\_\_\_\_ FAX: \_\_\_\_\_  
Contact Name: \_\_\_\_\_ Cell: \_\_\_\_\_

I certify to the best of my knowledge that all information provided herein is true and correct as submitted to the Dare County Fire Marshal's Office. All work performed under this permit shall conform to the plans, manufacturers specifications, and applicable North Carolina Building Codes and standards. I have read the instructions on the back page and have submitted the required documents. I understand that the completion of this application does NOT entitle the commencement of construction or operation of the system and I will call for all required inspections.


George Augustine
4/23/19  
 Applicant Signature      Permitting Coordinator      Date

**Instructions**

The applicant shall submit all needed documentation to the Fire Marshal's Office in order to process the application. Submission shall include, but not limited, to the following documents. If other documentation is needed by the Fire Marshal's Office the applicant shall submit such documentation for review when requested.

- Provide site plan showing show set-up and all required safety and fallout zone radius.
- Provide shell inventory (size, count); break down open, body, & finale.
- Provide copies of state operator and assistant licenses.
- Provide copy of insurance certificate.
- Provide copy of ATF license.
- Provide event schedule timeline and site security plan.
- Provide copy of Coast Guard permit; if applicable.
- If a barge show, provide barge size calculation per NFPA 1123
- Provide copy of property use agreement(s).

*The event sponsor is required to develop in Incident Action Plan for the event. All agencies and organizations involved with the planning, support, and production of the event included. This must be completed and forwarded to the Fire Marshal's Office 2-weeks prior to the event for review and approval.*

**For Office Use Only**

Date Filed \_\_\_\_\_ Application Complete? \_\_\_\_\_ If not complete, date returned: \_\_\_\_\_

Reviewed \_\_\_\_\_ By: \_\_\_\_\_ [ ] Rejected [ ] Approved

*Please understand that approval of any documents in no way relieves the owner, the architect, the engineer, or the contractor from the responsibility of violations of governing codes and regulations not found by our office. When such violations are found they must be corrected.*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



**Hyde County (Ocracoke)**  
Display Date: July 3, 2019

**Avon Property Owners Association (Avon)**  
Display Date: July 4, 2019

**Ferry Itinerary**

**Monday, July 2, 2019**

1:00 pm - Fireworks truck en route to Hatteras-Ocracoke Ferry For Ocracoke fireworks display.

3:00 pm to 4:00 pm - Two trucks with one containing fireworks, one to two essential crew vehicles and the fire marshal take ferry to Ocracoke.

**Tuesday, July 3, 2019**

Ocracoke Fireworks Display

**Wednesday, July 4, 2019**

12:00 am to 1:00 am - Two trucks with one containing fireworks and one to two essential crew vehicles take Ocracoke-Hatteras ferry en route to Hatteras.

Avon Fireworks Display



## Standard Operating Procedure / Safety Plan Fireworks Displays

Pyrotecnico Fireworks, Inc.  
P.O. Box 149  
New Castle, PA 16103  
Headquarter Office: 800.854.4705  
www.pyrotecnico.com

### **Pyrotecnico Emergency Contacts:**

- Bob Ross, Chief Operations Officer
  - Office: 724.652.9555 [REDACTED] | Email: [bross@pyrotecnico.com](mailto:bross@pyrotecnico.com)
- Paul Gaffney, Director of Facilities/Safety & Compliance
  - Office: 856.697.1023 | [REDACTED] | Email: [pgaffney@pyrotecnico.com](mailto:pgaffney@pyrotecnico.com)
- Pruett, Justin
  - [REDACTED] | Email: [jpruett@pyrotecnico.com](mailto:jpruett@pyrotecnico.com)
- Chem-Tel 24-Hour Emergency Response: 1.800.255.3924

### **Standard Guidelines:**

All safety precautions as prescribed by the National Fire Protection Association (NFPA) code 1123 shall be adhered to at all times.

As required by the Authority Having Jurisdiction (“AHJ”), all inspections of the firing area(s) will be arranged in advance of the crew’s arrival on site.

All mortars and/or racks used in the display shall be made of and/or from approved materials sufficient to provide a safe display per the National Fire Protection Association (NFPA) code 1123.

A safe perimeter of 70 feet per inch, at minimum, of the largest shell size (National Fire Protection Association (“NFPA”) Guidelines, Section 1123) shall be maintained and secured at all times by the Sponsor and Pyrotecnico.

The fireworks and firing equipment shall not be left unattended at any time while on the display site and shall be protected from inclement weather at all times.

v2 OCT 2018



All Pyrotecnico personnel shall wear protective safety equipment for head, eye, hearing and feet as well as long sleeves and pants during the set-up, firing and clean up of the fireworks. Shorts are unacceptable attire.

Neither smoking nor smoking materials such as matches, lighters or open flame shall be within 50 feet of fireworks or pyrotechnic materials.

The use of cell phones and/or radios that generate radio frequencies will be kept to a minimum within the immediate discharge area while pyrotechnics are being prepared, loaded, set-up and firing.

Security on site will be arranged by the event Sponsor if needed.

Only assigned technicians required to set-up and perform the display will be allowed on the display site.

No person shall be allowed on site that is under the influence of alcohol, narcotics or medication which could adversely affect their ability to safely perform their duties.

Arrangements should be made by the event Sponsor for fire service and emergency medical services ("EMS") to be available during the fireworks display(s).

Pyrotecnico will have a minimum of two (2) water pressure fire extinguishers on site during the fireworks display.

Pyrotecnico provides appropriate insurance with limits of \$10M.

**Fireworks Display Termination Procedure:**

Weather conditions will be assessed by the fire official and the lead fireworks operator on the display site according to the conditions on site at the time. Bad weather, including but is not limited to, is defined as winds in excess of 15 mph or wind gusts of 20 mph or more, along with rain and/or thunderstorms. Other non-weather related emergencies can also terminate firing which shall also be determined by the fire official and the lead fireworks exhibitor at the display site.

Crowd control is imperative and must be maintained by security personnel, monitors and barriers. If at any time during the load in, firing and strike, security patrols and/or monitors detect any breach of the fall out/safety zone perimeter, any and all activity will cease immediately. Activity will only resume when the security of the fall out zone has been reestablished.



### Arrival On-Site

The operator shall contact the sponsor, sponsor's on-site contact and the AHJ to confirm the following: their arrival, the display time, the method of communication to indicate when the firing should start, the length of the display, the wind direction, safety distances, cool down period, potential overhead obstructions and the first light search plan.

All AHJ requirements received shall be followed.

The operator will conduct a Pyrotecnico crew meeting to discuss all safety requirements, details of the display and assign tasks.

### Pre-Display

The lead operator shall verify the following:

An inspection of all equipment and materials has been completed prior to set up.

The safety/fall out zone is clear of all unauthorized personnel.

