

City of Lowell
Council Meeting Agenda

Tuesday, November 14, 2023, 6:00 PM
City Hall
101 W. First Street
Lowell, North Carolina 28098

**** Revised ****

1: General

- 1A. Call To Order
- 1B. Invocation / Pledge of Allegiance
- 1C. Public Comments
- 1D. Adoption of Agenda for this Meeting

2: Approval of Minutes

- 2A. Approval of Minutes 10-10-2023
- 2B. October 18, 2023 Special City Council Meeting Minutes

3: Special Presentation

- 3A. Special Presentation for Mayor Sandy Railey

4: Consent Agenda

- 4A. Stormwater Monthly Report
- 4B. Public Works Monthly Report
- 4C. Police Monthly Report
- 4D. Communications Report
- 4E. Finance Report
- 4F. Planning Report
- 4G. Geographic Information System (GIS) Report
- 4H. Parks & Recreation Report
- 4I. Monthly Report-Customer Service-Billing Manager

5: Unfinished Business

- 5A. Consideration of Contract NCDOT Project# U5719 Betterments
- 5B. Updated Interlocal Agreement - Lowell Elementary Waterline

6: New Business

- 6A. Resolution to Approve Contract and Authorize the City Manager to Sign Closing Documents for Real Property Located at 715 N. Main Street
- 6B. Reimbursement Resolution 11-2023
- 6C. Consideration to Adopt the Downtown Masterplan

- 6D. Consideration of Risk-Based Remediation Closure at 1602 N. Main Street
- 6E. Consideration of Change Order 5 for the Demolition Project at 1602 N. Main Street
- 6F. Consideration of Withers Ravenel for Part-F and LWCF Grant Administration
- 6G. Consideration of Budget Amendment #8
- 6H. Consideration of Budget Amendment #9
- 6I. Consideration of Lowell Community Committee Application
- 6J. Consideration of Lowell Planning & Zoning Board Applicant
- 6K. Resolution of the City of Lowell City Council to Retain Cranfill Sumner LLP; Milberg Coleman Bryson Phillips Grossman, LLC; and Napoli Shkolnik, PLLC as Special Counsel for PFAS Micro-Plastics Water Contamination Litigation

7: Reports / Discussions

- 7A. City Manager Report
- 7B. City Attorney Report
- 7C. Mayor and City Council General Discussion

8: Closed Session

- 8A. To Discuss Personnel Matters Pursuant to NCGS 143-318.11 (6)
- 8B. To Discuss the Acquisition of Real Property Pursuant to NCGS 143-318.11(a)(5)
- 8C. To Consider Approval of Closed Session Minutes
- 8D. Possible Action After Conclusion of Closed Session Relating to Real Property
- 8E. Possible Action After Conclusion of Closed Session Relating to Personnel Matters

9: Adjournment

- 9A. Meeting Adjournment

Date Posted: November 10, 2023



Regular City Council Meeting Memorandum

Prepared By: Scott Attaway

Approval of Minutes 10-10-2023

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	Approval of Minutes Item: A
Reference File	Presented By

Approval of Minutes for Regular City Council Meeting held on October 10, 2023

Attachments

Regular-City-Council-Meeting-10-10-2023-minutesdraft

****The Following Document is a draft of the minutes and not the official approved minutes****

Minutes for the Regular City Council Meeting

101 W. First Street, Lowell, North Carolina, 28098

October 10, 2023, 5:59 PM - October 10, 2023, 9:04 PM

Roll Call: (The following members were in attendance)

Sandy Railey, Mayor

Phil Bonham, Councilmember

JoAnna Fulbright, Councilmember

Candy Funderburk, Councilmember

Thomas Gillespie, Councilmember

Travis Smith, Mayor Pro-Tem

1. General

1A. Call To Order - 5:59 PM

Mayor Sandy Railey called the meeting to order at 6:00pm. City staff present were City Manager Scott Attaway, City Attorney John Russell, Police Chief Carl Moore, Police Assistant Chief Jeff Harrison, GIS Analyst Todd Stroupe, Stormwater Administrator Jamie Watkins, Finance Director Lisa Nolen, City Planner Joe Gates, Parks and Recreation/Events Coordinator Tori Dellinger, Planner Tyler Cobb, Public Works Director Thomas Shrewsbury, and City Clerk Cheryl Ramsey. A quorum was determined at the beginning of the meeting. The meeting was teleconferenced on YouTube for the public and the agenda and meeting materials were made public on the city's website as well as in person. Members of the public were also in attendance. Due to technical difficulties, the YouTube broadcast did not begin until approximately 6:20pm.

1B. Invocation / Pledge of Allegiance - 6:01 PM

Councilmember Gillespie gave the Invocation and led everyone in the Pledge of Allegiance.

1C. Adoption of Agenda for this Meeting - 6:03 PM

Mayor Railey asked for a motion to adopt this meeting. Councilmember Fulbright made a motion to remove the public hearing under 5B, Unfinished Business regarding the Social District because of the concerns in having it in Lowell at this time, seconded by Councilmember Funderburk. It was unanimously voted in favor. Councilmember Gillespie thanked Councilmember Fulbright for making this motion because it is a little premature and people have to have time to think about it.

Councilmember Bonham then made a motion to accept the modification that was just passed and adopt the remainder of the agenda, seconded by Mayor Pro Tem Smith. This vote was unanimously in favor. The votes were explained by City Attorney Russell for those who were not able to hear the motions.

The item was motioned To Amend by JoAnna Fulbright and seconded by Phil Bonham with a passing result 5-0-1-0 Abstained by Sandy Railey

1D. Public Comments - 6:07 PM

1. Larry Simonds of 1603 Power Dr., Lowell, NC - asked what the vote was on because people in the hallway could not hear? He asked if they [Council] got rid of the public hearing. Mr. Russell stated

that there was a motion where there will not be a public hearing regarding consideration of the social district. Mr. Simonds stated it was advertised that there will be a public hearing. Someone in the audience interjected and said she thinks they [council] are saying there will not be a public hearing because this will not be brought up now. Mr. Russell said that was correct. Mr. Simonds continued and complained about the approval by the Lowell Planning and Zoning Board on April 4th 2023, regarding how long it took them to approve 273 warehouse doors on Power Line Dr. and also Saxony. He then read the motion and the conversation from the meeting. He said Mr. Gates came to the zoning meeting and in less than five minutes they approved to put 274 warehouses between the Lowell Elementary School and the mill where there is a two-lane road. He said there was no consideration to the people, no public hearing and those warehouses should not be built today. It should have been tabled and studied and we have nothing to offer the citizens of Lowell. No doctor's office, no sidewalks and things we need but the tax rate is doubled. He said all the buildings should help the tax rate correct? What are you [council] thinking? He said we need better leadership. He then left the meeting.

2. Debbie Johnson of 407 McAdenville Rd, Lowell, NC spoke about why she is against the Social District.

3. John Cato of 109 Walnut St, Lowell, NC said he is running for City Council and wanted to know how you [Council] are going to amend the law. He said according to the Alcohol, Tobacco, and Firearms of the State of NC, you can not serve or consume alcohol within 500 yards of a church. You have three churches within the places that you are serving alcohol and how are you going to amend that? He then left the meeting.

4. Deanna Tilley of 207 N Church St said she spoke to two alcoholics where one is dying and one is recovering and they moved to Lowell to get away from the alcohol. She is against the social district. She then complained about the traffic from 85 that was rerouted through Lowell and how the city can't handle that kind of traffic. She thinks it should be local only traffic and to keep that on the highway or put back on 74. She said it is dangerous and is not right. She said no one asked them if that was ok and no one is listening. She said she got signatures from people in a four block area and the overwhelming majority said no to the Social District with two saying yes.

5. Richard Sigmund, pastor of Lowell Freewill Baptist Church. He doesn't live in Lowell but speaking as a leader in this community for his church and is dead set against the Social District. He said alcohol is a drug because it changes your ability to function, drive, make a clear decision and should be treated as such.

6. Paul Williams of 703 McAdenville Rd is against the Social district and thinks the topic should be on the ballot. He said he is not against the idea of a social district but thinks we don't have the size as other cities to handle it and the amenities those bigger cities have.

7. Alice Neal of 3006 Lowell Rd, Gastonia NC is against the Social District and is against having alcohol served at 10am. She thanked Council for tabling it. She also complained about the traffic and construction problems.

8. Nick Felton of 303 Caroline Ave, Lowell NC is a new resident to Lowell and is very proud to live here because he thinks it has a lot of potential. He offered his services to beautify the city. He thanked Council for listening to everyone.

9. Brenda Carr of 507 Robinson St, Lowell NC is against the Social District. She said this a good Christian town and can't believe this was ever brought up but she needed to speak up about it.

10. Heather Seay of 1110 Catawba Run Rd, Lowell NC and thanked Council for listening to the people and reconsidering the Social District. She too said she didn't have a big opposition to it but does not think Lowell is ready for it. She also thinks it should be on the ballot in 2025. She then clarified what Larry Simonds said earlier about the Planning Board approving a warehouse in McAdenville. She said the Lowell Planning Board does not have the authority to approve a warehouse in McAdenville. We [Planning Board] approved to allow them to spend millions of dollars to replace our sewer lines, the line that got hit by a tree and spilled thousands of gallons of raw sewage into the South Fork River a few months ago. She wanted this to be clarified for the record.

11. Bill Knox of 5105 Meadow Woods Dr., Lowell NC made a public endorsement of Norris Lamb for Mayor and that the other candidate has week after week publicly ridiculed this Council and City staff saying demeaning and disparaging comments and thinks Mr. Lamb will put dignity and respect in this town.

Mayor Railey allowed Councilmember Gillespie to say a comment. He said he is so proud of democracy at work at this meeting. He said the Gazette came to him and Councilmember Funderburk recently and even after we voted to table it [public hearing for Social District], he said after hearing the comments tonight, if we had to vote on this, he would have voted no.

12. Jeff Miller of 2333 Winterfield Dr., Gastonia NC is concerned about the Social District and the safety issues it would bring. He is glad it has been tabled and believes it should be thrown out.

13. Pattie Buffin of 3007 Lowell Rd, Gastonia NC made comments against the Social District.

2. Approval of Minutes

The item was motioned To Approve by Candy Funderburk and seconded by Travis Smith with a passing result 5-0-1-0 Abstained by Sandy Railey

2A. Approval of Minutes 9-12-2023 - 6:40 PM

With no corrections, Councilmember Funderburk made a motion to accept the minutes from September 12, 2023, seconded by Mayor Pro Tem Smith. The vote was unanimously in favor.

3. Special Presentation

3A. Proclamation 03-2023 In memory of Sam Mitchem - 6:41 PM

Mayor Sandy Railey read the Proclamation and presented the flag to his widow, Donna Mitchem. Councilmember Funderburk made remarks about Mr. Mitchem. A picture was taken with Mrs. Mitchem and she thanked Council for the honor to her husband.

Ms. Tilley interjected and wanted to say a prayer for former Councilmember Steve Ryan who is about to go into war in Israel as well as a prayer for the niece of her friend killed in Israel.

4. Consent Agenda

With no questions, Councilmember Funderburk made a motion to approve the consent agenda, seconded by Mayor Pro Tem Smith. The vote was unanimously in favor.

The item was motioned To Approve by Candy Funderburk and seconded by Travis Smith with a passing result 5-0-1-0 Abstained by Sandy Railey

4A. Stormwater Department Report - 6:47 PM

4B. Customer Service Utility Billing Report - 6:47 PM

4C. Planning Department Report - 6:47 PM

4D. Public Works Report - 6:47 PM

4E. Finance Report - 6:47 PM

4F. Geographic Information System (GIS) Report - 6:47 PM

4G. Communications Report - 6:47 PM

4H. Parks & Recreation Report - 6:47 PM

4I. Police Report - 6:47 PM

5. Unfinished Business

5A. Public Hearing - Economic Development Grant Agreement - Project Seattle - 6:48 PM

Consider approval of an Economic Development Grant Agreement, pursuant to North Carolina General Statute 158-7.1 and 160D-1001.

Councilmember Funderburk made a motion to go into public hearing, seconded by Mayor Pro Tem Smith. The vote was unanimously in favor.

Mr. Attaway said staff received an application from Project Seattle, a Fortune 500 company, who is considering a total investment of \$21 million to establish a facility in Gastonia and Lowell in our Gateway 85 Industrial Park located at Building #7. This is the building in the most northern end of the former Lineberger Rd. Project Seattle is anticipating adding 107 new jobs with an average salary of \$25.82 an hour. The company's Capital Investment and the property and operations allow it to qualify for a level 2 Economic and Development grant. This information and the resolution has been included in the agenda packet for review. He opened it up for Council questions.

Councilmember Funderburk asked if we know what Project Seattle is? Mr. Attaway said we do not. He said it is a code name and the company has not announced anything further. He gave Council a reminder in why companies do that. The NC Department of Commerce are the ones who announce companies in tandem with the company. If the name of the company gets out before Commerce has announced it, Commerce will pull back all of their incentives and not offer the State level grants. So we, Lowell and Gastonia, are not getting this information yet.

Councilmember Bonham asked if he had a general idea of the percentage that will be in Lowell? Mr. Attaway asked Mr. Gates, Planning Director, to answer as he has worked more closely on this.

Councilmember Bonham said Building #7 is 700,000 sq. ft. and it's his understanding they are taking

half. Half of a sliver of that is in Lowell correct? So it's a sliver of 350k not a sliver of 700k correct? Mr. Gates said yes it is just the southwest corner of the building and the parking lots, probably 50,000 sq. ft. or less if he had to guess. Mr. Attaway said the way the jurisdiction will align, there will definitely be more of a parking lot in Lowell than the building itself. The appraised value will be minimal. Councilmember Funderburk asked how much they will be given per year in incentives? Mr. Attaway said the the City of Lowell grant amount they would receive is listed in years 1-5 at \$83,790, then \$73,696, then \$65,170, then \$46,864 and year five at \$35,260 (down each year from year one to five). He said the taxes to the City of Lowell totals \$125,120 for the five years.

Councilmember Bonham asked prior to this development, what would you estimate the tax income from all property up to the (inaudible) zone? Mr. Attaway said the whole former Lineberger tract property was in the neighborhood of a few thousand or several hundred that was paid because he thinks there was an agricultural exemption on the property. Councilmember Gillespie asked how many jobs will this plan create? Mr. Attaway repeated 107 jobs at \$25.82 an hour. Councilmember Gillespie said he doesn't have a problem granting incentives. He continued stating that Sonic and Newell, and the economic development say they will have so many jobs [available] and his only concern in giving grants, is that we make sure people, acknowledging that he knows that Mr. Attaway can't control this, but that the people of Lowell get an opportunity to work as well. His thing is that when he votes to give an incentive, his goal is for the people of Lowell to also get jobs to provide for their families. Councilmember Bonham agreed and added that the issue with Sonic, and they reached out to us [Council], is that we were in conjunction with the State and the County for all the incentives that were offered to Sonic who never met the criteria so they never received any credit, rebate, or any types of money thereof. They understood the taxes of their property and paid it every single year. The misconception of the community is we're just funneling money back for cashbacks and that's not true. He added, the way this works is what's good for one is good for the other, you do this for us and we credit back for reimbursement, if you meet the criteria. Sonic has never done that, has paid 100% of their taxes, and has not received any reimbursements because they did not meet the criteria. So for Newell, they filed and proved they met the criteria, so they will get the credit. It's all about economic development. So to your [Councilmember Gillespie] point, and Sonics he assumed, we got their application too and they never developed it, so our people that applied, did not get employment here because they didn't employ anyone. Covid hit and now we are just taking a check for their taxes. These guys over here [Project Seattle], encourage you to reach out to the citizens of Lowell that want to be employed and he would hope they reach out to Lowell first. Mr. Attaway added the Mayor mentioned Newell in her closing remarks at the last council meeting reading out the website for employment, and that is something that we [staff] will look to in building a rapport with whatever this new place will be. We do not have an Economic Development department in the city, but the Planning Department will still reach out and communicate with them that we will help by putting advertisements on bulletin boards and any other way to get the word out to the community. Councilmember Funderburk added that Sonic was supposed to bring 500 jobs and never did. She said they even applied to bring the incentive back and the city said no. Mr. Attaway said that's correct. He said there was discussion recently about them not being able to qualify for the initial level and then coming for a level one or two but that never came to Council. As you know

there are not a lot of employees there and believes they went to a remote work plan but he does not know what the final plans are for this property.

Councilmember Bonham wanted everyone to understand that this is not a giveaway. This is you [company] gained this advantage if you give us something in return. If not, you do not get the credit. That simple. Councilmember Funderburk asked if we were to vote no on this, would they still build it anyway? Mr. Attaway said he did not know. He said if the building is built, then they are just looking for tenants. Mr. Russell asked Mr. Attaway to clarify the incentive of putting in equipment, fixtures, etc. Mr. Attaway said we have already done an economic development for the entire development within Lowell. This is for the tenant specifically. Mr. Russell added that this is the investment criteria they have to meet for things they have to get installed inside the building, they are not getting credit for the building itself.

Paul Williams of 703 McAdenville Rd, Lowell NC asked what building is #7? Councilmember Bonham said it is 700,000 sq. ft. closest to the railroad. With no other questions from the public, Councilmember Bonham made a motion to close the public hearing, seconded by Councilmember Funderburk. The vote was unanimously in favor. Councilmember Bonham then made a motion to approve Resolution 08-2023, seconded by Councilmember Gillespie. The vote was unanimously in favor.

The item was motioned To Approve by Candy Funderburk and seconded by Travis Smith with a passing result 5-0-1-0 Abstained by Sandy Railey
To go into the Public Hearing

The item was motioned To Approve by Phil Bonham and seconded by Candy Funderburk with a passing result 5-0-1-0 Abstained by Sandy Railey
To come out of the Public Hearing

The item was motioned To Approve by Phil Bonham and seconded by Thomas Gillespie with a passing result 5-0-0-0

5B. Public Hearing - Social District -

Amending Chapters 97 and 130 of the Lowell Code of Ordinances.

This item was removed during the approval of the Adoption of the Agenda for this Meeting.

6. New Business

6A. Discussion and Consideration of Change Order 001 and 002 for the Demolition Project at 1602 N. Main Street - 7:05 PM

Presented by Scott Attaway. He stated we received change order 001 and 002 and he will briefly discuss both. The first change order is regarding a canopy on loading dock #3A on N. Main and Lowell Spencer Mtn Rd. We had our structural engineer, who is the construction manager for this project with LaBella, analyze the canopy. We were set to keep that canopy for an events stage on the redevelopment plans for this site that our architects identified in the conceptual master plan. It was determined that the loading dock was tied into the warehouse portion and recommended by the engineer that it can not carry the sufficient load once the other piece of wall comes down. They recommended taking it down and rebuilding a new canopy and look at it in the redevelopment plans when we get to that point. He said he brought the architect out to the site today and they agreed with the structural engineer. The engineer believed there could be a better solution and we were given a \$4500 design estimate from the engineer to figure out how to design what is there. He said that is in the plans to figure out the costs to construct the bracing, etc. It is staff's recommendation to remove the canopy and that charge is zero cost to the city.

Mr. Attaway continued and discussed the second change order. He said there are several items here (see Agenda packet for further details).

- Structure #1 - there is a clarifier in the NE corner of building #7, which used to be a sopheric acid tank and containment
- Structure #2 - there are two concrete containments walls at the front of building #5 that was not included in the bid document.
- Structure #3 - there is various pipe racking that runs throughout the SE side of the site.
- Structure #4 - tank containment east of building #30 and associated equipment and several separated out to pipe racking in structures #5,#6,& #7.
- Structure #8 - two concrete container basins.
- Structure #9 - there is various debris scattered throughout the site and this would include removing that all the way to the fence line at Poston Park.
- Structure #10 - and 11- Appearing in this property was undocumented soils in two different buildings in building #12 and building #4. These were tested and came back negative so it is good to dispose of. We asked DEQ if we could just use it on the site but since that is not where our approval came from we'd have to go through a pretty lengthy preapproval process to use any material on site.
- Structure #12 - building #4 is the building we are keeping. This is to remove all the interior equipment including conduit, fans mounted on the wall, catwalks, and a small elevator used to move items up to the mixers. This is the building the architects mentioned in our artifact inventory to keep the large mixers where they are. So this means everything in the building is to be removed, keeping the two large mixing containers to be cleaned up as part of the artifact wall.
- Structure #13 - two tanks along the north wall of building #10.
- Structure #14 - the former substation, DEQ is asking that we keep the fencing around it and they will assist us with soil remediation
- Structure #15 - their was a frack tank next to building #29

For all of these structures to be included in the change order, we have been given a discounted price of \$68,700. This amount would increase if you pick the items you want done for individual buildings. This amount is still well below the next low bid when we selected TriFecta for the demolition. He said it was \$959,000 as a total bid from TriFecta and adding in the \$68,700 is still below the next bidder who started at \$1,325,000. He explained to the audience that the City of Lowell received \$2 million in direct funding from the State of North Carolina from our local delegation to bring down this site. It is not tax dollars. This will cover the change order and there will be more change orders. He said he went out there today and they took the slab out of the old pump house at the back of the property and found a 9ft pit with water in it. This will need to be tested and then filled in, then a grade will be put over it. LaBella is working with City staff and DEQ to make sure that gets done. He said they have tested every single slab of all these areas or 30 structures and only two remain as of today. All of the TCLP (Toxicity Characteristic Leaching Procedure) samples of the concrete slabs came back

negative on this site. He congratulated council for all the years they have looked at this project thoroughly because things appear to be paying off. Staff is recommending the discounted amount of \$68700 be approved.