Fire extinguishers are placed at strategic locations.

All mortars racks are perpendicular to audience. Racks and pyrotechnic holders are free of debris, and secured and stable to prevent falling over during use.

All fireworks display shells are pre-loaded and properly fit into mortars.

All mortar racks and finale chains are covered with foil.

For a manual firing, extra fuses are readily available.

For electrical firing, the arming key has been removed from the board and in the lead operator's physical possession at all times during load-in. The lead operator will also confirm prior to testing and the display that the firing system battery is fully charged; the igniter wires are secured and cleared of adjacent mortars; the firing modules are secured and protected; and all cables (and ground wires, if applicable) are connected from the firing modules to the firing board.



For continuity testing of an electrical firing, in addition to confirming the firing board is in “TEST” mode prior to the test, the lead operator shall confirm that the safety fall out radius is clear of unauthorized and non-essential personnel, everyone is informed of the testing is commencing and the board is disarmed & arming key is REMOVED after testing. Continuity testing shall continue until 100% continuity is confirmed. The final continuity check shall occur not more than 30 to 45 minutes prior to the display start time.

Immediately before the display, the lead operator shall confirm the crowd has been controlled and the safety/fall out zone is maintained; all applicable personnel, including fire service, EMS units and Pyrotecnico crew members, are available and ready; and that the current and approaching weather is favorable.

### **Post Display:**

Fifteen minutes after the conclusion of the display, a search will be conducted by Pyrotecnico personnel of the display and fallout areas to confirm that any unfired live product or shells are accounted for, properly handled, repackaged and secured according to federal DOT regulations.

Non-fired product shall not be shot without the permission of BOTH the sponsor and the fire department.

Once the all clear sign is given disassembly of the display shall begin.

The firing site shall be cleaned.

A mandatory first daylight search shall be conducted the following day to inspect the firing site, fall-out areas, spectator viewing areas and any reasonable surrounding areas for pyrotechnic debris and “duds”. All pyrotechnic debris and “duds” shall be accounted for, properly handled, repackaged and secured according to federal DOT regulations.



George Augustine <gaugustine@pyrotecnico.com>

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## Avon Property Owners 4th of July Celebration

1 message

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**George Augustine** <gaugustine@pyrotecnico.com>  
To: NCMARINEEVENTS@uscg.mil

Wed, Apr 24, 2019 at 8:56 AM

To whom this may concern,

Attached you will find attached in one pdf a Marine Event Application and supporting documents for the Avon Property Owners 4th of July Celebration to be shot from Avon Pier Hatteras Island, 41001 Highway 12 Avon, NC 27915. Please send me tracking information for this event.

Should you need any more information or have any questions please do not hesitate to contact me.

Thank you,

--

George Augustine  
Permitting Coordinator | PYROTECNICO  
Office 724.923.6602 | [www.pyrotecnico.com](http://www.pyrotecnico.com)

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 **190704 Avon Property Owners Association Packet for Marine Event.pdf**  
3895K



# DISPLAY INFORMATION

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Applicant:

Pyrotecnico Fireworks, Inc.  
PO Box 149 New Castle, PA 16103

Contact: George Augustine | 724.923.6602 | [gaugustine@pyrotecnico.com](mailto:gaugustine@pyrotecnico.com)

Event: Avon Property Owners Association July 4th Fireworks

Display Location: Avon Pier Hatteras Island 41001 Highway 12 Avon, NC 27915

Display Date(s): July 4, 2019

Pyrotechnicians:

Jason Sills | Lead Technician | | [jason.sills12@gmail.com](mailto:jason.sills12@gmail.com)