Councilmember Bonham asked what else is out there? Mr. Attaway said they are still pulling up slabs now and as they pull them up, DEQ's Environmental Consultant is using North Carolina's purse of funds to test the soils underneath the slab for any soil remediation needed. Then we will ask the State, out of the bankruptcy funds from this former company to use the bankruptcy funds to remediate the soils. Everything is being thoroughly tested.

With no other questions, Councilmember Gillespie made a motion that we go ahead with the consideration that the City Manager gave us and do these changes because we are there and can't go back and we still have money to do this. The motion was seconded by Councilmember Fulbright. The vote was unanimously in favor.

The item was motioned To Approve by Thomas Gillespie and seconded by JoAnna Fulbright with a passing result 5-0-1-0 Abstained by Sandy Railey

6B. Amendment to Lowell Code of Ordinances - Brunch Bill - 7:17 PM

Proposal of a new section to Chapter 130 General Offenses to regulate the sale of Alcoholic Beverages on Sundays.

Presented by Scott Attaway. He gave a brief background stating that the Ratified Senate Bill 155 by then Governor on June 30, 2017 and became effective on that date allowing cities to adopt an ordinance permitting the sale of alcoholic beverages starting at 10 am on Sundays instead of the 12pm former start time. City staff received a petition from eight local businesses asking that Council consider adoption of the Brunch Bill.

Councilmember Funderburk made a motion that we table this for a public hearing on Tuesday, November 14, 2023, seconded by Councilmember Gillespie. The vote was rejected with Councilmembers Gillespie and Funderburk voting yay and Mayor Pro Tem Smith and Councilmembers Fulbright and Bonham voting no.

There was then a discussion regarding the bill. Mayor Pro Tem Smith said his issue with tabling it is there are eight businesses in Lowell that are losing sales for people not necessarily staying in Lowell. They could be travelling through, going to a game and buying alcohol to take with them. If those sales are not in Lowell, they will go to Cramerton, Belmont, and everywhere around us to get it. It helps the city, it helps the businesses because people don't just go in and buy alcohol, they buy other things. He understands the social district that nobody wants it and completely agrees if that's what you don't want but does not agree with hurting our business owners. He said it's a two hour difference.

Councilmember Funderburk said she was approached by six different churches, Freewill Baptist, Church of God, First Baptist, Presbyterian Church, Woodlawn Baptist and the Methodist Church, and they would like for council to vote no and that is why she brought it to council. Councilmember Gillespie said to the Mayor that we did this many years ago and wasn't sure if she was Mayor then. Councilmember Funderburk said 2017. Councilmember Gillespie continued and said it [the Brunch Bill] didn't pass then and this is a rehash of what we've been through that want to do this at 10 o'clock instead of 12. He said two hours, as Mayor Pro Temp Smith said, doesn't make a difference, but to some it does. Lowell is very conservative, very religious town and people can do what they

want to do but he thinks that 12 o'clock is not going to hurt anyone. If they have to go to Cramerton, Gastonia, even Charlotte, that's up to them but just because someone else is doing something, doesn't mean Lowell has to. Again, he is really proud of those that can come tonight, even if they have left the meeting, that they are just not going to stand for and don't appreciate a lot of things that deal with alcohol. We said no in 2017 and he still says no.

Councilmember Fulbright says she concurs that the business's deserve that and they've been asking for years for this and they keep getting denied. She said Mayor Pro Tem Smith is right. She has friends who tell her they will get up and go to Gastonia, a thousand feet outside of city limits, and buy alcohol and bring it right back into the city [Lowell]. People are going to drink if that's what they are going to do whether it's 10 o'clock or 12 o'clock but as far as our businesses go, they want to serve mimosa's for breakfast. If someone wants to stop by a business and buy a bottle of wine on their way home from church to serve with dinner, they can't do that until after 12. So she thinks, to be fair to businesses, we tabled the Social District to maybe never, but let's not take a few extra dollars away from our businesses.

With no other discussion, Councilmember Bonham made a motion to approve Ordinance #10-2023, seconded by Councilmember Fulbright. The vote was accepted with Mayor Pro Tem Smith, Councilmembers Fulbright and Bonham voting yes and Councilmembers Funderburk and Gillespie voting no.

The item was motioned To Set by Candy Funderburk and seconded by Thomas Gillespie with a failed result 2-3-1-0 Opposed by Travis Smith, JoAnna Fulbright, Phil Bonham Abstained by Sandy Railey
To table the vote for the Brunch Bill and set a public hearing for November 14, 2023.

The item was motioned To Approve by Phil Bonham and seconded by JoAnna Fulbright with a failed result 3-2-1-0 Opposed by Candy Funderburk, Thomas Gillespie Abstained by Sandy Railey
To approve Ordinance #10-2023

6C. Discussion of Amendment to Traffic Calming Policy - 7:31 PM

Presented by Scott Attaway. He gave a brief background stating that the City of Lowell has a traffic calming policy established in roughly 2016, 2017, with the former City Manager and some of this current council. What we have found since he began in 2019 is that he has never seen a situation where that policy has actually triggered a traffic calming measure, like a speed bump, road hump, etc. The last speed bump was installed in around 2014 and Mr. Shrewsbury confirmed this. He continued and said when we do get calls about speeding in certain neighborhoods, residential areas, or any area for that matter, City Police go out with a mobile radar sign and collect data. That data, time and time again, has not moved it to the caliber of needing a traffic calming measure. He asked Asst. Chief Harrison to explain more about the policy and a possible revision of the policy.

Asst. Chief Harrison informed Council of the attachments in the agenda packet and the suggestions he is considering for the policy. He then went over the areas that are highlighted, indicating they are recommended to be added to the policy. He mentioned the biggest problem with the policy is the Class A and Class B categories that the analysis would fall into using the average speed. Since the Police started conducting this, he has found that the average speed is very very low. One of the study's he did in a 25 mph speed zone, the average speed was 14 mph and in another one, the average speed was 21 mph. There was a complaint that cars were speeding in these areas but it was not triggering any real action according to the policy. He started to look at what would be a better

measurement and the standard the Department of Transportation (DOT) uses nationwide is the 85th percentile (the speed in which 85% of the cars are traveling). The traffic analysis program used by Lowell Police to download information and put into graphs for better ease has the 85th percentile setting on it. The street where the average was 14 mph, the 85th percentile was 24mph, which gets us closer to a realistic picture of how fast most of the cars are travelling. Therefore, we changed the Class A and Class B from average speed to the 85th percentile. Also under Class A, it was 0 to 9 mph and will change to 1 to 9 mph. Those were the bigger changes and other changes were minor and primarily changes in language used. He stated that he used the traffic calming policies of Lowell, Dallas, Belmont, and Kings Mountain for references that would be suitable for Lowell. Mr. Attaway added that this is only applicable to city streets as we can't do anything to NCDOT state roads. Councilmember Bonham made a suggestion that any time we do anything that relates to roads, with Police and Public Works for example, that a map could go out that highlights the roads that are not Lowell's so people will understand we are doing the best we can with what is ours and not ours. Mr. Attaway said we have a Powell Bill map where we get a portion of the gas tax back from the state every year, approximately \$90,000-100,000 a year to help repave our approximately 13+ miles of city streets. He will ask Joe Gates to get a map out so that the citizens can see what Lowell is responsible for and what it is not.

A gentleman asked if this was up for discussion. Mayor Railey said no sir. The gentleman continued talking anyway asking what the criteria for 300 vehicles before you can get speed bumps. He said if you only have 250 [vehicles] and they are doing 60 in a 25, does it qualify [for speed bumps]? Mayor Railey allowed Asst. Chief Harrison to answer. He stated that most of the city's around us are 500 vehicles and he chose 300 because we are a smaller city. He didn't have the figure in front of him but Lowell had well over 300 on all of the streets studied so far. The gentleman asked if that was a day or 24 hour period. Asst. Chief Harrison said that was average of the 10 days studied. The gentleman said "so anyone less than 200-300 wouldn't qualify even if they are doing 60 in a 25?" Asst. Chief Harrison said the smallest area that we referenced was well over 300 cars.

The item was motioned To Approve by Travis Smith and seconded by Phil Bonham with a passing result 5-0-1-0
Abstained by Sandy Railey

6D. Budget Amendment #5 - 7:40 PM

Presented by Lisa Nolen, Finance Director. She stated there were accrued interest in the amount of \$1,239.37 observed after moving the ARPA funds and closing the bank account. This amendment will move these remaining ARPA funds to the General Fund.

The item was motioned To Approve by Travis Smith and seconded by Thomas Gillespie with a passing result 5-0-1-0
Abstained by Sandy Railey

6E. Budget Amendment #6 - 7:41 PM

Lisa Nolen presented. She said this budget amendment is to move the ARPA interest to the Community Investment Fund (CIF).

The item was motioned To Approve by Candy Funderburk and seconded by Phil Bonham with a passing result 5-0-1-0
Abstained by Sandy Railey

6F. Resolution #07-2023 - 7:41 PM

Mr. Attaway said this is a resolution to formerly adopt the CIF in the city's financial system as mentioned last month and in the budget retreats. It's an account to use for capital purchases above the \$75,000 amount. This was set place by the council to have funds available for critical infrastructure as it relates to city facilities, like water and sewer infrastructure, smaller city road projects and Parks and Recreation items as well.

The item was motioned To Approve by Travis Smith and seconded by Phil Bonham with a passing result 5-0-1-0
Abstained by Sandy Railey

6G. Budget Amendment #7 - 7:43 PM

Presented by Lisa Nolen. She said since we approved the resolution to formerly adopt the CIF, this is an amendment to move all the CIF funds, that was originally moved within the General Fund, into it's own fund or fund #41.

The item was motioned To Approve by Phil Bonham and seconded by Thomas Gillespie with a passing result 5-0-1-0
Abstained by Sandy Railey

6H. Consideration of Approval of City of Lowell Task Order with Withers Ravenel/ DWI Project No.: SRP-W-ARP-0301 / American Rescue Plan Act (ARPA) / Pre-Construction Planning Grant (PCPG) - 7:44 PM

Presented by Scott Attaway. This is in relation to our DWI project. This is a grant the city applied for our Wastewater treatment plan to be studied and a possible merge regionalization with Two Rivers utility provider. The \$400,000 grant we received, located in the packet, will show the application and the engineer that prepared the grant, LaBella. They had a total project cost of \$669,850 and the resolution approving that is also included. Staff is recommending this Pre-Construction Planning grant be awarded to WithersRavenel in the amount of \$588,000. That leaves a balance of \$188000, which would be paid from a combination of funding sources, including system development fees from oncoming developments going on in Lowell, water and sewer fund balance and the direct funds that we receive from the state of North Carolina in the most recently approved state budget of \$8.25 million dollars. Representatives, Ken Orie and Amanda Whitaker from WithersRavenel were in the audience and allowed to speak. Mr. Orie discussed the project of working with Lowell's regional partners to lower the burden on the rate payers in the future. It involves the typical planning, design, surveying as well as construction observation. There is also a section to ensure the city is in compliance throughout the term with the State.

The item was motioned To Approve by Candy Funderburk and seconded by Travis Smith with a passing result 5-0-1-0
Abstained by Sandy Railey

6I. Centralina Regional Council Statement of Work Amendment for approval - 7:48 PM

Presented by Scott Attaway. He stated our contract with Centralina to oversee the exterior construction of the Community Center and the second set of homes from the CDBG Neighborhood Revitalization grant expired at the end of September and we now have to do another Statement of Work Amendment with Centralina. The updated version is on your desks (attached) because the one in the packet was incorrect with a home included that dropped out and another that didn't qualify. The additional fees for this is \$7000 to be paid out of the CDBG-NR grant funds. Ms. Ramsey added that Centralina corrected the amount by lowering it approximately \$2000 for the two houses that should not have been included.

The item was motioned To Approve by Candy Funderburk and seconded by Travis Smith with a passing result 5-0-1-0
Abstained by Sandy Railey

7. Reports / Discussions

7A. City Manager Report - 7:51 PM

Presented by Scott Attaway.

1. Good news! We received, and sent to the public on last Friday [Oct 6, 2023], that the city was awarded another \$500,000 grant from the Land and Water Conservation fund for Harold Rankin Park renovation project. We are waiting on the contract for the Part F funds of another \$500,000 grant awarded to the city for a total of \$1 million awarded for this first phase of Harold Rankin Park, which is fantastic! It is on social media but for those who may not have seen it, this is for a new restroom facility, expansion of the playground, and the lower ball field will be more rectangle. The second phase will encompass the primary ball field on the redevelopment plan. Other small things will be included like the pickle ball courts at the existing basketball court, adding a half court basketball area, a trail in the woods, and bocce [pronounced baa-chee] ball.

2. We did receive direct funding from the State of North Carolina's budget in two parts. One for \$8.25 million for water and sewer rehabilitation, construction and expansion projects. These are direct funds which is essentially like a grant and we do not pay this back as long as they are administered correctly. The second part was discretionary funds for the downtown parking improvements and community center interior remodeling of \$150,000 also from the State of North Carolina's approved budget.

3. We received, for the DWI project, \$7.9 million for water and sewer upgrades. A little over \$2 million of that is a grant where \$500,000 is the principal forgiveness, leaving us with about \$5.3 million amount for the construction project WithersRavenel just talked about. That remaining \$5.3 million is at a .74% interest rate and that is a phenomenal rating program that is offered by DEQ and DWI.

4. Thanks to all the staff and the legwork done to get all these grants. He also said the Fall Festival was the best he's ever seen it. He said we'll take any and all concerns provided seriously and try to account for everything we can. Shout out to all the city employees and staff volunteering. They have really been working hard.

7B. City Attorney Report - 7:56 PM

Nothing to report.

7C. Mayor and City Council General Discussion - 7:56 PM

Councilmember Gillespie thanked Mr. Attaway and his staff. He said 'this man has done a magnificent job'. In three years and seven days, Mr. Attaway has done things that others failed to do in years. He has been on this council for a long time and Mr. Attaway has brought a Thread Trail from South Carolina to Spencer Mountain, not yet but coming, for the people to exercise and walk and just do great things. This is all because he has a good staff and a good vision to see these things. He's gotten more grants than anybody he's known as a City Manager. He has worked on a Public Works facility and getting the dump trucks to the outer part of Lowell which includes an annexation of hopefully 400-500 houses. Mr. Attaway has done some things nobody has ever done. A riverfront park in the works with kayaking and an amphitheater. He heard someone say 'oh that's just what

Lowell needs, another park'. Yes we do need another park because we do. He is trying to get a new police station and City Hall too. He is working hard! Last but not least, this was the biggest and best Fall Festival with a wonderful band we ever had. He wanted to say hats off to him, his staff, and this council. If you listen to this YouTube you can see a lot of good things have been mentioned that are done right and we are going to keep on in the future.

Mayor Pro Tem Smith wanted to echo what Gillespie said with a lot of good things going on and a lot more to come. He thanked the audience for coming. He reminded people about the River Sweep also this past Saturday morning [Oct 7, 2023]. Last year we had seven people show up and this year there were 35. It was a good weekend in Lowell!

Councilmember Funderburk thanked the citizens for coming out and this is the most we've had, which is usually for the budget or something controversial. She invites people to come when it's just regular stuff too, like the sewer system. This and stormwater stuff are things we have to talk about and people don't understand what really goes on running a city. Scott and his staff have done an excellent job with grants and it takes more than one person to do that and it takes time. We've been working on the revitalization of the Birch St area for years and the grant people take the money away because we can't do this or that and then the city gets the blame for everything. Sometimes it is not the city's fault and she wished people would realize that and do more research instead of blaming those here. Sometimes we make mistakes as we are human too. She thinks the city is doing good and went walking on the trail the other day for two miles and learned how to play bocce ball with the seniors and had a great time. Hope a lot more activities will come for our citizens soon, so just hang on!

A lady from the audience spoke about her upbringing here in Lowell [mostly inaudible as she was speaking very low and had on a mask].

Councilmember Bonham reminded everyone including council that we are a Mayor-Council form of government and there is a lane that council lives in with the things we do and do not do. Knowing where we live is very important as it keeps the city safe, legally, and from disruptions. It is not up to us to approach, even as customers, any city employee in any capacity outside of the City Manager. If I had a concern, I'd take it straight to the City Manager and not the department it is referred to. I do not take my personal opinions about a specific department to that department employee, whether I think their job is warranted or not, it is not for discussion. I don't set employees up via third party phone calls or anything else. We have a job to do here and we don't have to all agree but we have to live in a certain manner that is respectful and courteous and upholds and takes into consideration everything we put forth and that is to be transparent, to be inclusive. Anything other than that, undermines the mission of this council.

Councilmember Fulbright echoed the thoughts of thanking you all for being here to voice your opinions tonight. She said although we don't always agree and you might not agree with the decisions made here, we are balancing to make the city run and a profit for everyone. She applauded all of the audience for their morals and their faith. We [Council] too have Christian beliefs and faith but we also have to keep the city running and be fair to our businesses. She said if her mother were alive today, they'd be face to face arguing this point but we're in a position that we

have to make tough decisions sometimes. Thank you for being here and allowing us to hear your voices.

Mayor Railey thanked everyone for coming and that each one of them are appreciated. She invited them to please come again.

At 8:07 pm, Councilmember Bonham then made a motion for a 10 minute recess before the closed session, seconded by Mayor Pro Tem Smith. The vote was unanimously in favor.

The item was motioned To Break by Phil Bonham and seconded by Candy Funderburk with a passing result 5-0-1-0
Abstained by Sandy Railey
To have a 10 minute break before Closed Session.

8. Closed Session

8A. To Discuss the Acquisition of Real Property Pursuant to NCGS 143-318.11(a)(5) - 8:16 PM

Councilmember Funderburk made a motion to go into Closed Session to discuss the acquisition of real property pursuant to NCGS 143-318-11(a)(5) at 8:18pm, seconded by Mayor Pro Tem Smith. The vote was unanimously in favor.

Councilmember Bonham made a motion to come out of Closed Session, seconded by Councilmember Funderburk. The vote was unanimously in favor.

The item was motioned Convene into Closed Session by Candy Funderburk and seconded by Travis Smith with a passing result 5-0-1-0
Abstained by Sandy Railey

The item was motioned ReConvene into Regular Session by Phil Bonham and seconded by Candy Funderburk with a passing result 5-0-1-0
Abstained by Sandy Railey

9. Adjournment

9A. Meeting Adjournment - 9:03 PM

Councilmember Fulbright made a motion to adjourn, seconded by Councilmember Bonham. The vote was unanimously in favor. The meeting adjourned at 9:04 pm.

The item was motioned To Approve by JoAnna Fulbright and seconded by Phil Bonham with a passing result 5-0-1-0
Abstained by Sandy Railey



Regular City Council Meeting Memorandum

Prepared By: Scott Attaway

October 18, 2023 Special City Council Meeting Minutes

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	Approval of Minutes Item: B
Reference File	Presented By

To:
From:
Date:
Re:

placeholder for info here...

Attachments

October 18, 2023 Special City Council Meeting Minutes DRAFT and Resolution #09-2023.pdf

MINUTES

Lowell City Council
Special Meeting

Wednesday, October 18, 2023, 4:30 P.M.

I. CALL TO ORDER – Mayor Sandy Railey

Mayor Railey called the meeting to order at 4:30 p.m. Those attending in-person were Mayor Pro Tem Smith Councilmembers Phil Bonham, Candy Funderburk, Thomas Gillespie, and JoAnna Fulbright. City staff present were City Manager Scott Attaway, City Attorney Stephanie Chamberlin (from John Russell’s office), Police Chief Carl Moore, Police Captain Jeff Harrison, and City Clerk Cheryl Ramsey. John Russell came in at the end of the meeting. A quorum was determined at the beginning of the meeting. Members of the public were also present.

II. ADOPTION OF AGENDA FOR THIS MEETING

Mayor Pro Temp Smith made a motion to approve the adoption of the agenda, seconded by Councilmember Gillespie. The vote was unanimously in favor.

III. PUBLIC COMMENTS

There were none.

IV. APPROVAL OF MINUTES

A. Minutes from Council Meeting Held December 13, 2022

Councilmember Funderburk made a motion to approve the minutes from the November 8, 2022 Council meeting, seconded by Councilmember Gillespie. The vote was unanimously in favor.

VI. UNFINISHED BUSINESS

A. Resolution to approve contract and authorize the City Manager to sign closing documents for real property located at the 200 block of N. Main Street, Address TBD. Mr. Attaway presented. He stated that the address is TBD is all we have right now. We have the recombination plat, and the Planning Director [Joe Gates] has three signatures to get from the seller, one from the Planning Director [Mr. Gates], and one from the Gaston County Planning Department. It will then be recorded at the Gaston County Courthouse. This is when we will get the actual address and the parcel ID.

He stated Mr. Russell is running late and that Stephanie Chamberlin, Closing Attorney, came to represent his law office.

He stated that Council has Resolution #09-2023 before them to approve the final contract for the purchase of this real property and allowing him as City Manager to document the settlement itself and all relevant documents related to this property. For the benefit of the record and audience, the intent of this purchase is for the new City Hall/Police Department complex. He then opened the floor for any questions. Councilmember Funderburk asked about the amount to be paid. Mr. Attaway stated that the total is \$285,891.50 which includes the amount of the lot, the closing costs and realtor fees. Councilmember Bonham asked about the appraised value? Mr. Attaway said a little over \$400,000. Mr. Attaway reminded Council that this will be funded by ARPA funds.

With no other questions, Councilmember Bonham made a motion to approve Resolution #09-2023, seconded by Councilmember Gillespie. The vote was unanimously approved. Mayor Railey read the resolution.

Councilmember Gillespie made a statement about the works of this council and City Manager to make this happen. Mr. Attaway said the closing is this Friday and he will let them know when everything is done. He said the project should be completed in FY27-28. Councilmember Funderburk asked if a big sign will be put out there? He said yes and the plans for the building as well.

Mr. Attaway then briefed the council on the progress of the work at the old chemical plant.

V. ADJOURN

With no other discussion, Councilmember Bonham made a motion to adjourn the meeting, seconded by Councilmember Bonham. The vote was unanimously in favor. The meeting adjourned at 4:43pm.

ATTEST:

Mayor Sandy Railey

Cheryl Ramsey, City Clerk



RESOLUTION APPROVING FINAL CONTRACT FOR PURCHASE OF REAL PROPERTY AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE HUD DOCUMENT / SETTLEMENT STATEMENT AND ALL RELEVANT CLOSING DOCUMENTS RELATING TO THE PARCEL AT THE 200 BLOCK OF N. MAIN STREET, LOWELL, NC

RESOLUTION #09-2023

WHEREAS, the City of Lowell seeks to purchase and sign all relevant closing documents for the property at the 200 block of N. Main Street, Lowell NC, and;

WHEREAS, the City of Lowell is in need of a new combined City Hall and Police Station and after an architectural study, believes this is a prime spot to relocate the new building for the citizens of Lowell, and;

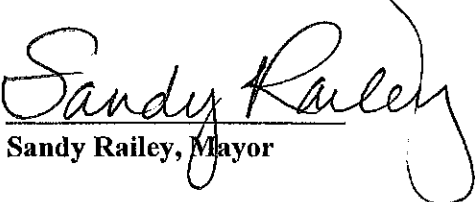
WHEREAS, the City Council has authorized and directed the City Manager and the City's real estate consultant to negotiate a contract for the purchase of a parcel of real property at the 200 block of N. Main Street for a maximum of \$275,000 and all reasonably related closing costs, and;

WHEREAS, the City has reviewed the Contract executed at its direction and the survey plat for said parcel and hereby desires to approve the same and direct and authorize the City Manager and/or City Clerk to sign the HUD document and/or settlement statement, and all other relevant closing documents, so that the purchase can proceed to closing.


NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council, upon recommendation of the City Manager, do hereby approve the execution of the contract to purchase property, and;

BE IT FURTHER RESOLVED that the City Manager and City Clerk are hereby authorized to execute the HUD documents, settlement statement, and all other relevant documents necessary to effectuate the transaction on behalf of the City of Lowell

Adopted this ____18th day of October 2023.


Sandy Railey, Mayor

ATTEST:


Cheryl Ramsey, City Clerk



**PROCLAMATION DECLARING NOVEMBER 15, 2023 AS
SANDY RAILEY DAY
IN LOWELL, NORTH CAROLINA
PR 08-2023**

WHEREAS, Sandy Railey will leave service to the City of Lowell on December 12, 2023 after eight years as Mayor and;

WHEREAS, Sandy was born in Surry County on February, 17 1957, and grew up in a household with two sisters. During her youth she worked picking tobacco in the fields of Surry County and playing country music with her sisters, Pam and Gina Hiatt, her father, Melvin Radford Hiatt, and mother Sue Hiatt.

WHEREAS, after moving to Lowell in 1975, Sandy continued careers in the hospitality industry, fire safety and equipment industry, owned and operated Elk Creek Candle in Downtown Lowell, and retired as the Financial Secretary from Unity Baptist Church in 2023;

WHEREAS, Sandy served six years on the City of Lowell Planning Board with one year as Chairperson as well as multiple years on the Master Planning Committee to help implement growth and positive change to the city;

WHEREAS, in 2015 Sandy ran for and became the Mayor of Lowell and served three consecutive terms and;

WHEREAS, as Mayor, Sandy was active with the Centralina Council of Governments, the Montcross Chamber of Commerce, the Downtown Merchants Association, and the Lowell Womens Club and;

WHEREAS, Sandy was a diligent promoter of the City as an area with great opportunity for a promising future, and she was a strong champion for economic development opportunities and;

WHEREAS, Sandy's mayoral tenure saw the creation of the Gateway 85 Industrial Park, the demolition of the former Crompton and Knowles Dye Plant, Purchasing of the



former Salvation Army Boys and Girls Club for the first city-owned indoor recreation Facility, and secured a long-term lease agreement between the City and McCord Family Park, the opening of notable businesses including Washington Alloy, Fryeday Coffee Roasters, Courage Kia, Tindol Subaru, Newell Brands, Groovy Beast Restaurant, Miami Fusion, and others and;

WHEREAS, Sandy's career has been long and fruitful, and her leadership honorable. Her work for the people of the City of Lowell personifies the spirit of public service and is worthy of recognition.

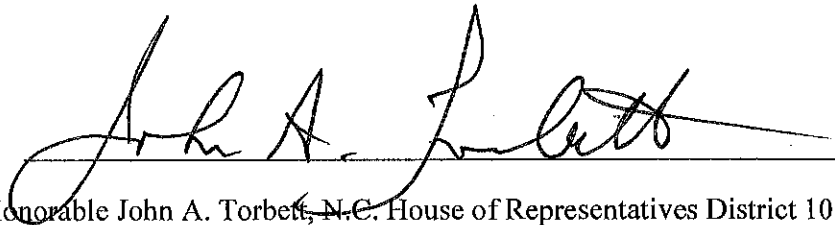
NOW, THEREFORE, BE IT RESOLVED, that I, John A. Torbett, member of the North Carolina House of Representatives District 108, on behalf of the City Council of the City of Lowell, past and present, do hereby proclaim November 15, 2023 as

Sandy Railey Day

in the City of Lowell and commend its observance to all residents.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that a copy of this proclamation, suitably engrossed, be given to Sandy Railey, former Mayor of the City of Lowell.

PROCLAIMED THIS 14th day of November, 2023



The Honorable John A. Torbett, N.C. House of Representatives District 108



Regular City Council Meeting Memorandum

Prepared By: Jamie Watkins

Stormwater Monthly Report

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	Consent Agenda Item: A
Reference File	Presented By

To: Scott Attaway, City Manager
From: Jamie Watkins, Stormwater Administrator
Date: November 1, 2023
Re: Monthly Department Update

- Presented Citizen Science Initiative to Stormwater Commission. The official name of the initiative was voted on and "We Are The South Fork" was chosen in accordance with LCC's recommendation.
- Created Facebook posts addressing litter, leaf vac schedule, Riversweep success, and upcoming Litter Sweep event.
- Presided over a record turn out for Riversweep.
- Riversweep by the numbers:
 - 35 volunteers
 - 41 bags of garbage
 - 1 tire
 - 6 large metal objects
 - 2 cooking pots
 - 1 hatchet
 - 1 plastic lawn chair
- Created an original coloring book that connects water quality issues to spiders, thus tying into Halloween.
- Treat Walk: Gave out "How Spiders Help us Study Water Quality" coloring books and goodie bags to 287 Trick-Or-Treaters. Assuming a ratio of one adult for every two children, a total of 430 people attended.
- An additional 385 out "How Spiders Help us Study Water Quality" coloring books and crayon packs were taken to Lowell Elementary School to be given out on Halloween to every student enrolled.
- Attended three meetings with the Catawba Riverkeeper, monthly staff meeting, and did two site visits/inspections.
- Ensured Town Hall's AED was hung in a visible and easily accessible location. Swapped out expired pads and added razors, spare battery, etc. to ensure all items needed to perform adequate BLS resuscitation were available and easily accessible.
- Began investigation of a stormwater complaint on S. Church Street.



Public Works Monthly Report

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	Consent Agenda Item: C
Reference File	Presented By

To: Scott Attaway, City Manager
From: Thomas Shrewsbury, Public Works Director
Date: Nov 1, 2023
Re: Monthly Report

- Street Department employees continued working on curb and sidewalk maintenance. They have been clearing growth from curbs and sidewalks. Their spraying weed killer to help with future maintenance of these areas.
- City crews made repairs of several clean out caps and broken sewer lines identified in the collection system. These repairs help to prevent inflow and infiltration of storm water.
- Water Department crews began a lead and copper inventory within the distribution system. Crews will be working diligently until the inventory is complete. This will take several months.
- Water Department staff repaired the following leaks:
 - ¾ in line break on walnut St.
 - 2 in main break on Ford Dr.
 - 2 in water line break on Walnut Street
 - 2 in main break on Walker Dr.
 - 1 in line break on N. Church St.
 - 2 in line break on Belt Dr.
 - 2in line break on Rankin Street
 - ¾ in line break on W. Second St.
 - 2 in main break on Power Dr.
 - 1 in line break on Caroline Ave.
 - 2 in line break on Groves St.
 - Replaced 20ft of 3/4in water line on Lowell Rd.
- City crews worked with the waste treatment operators on drying bed and plant maintenance.
- Street department staff began running leaf routes on a weekly basis until Feb 16, 2024.
- Street Department crews have been working on street clearing maintenance. They have been performing maintenance on roads that have overgrown trees and brush protruding into the roadway. Cutting back growth and improving visibility at intersections.



Regular City Council Meeting Memorandum

Prepared By: Jeff Harrison

Police Monthly Report

Meeting	Agenda Group	
Tuesday, November 14, 2023, 6:00 PM	Consent Agenda	Item: C
Reference File	Presented By	

To: Scott Attaway, City Manager
From: Jeff Harrison, Assistant Police Chief
Date: November 1st, 2023
Re: Monthly Police Report

Officers ran 802 calls for service for October 2023 about the same as 2021. So far year to date, The police department has responded to 8,412 calls for service compared to 7,759 for all of 2022. There will likely be over 10,000 calls responded to in 2023 by the police officers. Additionally, there were 7 felony and 10 misdemeanor arrests made. Crime typically increases around the holidays and our officers are ready to respond and help our citizens whenever called upon.

The police department attended the City of Gastonia PD National Night Out. Chief Moore took his turn in the dunking booth and was dunked by none other than Sergeant Bowen.

Officer Tinoco returned to her police patrol duties in late October. She was a terrific administrative assistant, and we will miss her in that role however we know she wants to be on patrol. We have reposted the administrative assistant position and have received a few applications already.

Jacob Springs was hired as a police officer and his paperwork has been submitted to the state. When sworn, Mr. Springs will be able to jump right in and will require little training to work independently. He is a seasoned officer who comes to us familiar with our officers and the way we do things at the LPD. Once his certification is returned, Mr. Springs will represent the last vacant roster spot filled and we will have our full complement of patrol officers active.

Sergeant Bowen hosted a community watch meeting in October. The turnout was good, and many topics were discussed. These meetings are proving to be a valuable connection between the citizens and our department. We will announce dates for future meetings soon and expect this program to continue to grow and develop.

Getting the patrol cars planned for in our yearly budget has proven to be extremely difficult. Multiple delays by Ford made the likelihood of getting the cars in service before June or July of 2024 unlikely. This created problems within our fleet as well as problems with capital financing for the entire city. A diligent search turned up a dealership in Tennessee who specializes in stocking Dodge police vehicles. The city was able to take position on 2 Dodge Charger police vehicles. Upfit equipment has been ordered and the 2 new cars will likely be in service prior to January 2024. The upfit equipment for the K-9 conversion of one of the Fords we currently have is in and that vehicle will be in-service around the same time.

The police department assisted with the Lowell Fall Festival. Our main duty was road closure and traffic control, we also provided security for the event. Traffic diversion and control went very well and there were no problems that were not easily solved. Traffic flowed around the event and no large trucks created problems while navigating the area. Planning was key for this event and working with the events planner, public works, and city management resulted in a great event. We have

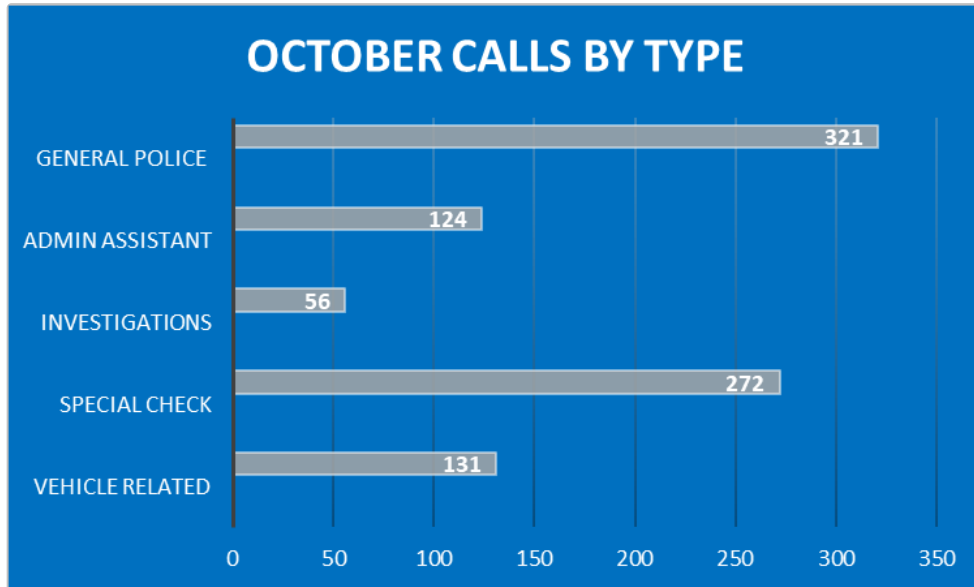
already begun planning future events so they can be enjoyed by the citizens with equal efficiency. Our officers enjoyed interacting with everyone in attendance and there were no security problems to report. Officers also helped with the COL treat walk. The event was well attended and there were no problems to report.

October calls by year

2021- 509

2022- 807

2023- 802





City of Lowell

Regular City Council Meeting Memorandum

Prepared By: Cristy Cummings

Communications Report

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	Consent Agenda Item: D
Reference File	Presented By

To: Scott Attaway, City Manager

From: Cristy Cummings, Communications Director

Date: November 1, 2023

Re: Monthly Report for October

- *City website updates*
 - *Updated documents on Council page*
 - *Created online submission form for Applying to Board or Committee*
 - *Updating Veteran's Lunch page and creating online submission form*
 - *Updating Thanksgiving Senior Lunch page and creating online submission form*
 - *Updating Quick Links on homepage*
 - *Addition of AI search bar on website*
 - *Updating Christmas Parade registration page*
 - *Creation of Veteran's Lunch event on website*
 - *Creation of Christmas Parade and Market event on website*
 - *Revamped and condensed LCC page to a Citizen Boards and Committees page*
 - *Adding documents as requested by Department Heads*
- *Creation of social media content for facebook and instagram*
 - *What's Up Wednesday posts*
 - *Event promotions*
 - *Holiday/office closing posts*
 - *Other posts to keep residents in-the-know*
- *CodeRed training and migration of resident addresses/phone numbers*
- *Completed and mailed City newsletter to residents*
- *Being active in the Parks and Recreation Director transition*
 - *Answering questions*
 - *Participated in meeting between Parks and Recreation, Public Works, and Police Department regarding Fall Festival and Treat Walk*
 - *Participated in meeting between Parks and Recreation and Woodlawn on 2023-2024 basketball season*
 - *Participated in meeting between City of Lowell, Parks and Recreation, and YMCA regarding potential partnership*
 - *"Tying up loose ends" on discussions, events, projects that I was a part of planning and sending updates to the new Parks and Recreation Director*
 - *Created November 1 Parks and Recreation e-newsletter*

- *Conferences/Regionals*
 - *Attended regional conference regarding AI and Communications*
- *Creation of press releases*
 - [City of Lowell Reveals Plan for New City Hall and Police Department](#)
 - [City of Lowell Receives Second Grant for \\$500,000 for Harold Rankin Park Revitalization](#)
 - **City of Lowell Secures First Recreation Facility with ARPA and CIF Funds**



Regular City Council Meeting Memorandum

Prepared By: Lisa Nolen

Finance Report

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	Consent Agenda Item: E
Reference File	Presented By

To: Scott Attaway, City Manager
From: Lisa Nolen, Finance Director
Date: November 3, 2023
Re: Finance Update

Utility Billing:

- Assist Utility Billing Department with processes in Polimorphic.
- Provide assistance when needed for staff absences.
- Answer phone when staff is not available.

Finance:

- Enter cash receipts, cash disbursements, and general journal entries into Southern Software.
- Post all payroll related draft payments and draft payment for Planning Board Stipends.
- Review, advise corrections needed, and sign off on timesheets for City Clerk/HR Director.
- Process and pay bills via check and online.
- Use allocation spreadsheets for corresponding bills to allocate expenses to the correct account.
- Collect receipts from staff, break out charges and sales tax to code to correct accounts, and post all Visa and Lowe's credit card charges.
- Issue purchase orders as needed for staff.
- Reconcile bank accounts.
- Assist staff with new Polimorphic process for purchase requisitions.
- Complete tasks needed for the Agenda related to Council meetings.
- Complete reporting requirements for SCIF grant.
- Train new Accounts Payable/Payroll clerk on duties to assist Finance Director.

Year-End:

- Complete tasks needed for audit.
- Butler & Stowe, CPAs has completed the audit and the audit was submitted on time to LGC.

Other:

- Attend monthly Department Head meeting.
- Attend October 2023 Council meeting.
- Attend weekly Finance update meetings with City Manager.
- Work with First Horizon to get ACH payments set-up for utility bills.
- Meet with Charles Hines with NCLM to discuss financial software and assistance programs available to the City of Lowell through ARPA funds that NCLM received.

- Meet with Julie Hall with NCLM to discuss needs of the city.
- Meet with Withers Ravenel on Water/Sewer CIP update.
- Meet with Gaston County on review of Interlocal Agreement.

Attachments

09-30-2023 Dashboard.pdf

City of Lowell, North Carolina
 FY 2024 Revenue Dashboard
 9/30/2023

Type	Budget	YTD thru 09/30/2023	Budget Remaining	Percent Remaining	Percent of FY24 Remaining
Funds					
General Fund	5,000,734.18	813,150.31	4,187,583.87	84%	83%
Water/Sewer Fund	1,755,709.24	439,326.98	1,316,382.26	75%	83%
Stormwater Fund	423,774.44	95,560.84	328,213.60	77%	83%
Total	7,180,217.86	1,348,038.13	5,832,179.73	81%	83%

Notes:
None

City of Lowell, North Carolina
 FY 2024 Expense Dashboard
 9/30/2023

Department	Budget	YTD thru 09/30/2023	Budget Remaining	Percent Remaining	Percent of FY24 Remaining
General Fund					
Administration	2,652,310.85	255,639.37	2,396,671.48	90%	83%
Public Safety	1,327,415.47	318,022.06	1,009,393.41	76%	83%
Public Works-Streets	318,185.88	71,585.22	246,600.66	78%	83%
Sanitation	345,633.72	81,250.31	264,383.41	76%	83%
Parks & Rec	257,188.22	57,532.75	199,655.47	78%	83%
Powell Bill	100,000.04	5,279.50	94,720.54	95%	83%
Total	5,000,734.18	789,309.21	4,211,424.97	84%	83%
Water/Sewer Fund					
Water/Sewer	1,380,721.44	375,969.74	1,004,751.70	73%	83%
Wastewater Treatment	374,987.80	51,874.29	323,113.51	86%	83%
Total	1,755,709.24	427,844.03	1,327,865.21	76%	83%
Stormwater Fund					
Stormwater	423,774.44	182,258.44	241,516.00	57%	83%
Total	423,774.44	182,258.44	241,516.00	57%	83%

Notes:
None



Planning Report

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	Consent Agenda Item: F
Reference File	Presented By

To: Scott Attaway, City Manager
From: Joe Gates, Planning Director
Date: Tuesday, November 6th, 2023
Re: Monthly Department Update

Code Enforcement:

- (1) Minimum housing case closed. 915 Moose Street has been demolished by the property owner and staff is anticipating 2 new homes to be built in its place after a subdivision of the lot.
- Multiple nuisance violation letters issued.

Enforcement Action:

- Moose St. property demolished by owner.
- Two (2) NOV's corrected by Public Works staff.

Zoning:

- Processed (19) zoning permits in November.
- Permit count (160) for calendar year 2023 to-date.
- **Lowell Woods (85 Single-family homes):** Received all construction inspection fees along with System Development Fees (Water & Sewer) and Meter set fees. Grading and construction is underway.
- **Willow Creek Meadows, True Homes (177 townhomes on Groves St.):** Staff is reviewing the 2nd submittal of the construction drawings for this development. Once approved, the developer will submit a "Development Agreement" per article 7.15 of the LDO. Final Capacity Assurance Review will be also be required at this time to finalize utility allocations for this project.
- **Spencer Ridge, Lennar Homes (407 single family lots on Spencer Mountain Rd):** Staff is reviewing the 2nd submittal of the preliminary plat drawings for this development. Once approved, the developer will submit Construction Drawings. This project is also subject to a Development Agreement and a Final Capacity Assurance Review before home construction can begin.
- Attended on-site construction meeting for River Heights regarding sidewalks and final inspections of townhomes.

Planning:

- Lowell Community Committee meeting 10/23/2023.
- Attend monthly GCamp meeting at Gaston County Admin Building.
- Meet with Gaston County Planning Staff on Software.