# EFFECT INFORMATION



Avon Property Owners Association  
4th of July Celebration

## **\*\*\*OPENING\*\*\***

**2 LG COMBO CHAIN**

## **\*\*\*BODY\*\*\***

**72 4" SHELL**

**36 4" X 2 FLT**

**18 4" X 3 FLT**

**108 5" SHELL**

**45 6" SHELL**

**7 3" X 10 ICON DELAY**

## **\*\*\*FINALE\*\*\***

**20 3" X 10 COL CHAIN**

**10 3" X 10 SAL CHAIN**

**5 4" X 6 COL CHAIN**

**5 4" X 6 BRO CHAIN**

**4 5" X 5 COL CHAIN**

**4 5" X 5 BRO CHAIN**

## **\*\*\*CAKES\*\*\***

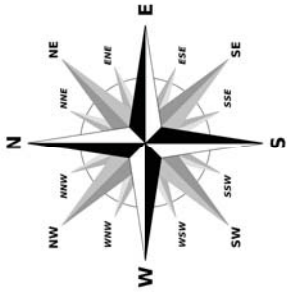
**2 49 SHOT FAN CAKE**

**1 90 SHOT FAN CAKE**

**1 100 SHOT FAN CAKE**

**1 182 SHOT FAN CAKE**

**1 300/380 SHOT FAN CAKE**



**Avon Property  
Owner's Association**

41001 NC-12  
Avon, NC 27915

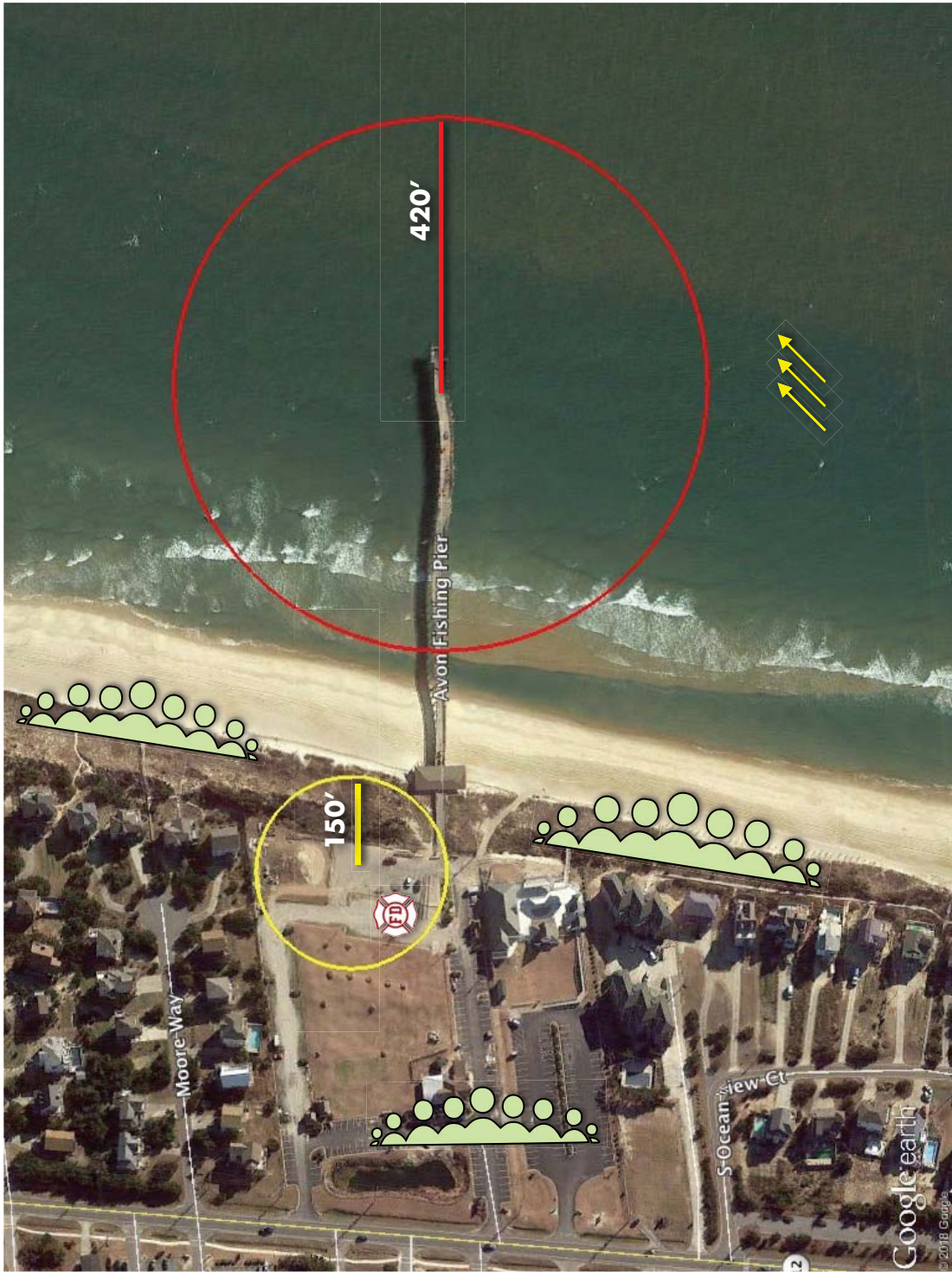
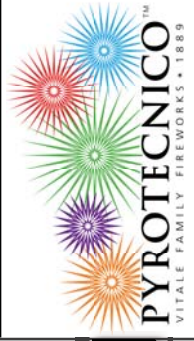
35° 20' 50.29" N  
75° 29' 57.32" W

REVISED DATE: 01.20.2019

DRAWN BY:  
Justin Pruett

NOTES:

Site plan is drawn to an  
approximate scale using  
NFPA 1123, NFPA 1126 or  
NFPA 160 as applicable.



- Audience
- Radius
- Fire
- Wind Direction

**420' Safety Fall Out Radius**

**6" Maximum Device Per Pyrotecnico 100' Per Inch Policy**

- Safety Fallout Zone

# LICENSES & RESUMES

Qualifications, Experience, Licenses of the Operator(s) and Company Licenses



In accordance with the provisions of Title XI, Organized Crime Control Act of 1970, and the regulations issued thereunder (27 CFR Part 555), you may engage in the activity specified in this license or permit within the limitations of Chapter 40, Title 18, United States Code and the regulations issued thereunder, until the expiration date shown. **THIS LICENSE IS NOT TRANSFERABLE UNDER 27 CFR 555.53.** See "WARNINGS" and "NOTICES" on reverse.

Direct ATF                      ATF - Chief, FELC  
Correspondence To        244 Needy Road  
   Martinsburg, WV 25405-9431

License/Permit  
Number                      **8-PA-073-23-1J-12122**

Chief, Federal Explosives Licensing Center (FELC)  
*Christopher R. Reers*

Expiration  
Date                         **September 1, 2021**

Name  
PYROTECNICO

Premises Address (Changes? Notify the FELC at least 10 days before the move.)  
**299 WILSON RD  
NEW CASTLE, PA 16101-**

Type of License or Permit  
**23-IMPORTER OF EXPLOSIVES**

Purchasing Certification Statement

The licensee or permittee named above shall use a copy of this license or permit to assist a transferor of explosives to verify the identity and the licensed status of the licensee or permittee as provided by 27 CFR Part 555. The signature on each copy must be an original signature. A faxed, scanned or e-mailed copy of the license or permit with a signature intended to be an original signature is acceptable. The signature must be that of the Federal Explosives Licensee (FEL) or a responsible person of the FEL. I certify that this is a true copy of a license or permit issued to the licensee or permittee named above to engage in the business or operations specified above under "Type of License or Permit."

Mailing Address (Changes? Notify the FELC of any changes.)

PYROTECNICO FIREWORKS INC  
PYROTECNICO  
PO BOX 149  
NEW CASTLE, PA 16103-0149

*Stephen J. Vitale*  
\_\_\_\_\_  
Licensee/Permittee Responsible Person Signature  
Printed Name

*President/CEO*  
\_\_\_\_\_  
Position Title  
*Feb. 7, 2019*  
Date

Previous Edition is Obsolete      PYROTECNICO FIREWORKS INC 299 WILSON RD 16101 8-PA-073-23-1J-12122 September 1, 2021 23-IMPORTER OF EXPLOSIVES

ATF Form 5400.14 5400.15 Part 1  
Revised October 2011

Federal Explosives License (FEL) Customer Service Information

Federal Explosives Licensing Center (FELC)  
244 Needy Road  
Martinsburg, WV 25405-9431

Toll-free Telephone Number: (877) 283-3352  
Fax Number: (304) 616-4401  
E-mail: FELC@atf.gov

ATF Homepage: www.atf.gov

**Change of Address (27 CFR 555.54(a)(1)).** Licensees or permittees may during the term of their current license or permit remove their business or operations to a new location at which they intend regularly to carry on such business or operations. The licensee or permittee is required to give notification of the new location of the business or operations not less than 10 days prior to such removal with the Chief, Federal Explosives Licensing Center. The license or permit will be valid for the remainder of the term of the original license or permit. (The Chief, FELC, shall, if the licensee or permittee is not qualified, refer the request for amended license or permit to the Director of Industry Operations for denial in accordance with § 555.54.)

**Right of Succession (27 CFR 555.59).** (a) Certain persons other than the licensee or permittee may secure the right to carry on the same explosive materials business or operations at the same address shown on, and for the remainder of the term of, a current license or permit. Such persons are: (1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee or permittee; and (2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors. (b) In order to secure the right provided by this section, the person or persons continuing the business or operations shall furnish the license or permit for that business or operations for endorsement of such succession to the Chief, FELC, within 30 days from the date on which the successor begins to carry on the business or operations.