- Met with two new prospective businesses owners.
- Attended meeting with Centralina.
- Attended meeting with Carolina Tread Trail and Gaston County Staff on locating new trails in Lowell.

Other:

- Attended monthly department head meeting.
- Attended October City Council Meeting.
- Attended Polimorphic Monthly update meeting.
- Planning Director attended two (2) Leadership Gaston sessions this month.
- Facilitated Social District Information session.



Geographic Information System (GIS) Report

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	Consent Agenda Item: G
Reference File	Presented By

To: Scott Attaway, City Manager
From: Todd Stroupe, GIS Analyst
Date: November 8, 2023
Re: Geographic Information System (GIS) Report

GIS and Mapping

- Generated 2023 Christmas parade route map for the NCDOT road closure application.
- Generated 2023 Treat Walk map.
- Generated 2023 Treat Walk vendor locations map.
- Generated High Street section road closure map for press release.
- Generated permitted MS4 area map for Stormwater Management.
- Performed Lowell Built Up Analysis of vacant parcels.
- Kicked off Edgewood Cemetery mapping project.
- Completed the Parks and Recreation Master Plans story map.
- Continue to work on lead and copper service line inventory.
- Continue to work on Phase 2 of MS4/stormwater infrastructure mapping.

Meetings and Events

- Attended October City Council meeting.
- Participated in the 2023 Riversweep.
- Attended Water AIA Kickoff Meeting with Wooten.
- Attended internal interlocal agreement discussion meeting.
- Participated in Lowell-Poston Park trail alignment walk with Carolina Thread Trail.
- Participated in 8 dry weather outfall inspections with the Stormwater Administrator.
- Participated in Lowell Treat Walk.
- Attended two Lowell/HTS grant support meetings.
- Attended internal monthly stormwater update meeting.
- Attended Gaston-Cleveland-Lincoln Metropolitan Planning Organization TCC meeting.
- Attended future city development meeting with WithersRavenal.



Parks & Recreation Report

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	Consent Agenda Item: H
Reference File	Presented By

To: Scott Attaway, City Manager
From: Tori Dellinger, Parks and Recreation/ Events Director
Date: November 7, 2023
Re: Monthly Parks and Recreation Report

Athletics:

- Basketball registrations opened on October 1st
- Basketball registration flyers were distributed to Lowell Elementary
- Staff met with Woodlawn to discuss basketball sign-ups
- Staff met with area Parks and Recreation Directors to coordinate upcoming basketball season
- Staff distributed soccer medals to each team
- Staff answered questions from parents
- Staff secured coaches in each age group for basketball and will send information to parents on when practices will begin

General:

- Picked up trash
- Cleaned bathrooms
- Dragged baseball fields
- Communications with McAdenville Dolphins on field rentals
- Attended Safety Committee meeting
- Attended Department Head meeting
- Attended City Council meeting
- Attended Lowell Community Committee meeting
- Updated letterboard at Harold Rankin Park
- Coded invoices, updated department budget spreadsheet
- Staff had site visit at former Boys and Girls Club facility
- Attended special events meeting at the Citizen Resource Center in Dallas to discuss 2024 event calendar.
- Staff met to discuss policy for park rentals

Events:

- Staff coordinated post Fall Festival meeting with Police and Public Works
- Sent emails to Downtown businesses regarding events for the rest of 2023
- Treat Walk 2023

- Over 20 businesses/ organizations participated by handing out treats
- Event was promoted and advertised
 - Communications promoted via website, social media, event website, letterboard at Harold Rankin Park, Code Red phone call, and flyers were distributed to Lowell Elementary
- Veteran's Day Lunch (Planning)
 - Ordered meals
 - Lunches will be delivered to Veteran's and their spouses on the November 10th
 - Event has been promoted and advertised
 - Communications promoted via website, social media, event website, letterboard at Harold Rankin Park, and via Code Red
- Senior Thanksgiving Lunch (Planning)
 - Lunch will be served at Presbyterian Church of Lowell (Dine-in or Drive thru)
 - Event will feature traditional Thanksgiving meal and BINGO
 - Event has been promoted and advertised
 - Communications promoted via website, social media, event website, letterboard at Harold Rankin Park, and via Code Red
- Tree Lighting Ceremony/ Music in the Park (Planning)
 - Music in the Park featuring Garrett Huffman
 - Miami Fusion food truck
 - Kids activity
- Christmas Parade (Planning)
 - Submitted and received parade route approval from NCDOT.
 - Staff will coordinate meeting with Police and Public Works to finalize parade logistics
 - Event will feature photos with Santa, Artisan market, and annual Christmas Parade (see schedule below)
 - Photos with Santa – McCord Family Park – 1:00 PM to 3:00 PM
 - Artisan Market – McCord Family Park – 1:00 PM to 5:00 PM
 - Christmas Parade – 4:00 PM



Regular City Council Meeting Memorandum

Prepared By: Sue Lowe

Monthly Report-Customer Service-Billing Manager

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	Consent Agenda Item: I
Reference File	Presented By

To: Scott Attaway, City Manager
From: Sue Lowe, Customer Service-Billing Manager
Date: November 7, 2023
Re: Monthly Report

Monthly Report from Customer Service and Billing Manager-Sue Lowe

Initiating new meter installations in Southern Software and Sentryx, for new construction.

Participated in ongoing meetings, revisions, and implementation of Polimorphic system for UB payments, processed customer cash, check, and credit card payments, new customer applications and customer terminations, website forms, customer ACH authorizations, project management processes and payments for miscellaneous items, such as zoning permits, development fees, park and shelter rentals, etc. Participated in meeting with UNC School of Government on possible updates and revisions to Utility Billing policies.

Working with Southern Software IT Manager, on the new billing template. Working with Minges Printing on setting up new template information, front and back. Also ordering new envelopes for bills and inserts. This will be an ongoing process until everything is put into place on the larger bills.

Processed disconnection of services on Thursday, October 26th, for customers with delinquent account balances.

Fully converted to Sentryx Infrastructure Network System. Continually working with Water Works and Southern Software to ensure billing file is compatible with the new system, but still working through some issues with Southern on this reading import file. Troubleshooting issues to improve operations in the new Sentryx meter system, as well as their equipment in the field. Monitoring meter alerts in Sentryx. Had some reporting delays due to Sentryx being down for a period of time.

Continue to train Accounting Tech in all areas of operations and billing, including all daily, weekly, and monthly responsibilities. Processed read files in Sentryx, reviewed files and readings, posted usage routes, processed billing reports, processed and printed final and regular bills, processed stormwater management bills, counted and mailed bills at the post office by the required mailing date. Working monthly with Planning/Zoning/Code Enforcement Director on updating addresses and ownership information for processing Stormwater Management billing each month for occupied and non-occupied properties.

Working with Planning and Zoning Director on adding new street addresses to Southern Software and Sentryx system, so we can install meters at future development homes. Working with Public Works Director and Code Enforcement on work orders and payments for code enforcement invoices, as needed.

All other responsibilities include gathering readings and processing billing, posting payments, producing daily collection reports for the Finance Director, producing daily credit card reports and transfers of funds to customer accounts, processing pool fill adjustments and leak adjustments for customers as needed, posting monthly ACH payments to customer accounts and producing reports for Finance Director, answering phones, compiling NSF letters to customers for Finance Director, processing work orders for second and third roll carts requested by customers, assisting customers with their various needs, ordering office supplies for all departments including the police dept, and assisting all City depts with clerical duties as requested of me.



Regular City Council Meeting Memorandum

Prepared By: Scott Attaway

Consideration of Contract NCDOT Project# U5719 Betterments

Meeting	Agenda Group	
Tuesday, November 14, 2023, 6:00 PM	Unfinished Business	Item: A
Reference File	Presented By	

To: Scott Attaway, City Manager
From: Todd Stroue, GIS Analyst
Date: November 14, 2023
Re: Consideration of Contract NCDOT Project# U5719 Betterments

The City of Lowell and the other local governments along the I-85 corridor have coordinated with NCDOT to identify Project Betterments (Overpass Aesthetics, Interchange Aesthetics, Interchange Landscaping, Black Powder Coated Metal Pole and Mast Arms at Signals, and Roundabout Center Island Betterments) for projects I-5719/U-5800 (I-85 widening from US 321 (Exit 17) to east of NC 273 (Exit 27)). This Municipal Agreement identifies the participation in project costs, as well as participation in the project delivery and/or maintenance.

The Lowell City Council approved the level of betterments on February 14, 2023. The total cost of the additional work (betterments) is \$3,778,628.78. NCDOT will participate in an amount not to exceed \$1,886,461.51. The City of Lowell shall participate in a fixed amount of \$1,892,167.27 as shown in Exhibit A of the Municipal Agreement. Note that this is a fixed cost and will not be adjusted.

The amount of financial participation by the City of Lowell is likely to be reduced by \$1,029,083.64 as Gaston County budgeted the amount of \$946,083.64 (half the of the City’s fixed amount), and Gaston County Tourism has committed \$83,000 toward Lowell’s participation. An interlocal agreement between Gaston County and Lowell is forthcoming and once completed, the anticipated **Municipal participation for this Agreement will be \$863,083.63.**

Total Cost	\$ 3,778,628.78
NCDOT Contribution	\$ 1,886,461.51
Lowell Participation	\$ 1,892,167.27
Gaston County Budgeted Amount (Toward Lowell Participation)	\$ 946,083.64
Gaston County Tourism Commitment (Toward Lowell Participation)	\$ 83,000.00
Anticipated Lowell Participation	\$ 863,083.63

It is important to note that there are no municipally-owned water and sewer lines to be adjusted or relocated at this time. If during the project it becomes necessary to adjust or relocate municipally-owned water and/or sewer lines, a separate Utility Agreement will be prepared at the appropriate time.

It should also be noted that this Municipal Agreement does not include any additional lighting across the bridges for bike/ped. If lighting is desired, this will be completed after the project is constructed at a cost to the City.

The City of Lowell will be responsible for the maintenance of the interchange landscaping, and roundabout center island betterments which include but are not limited to the 10 ft. wide stamped and stained concrete cap, landscaping (plantings and irrigation system) and underdrain system.

Upon completion of the Design-Build Project, NCDOT will invoice the City of Lowell for the fixed cost of the Additional Betterment Work. Reimbursement to NCDOT shall be made in one final payment within sixty days of invoicing.

RECOMMENDED ACTION: Staff recommends that the City Council approve the Municipal Agreement for TIP Projects I-5917/U-5800 as written.

Attachments

RS10-2023 Resolution to Approve Municipal Agreement for Tip Projects I-5719;U-5800.pdf

Draft Municipal Agreement - Lowell - CONSTRUCTION_Additional Work - 14 Aug 23.pdf



**RESOLUTION TO APPROVE MUNICIPAL AGREEMENT
FOR TIP PROJECTS I-5719/U-5800**

RESOLUTION 10-2023

WHEREAS, The City of Lowell (the Municipality) has coordinated with NCDOT (the Department) to identify Project Betterments (Overpass Aesthetics, Interchange Aesthetics, Interchange Landscaping, Black Powder Coated Metal Pole and Mast Arms at Signals, and Roundabout Center Island Betterments) for projects I-5719/U-5800 (I-85 Widening from US 321 to east of NC 273)); and

WHEREAS, this Agreement identifies the participation in project costs, as well as participation in the project delivery and/or maintenance; and

WHEREAS, the Lowell City Council approved the level of betterments on February 14, 2023; and

WHEREAS, the total cost of the additional work (betterments) is \$3,778,628.78, with the Department participating in an amount not to exceed \$1,886,461.51 and the Municipality participating in a fixed amount of \$1,892,167.27 as shown in Exhibit A of the Municipal Agreement; and

WHEREAS, it is understood by both parties that this is a fixed cost and will not be adjusted; and

WHEREAS, the amount of financial participation by the City of Lowell is likely to be reduced by \$1,029,083.64 as Gaston County budgeted the amount of \$946,083.64 (half the of the City's fixed amount), and Gaston County Tourism has committed \$83,000 toward Lowell's participation. An interlocal agreement between Gaston County and Lowell is forthcoming and once completed, the anticipated Municipal participation for this Agreement will be \$863,083.63; and

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly under General States of North Carolina (NCGS), particularly Chapter 136-66.1 and 136-66.3; and

WHEREAS, there are no municipally-owned water and sewer lines to be adjusted or relocated at this time and if during the project it becomes necessary to adjust or relocate municipally-owned water and/or sewer lines, a separate Utility Agreement will be prepared at the appropriate time; and



WHEREAS, the Municipality will be responsible for the maintenance of the interchange landscaping, and roundabout center island betterments which include but are not limited to the 10 ft. wide stamped and stained concrete cap, landscaping (plantings and irrigation system) and underdrain system; and

WHEREAS, upon completion of the Design-Build Project, the Department will invoice the Municipality for the fixed cost of the Additional Betterment Work; now

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOWELL THAT THE MUNICIPAL AGREEMENT FOR TIP PROJECTS I-5719/U-5800 IS APPROVED AS WRITTEN.

THIS RESOLUTION, adopted on the 14th day of November 2023.

Sandy Railey, Mayor

ATTEST:

Cheryl Ramsey, City Clerk

**ACCOUNTS RECEIVABLE
TIP AGREEMENT-ADDITIONAL WORK
CONSTRUCTION
10000XXXXX**

AGREEMENT OVERVIEW

DATE: *date approved*

NORTH CAROLINA
GASTON COUNTY

PROJECT NUMBERS

TIP NUMBER: I-5719 / U-5800
WBS ELEMENT (PE):
WBS ELEMENT (ROW):
WBS ELEMENT (CON): 50135.

PARTIES TO THE AGREEMENT:

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

AND

CITY OF LOWELL

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

SCOPE OF TIP Project (“Project”): I-85 widening from US 321 (Exit 17) to east of NC 273 (Exit 27), and also includes U-5800 - Intersection improvements - NC 7 (Main St.) and US 29 / 74 (Wilkerson Blvd.) in Belmont.

ADDITIONAL WORK: Project Betterments (Overpass Aesthetics, Interchange Aesthetics, Interchange Landscaping, Black Powder Coated Metal Pole and Mast Arms at Signals, and Roundabout Center Island Betterments.

ESTIMATED COST OF THE ADDITIONAL WORK: \$3,778,628.78

COSTS TO OTHER PARTY: \$1,892,167.27

DEPARTMENT’S FUNDING: \$1,886,461.51

PAYMENT TERMS:

The Department will bill the CITY OF LOWELL upon completion of the Project.

MAINTENANCE: The Department shall maintain the Overpass Aesthetics, Interchange Aesthetics and Black Powder Coated Metal Pole and Mast Arms at Signals. The City of Lowell shall maintain the Interchange Landscaping, and Roundabout Center Island Betterments.

EFFECTIVE DATES OF AGREEMENT:

START: Upon Full Execution of this Agreement

END: When work is complete and all terms are met.

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

**ACCOUNTS RECEIVABLE
TIP AGREEMENT-ADDITIONAL WORK
CONSTRUCTION**

10000XXXXX

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

I. WHEREAS STATEMENTS

WHEREAS, this Agreement is made under the authority granted to the **Department** by the North Carolina General Assembly under General Statutes of North Carolina (NCGS), particularly Chapter 136-66.1 and 136-66.3; and,

WHEREAS, the **Department** and the **Municipality** have agreed that the jurisdictional limits of the Parties, as of the date of entering the agreement for the above-mentioned project, are to be used in determining the duties, responsibilities, rights and legal obligations of the Parties hereto for the purposes of this Agreement; and,

WHEREAS, the **Municipality** has requested that the **Department** perform all phases of said work or provide services; and,

WHEREAS, the Parties hereto wish to enter into an agreement for scoped work to be performed or provided by the **Department** (including reviews, goods or services) with reimbursement for the costs thereof by the **Municipality** as hereinafter set out; and,

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

II. RESPONSIBILITIES

- The **Department** shall be responsible for all phases of project delivery to include planning, design, right of way acquisition, utility relocation, and construction and maintenance as shown in the **PROJECT DELIVERY** Provision. The **Municipality** shall be responsible for maintenance.
- The **Municipality** shall be responsible for maintenance of the additional work, as shown in the **PROJECT DELIVERY** Provision; and payment as shown in the **COSTS AND FUNDING** Provision.

III. PROJECT DELIVERY REQUIREMENTS

A. PLANNING, DESIGN, AND CONSTRUCTION

The **Department** will be responsible for preparing the environmental and/or planning document, obtaining any environmental permits and preparing the project plans and specifications.

The **Department** shall construct the Project in accordance with the plans and specifications for the Project. The **Department** shall administer the construction contract for said Project. All work shall be done in accordance with Departmental standards, specifications, policies and procedures.

B. RIGHT OF WAY ACQUISITION

The **Department** will be responsible for acquiring any needed right of way required for the Project in accordance with the policies and procedures set forth in the North Carolina Right of Way Manual.

C. MUNICIPAL UTILITY RELOCATIONS

RESPONSIBILITIES

It is understood that there are no municipally-owned water and sewer lines to be adjusted or relocated at this time. If during the project it becomes necessary to adjust or relocate municipally-owned water and/or sewer lines, a separate Utility Agreement will be prepared at the appropriate time.

D. MAINTENANCE

Upon completion of the Project:

1. The **Department** shall be responsible for all traffic operating controls and devices which shall be established, enforced, and installed and maintained in accordance with the North Carolina General Statutes, the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, the latest edition of the "Policy on Street and Driveway Access to North Carolina Highway," and department criteria.
2. The roadway improvements that are within state-owned right of way shall be considered a part of the State Highway System and shall be owned and maintained by the **Department**.
3. The Department shall be responsible for overpass and interchange betterments (aesthetics) maintenance.
4. The **Municipality** shall maintain the interchange landscaping, and roundabout center island betterments which include but are not limited to the 10 ft. wide stamped and stained concrete cap, landscaping (plantings and irrigation system) and underdrain system.

IV. COSTS AND FUNDING

A. ADDITIONAL WORK

At the request of the **Municipality** and in accordance with the **Department's** Pedestrian Policy Guidelines or the Complete Streets Guidelines, the **Department** shall include provisions in its construction contract for the construction of pedestrian facilities and/or other additional work as indicated in Exhibit A, see attached. Said work shall be performed in accordance with the **Department's** policies, procedures, standards, and specifications, and the provisions of this Agreement.

The estimated Municipal share of the additional work is \$ 1,892,167.27.

B. PROJECT COSTS

The **Municipality** has agreed to participate in Project costs as follows:

- The total estimated cost of the additional work is \$ 3,778,628.78. The **Department** will participate in an amount not to exceed \$ 1,886,461.51. The **Municipality** shall participate in a fixed amount of \$ 1,892,167.27, as shown on Exhibit A. It is understood by both parties that this is a fixed cost and will not be adjusted.

C. INVOICING BY THE DEPARTMENT

Upon completion of the Project, the **Department** will calculate actual costs of the Project and will invoice the **Municipality** for their share of the actual costs of the Additional Work. Reimbursement to the **Department** shall be made in one final payment within sixty days of invoicing by the **Department**. A late payment penalty and interest will be charged on any unpaid balance due in accordance with G. S. 147-86.23.

In the event the **Municipality** fails for any reason to pay the **Department** in accordance with the provisions for payment hereinabove provided, North Carolina General Statute 136-41.3 authorizes the **Department** to withhold so much of the **Municipality's** share of funds allocated to said Municipality by North Carolina General Statute, Section 136-41.1, until such time as the **Department** has received payment in full.

V. STANDARD PROVISIONS

A. Agreement Modifications

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

B. Assignment of Responsibilities

The **Department** must approve any assignment or transfer of the responsibilities of the **Municipality** set forth in this Agreement to other parties or entities.

C. Agreement for Identified Parties Only

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

D. Other Agreements

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

E. Authorization to Execute

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

F. DocuSign

Department and **Municipality** acknowledge and agree that the electronic signature application DocuSign may be used, at the sole election of the **Department** or the **Municipality**, to execute this Agreement. By selecting "I Agree," "I Accept," or other similar item, button, or icon via use of a keypad, mouse, or other device, as part of the DocuSign application, **Department** and **Municipality** consent to be legally bound by the terms and conditions of Agreement and that such act constitutes **Department's** signature as if actually signed by **Department** in writing or **Municipality's** signature as if actually signed by **Municipality** in writing. **Department** and **Municipality** also agree that no certification authority or other third-party verification is necessary to validate its electronic signature and that the lack of such certification or third-party verification will not in any way affect the enforceability of its electronic signature. **Department** and **Municipality** acknowledge and agree that delivery of a copy of this Agreement or any other document contemplated hereby through the DocuSign application, will have the same effect as physical delivery of the paper document bearing an original written signature.

G. Debarment Policy

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

H. Indemnification

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

I. Availability of Funds

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

**ACCOUNTS RECEIVABLE
TIP AGREEMENT-ADDITIONAL WORK
CONSTRUCTION
10000XXXXX**

J. Gift Ban

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

DRAFT 14 August 23

SIGNATURE PAGE

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

City/Town of Lowell

FED TAX ID NO: _____

Authorized Signer: _____

REMITTANCE ADDRESS:

Print Name: _____

Title: _____

Date Signed: _____

If applicable, this Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Act:

Finance Officer: _____

Print Name: _____

Date Signed: _____

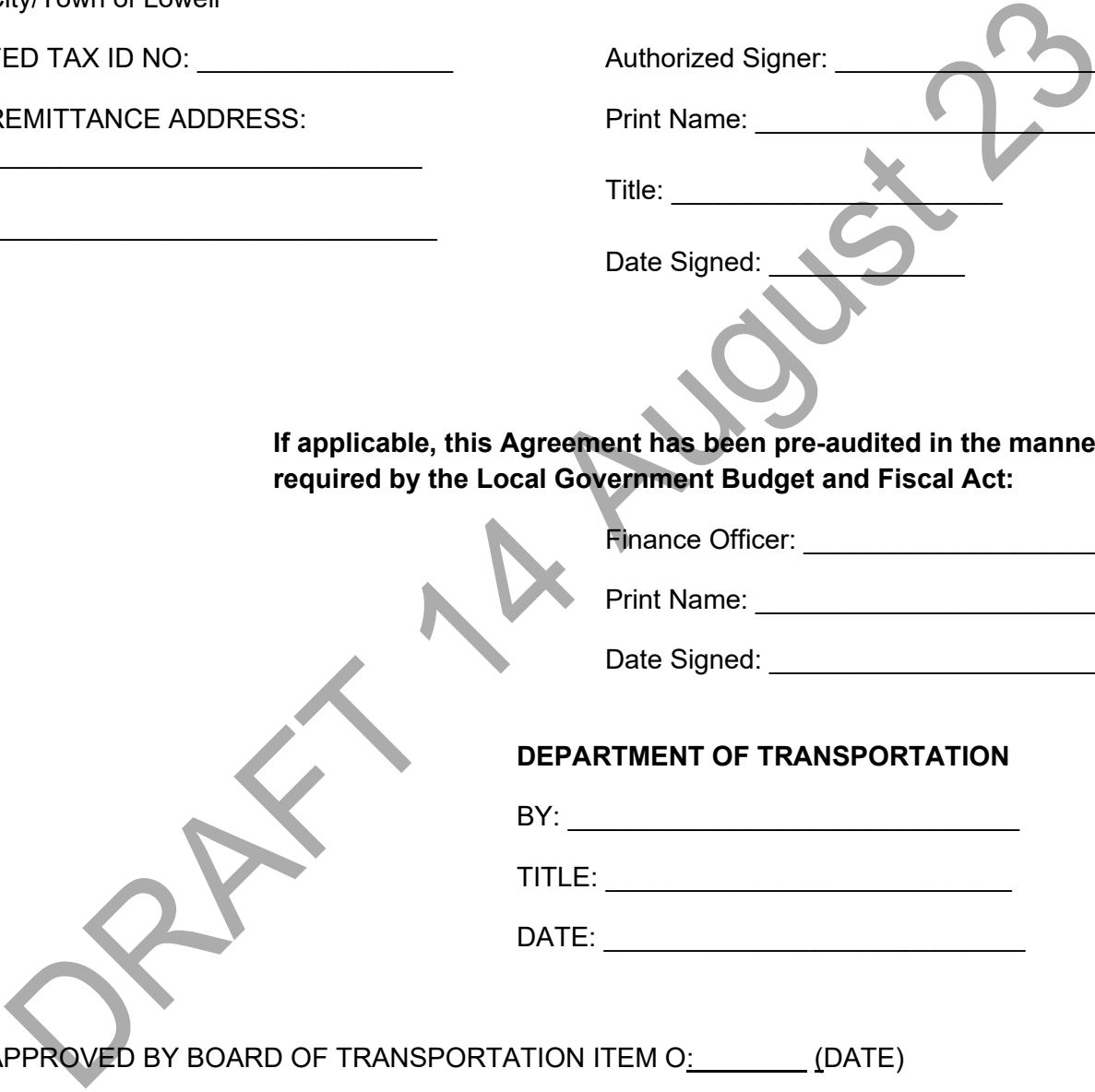
DEPARTMENT OF TRANSPORTATION

BY: _____

TITLE: _____

DATE: _____

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



**ACCOUNTS RECEIVABLE
TIP AGREEMENT-ADDITIONAL WORK
CONSTRUCTION
10000XXXXX**

EXHIBIT A

Additional Work		
Betterment Description	Quantity	Cost to Municipality
<ul style="list-style-type: none"> • Overpass Betterment <ul style="list-style-type: none"> ○ SR 2339 (South Church Street) over I-85 ○ SR 2213 (Groves Street) over I-85 	2	\$831,218.18
<ul style="list-style-type: none"> • Interchange Betterment <ul style="list-style-type: none"> ○ I-85 / SR 2329 (South Main Street) (Exit 22) ○ I-85 / NC 7 (McAdenville Road/Main Street) (Exit 23) 	2	\$1,196,260.60
<ul style="list-style-type: none"> • Signals – Black Powder Coated Metal Pole and Mast Arms: <ul style="list-style-type: none"> ○ SR 2329 (South Main Street) / Kenworthy Avenue (3) ○ I-85 / NC 7 (McAdenville Road) Ramps A/B (3) ○ I-85 / NC 7 (McAdenville Road) Ramps C/D (3) ○ NC 7 (McAdenville Road) / SR 2380 (Power Drive) (3) 	12	\$950,400.00
<ul style="list-style-type: none"> • Interchange Landscaping Betterment (Enhanced) <ul style="list-style-type: none"> ○ I-85 / SR 2329 (South Main Street) (Exit 22) ○ I-85 / NC 7 (McAdenville Road/Main Street) (Exit 23) 	2	\$603,750.00
<ul style="list-style-type: none"> • Roundabout Center Island Landscaping Betterments (10 ft. wide stamped/stained concrete cap, plantings, irrigation, and underdrains) <ul style="list-style-type: none"> ○ I-85 / SR 2329 (South Main Street) Ramp / Loop A ○ I-85 / SR 2329 (South Main Street) Ramp / Loop D 	2	\$197,000.00
Total Estimated Cost		\$3,778,628.78
Department Participation		\$1,886,461.51
Estimated Cost to Municipality		\$1,892,167.27



City of Lowell

Regular City Council Meeting Memorandum

Prepared By: Scott Attaway

Updated Interlocal Agreement - Lowell Elementary Waterline

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	Unfinished Business Item: B
Reference File	Presented By

To:
From:
Date:
Re:

placeholder for info here...

Attachments

Interlocal Water Agreement Lowell Elementary Waterline_11.2023.pdf
Program Income Memo.pdf

NORTH CAROLINA

GASTON COUNTY

INTERLOCAL AGREEMENT FOR CONSTRUCTION OF
WATER INFRASTRUCTURE

This Agreement, made and entered into this the ____ day of _____, 2023 by and between Gaston County, a body politic and corporate, and a political subdivision of the State of North Carolina (hereinafter referred to as the "County") and the City of Lowell, a North Carolina municipal corporation (hereinafter referred to as the "City").

WITNESSETH:

WHEREAS, Lowell Elementary School receives water service from Town of McAdenville, North Carolina;

WHEREAS, Lowell Elementary School water service line is corroding, causing water quality and water pressure to be compromised.

WHEREAS, City cannot monitor the water from Town of McAdenville or make repairs if there is a problem; and,

WHEREAS, the City through its Utilities Department (hereinafter "Utilities") has available water system capacity to support Lowell Elementary School's critical water need; and,

WHEREAS, pursuant to N.C.G.S. §§ 153A-164 and 160A-461, units of local government are authorized to enter into interlocal agreements for any undertaking; and,

WHEREAS, the County desires to design and install approximately 420 LF of 8-inch waterline and related appurtenances to serve Lowell Elementary School. This new infrastructure will run along Saxony Drive, from the City's water main between Riverview Dr and Beaunitt Rd to Lowell Elementary School as shown on Exhibit A (hereinafter referred to as the "Project"); and,

WHEREAS, the County has been awarded Coronavirus State and Local Fiscal Recovery Funds established in S.L. 2021-180 as part of the American Rescue Plan Act (hereinafter referred to as the "Grant") to provide funding to cover a portion of the costs of the Project as set forth herein; and,

WHEREAS, the County has agreed to provide any gap funds required to cover the remainder of the costs of the Project as set forth herein; and,

WHEREAS, the County has agreed to construct or let for construction the Project pursuant to all applicable State, Federal, and local rules and regulations; and,

WHEREAS, the project must be completed during the Grant's period of performance; and,

WHEREAS, the period of performance is defined as the total time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods; and,

WHEREAS, per the Grant Award Terms and Conditions, the period of performance for this Grant ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipients using award funds must obligate eligible costs prior to December 31, 2024; and,

WHEREAS, upon Project completion and acceptance, City will assume operation and maintenance of the Project from County through an operating agreement and comply with US Treasury Terms and Conditions of Program Income requirements through the end of the period of performance; and,

WHEREAS, upon the end of the period of performance of the Grant, the County will transfer ownership of Project to City as a part of its municipal water system. City is responsible for meeting all Federal, State, and Local requirements for operating and maintaining Project.

NOW, THEREFORE, in consideration of the terms, conditions, and covenants contained herein, it is agreed between the parties hereto as follows:

1. **PURPOSE:** The purpose of this Agreement is to set forth the terms and conditions under which County will construct, and City will operate and maintain the water infrastructure described herein.
2. **PROJECT DESCRIPTION:** The infrastructure shall be engineered, designed, and constructed in accordance with the specifications of the City. City shall have the right to review and inspect all engineering, design, and construction to ensure all work meets City specifications. City shall not be obligated to accept or maintain the Project if any portion thereof fails to meet City specifications as determined by the City. The engineering and surveying work is to be completed by the County or such other engineer as County shall select, at no cost to the City. Upon completion of the Project, County shall provide to City a set of as-built drawings in accordance with City Policy.
3. **CONSTRUCTION OF THE PROJECT:** The County agrees to construct or let a contract for the construction of the Project in accordance with all applicable federal, state, and local laws, regulations, and ordinances. County agrees to contract with a professional Construction Engineer and Inspections Firm during construction. City agrees to coordinate independent inspections of the waterline construction. Upon project completion, the City shall operate and maintain the waterline infrastructure as part of the City water system.
4. **PROJECT COSTS:** The cost of the Project is to be funded by the County using the secured Grant funds and local funds to cover any remaining costs. Costs unilaterally incurred by the City shall not be included in Project costs covered by the County (e.g., City inspections, consultant costs, etc.).

The referenced Grant and local funds shall be applied to the costs of construction of the Project. In the event the referenced Grant and local funds are not secured, and suitable replacement funding is not secured, the Project shall not proceed, and this Agreement shall terminate. In the event the County is unable to secure a bid on the contract for the construction of the Project for the estimated amount or less and the parties are unable to agree on a mutually satisfactory arrangement to cover

the costs above the estimated cost, the Project shall not proceed, and this Agreement shall terminate.

In anticipation of the extension of the water system and in preparation for the construction of the Project, the County has procured Armstrong Glen PC (hereinafter referred to as "Engineer") to provide professional services for the Project.

The County shall act as lead agency and project manager for the construction of the Project and in the administration of all Grant and local match funds.

All Grant funding shall be administered by the County in accordance with the rules, laws, regulations, terms, and directives of the administering agencies that are applicable to or govern the Grant set forth above.

5. PROGRAM INCOME OBLIGATIONS:

DEFINITION: Program Income refers to gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as provided in [§ 200.307\(f\)](#). Program income includes but is not limited to income from fees for services charged to new customers, or increased user fees for current customers due specifically to the Project. Program income also includes the use or rental of real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, and principal and interest on loans made with Federal award funds. Program income does not include special assessments, tax revenues, system development fees, availability fees, regulatory fees, contractual charges for infrastructure, charges to other local governments to reserve capacity, and penalty charges.

The City shall provide the County with an estimate of Program Income that they expect to generate during the period of performance, based on the total potential customer connections and expected project completion date. This estimate must be provided in order for the County to obligate these expected funds prior to 12/31/2024. The City understands that the estimated and obligated program income does not determine the amount of funds available for use during the period of performance and instead, determines the maximum amount of funds available for reconciliation and use during the period of performance. The City understands that any program income received beyond the amount obligated prior to 12/31/2024, will be paid to the Treasury.

REPORTING AND DOCUMENTATION: The County and City shall maintain accurate records of all program income generated, including the source, amount, dates of receipt, and use of funds. The City will report program income to the County, with supporting documentation, on a monthly basis.

USE OF PROGRAM INCOME: The City shall establish appropriate accounting procedures to track and retain program income in a special revenue fund separate from other operating revenue. The County will work to reconcile and appropriate program income on a quarterly basis. Provided that appropriate documentation has been submitted by the City, reconciliation will then require approval from the County's Commission. Once approval is received, the County will notify the City of the amount of program income that is authorized for use from its special revenue fund. All unreconciled program income must remain in the special revenue fund until authorization for use has been granted. Any unreconciled program income remaining after the period of performance will be paid

to the Treasury. There is no further obligation to track and report program income after the period of performance.

COMPLIANCE AND AUDITING: The County and the City shall comply with all program income requirements imposed by the granting agency, including reporting, recordkeeping, and use of funds. Failure to comply with program income requirements may result in penalties or the need for repayment of funds to the granting agency. Any current regulations or updates from Treasury after the effective date of this Agreement, shall supersede any conflicting provisions found herein.

RETENTION AND ACCESS OF RECORDS: Records shall be maintained for a period of five (5) years following the end of the grant's period of performance. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) in order to conduct audits or other investigations. The City shall make available to the County, all reports and documentation related to program income to ensure compliance with the Federal Award.

6. **PROPERTY MANAGEMENT: NEED SUGGESTIONS FROM COUNTY POLICY?**

Any purchase of equipment or real property with grant funds must be consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D. Equipment and real property acquired under this program must be used for the originally authorized purpose. Consistent with 2 CFR 200.311 and 2 CFR 200.313, any equipment or real property acquired using SLFRF funds shall vest in the non-Federal entity. Any acquisition and maintenance of equipment or real property must also be in compliance with relevant laws and regulations

7. **OPERATION, MAINTENANCE AND EXTENSIONS:** Upon project completion, City shall operate and maintain the same as part of its municipal system per the terms agreed to in the operating agreement. Upon the end of the period of performance, all rights, title, and interest in Project, including, but not limited to, utility infrastructure, easements, and rights of way, shall be transferred to City and City shall operate and maintain the same as part of its municipal system from that point forward.

WARRANTY: The City shall be covered by any warranties provided by manufacturers or suppliers of components or materials, as well as workmanship as outlined in the construction contract. In the event of defects or deficiencies discovered during the warranty period, the City shall promptly notify the County in writing of such defects or deficiencies.

City shall not deny connection to the Project by a potential customer requesting service so long as City has sufficient water capacity to support new customers in the Project area and the customer otherwise complies with City requirements, including the requirement to petition for voluntary annexation in exchange for receiving City services. No service tap or connections shall be made to Project except under the supervision and inspection of the City and upon payment by the property owner to the City of required water connection charges and availability fees of the City and County. By execution of this Agreement, City acknowledges its continuing obligation to provide services to the specified Project area upon customer compliance with all City requirements.

8. **RIGHTS OF WAY:** County shall be responsible for the acquisition and creation of all easements, rights of way, and encroachment agreements and permits necessary for the construction of the Project. The costs of such acquisition shall be paid out of the Project funds provided by the County

as set forth above. The City agrees to provide easements and/or rights of way across any City owned property, to the extent necessary for building the Project. Conveyances of easements and rights of way shall be in a form acceptable to the County and the costs for preparation, surveying, recording and related costs shall be paid by the County.

9. LEAD AGENCY: The County shall serve as the lead agency for the Project and shall commence and complete the Project within a reasonable time after the execution of this Agreement, subject to securing the necessary funds. The schedule for the Project shall be established by the County. Project dates shall be specified in the construction contract entered into between the County and the contractor(s) engaged to construct the Project. Completion of the Project in accordance with the contract schedule is contingent upon weather and/or other factors that might necessitate a delay in the construction schedule provided for in said construction contract.
10. ACCESS: City shall have the right to inspect and approve documents, materials, papers, and other related items at any point in the Project, with proper notification to County. Further, City shall have access, at all times, to the construction site for the purpose of construction observation. City shall have the right to notify County of any construction that does not meet City specifications or the engineering and design of the Project. Upon receipt of such notification County shall take every step necessary to ensure the construction of the Project meets City specifications.
11. INSURANCE AND INDEMNITY: During construction, County shall provide the public liability insurance coverage and, to the extent permitted by North Carolina law, indemnify the City against any and all damages to persons or property that may be incurred through injury or accident by reason of the County's negligent construction Project.

After project acceptance and execution of the operating agreement, and during the period of performance of the Grant which shall end 12/31/2026, City shall maintain and operate the system, provide the public liability insurance coverage and, to the extent permitted by North Carolina law, indemnify the County against any and all damages that may be incurred through injury or accident by reason of the City's negligent operation of Project. City shall name County as an additional insured.

12. SERVICE CHARGES: County shall install a water connection to Lowell Elementary School which shall be an eligible project cost. Upon completion and acceptance of the Project, the City shall thereafter have the sole and exclusive right to charge and collect for water service furnished to any consumer; and the County shall have no right or interest therein with the exception of managing the Program Income requirements set forth.
13. SERVICE PROVIDERS: City shall be the exclusive provider of water services within the water service area of this project.
14. NO JOINT AGENCY ESTABLISHED: No joint agency is to be established as a result of the execution of this Interlocal Agreement, and each party shall manage its own personnel, respectively, as necessary for the execution of this undertaking.

15. **DUPLICATE ORIGINALS:** This Agreement shall be executed by the parties hereto in duplicate originals, each of which when executed shall constitute one and the same Agreement.
16. **INVALID TERMS:** Should any one or more of the provisions contained in this Agreement be held invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired thereby, and this Agreement shall otherwise remain in full force and effect. If any such provision is held to be invalid or unenforceable, then upon the request of either party, the City, and the County shall attempt in good faith to negotiate and agree upon a replacement provision.
17. **COUNTERPARTS:** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original.
18. **NOTICES:** Any notices required or permitted in this Agreement, including address changes, shall be made in writing and shall be made either by mailing registered or certified mail, return receipt requested, and postage prepaid, to the other party at the address shown herein for that party or at such different address for that party, notice of which has been properly given hereunder, or by personally delivering such notice to an officer or other party. The notice, if mailed as provided for herein, shall be deemed given on the day of receipt or refusal to accept receipt, and if personally delivered, on the date of delivery. The addresses are as follows:

TO THE COUNTY:

Ray Maxwell

P.O. Box 1578

Gastonia, NC 28053

TO THE CITY OF LOWELL:

NAME:

ADDRESS:

ADDRESS:

19. **ENTIRE AGREEMENT:** This instrument contains the entire Agreement between the parties, and no statement, oral or written, made by either party or agent of either party that is not contained in this Agreement shall be valid or binding. This contract may not be enlarged, modified, or altered, except in writing signed by the parties and endorsed hereon.
20. **AMENDMENT OR TERMINATION:** This Agreement may be amended or terminated only by an instrument in writing executed by all parties hereto.
21. **REMEDIES IN THE EVENT OF DEFAULT:** In the event of Default by a party to this Agreement, the other party may exercise all legal and equitable remedies to which it is entitled.
22. **WAIVER:** No delay or omission by either party to exercise any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach of this Agreement shall not constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant. No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party waiving the rights.

23. **BINDING NATURE AND ASSIGNMENT:** This Agreement shall bind the parties and their successors and permitted assigns. Neither party may assign this Agreement without the prior written consent of the other party. Any assignment attempted without the written consent of the other party shall be void.

24. **GOVERNING LAW AND JURISDICTION:** North Carolina law shall govern the interpretation and enforcement of this Agreement, and any other matters relating to this Agreement (all without regard to North Carolina conflicts of law principles). All legal actions or other proceeding relating to this Agreement shall be brought in a court sitting in Gaston County, North Carolina. By execution of this Agreement, the parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all objections that they may have with respect to venue in any court sitting in Gaston County, North Carolina.

25. **DISPUTE RESOLUTION:** In addition to and prior to litigation, the parties shall endeavor to settle disputes first by negotiation between the parties, and, if negotiation is unsuccessful, then by non-binding mediation. Demand for mediation shall be filed in writing with the other party to this Agreement. A demand for mediation shall be made within a reasonable time after the claim, dispute, or other matter in question has arisen. In no event shall the demand for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute, or other matter in question would be barred by the applicable statute of repose or limitations.

26. **TITLES OF SECTIONS:** The section headings inserted herein are for convenience only and are not intended to be used as an aid to interpretation and are not binding on the parties.

27. **NO DOCTRINE OF CONSTRUCTION AGAINST THE DRAFTER:** All parties acknowledge and stipulate that this Agreement is the product of mutual negotiation and bargaining and that it has been drafted and reviewed by Counsel for all parties. As such, the doctrine of construction against the drafter shall have no application to this Agreement.

28. **FORCE MAJEURE:** Neither party to this Agreement shall be liable for any claims or damages if such claims or damages result or arise out of a failure or delay that is due to any act beyond the control of the party.

IN WITNESS WHEREOF, the undersigned municipal corporations and governmental entities have caused this Agreement to be executed on their behalf by their duly authorized representatives, having hereunto affixed their signatures and seals, the day and year first above written.

CITY OF LOWELL

By: _____ (seal)

City Manager

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney

STATE OF NORTH CAROLINA
COUNTY OF GASTON

I, _____, a Notary Public of the aforesaid County and State, do hereby certify that _____ personally appeared before me this day and acknowledged that he/she is the **Clerk of the City of Lowell** and that by authority duly given and as the act of the municipal corporation, the foregoing instrument was signed in its name by its **City Manager**, sealed with its corporate seal and attested by him/her as its Clerk.