(Continued on reverse side)

Cut Here ✂

**Federal Explosives License/Permit (FEL) Information Card**

License Permit Name: PYROTECNICO FIREWORKS INC

Business Name: PYROTECNICO

License Permit Number: 8-PA-073-23-1J-12122

License Permit Type: 23-IMPORTER OF EXPLOSIVES

Expiration: September 1, 2021

Please Note: Not Valid for the Sale or Other Disposition of Explosives.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
1/20/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Britton-Gallagher and Associates, Inc. One Cleveland Center, Floor 30 1375 East 9th Street Cleveland OH 44114		<b>CONTACT NAME:</b>	
		<b>PHONE (A/C No. Ext):</b> 216-658-7100	<b>FAX (A/C, No):</b> 216-658-7101
		<b>E-MAIL ADDRESS:</b> info@brittongallagher.com	
		<b>INSURER(S) AFFORDING COVERAGE</b>	
		<b>NAIC #</b>	
<b>INSURED</b> 2299		<b>INSURER A :</b> Everest Indemnity Insurance Co.	10851
Pyrotecnico Fireworks Inc. P.O. Box 149 299 Wilson Road New Castle PA 16103		<b>INSURER B :</b> Everest National Insurance Company	10120
		<b>INSURER C :</b> Maxum Indemnity Company	26743
		<b>INSURER D :</b>	
		<b>INSURER E :</b>	
		<b>INSURER F :</b>	

**COVERAGES** **CERTIFICATE NUMBER: 514937984** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC			SI8ML00891-191	1/14/2019	1/14/2020	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
B	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			SI8CA00141-191	1/14/2019	1/14/2020	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> <b>EXCESS LIAB</b> DED <input type="checkbox"/> RETENTION \$			EXC6030375	1/14/2019	1/14/2020	EACH OCCURRENCE \$4,000,000 AGGREGATE \$4,000,000 \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						<input type="checkbox"/> Y <input checked="" type="checkbox"/> N / A WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
C	Excess Liability #2			EXC6034019	1/14/2019	1/14/2020	Each Occurrence \$5,000,000 Aggregate \$5,000,000 Total Excess Limits \$9,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)**

Additional Insured extension of coverage is provided by above referenced General Liability policy where required by written agreement.  
Fireworks Display Date: July 4, 2019 Rain Date: July 4, 2019  
Location: Avon Fishing Pier, Hatteras Island, 41001 NC HWY 12, Avon, NC 27915  
Additional Insured: Avon Fishing Pier, Hatteras Island, 41001 NC HWY 12, Avon, NC 27915; Avon Property Owners Association, Inc. (APOA); United State of America and the National Park Service; Date County Tourism Board; County of Date; Koru Village, Inc.; Avon Fireworks Committee

**CERTIFICATE HOLDER**

Avon Property Owners Association, Inc.  
PO Box 9  
Avon NC 27915

**CANCELLATION**

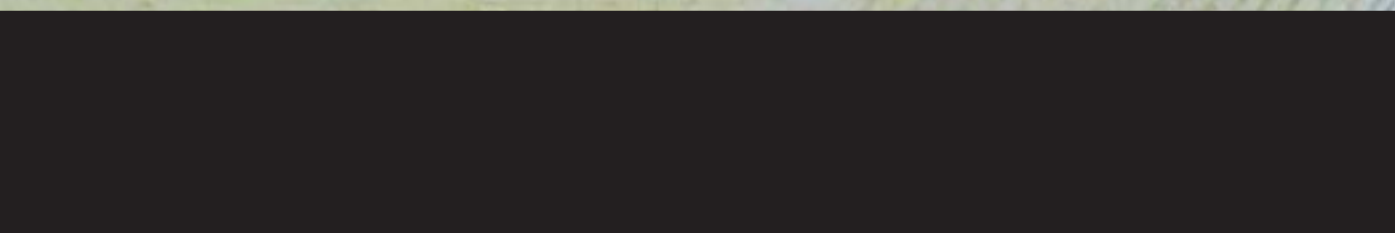
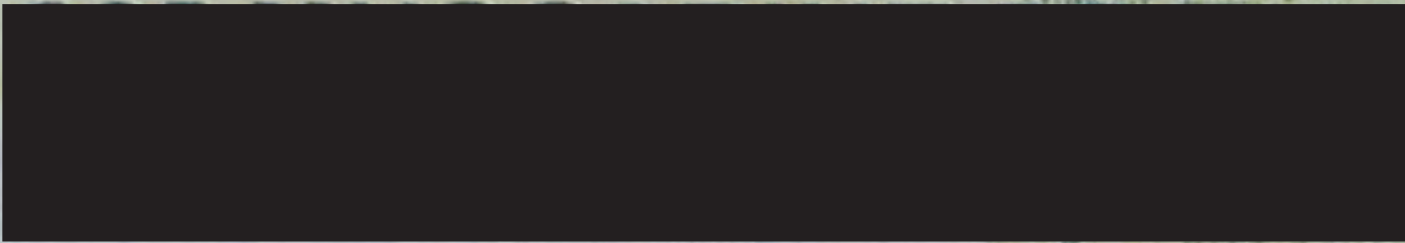
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

DLN

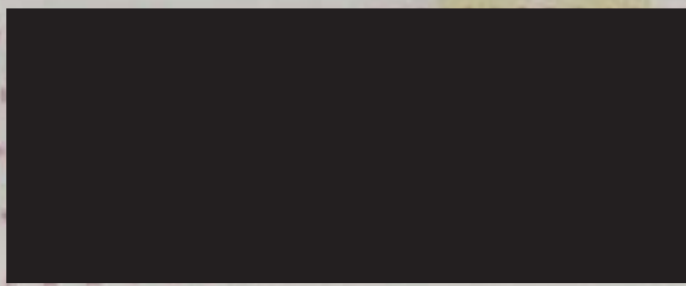


**SILLS**  
**JASON LEE**



5 SEX **M**      18 EYES **BLU**  
6 HGT **6'-05"**    19 HAIR **BRO**    RAC

a ISS  
DD



02/

# OPERATORS LICENSE





Hyde County  
Show Date: July 3, 2019

Technician

Name: Jason Sills  
Address: 225 Muscadine Drive  
Marion, NC 28752  
Phone: 828.442.9144  
Email: jason.sills12@gmail.com  
NC Op Lic #: 3081

Assistants

Name: Dennis Burlison  
Address: 155 Mackey Farm Road  
Old Fort, NC 28762  
Phone: 828.659.4614  
Email: r\_burlison@hotmail.com  
NC Asst Op  
Lic #: 2220

Name: Robert Painter  
Address: 279 Henry McCall Road  
Marion, NC 28752  
Phone: 828.442.5108  
NC Asst Op  
Lic #: 2300

Name: Kenny Wayne Elkins  
Address: 200 Fairfield Road  
Marion, NC 28752  
Phone: 828.442.7159  
NC Asst Op  
Lic #: 2221

Name: Donnie Dockery  
Address: 34 Plato Drive  
Marion, NC 28752  
Phone: 828.460.9186  
NC Asst Op  
Lic #: 3469

Name: \*Kermit Patrick Russell III  
Address: (2163 Goose Creek Road)  
(Marion, NC 28752)  
Phone: (828.777.6440)  
NC Asst Op  
Lic #: \*

- Mr. Russell has applied for his NC Assistant Pyrotechnic license. I will email a copy as soon as I have a copy. He will be an event employee if he has not yet received his license.

# SAFETY DATA SHEETS

Information on safety data sheets (SDS) for the material(s) to be used



# Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

Revision: 01/06/2017

## 1 Identification

· **Product identifier:** Fireworks, Division 1.3 Explosive

· **Trade name:**

· **Product code:**

Fireworks, 1.3G UN0335

· **Recommended use and restriction on use**

· **Recommended use:** Explosive product for professional use for entertainment and technical purposes

· **Restrictions on use:** Contact manufacturer/supplier

· **Details of the supplier of the Safety Data Sheet**

· **Manufacturer/Supplier:**

Pyrotecnico Fireworks Inc.  
299 Wilson Rd  
New Castle, PA 16101  
724-652-9555

· **Emergency telephone number:**

ChemTel Inc.  
(800)255-3924, +1 (813)248-0585

## 2 Hazard(s) identification

· **Classification of the substance or mixture**

Expl. 1.3 H203 Explosive; fire, blast or projection hazard.

· **Label elements**

· **GHS label elements**

The product is classified and labeled according to the Globally Harmonized System (GHS).

· **Hazard pictograms:**



GHS01

· **Signal word:** Danger

· **Hazard statements:**

H203 Explosive; fire, blast or projection hazard.

· **Precautionary statements:**

P210 Keep away from heat/sparks/open flames/hot surfaces. No smoking.

P250 Do not subject to grinding/shock/friction.

P280 Wear protective gloves/protective clothing/eye protection/face protection.

P373 DO NOT fight fire when fire reaches explosives.

P370+P380 In case of fire: Evacuate area.

P372 Explosion risk in case of fire.

(Cont'd. on page 2)

# Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

Revision: 01/06/2017

**Trade name:**

(Cont'd. of page 1)

P401 Store in accordance with local/regional/national/international regulations.  
 P501 Dispose of contents/container in accordance with local/regional/national/international regulations.

· **Other hazards** There are no other hazards not otherwise classified that have been identified.

· **Explosive Product Notice**

PREVENTION OF ACCIDENTS IN THE USE OF EXPLOSIVES - The prevention of accidents in the use of explosives is a result of careful planning and observance of the best known practices. The explosives user must remember that he is dealing with a powerful force and that various devices and methods have been developed to assist him in directing this force. He should realize that this force, if misdirected, may either kill or injure both him and his fellow workers.

WARNING - All explosives are dangerous and must be carefully handled and used following approved safety procedures either by or under the direction of competent, experienced persons in accordance with all applicable federal, state, and local laws, regulations, or ordinances. If you have any questions or doubts as to how to use any explosive product, DO NOT USE IT before consulting with your supervisor, or the manufacturer, if you do not have a supervisor. If your supervisor has any questions or doubts, he should consult the manufacturer before use.

### 3 Composition/information on ingredients

· **Chemical characterization: Mixtures**

· **Components:**

Components for product possessing only physical hazards do not require reporting. These components are considered proprietary.

### 4 First-aid measures

· **Description of first aid measures**

· **General information:**

Information is only applicable to product contents, and not to product as normally supplied. This information is applicable to damaged, leaking, or spilled product as contact with contents is possible under these conditions.

· **After inhalation:** Supply fresh air; consult doctor in case of complaints.

· **After skin contact:**

Wash with soap and water.

In case of minor burns, flush with cool water.

If skin irritation is experienced, consult a doctor.

· **After eye contact:**

Remove contact lenses if worn.

Rinse opened eye for several minutes under running water. If symptoms persist, consult a doctor.

· **After swallowing:**

Unlikely route of exposure.

Do not induce vomiting; immediately call for medical help.

(Cont'd. on page 3)

# Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

Revision: 01/06/2017

**Trade name:**

(Cont'd. of page 2)

- **Most important symptoms and effects, both acute and delayed:**  
Blast injury if mishandled.  
Thermal burns, if mishandled.
- **Danger:** Danger of blast or crush-type injuries.
- **Indication of any immediate medical attention and special treatment needed:**  
Product may produce physical injury if mishandled. Treatment of these injuries should be based on the clinical presentation.

## 5 Fire-fighting measures

- **Extinguishing media**
- **Suitable extinguishing agents:**  
DO NOT fight fire when fire reaches explosives.  
Flood area with water. If no water is available, carbon dioxide, dry chemical or earth may be used. If the fire reaches the cargo, withdraw and let fire burn.
- **For safety reasons unsuitable extinguishing agents:** None.
- **Special hazards arising from the substance or mixture**  
Explosive; fire, blast or projection hazard.  
During heating or in case of fire poisonous gases are produced.
- **Advice for firefighters**
- **Protective equipment:**  
Wear self-contained respiratory protective device.  
Wear fully protective suit.
- **Additional information:**  
Eliminate all ignition sources if safe to do so.  
In case of fire: Evacuate area. Fight fire remotely due to the risk of explosion.  
Cool endangered receptacles with water spray.  
Flammability Classification: (defined by 29 CFR 1910.1200) Explosive. Can explode under fire conditions. Individual devices will randomly explode. Mass explosion of multiple devices is possible under certain conditions. Burning material may produce toxic and irritating vapors. In unusual cases, shrapnel may be thrown from exploding devices under containment. See 2012 Emergency response Guidebook for further information.

## 6 Accidental release measures

- **Personal precautions, protective equipment and emergency procedures**  
Wear protective equipment. Keep unprotected persons away.  
Remove persons from danger area.  
Ensure adequate ventilation.  
Isolate area and prevent access.
- **Environmental precautions**  
Do not allow undiluted product or large quantities of it to reach ground water, water course or sewage system.
- **Methods and material for containment and cleaning up**  
Pick up mechanically.

(Cont'd. on page 4)

# Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

Revision: 01/06/2017

Trade name:

(Cont'd. of page 3)

Send for recovery or disposal in suitable receptacles.

- **Reference to other sections**

See Section 7 for information on safe handling.

See Section 8 for information on personal protection equipment.

See Section 13 for disposal information.

## 7 Handling and storage

- **Handling**

- **Precautions for safe handling:**

Handle with care. Avoid jolting, friction and impact.

Restrict the quantity stored at the work place.

Keep out of reach of children.

- **Information about protection against explosions and fires:**

In case of fire: Evacuate area.