WITNESS my hand and Notarial Seal, this the ____ day of _____, 2023.

Notary Public

My Commission Expires: _____

GASTON COUNTY

By: _____ (seal)

County Manger or Designee

ATTEST:

APPROVED AS TO FORM:

Clerk to the Board

County Attorney

This document has been pre-audited in the manner required by the Local government Budget and Fiscal Control Act

Finance Director/Deputy finance Director

STATE OF NORTH CAROLINA
COUNTY OF GASTON

I, _____, a Notary Public of the aforesaid County and State, do hereby certify that _____ personally appeared before me this day and acknowledged that he/she is **the (Deputy) County Manager/Assistant County Manager** and that by authority duly given as the act of the municipal corporation, the foregoing instrument was signed in its name by the designated party, sealed with its corporate seal and attested by him/her as its (Deputy) County Clerk.

WITNESS my hand and Notarial Seal, this the ____ day of _____, 2023.

Notary Public

My Commission Expires: _____



Gaston County **Public Works Department**

Memo

To: City of Lowell – Scott Attaway
From: Gaston County – Asia Stone
Date: 11/08/2023
Re: Lowell Elementary Waterline - Program Income Requirements

This memo is to serve as an explanation of requirements of Treasury and Coronavirus State and Local Fiscal Recovery Funds as it relates to program income.

Federal regulations applicable to the use of funds, as outlined in the grant award terms and conditions, include Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury.

2 CFR 200.1 defines program income as: *gross income* earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as provided in § 200.307(f). (See the definition of *period of performance* in this section.) Program income includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, and interest earned on any of them. See also § 200.407. See also 35 U.S.C. 200–212 “Disposition of Rights in Educational Awards” applies to inventions made under Federal awards.

Funding from the Coronavirus State and Local Fiscal Recovery Funds are also subject to the requirements specified in the U.S. Department of Treasury’s Final Rule, which was released on January 6, 2022. Treasury has published a variety of documents that offer additional guidance and further explain the terms and conditions of the CSLFRF award. These documents are listed on Treasury’s CSLFRF webpage. Such documents include the Overview of the Final Rule and Final Rule FAQs.

13.11 of the 2022 Final Rule FAQs: Per 2 CFR 200.307, Treasury specifies here that recipients may add program income to the Federal award. Any program income generated from SLFRF funds must be used for the purposes and under the conditions of the Federal award.

The Treasury's Compliance and Reporting Guidance for SLFRF funds directs recipients to calculate, document, and record the organization's program income. Additional controls include written policies that explicitly identify appropriate allocation methods, accounting standards and principles, compliance monitoring checks for program income calculations, and records.



City of Lowell
Regular City Council Meeting Memorandum

Prepared By: Scott Attaway

Resolution to Approve Contract and Authorize the City Manager to Sign Closing Documents for Real Property Located at 715 N. Main Street

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	New Business Item: A
Reference File	Presented By

To: Lowell Mayor and City Council

From: Scott Attaway, City Manager

Date: 11-7-23

Re: Consideration of Resolution to Approve Contract and Authorize the City Manager to Sign Closing Documents for 715 N. Main Street

Please see the attached resolution.

Attachments

RS12-2023 Resolution to Consider Approval of City Manager to Sign all Relevant Closing Documents for Property (002).pdf



RESOLUTION APPROVING FINAL CONTRACT FOR PURCHASE OF REAL PROPERTY AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE HUD DOCUMENT / SETTLEMENT STATEMENT AND ALL RELEVANT CLOSING DOCUMENTS RELATING TO THE PARCEL LOCATED AT 715 N. MAIN STREET, LOWELL, NC

RESOLUTION #12-2023

WHEREAS, the City of Lowell seeks to purchase and sign all relevant closing documents for the property located at 715 N. Main Street, Lowell NC and having Gaston County parcel ID number of 127529; and;

WHEREAS, the City of Lowell desires to expand its recreational facilities to provide opportunities and programming for its citizens, and the Council has determined that the property and improvements at the above referenced location meet the goals and needs of the citizens and provides opportunities for activities and future growth not currently existing within the City; and

WHEREAS, the City Council has authorized and directed the City Manager and the City's real estate consultant to negotiate a contract for the purchase of the above referenced property, together with all improvements situated thereon, for the price of \$500,000 and all reasonably related closing costs and necessary broker commissions; and

WHEREAS, the City has reviewed the Contract executed at its direction and hereby desires to approve the same and direct and authorize the City Manager and/or City Clerk to sign the HUD document and/or settlement statement, and all other relevant closing documents, so that the purchase can proceed to closing.

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council, upon recommendation of the City Manager, do hereby approve the execution of the contract to purchase property, and;

BE IT FURTHER RESOLVED that the City Manager and City Clerk are hereby authorized to execute the HUD documents, settlement statement, and all other relevant documents necessary to effectuate the transaction on behalf of the City of Lowell.

Adopted this 14th day of November 2023.

Sandy Railey, Mayor

ATTEST:



Cheryl Ramsey, City Clerk



City of Lowell

Regular City Council Meeting Memorandum

Prepared By: Scott Attaway

Reimbursement Resolution 11-2023

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	New Business Item: B
Reference File	Presented By

To: Lowell Mayor and City Council
From: Scott Attaway, City Manager
Date: 11-7-23
Re: Reimbursement Resolution 11-2023

Please see the attached reimbursement resolution as it relates to the properties located at 715 N. Main Street and 201 N. Main Street*.

*201 N. Main Street is the parent address to the property the City has purchased from Lowell Smyre Methodist Church, Gaston County GIS will assign a new address soon.

Attachments

RS11-2023 Reimbursement Resolution.pdf



DECLARATION OF OFFICIAL INTENT TO REIMBURSE EXPENDITURES

RESOLUTION #11-2023

WHEREAS, this declaration of official intent is made pursuant to Treasury Regulations Section 1.150-2, or any successor or substitute Regulations which may be promulgated hereafter, to expressly declare the City of Lowell's intention to reimburse itself for certain expenditures heretofore paid or to be paid by the City of Lowell, such reimbursement to be made with the proceeds of debt to be incurred by the City of Lowell.

WHEREAS, the City of Lowell has advanced and/or will advance its own funds to pay certain capital costs (the "Original Expenditures") relating to the purchase of property located at 201 North Main Street, Lowell, NC 28098, and the purchase of property at 715 North Main Street for future development projects. (together, the "Project").

WHEREAS, the funds heretofore advanced or to be advanced by the City of Lowell to pay the Original Expenditures are or will be available only on a temporary basis, and do not consist of funds that were otherwise earmarked or intended to be used by the City of Lowell to permanently finance the Original Expenditures.

WHEREAS, as of the date hereof, the City of Lowell reasonably expects that it will reimburse itself for such Original Expenditures with the proceeds of debt to be incurred by the City of Lowell, and the maximum principal amount of debt to be issued with respect to the Project is expected to be \$787,918.50.

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council, upon recommendation of the City Manager, do hereby approve Resolution #11-2023.

Adopted this 14th day of November 2023.

Sandy Railey, Mayor

ATTEST:

Cheryl Ramsey, City Clerk



Regular City Council Meeting Memorandum

Prepared By: Scott Attaway

Consideration to Adopt the Downtown Masterplan

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	New Business Item: C
Reference File	Presented By

To: Scott Attaway, City Manager
From: Joe Gates, Planning Director
Date: Tuesday, November 7, 2023
Re: Lowell Downtown Master Plan

Staff is requesting the adoption of the Downtown Master Plan by city council, developed by our consulting firm, Metrocology, for the revitalization and sustainable growth of the Lowell downtown area. This plan represents a significant step towards the enhancement of our community and the realization of our vision for a vibrant and prosperous downtown Lowell. The Lowell Community Committee, Lowell Planning and Zoning Board, downtown property owners, and the North Carolina Department of Transportation (NCDOT) have all been involved in the development of this plan and are in full support of its implementation.

The Downtown Master Plan, attached as Exhibit A, is the culmination of extensive collaboration, research, and public engagement with various stakeholders. Over the past year, our team at Metrocology has worked closely with downtown property owners to understand their needs and aspirations for the area. We have also engaged with the Lowell Community Committee to gather valuable input and insights from local residents, business owners, and community leaders. Furthermore, we have coordinated with the Lowell Planning and Zoning Board to ensure that the plan aligns with the city's zoning regulations and long-term development goals.

In addition, our team has liaised with the NCDOT to incorporate their input and address any transportation-related considerations within the plan. Their expertise and involvement are essential for the successful implementation of proposed transportation and infrastructure improvements, which will play a pivotal role in the revitalization of the downtown area.

The Downtown Master Plan outlines a comprehensive vision for the Lowell downtown district, including strategies for economic development, community engagement, beautification, transportation enhancements, and sustainability initiatives. By adopting this plan, the City of Lowell will be taking a significant step towards a brighter future for our downtown area.

We believe that this plan is not only achievable but will also result in numerous benefits for the community, such as increased economic activity, improved quality of life for residents, and a more attractive and accessible downtown area.

ATTACHMENT: Exhibit A - Downtown Mater Plan by Metrocology
<https://www.lowellnc.com/planning-and-zoning-plans-and-maps/>

Attachments



DOWNTOWN LOWELL Conceptual Plan

City of Lowell, NC

Submitted 12.22.2022



METROLOGY

DOWNTOWN LOWELL

Conceptual Plan

City of Lowell, NC

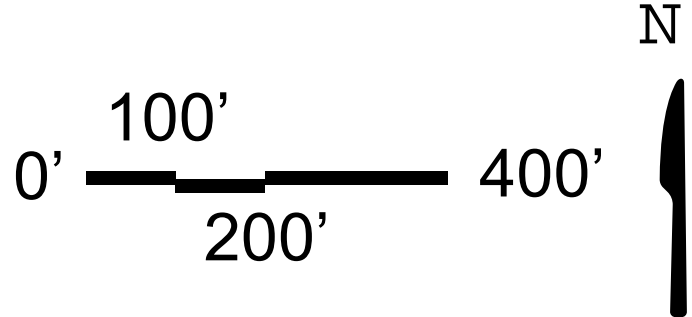


DOWNTOWN LOWELL Conceptual Plan

City of Lowell, NC

The Plan illustrated within this Document describes the optimum development of the Study Area. It is not intended to be an exact master plan for each parcel, but rather a comprehensive "Vision" providing the City, landowners, and residents a guide for how to zone, invest and build in the years to come. The market will allocate these investments on a property by property basis according to the individual actions of landowners and developers as they assemble and subdivide their holdings. By adopting the "vision" the City will be able to guide these actions to positively impact this important "gateway" into the Lowell.

The City may facilitate the vision through strategic investments in new streets, water, sewer, re-zonings, open space development and cycle/greenway improvements, when beneficial Private Public Partnerships present themselves. To that end, important Civic amenities such as parks, cycle ways, and pedestrian greenways are shown in their approximate locations.



DOWNTOWN LOWELL Conceptual Plan

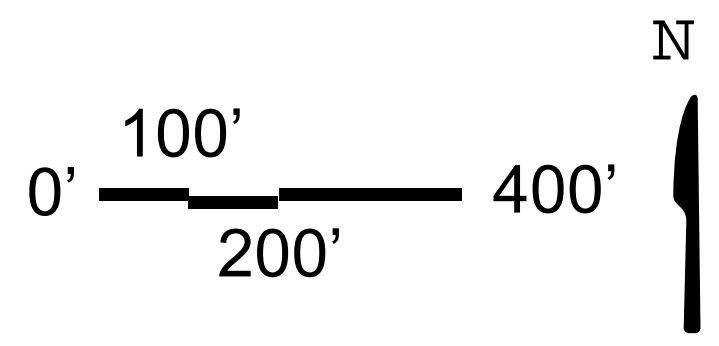
City of Lowell, NC

The N. Main St. and E/W. 1st St Corridors intersect just north of the railroad tracks. South of the railroad tracks along S. Main St., the City completed the Gateway Master Plan, guiding development from I-85 exits 23 and 24. The Downtown Conceptual Plan extends the master plan northward into Lowell's historic downtown.

Unlike the Gateway Master Plan, the boundaries of the Downtown Master Plan encompass an area that is fully gridded and infrastructured. While development remains low density and intermittent within the grid, there is potential for significant new development that would leverage the inherent walkability of the existing historic street and block pattern.



Holbrook Middle School



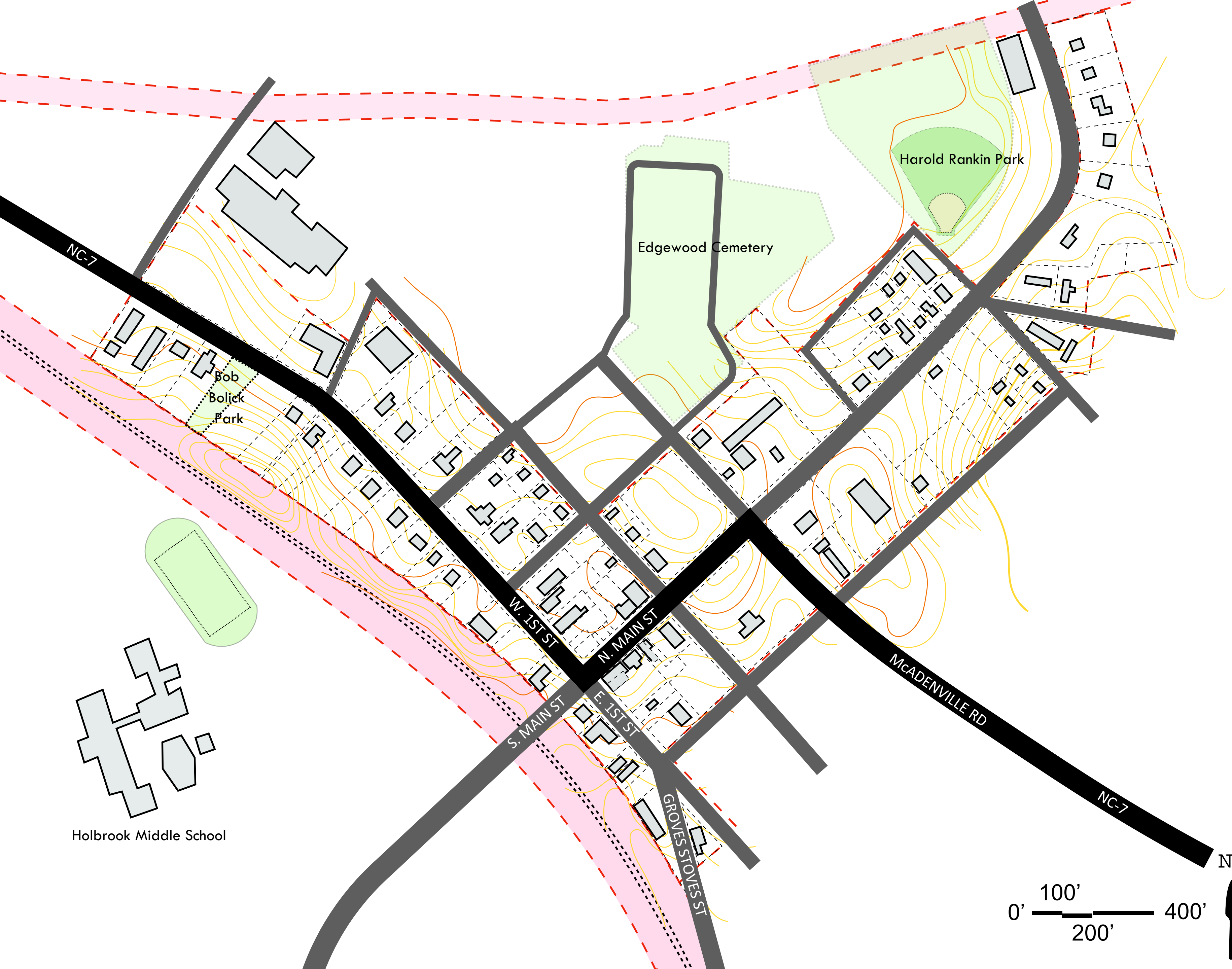
DOWNTOWN LOWELL

Conceptual Plan

City of Lowell, NC

State maintained NC-7 currently passes through downtown Lowell along McAdenville Rd, N. Main St, and W. 1st St. The State highway designation impacts the type of improvements that can be made to the character of these streets because of the added traffic capacity and truck routing placed on them.

S. Main St, McAdenville Rd, and Groves Stoves St provide direct access to I-85 and HWY 74.



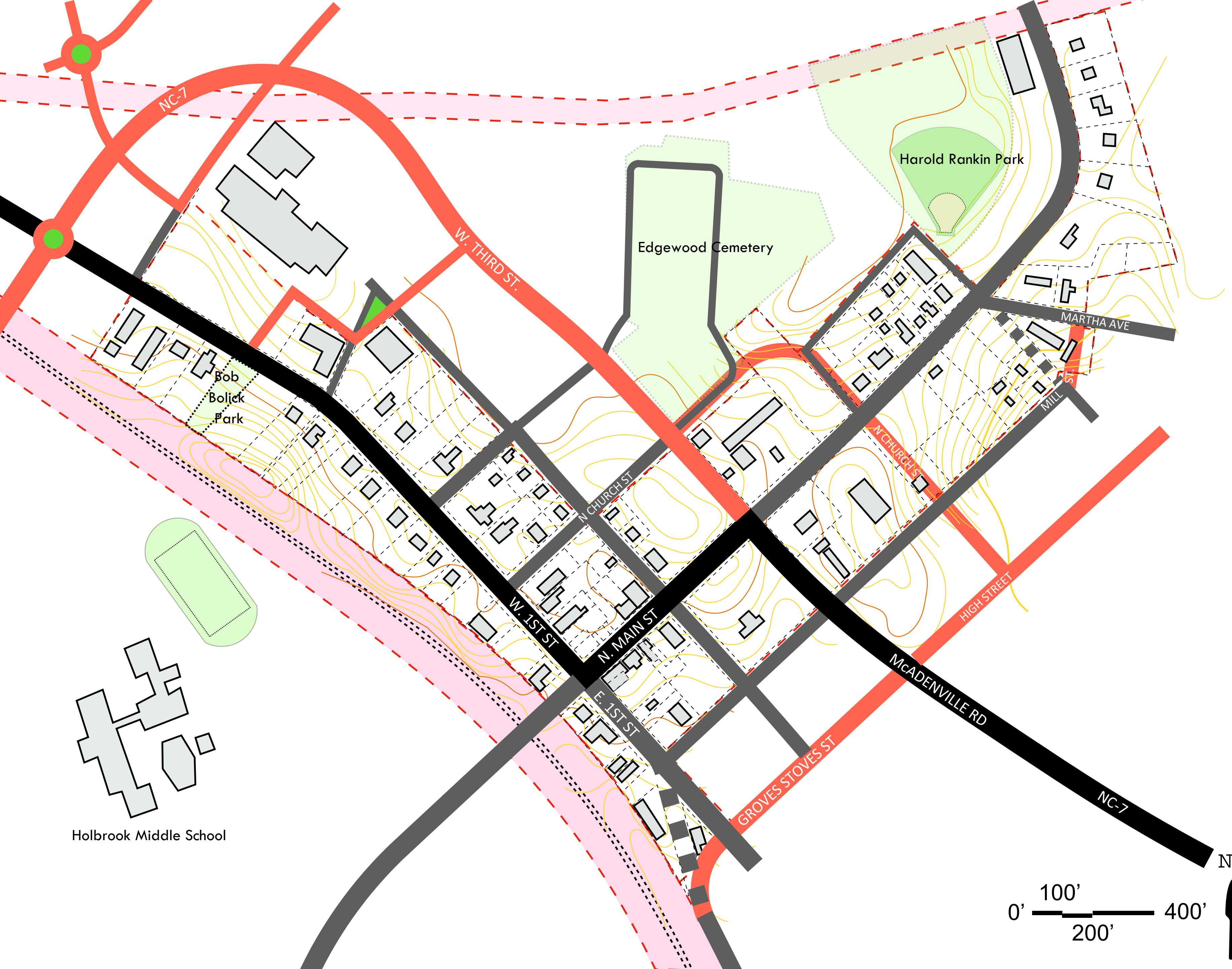
DOWNTOWN LOWELL Conceptual Plan

City of Lowell, NC

Plans have been prepared by the NCDOT to redirect NC-7 to bypass downtown Lowell. The new route will include upgrading and extending existing W Third St, eventually looping southwest to intersect at a round-about with W. 1st St between Birch and Ash Streets. Truck and through traffic will bypass downtown.

These plans should be supported by the City. The bypass would open up new properties for development in support of the downtown's general growth, as well as remove the design constraints on the two main Downtown Corridors that the City wants to encourage pedestrian designed streetscapes.

Additional thoroughfares should be added to the street network as funding permits. These include High Street extension north of McAdenville Rd, N. Church St extension to cross N. Main St, Mill St and intersect with High Street extension, extending Mill St to intersect with Martha Ave, and closing Caroline Ave between Mill St and N. Main St, as well as Groves Stoves St intersection at Mill St. Groves Stoves St would be redirected further east to align with existing High Street. High Street would be renamed to Groves Stoves St between E. 1st St and McAdenville Rd.



DOWNTOWN LOWELL

Conceptual Plan

City of Lowell, NC

The new State routing system would remove truck traffic, and regional through traffic from the City's central core, freeing W. 1st St, and N. Main St to be redesigned with wider sidewalks, pedestrian crossings, and on-street parking.