Explosion risk in case of fire.

Keep away from sparks and open flames. - No smoking.

Emergency cooling must be available in case of nearby fire.

- **Conditions for safe storage, including any incompatibilities**

- **Storage**

- **Requirements to be met by storerooms and receptacles:**

Avoid storage near extreme heat, ignition sources or open flame.

- **Information about storage in one common storage facility:**

Store in accordance with local/regional/national/international regulations.

Store away from foodstuffs.

Store away from flammable substances.

- **Further information about storage conditions:**

Store in cool, dry conditions in well sealed receptacles.

Store locked up.

- **Specific end use(s)** No relevant information available.

## 8 Exposure controls/personal protection

- **Control parameters**

- **Components with limit values that require monitoring at the workplace:**

The product does not contain any relevant quantities of materials with critical values that have to be monitored at the workplace.

- **Exposure controls**

- **Personal protective equipment:**

- **General protective and hygienic measures:**

The usual precautionary measures for handling chemicals should be followed.

Keep away from foodstuffs, beverages and feed.

Wash hands before breaks and at the end of work.

- **Engineering controls:** Provide adequate ventilation.

(Cont'd. on page 5)

# Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

Revision: 01/06/2017

Trade name:

(Cont'd. of page 4)

- **Breathing equipment:** Not required under normal conditions of use.
- **Protection of hands:** When needed, wear gloves for protection against mechanical hazards.
- **Eye protection:**



Safety glasses

Follow relevant national guidelines concerning the use of protective eyewear.

- **Body protection:** When needed, wear protective clothing for protection against mechanical hazards.
- **Limitation and supervision of exposure into the environment**  
No relevant information available.
- **Risk management measures**  
Organizational measures should be in place for all activities involving this product.

## 9 Physical and chemical properties

### Information on basic physical and chemical properties

- **Appearance:**
  - **Form:** Outer shell containing powder, granular, or solid materials.
  - **Color:** According to product specification
- **Odor:** Odorless
- **Odor threshold:** Not determined.
- **pH-value:** Not applicable.
- **Melting point/Melting range:** Not determined.
- **Boiling point/Boiling range:** Not determined.
- **Flash point:** Not applicable.
- **Flammability (solid, gaseous):** Fire or projection hazard.
- **Auto-ignition temperature:** Not determined.
- **Decomposition temperature:** Not determined.
- **Danger of explosion:** Heating may cause an explosion.
- **Explosion limits**
  - **Lower:** Not determined.
  - **Upper:** Not determined.
- **Vapor pressure:** Not applicable.
- **Density:** Not determined.
- **Relative density:** Not determined.
- **Vapor density:** Not applicable.
- **Evaporation rate:** Not applicable.

(Cont'd. on page 6)



# Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

Revision: 01/06/2017

Trade name:

(Cont'd. of page 5)

- |   |                                    |
|---|------------------------------------|
| <b>· Solubility in / Miscibility with Water:</b>  | Insoluble.                         |
| <b>· Partition coefficient (n-octanol/water):</b> | Not determined.                    |
| <b>· Viscosity</b>                                |                                    |
| <b>Dynamic:</b>                                   | Not applicable.                    |
| <b>Kinematic:</b>                                 | Not applicable.                    |
| <b>· Other information</b>                        | No relevant information available. |

## 10 Stability and reactivity

- **Reactivity:** No relevant information available.
- **Chemical stability:**
- **Thermal decomposition / conditions to be avoided:** Risk of explosion if heated under confinement.
- **Possibility of hazardous reactions**  
Explosive; fire, blast or projection hazard.  
Toxic fumes may be released if heated above the decomposition point.  
Reacts with strong acids and alkali.
- **Conditions to avoid**  
Excessive heat.  
Sources of ignition: sparks, open flame, incompatible materials
- **Incompatible materials** Oxidizers, strong bases, strong acids
- **Hazardous decomposition products**  
Carbon monoxide and carbon dioxide  
Nitrogen oxides  
Sulfur oxides (SO<sub>x</sub>)

## 11 Toxicological information

- **Information on toxicological effects**
- **Acute toxicity:**
- **LD/LC50 values that are relevant for classification:** None.
- **Primary irritant effect:**
- **On the skin:**  
Not a skin irritant in unused form. Vapors/particles from used product are possibly irritating to skin.
- **On the eye:**  
Not an eye irritant in unused form. Vapors/particles from used product are possibly irritating to eyes.
- **Sensitization:** Based on available data, the classification criteria are not met.
- **Carcinogenic categories**

<b>· IARC (International Agency for Research on Cancer):</b>
--

None of the ingredients are listed.
-------------------------------------

(Cont'd. on page 7)

# Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

Revision: 01/06/2017

**Trade name:**

(Cont'd. of page 6)

· **NTP (National Toxicology Program):**

None of the ingredients are listed.

· **OSHA-Ca (Occupational Safety & Health Administration):**

None of the ingredients are listed.

· **Probable route(s) of exposure:**

Skin contact.

Eye contact.

Inhalation.

· **Acute effects (acute toxicity, irritation and corrosivity):**

Danger of blast or crush-type injuries.

Risk of thermal burns.

· **Repeated dose toxicity:** From product as supplied: None.

· **CMR effects (carcinogenicity, mutagenicity and toxicity for reproduction)**

· **Germ cell mutagenicity:** Based on available data, the classification criteria are not met.

· **Carcinogenicity:** Based on available data, the classification criteria are not met.

· **Reproductive toxicity:** Based on available data, the classification criteria are not met.

· **STOT-single exposure:** Based on available data, the classification criteria are not met.

· **STOT-repeated exposure:** Based on available data, the classification criteria are not met.

· **Aspiration hazard:** Based on available data, the classification criteria are not met.

## 12 Ecological information

· **Toxicity**

· **Aquatic toxicity** No relevant information available.

· **Persistence and degradability** No relevant information available.

· **Bioaccumulative potential:** May be accumulated in organism

· **Mobility in soil:** No relevant information available.

· **Other adverse effects** No relevant information available.

## 13 Disposal considerations

· **Waste treatment methods**

· **Recommendation:**

Must not be disposed of together with household garbage. Do not allow product to reach sewage system. Incinerate in accordance with local, state and federal regulations.

The user of this material has the responsibility to dispose of unused material, residues and containers in compliance with all relevant local, state and federal laws and regulations regarding treatment, storage and disposal for hazardous and nonhazardous wastes. Residual materials should be treated as hazardous.

(Cont'd. on page 8)

# Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

Revision: 01/06/2017

Trade name:

(Cont'd. of page 7)

- **Uncleaned packagings**
- **Recommendation:** Disposal must be made according to official regulations.

## 14 Transport information

· **UN-Number**  
 · DOT, ADR, IMDG UN0335  
 · IATA FORBIDDEN

· **UN proper shipping name**  
 · DOT, ADR, IMDG Fireworks  
 · IATA FORBIDDEN

· **Transport hazard class(es)**

· DOT



· Class 1.3  
 · Label 1.3G

· ADR



· Class 1.3  
 · Label 1.3G

· IMDG



· Class 1.1  
 · Label 1.3G

· IATA  
 · Class FORBIDDEN

· **Packing group**  
 · DOT II

· **Environmental hazards**  
 · **Marine pollutant:** No

· **Special precautions for user** Not applicable.

(Cont'd. on page 9)

# Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

Revision: 01/06/2017

Trade name:

(Cont'd. of page 8)

- |  |                 |
|--|-----------------|
| <b>· EMS Number:</b>   | F-S,B-X         |
| <b>· Transport in bulk according to Annex II of MARPOL73/78 and the IBC Code</b> | Not applicable. |

## 15 Regulatory information

- Safety, health and environmental regulations/legislation specific for the substance or mixture
- United States (USA)
- SARA

<b>· Section 302 (extremely hazardous substances):</b>
--

None of the ingredients are listed.

<b>· Section 304 (emergency release notification):</b>
--

None of the ingredients are listed.

<b>· Section 355 (extremely hazardous substances):</b>
--

None of the ingredients are listed.

<b>· Section 313 (Specific toxic chemical listings):</b>
--

Contact manufacturer.

<b>· TSCA (Toxic Substances Control Act)</b>
--

All ingredients are listed.

<b>· Proposition 65 (California)</b>
--------------------------------------

<b>· Chemicals known to cause cancer:</b>
---

Contact manufacturer.

<b>· Chemicals known to cause reproductive toxicity for females:</b>
--

Contact manufacturer.

<b>· Chemicals known to cause reproductive toxicity for males:</b>
--

Contact manufacturer.

<b>· Chemicals known to cause developmental toxicity:</b>
---

Contact manufacturer.

<b>· Carcinogenic categories</b>
----------------------------------

<b>· EPA (Environmental Protection Agency):</b>
---

None of the ingredients are listed.

<b>· IARC (International Agency for Research on Cancer):</b>
--

Contact manufacturer.

(Cont'd. on page 10)

# Safety Data Sheet

acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 01/06/2017

Revision: 01/06/2017

Trade name:

(Cont'd. of page 9)

· **NIOSH-Ca (National Institute for Occupational Safety and Health):**

Contact manufacturer.

## 16 Other information

This information is based on our present knowledge. However, this shall not constitute a guarantee for any specific product features and shall not establish a legally valid contractual relationship.

· **Date of preparation / last revision** 01/06/2017 / -

· **Abbreviations and acronyms:**

ADR: European Agreement concerning the International Carriage of Dangerous Goods by Road

IMDG: International Maritime Code for Dangerous Goods

DOT: US Department of Transportation

IATA: International Air Transport Association

CAS: Chemical Abstracts Service (division of the American Chemical Society)

LC50: Lethal concentration, 50 percent

LD50: Lethal dose, 50 percent

NIOSH: National Institute for Occupational Safety

OSHA: Occupational Safety & Health

TLV: Threshold Limit Value

PEL: Permissible Exposure Limit

REL: Recommended Exposure Limit

LDLo: Lowest Lethal Dose Observed

Expl. 1.3: Explosives – Division 1.3

· **Sources**

Website, European Chemicals Agency ([echa.europa.eu](http://echa.europa.eu))

Website, US EPA Substance Registry Services ([ofmpub.epa.gov/sorinternet/registry/substreg/home/overview/home.do](http://ofmpub.epa.gov/sorinternet/registry/substreg/home/overview/home.do))

Website, Chemical Abstracts Registry, American Chemical Society ([www.cas.org](http://www.cas.org))

Patty's Industrial Hygiene, 6th ed., Rose, Vernon, ed. ISBN: 978-0-470-07488-6

Casarett and Doull's Toxicology: The Basic Science of Poisons, 8th Ed., Klaasen, Curtis D., ed., ISBN: 978-0-07-176923-5.

Safety Data Sheets, Individual Manufacturers

SDS Prepared by:

ChemTel Inc.

1305 North Florida Avenue

Tampa, Florida USA 33602-2902

Toll Free North America 1-888-255-3924 Intl. +01 813-248-0573

Website: [www.chemtelinc.com](http://www.chemtelinc.com)



*Budget Amendment for Disaster Recovery Fund*

**Description**

Budget amendment to recognize FEMA & NC grant revenue for Florence & Michael; to appropriate fund balance for Matthew costs where the insurance recovery was received in a prior year; to budget for the Matthew insurance repair work; to increase the budget for 2018 rainwater pumping to the actual of \$46,685; and to budget for the costs for Florence and Michael.

**Board Action Requested**

**Item Presenter**

# DARE COUNTY

## BUDGET AMENDMENT

F/Y 2018-2019

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<b>Department:</b>					
Disaster Recovery Fund					
<u>Revenues:</u>					
State & federal aid - FEMA/NCEM	283025	422225		\$142,090	
Appropriated fund balance	283090	499900		\$3,870	
<u>Expenditures:</u>					
Matthew - insurance repairs	284490	560086	28017	\$3,870	
2018 rainwater pumping		560090		\$11,685	
Florence - emgency protective measures		560091	28016	\$25,295	
Florence - storm overtime & fringes		560091	28038	\$67,055	
Michael - debris		560092	28015	\$28,215	
Michael - insurance repairs		560092	28017	\$9,230	
Micael - storm overtime & fringes		560092	28038	\$610	

Explanations/To correct budget for:

State & federal grants for Florence & Michael.

Fund balance for Matthew costs where revenue was received in a prior year.

Hurricane Matthew insurance repairs costs.

Costs for 2018 rainwater pumping - final costs of \$46,685 were greater than initial budget.

Hurricane Florence costs.

Tropical Storm Michael costs.

**Approved by:**

Board of Commissioners: \_\_\_\_\_

Date: \_\_\_\_\_

County Manager: \_\_\_\_\_

Date: \_\_\_\_\_

(sign in red)

*Finance only:*

Date entered: \_\_\_\_\_ Entered by: \_\_\_\_\_ Reference number: \_\_\_\_\_



*Budget Amendment - Non-departmental*

**Description**

Budget amendment to increase online action fees. Sale of surplus property revenue has exceed budget by \$22,357 to date. Online auction fees are higher than anticipated due to the increased sales.

**Board Action Requested**

Approve budget amendment

**Item Presenter**

None



# DARE COUNTY

## BUDGET AMENDMENT

F/Y 2018-2019

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<b>Department:</b>					
Non-departmental					
<u>Revenues:</u>					
Sale of Surplus Property	103050	460200		\$10,000	
<u>Expenditures:</u>					
Online Auction Fees	104490	511902		\$10,000	

Explanation:

Sale of surplus property revenue has exceeded budget by \$22,357 to date. Online auction fees are higher than anticipated due to the increased sales.