The elimination of truck and thru traffic will slow the speed of traffic reducing noise and encouraging better use of the sidewalks including outdoor dining, and installation of public art.

Portions of the newly pedestrianized streets could also be closed down to automobile use for special events.



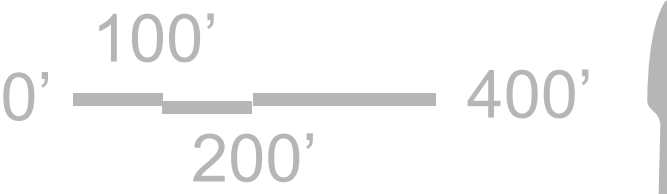
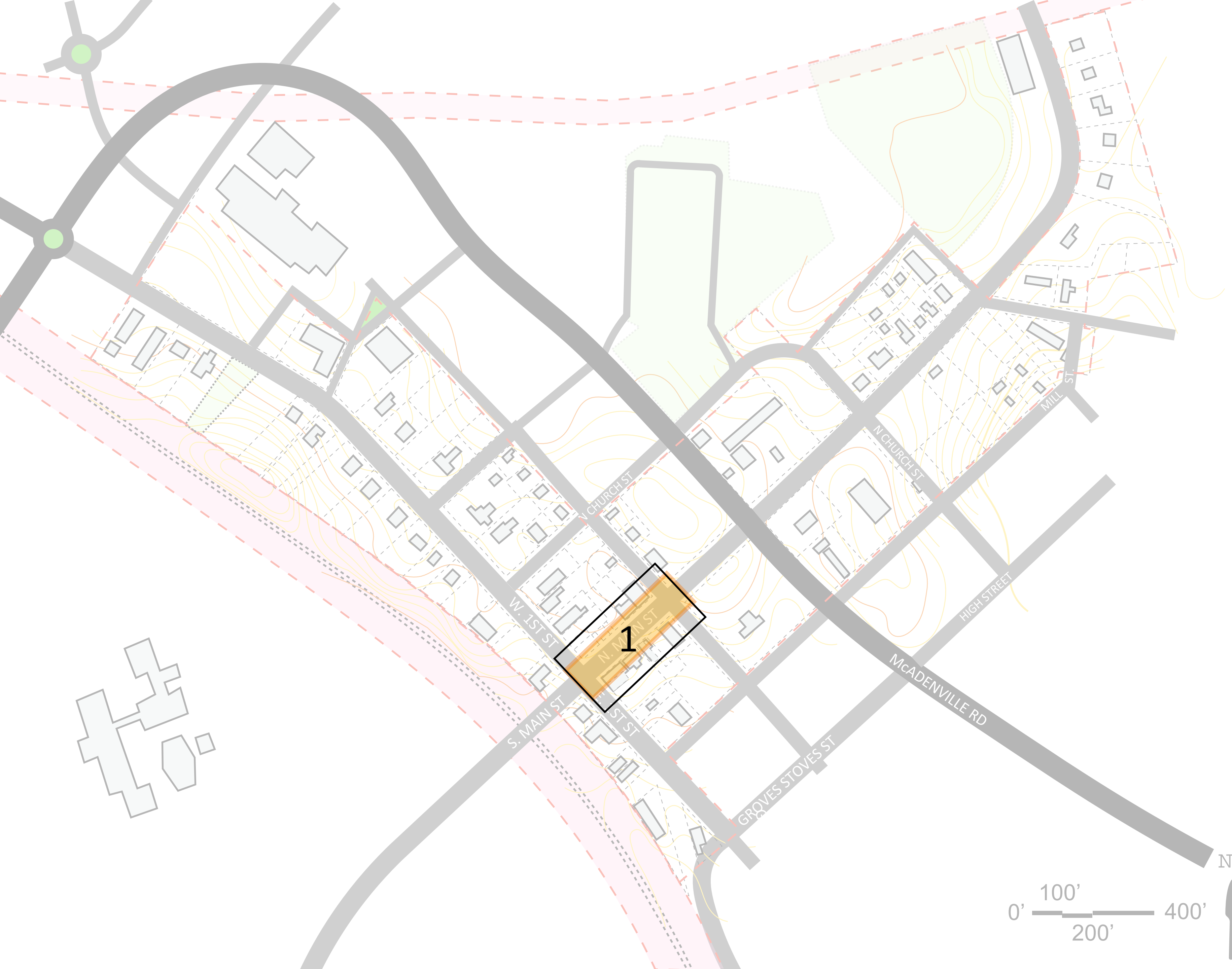
DOWNTOWN LOWELL Conceptual Plan

City of Lowell, NC

Pedestrianizing the N. Main St and W. 1st St. Corridors will involve phasing of improvements to the street design. These would include widening sidewalks, providing dedicated and protected cycling lanes, on-street parking, and narrower lane widths.

The improvements would be phased, beginning with tactical modifications to the street ROW using paint, bollards, and signage. This pilot project with the NCDOT would help asses the impact on pedestrian activity, business improvement. If successful these would be made permeant through the reconstruction of the remaining blocks on both the N. Main and W. 1st St. corridors.

The following page illustrates the initial changes to the streets for submittal and approval to the NCDOT for authorization to proceed on a pilot project level.

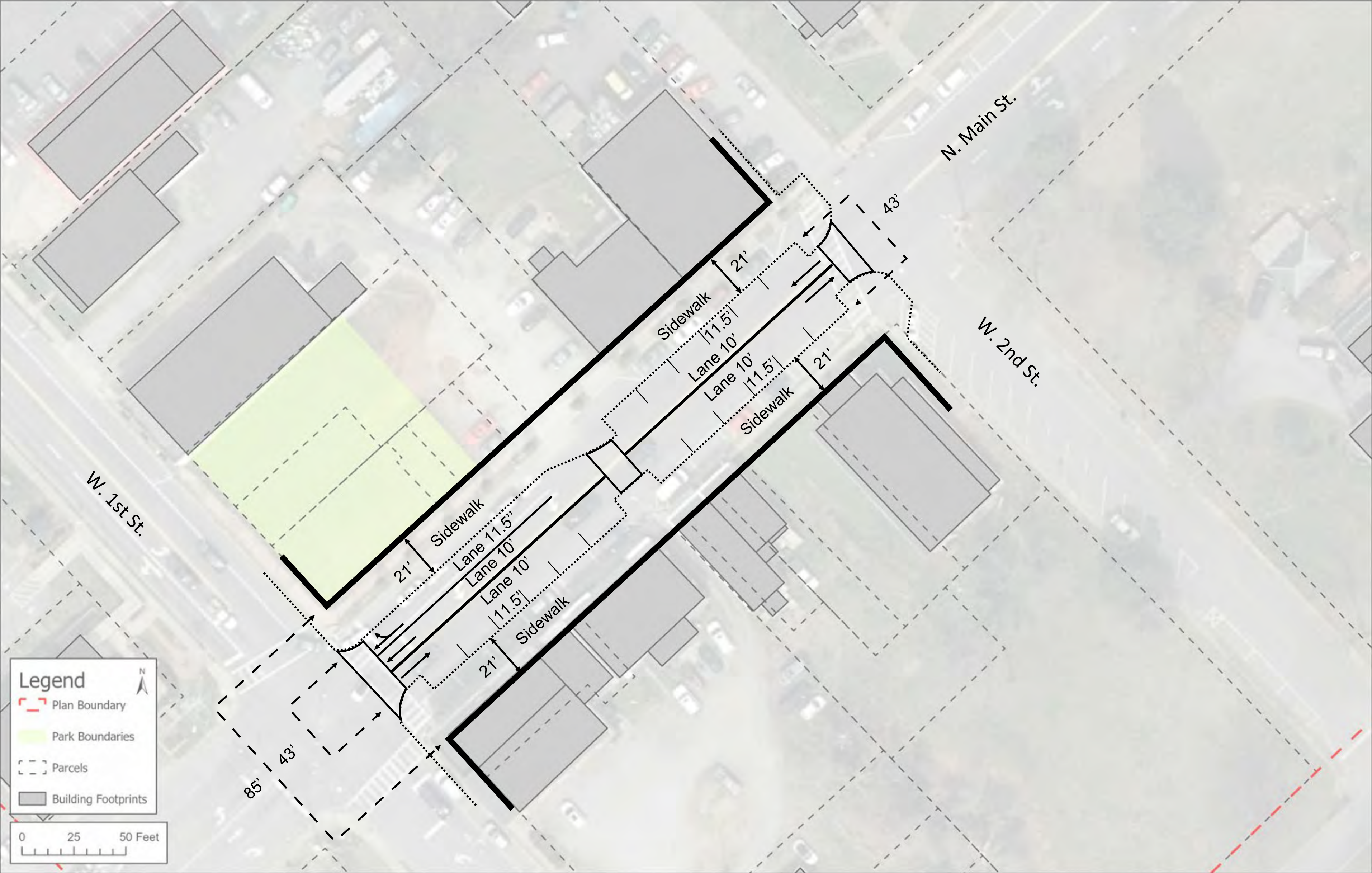


DOWNTOWN LOWELL Conceptual Plan

City of Lowell, NC

Pedestrianizing the N. Main St between W. 1st St. and W. 2nd Street would involve the reallocation of travel lane space to pedestrian use. The current ROW measures 85 feet, with close to 90% of that amount dedicated to travel lanes and parking.

The tactical intervention proposed by the Pilot Project with the NCDOT would increase the “pedestrian zone” to 50% of the ROW. On street parking lanes would be increased to 11.5 ft allowing for use by food trucks and other event vehicles during fairs and festivals that do not warrant closing off the street. A dedicated right turn lane onto W. 1st St. could be closed off at such times. Narrowing the travel lanes to 10 feet still provides plenty of room for even the largest vehicles, while slowing the speed of these vehicles down to increase the safety and walkability of the street for pedestrians.



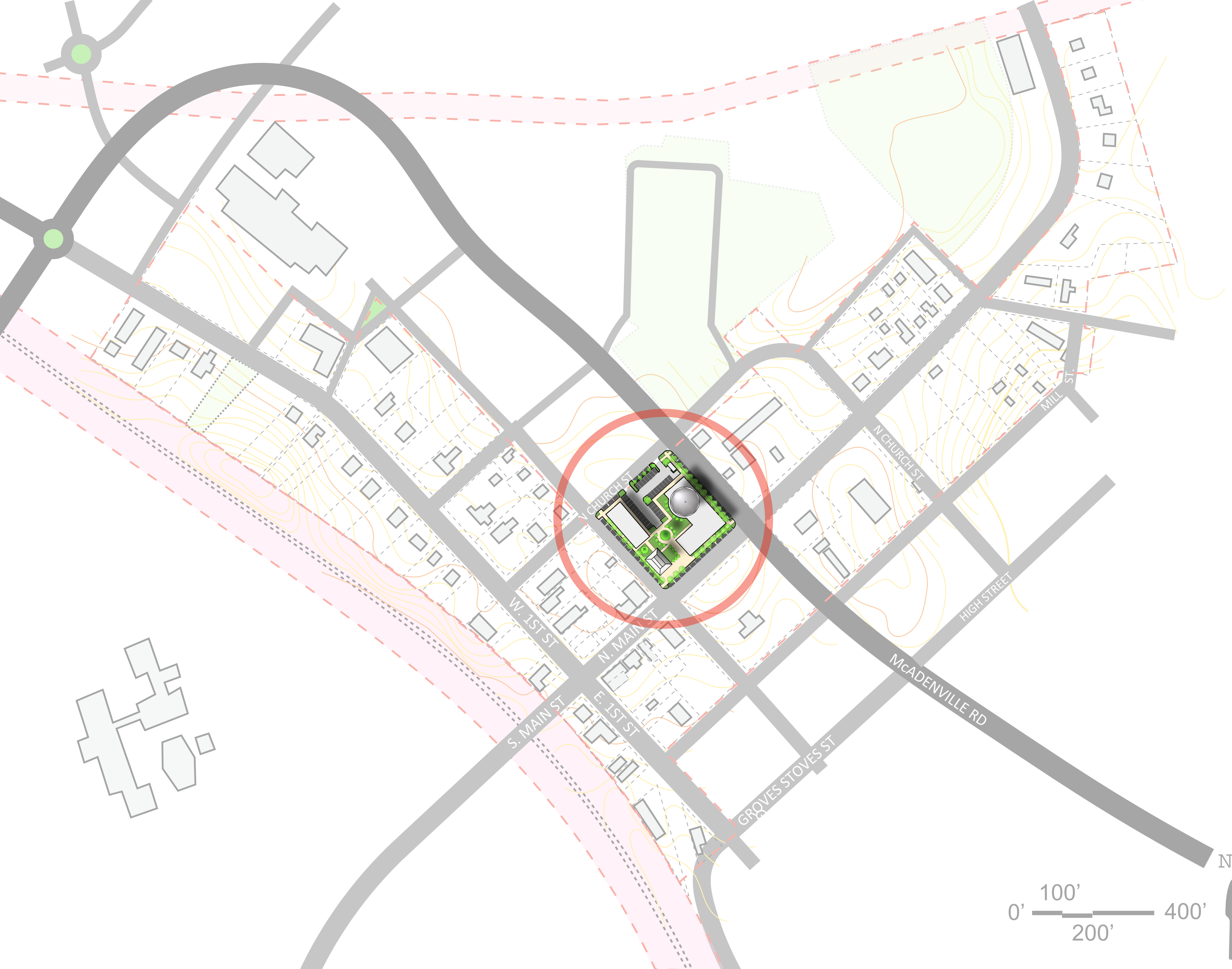
DOWNTOWN LOWELL

Conceptual Plan

City of Lowell, NC

The proposed site for the location of a new City hall complex, consolidating the Police, Planning, and Parks & Recreation departments.

The following three pages detail the phasing of the site plan.



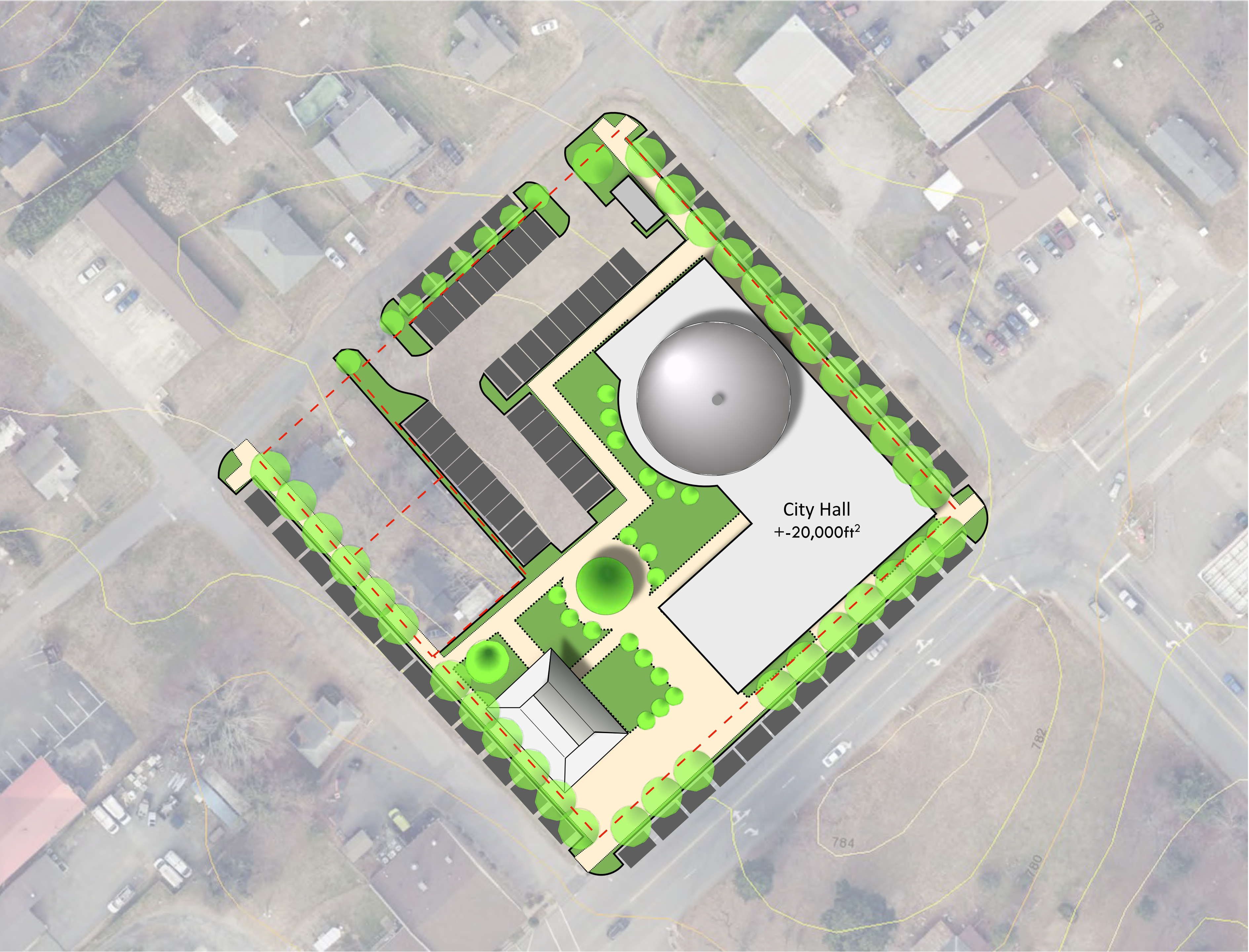
DOWNTOWN LOWELL

Conceptual Plan

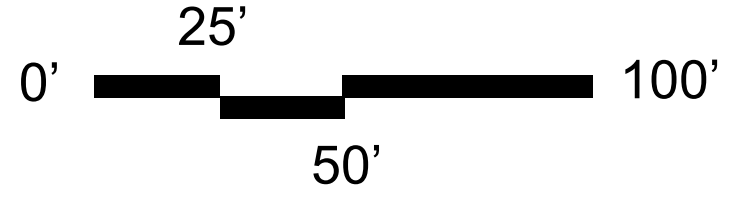
City of Lowell, NC

The initial phase would include the development of a two story 19,000 ft² to 21,000 ft² municipal building. The building would frame a city plaza and park that would incorporate the existing church.

Parking for the Church and City hall would be located at the rear and middle of the block, providing easy access to Church parishioners and visitors to City Hall. Additional parking would be accommodated along the perimeter of the block. In total over 72 spaces would be available for employees at City Hall and visitors during weekdays.