**Approved by:**

Board of Commissioners: \_\_\_\_\_

Date: \_\_\_\_\_

County Manager: \_\_\_\_\_

Date: \_\_\_\_\_

(sign in red)

*Finance only:*

Date entered: \_\_\_\_\_ Entered by: \_\_\_\_\_ Reference number: \_\_\_\_\_



*Sheriff - Budget Amendment*

**Description**

Budget amendment to increase DOJ overtime reimbursement revenue and related overtime expenses and to increase sale of surplus federal forfeiture property revenue and related Sheriff Fund by the amount of the restricted proceeds.

**Board Action Requested**

Approve budget amendment

**Item Presenter**

None

# DARE COUNTY

## BUDGET AMENDMENT

F/Y 2018-2019

ACCOUNT	CODE			INCREASE	DECREASE
	Org	Object	Project		
<b>Department:</b>					
Sheriff					
<u>Revenues:</u>					
DOJ Overtime Reimbursements	103510	441045		\$7,792	
Sale of Surplus Fed Forfeiture Property	103510	460200	00039	\$11,426	
<u>Expenditures:</u>					
Overtime	104510			\$6,431	
FICA	104510			\$492	
Retirement	104510			\$547	
401k	104510			\$322	
Sheriff Fund-Federal Forfeiture	104510			\$11,426	

Explanation:

Increase DOJ overtime reimbursement revenue and related overtime expenses based on actual reimbursements to date.

Increase sale of surplus federal forfeiture property revenue based on actual sales proceeds and increase Sheriff Fund by amount of the restricted proceeds.

**Approved by:**

Board of Commissioners: \_\_\_\_\_

Date: \_\_\_\_\_

County Manager: \_\_\_\_\_

Date: \_\_\_\_\_

(sign in red)

*Finance only:*

Date entered: \_\_\_\_\_ Entered by: \_\_\_\_\_ Reference number: \_\_\_\_\_



*Tax Collector's Report*

**Description**

April 2019 Releases over \$100  
April 2019 Refunds over \$100  
April 2019 NCVTS Refunds over \$100

**Board Action Requested**

Approved

**Item Presenter**

Becky Huff, Tax Collector

# Release Report for REAL ESTATE and PERSONAL PROPERTY

(Releases over (\$100.00) )

MONTH: APRIL

DATE RANGE: 4/1/2019 - 4/30/2019

SUBMITTED BY: Becky Huff

Taxpayer Name	Parcel#	Bill Year	AR	Reason	Released Value	Tax Released
YOUNG, TROY L.	831234707	2018	25	REMOVE BOAT	-236,680.00	-1,792.24
LEMAY, SCOTT ALLEN	963019000	2018	25	REMOVE BOAT	-29,100.00	-268.89
LANGRELL, RICHARD S.	963174000	2018	25	REMOVE BOAT	-14,550.00	-134.45
<b>Total Tax Released:</b>						<b>-2,195.58</b>

**Refund Report for REAL ESTATE and PERSONAL PROPERTY**

*(Refunds over \$100.00 )*

**Month: April**

**Date Range: 4/1/2019 - 4/30/2019**

**Submitted By: Becky Huff**

<u>Taxpayer Name</u>	<u>Parcel</u>	<u>Bill Yr</u>	<u>Reason</u>	<u>Refund Amount</u>
JOHNSTON, MARGARET L	021589000	2017	Overpayment	\$ (431.24)
COFIELD, JUAN M	010215012	2018	Overpayment	\$ (4,341.67)
SCHUSSLER, MICHAEL L SR	012568000	2018	Overpayment	\$ (289.74)
ANDERSEN, WILL	015575000	2018	Overpayment	\$ (337.94)
HOOPER, MERRITT A JR	018588103	2018	Overpayment	\$ (997.92)
GREGORY, ROBERT A	022383556	2018	Overpayment	\$ (690.00)
MURRAY, THOMAS W JR	025694322	2018	Overpayment	\$ (200.00)
				<b>\$ (7,288.51)</b>



# North Carolina Vehicle Tax System

April 2019

## NCVTS Pending Refund report

Primary Owner	Secondary Owner	Address 1	Refund Reason	Tax Jurisdiction	Levy Type	Change	Interest Change	Total Change
HOLLAND, PATRICIA SCANLON		608 COUNTRY CLUB WAY VENICE, FL 34285	Tag Surrender	C99	Tax	(\$71.57)	\$0.00	(\$71.57)
				T14	Tax	(\$46.75)	\$0.00	(\$46.75)
				T14MSD	Tax	(\$26.65)	\$0.00	(\$26.65)
				<b>Refund</b>				
MCGRATH, KEVIN JAMES	MCGRATH, LUCILLE ROBERTA	318 SEA OATS TRL SOUTHERN SHORES, NC 27949	Tag Surrender	C99	Tax	(\$97.32)	\$0.00	(\$97.32)
				T20	Tax	(\$45.56)	\$0.00	(\$45.56)
				<b>Refund</b>				
MEAD, GEORGE STUDWELL	MEAD, GISELE ROBICHAUD	PO BOX 364 RODANTHE, NC 27968	Tag Surrender	C99	Tax	(\$108.85)	\$0.00	(\$108.85)
				F18	Tax	(\$19.94)	\$0.00	(\$19.94)
				S99	Tax	(\$23.86)	\$0.00	(\$23.86)
				Y52	Tax	(\$7.09)	\$0.00	(\$7.09)
<b>Refund</b>					<b>\$159.74</b>			
MOUNTAIN VIEW PLAZA, LLC		PO BOX 947 AVON, NC 27915	Tag Surrender	C99	Tax	(\$91.66)	\$0.00	(\$91.66)
				F01	Tax	(\$12.97)	\$0.00	(\$12.97)
				R01	Tax	(\$1.87)	\$0.00	(\$1.87)
				S99	Tax	(\$20.08)	\$0.00	(\$20.08)
<b>Refund</b>					<b>\$126.58</b>			
<b>Refund Total</b>								<b>\$574.17</b>

Tax	District Type	Net Change
C99	COUNTY	(\$369.40)
T14	CITY	(\$46.75)
T14MSD	CITY	(\$26.65)
T20	CITY	(\$45.56)
F01	FIRE	(\$12.97)
F18	FIRE	(\$19.94)
R01	FIRE	(\$1.87)
S99	SPECIAL	(\$43.94)
Y52	SPECIAL	(\$7.09)
<b>Total</b>		<b>(\$574.17)</b>

**COMMISSIONERS' BUSINESS**

**MANAGER'S / ATTORNEY'S BUSINESS**