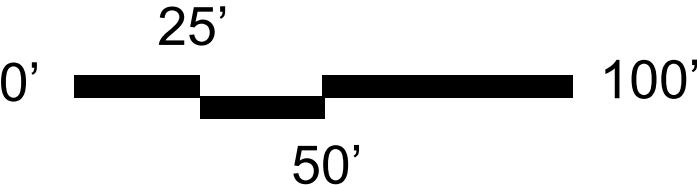
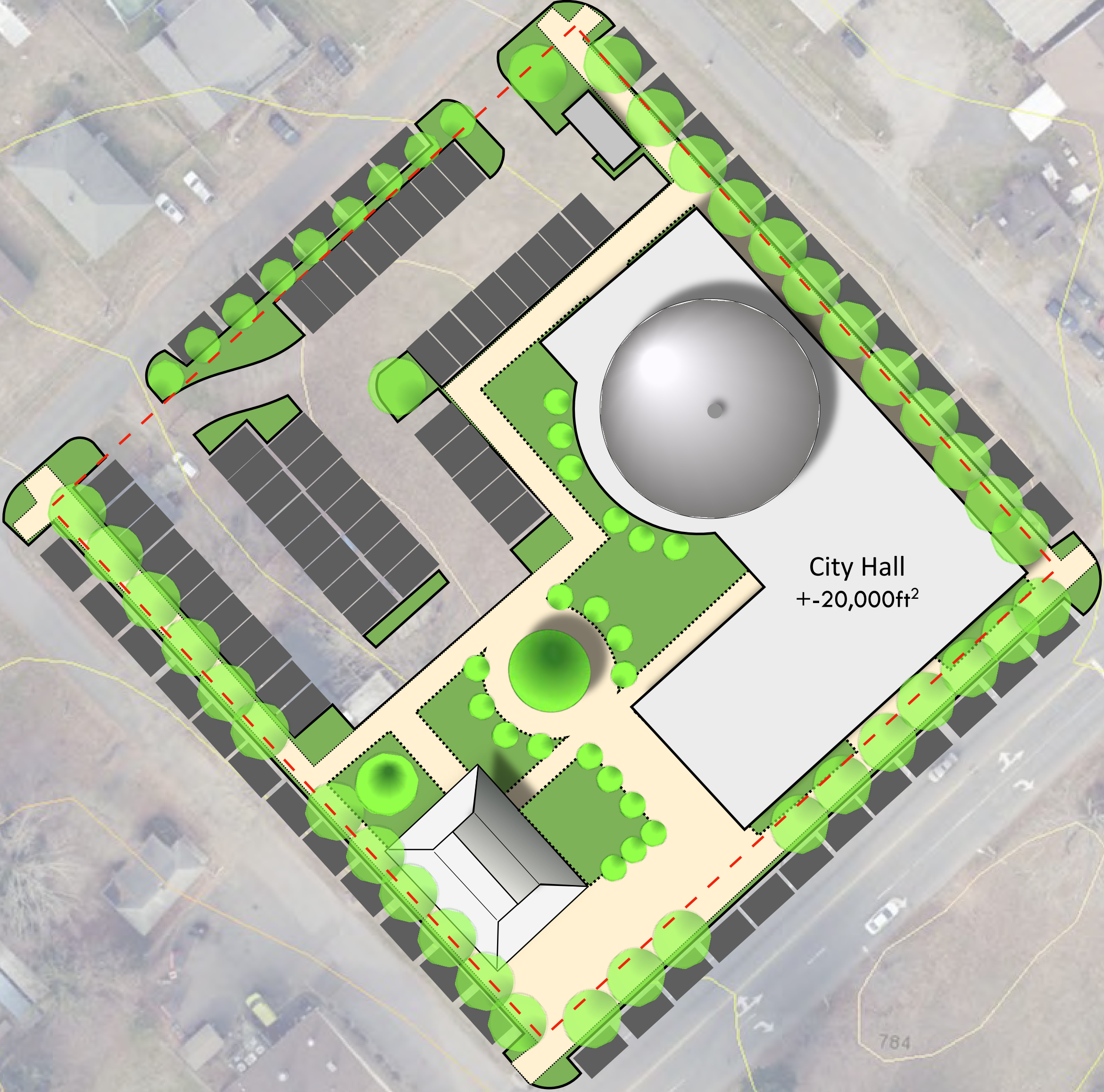
N



DOWNTOWN LOWELL Conceptual Plan

City of Lowell, NC

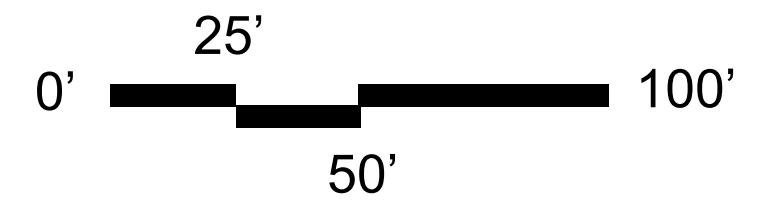
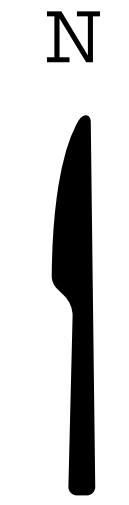
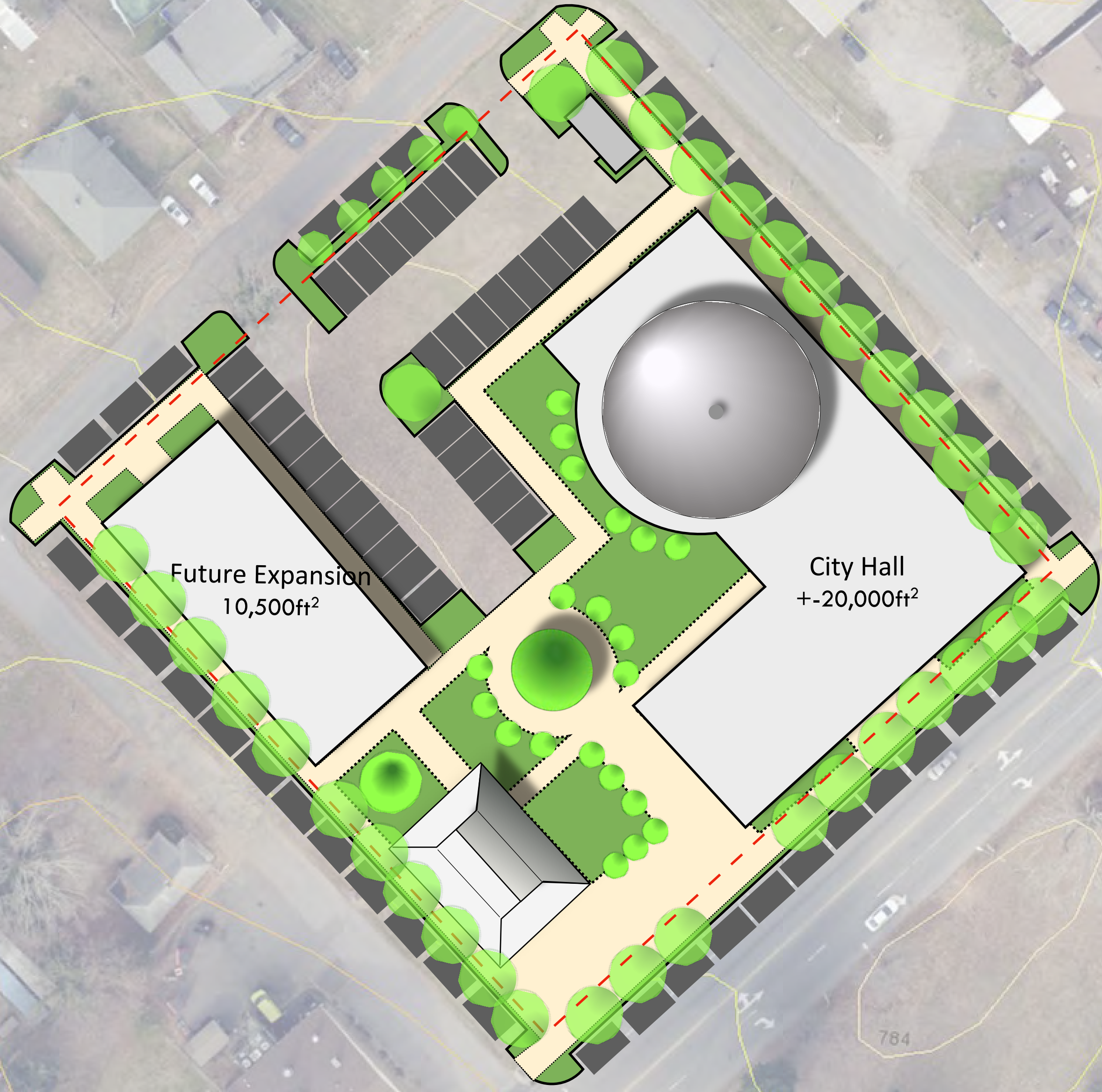
The purchase and assembly of the two remaining properties on the block would expand the parking by an additional 22 spaces, and provide a site for future expansion of City Hall.



DOWNTOWN LOWELL Conceptual Plan

City of Lowell, NC

The ultimate build out of the block would see a second building of approximately 10,000 ft² and the incorporation of the existing church into the complex, to serve as the City Council Chambers.



DOWNTOWN LOWELL

Conceptual Plan

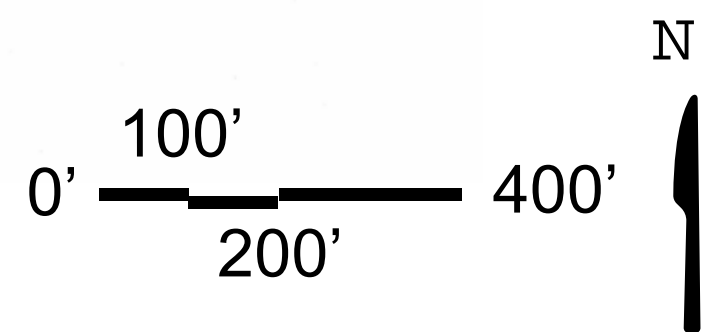
City of Lowell, NC

The proposed thoroughfare network including, rear lanes and alleys, and on and off street parking lot locations.



-  Streets
-  Street Diet
-  Rear Lanes & Alleys
-  Surface, +/- 785
On Street Parking, +/- 675

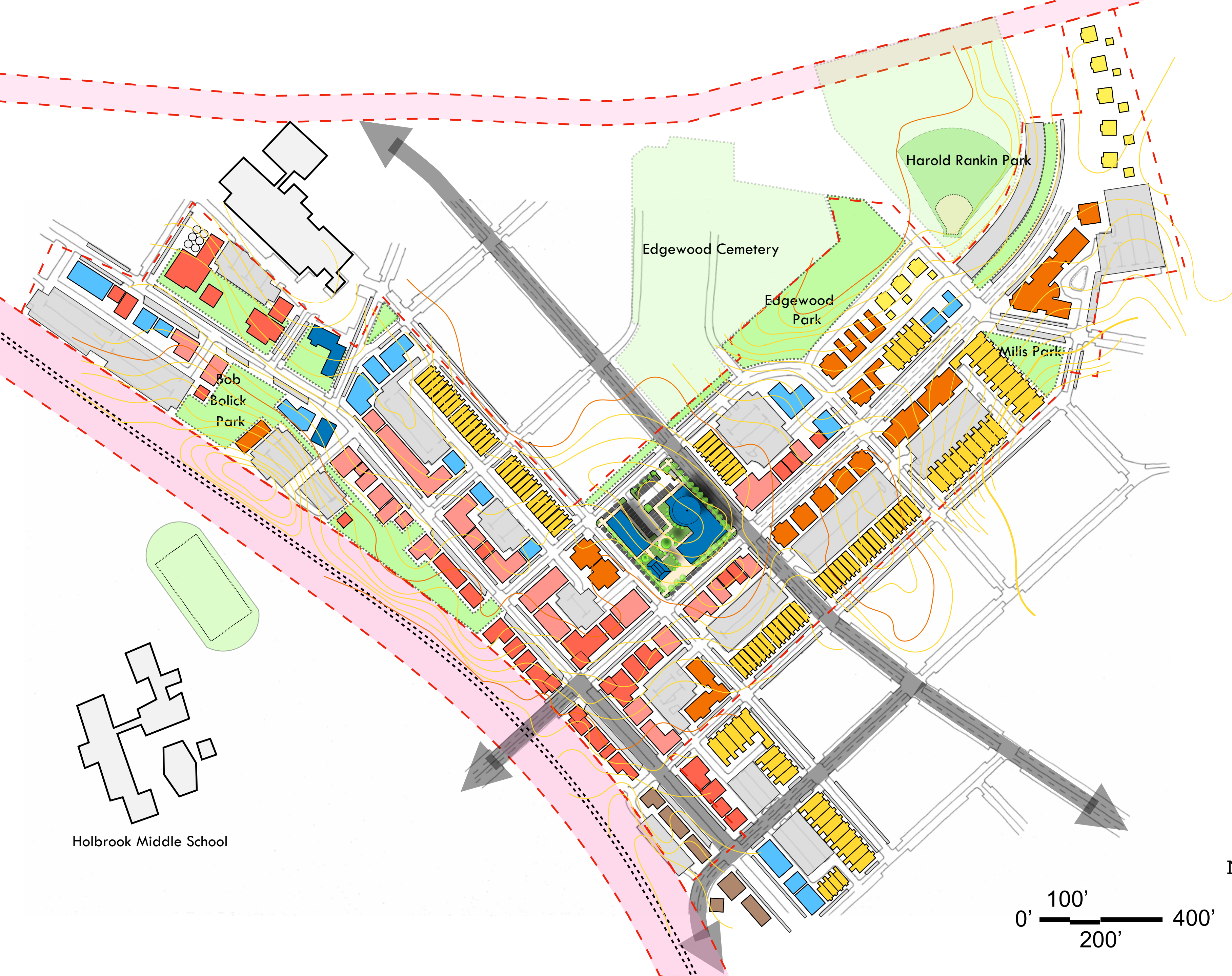
Holbrook Middle School



DOWNTOWN LOWELL Conceptual Plan

City of Lowell, NC

The redevelopment of Downtown Lowell would dramatically increase the City's tax base, employment and population. The densities illustrated by the plan are average for historic, small towns in the United States.



- 75,000 ft² - 125,000 ft² Retail
- 75,000 ft² / 200units Mixed Use Commercial/Residential
- 50,000 ft² - 100,000 ft² Office
- 40,000 ft² - 80,000 ft² Light Industrial
- Surface parking, on & off street
- Civic
- Open Space
- 400 - 800 units Multi-family
- 120 - 130 unites Single Family Attached
- 3 -10 units Single Family Detached
- Main Automobile Through Streets

Holbrook Middle School



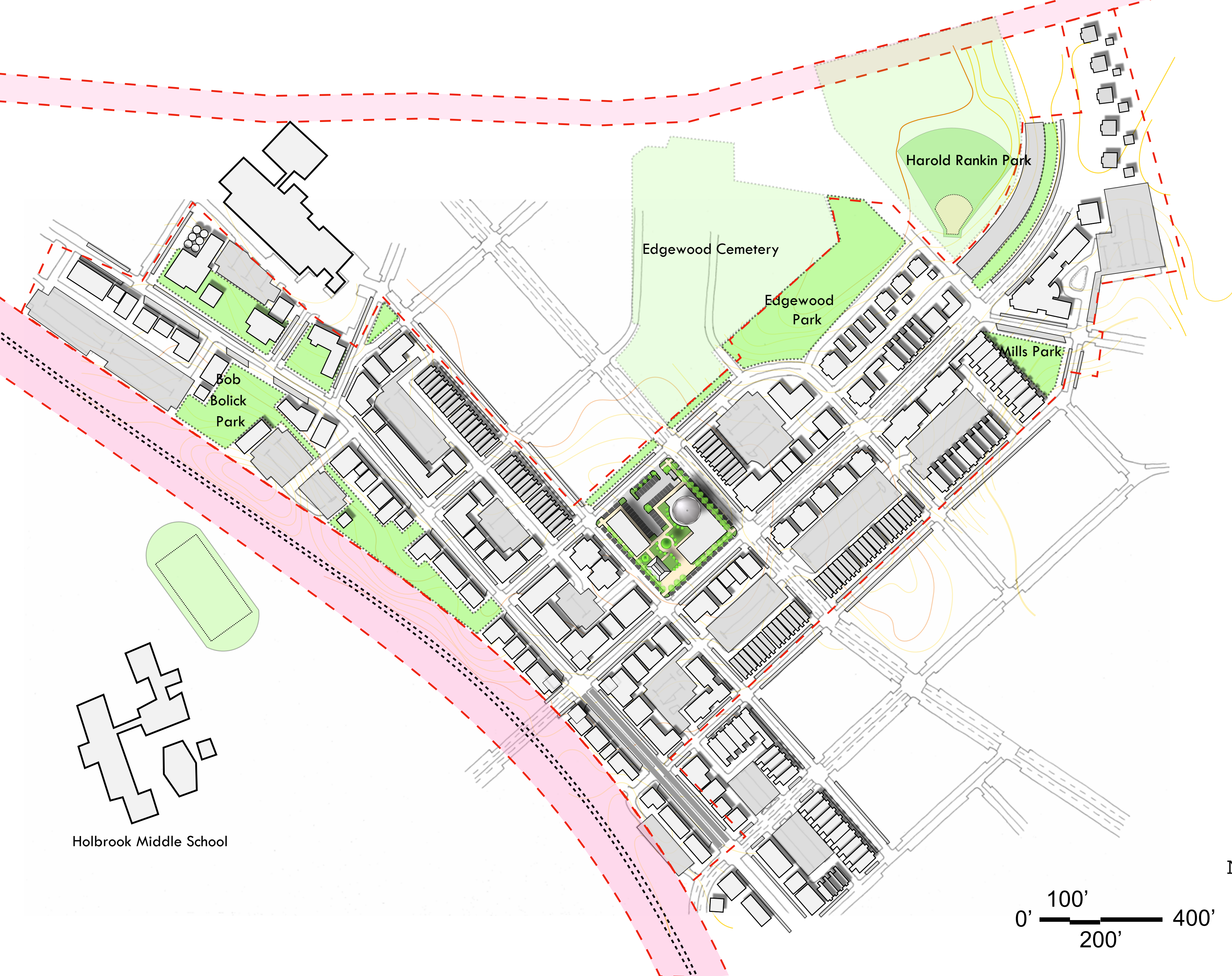
N



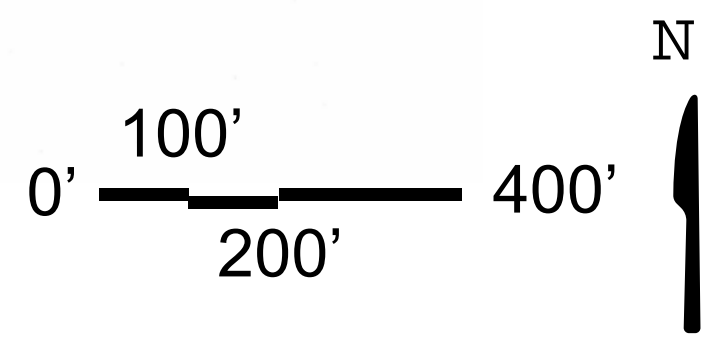
DOWNTOWN LOWELL Conceptual Plan

City of Lowell, NC

Illustrative Plan



Holbrook Middle School



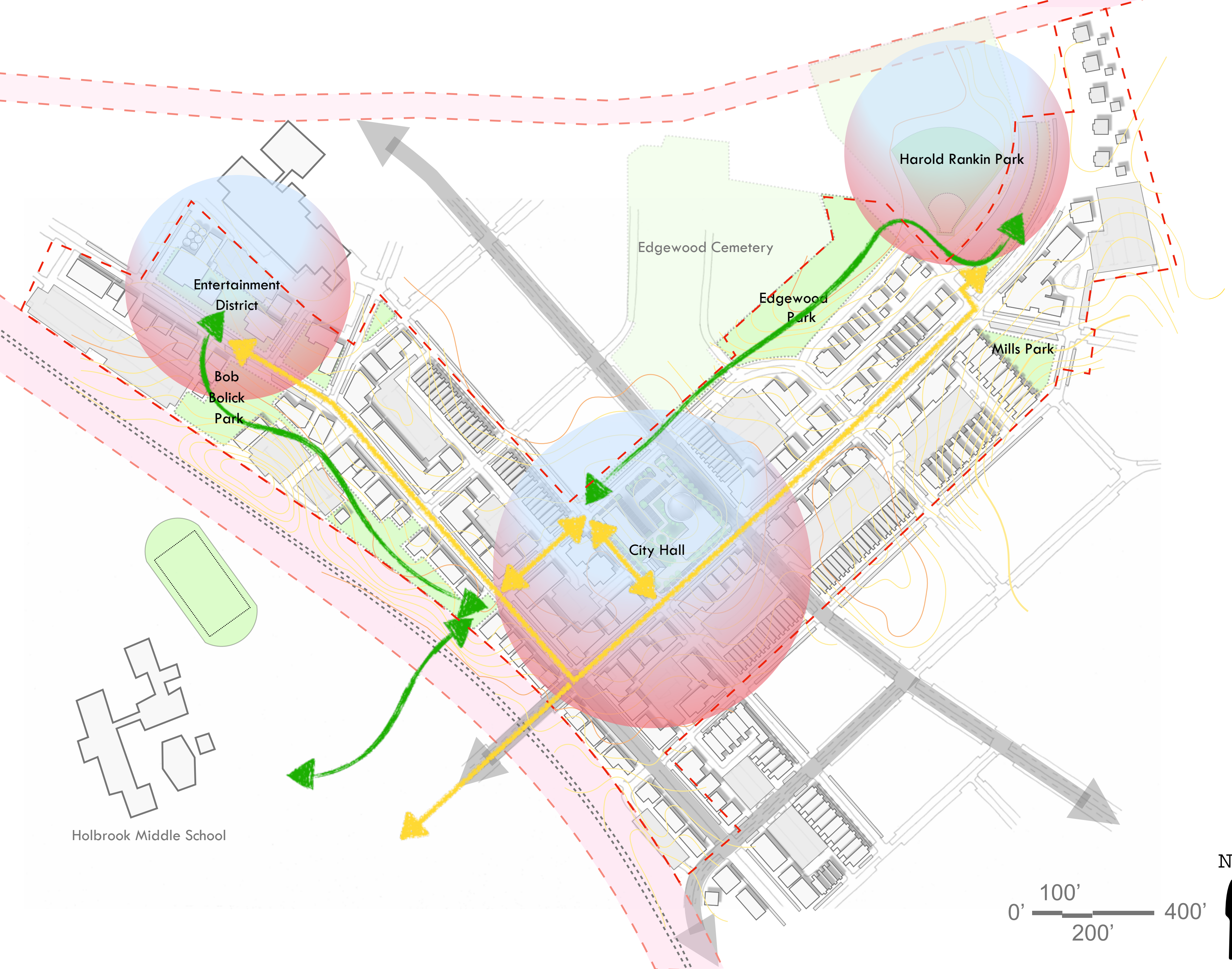
DOWNTOWN LOWELL Conceptual Plan

City of Lowell, NC

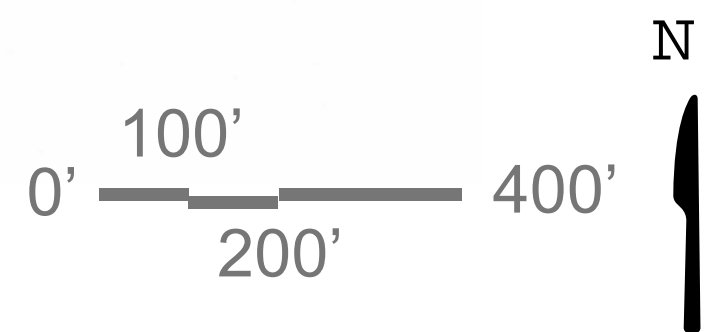
In addition to increasing the tax base, employment and population of the City, the Conceptual Master Plan also creates a series of networked destinations that would draw visitors to the City. A two tiered pedestrian system would focus on a "Main Street" and "Park" experience.

The "Main Street" system would run along W. 1st St. and N. Main St., connecting a future Entertainment District with Harold Rankin Park. Shown in yellow, this walking option would offer pedestrian oriented retail shopping, dining, and entertainment activities for visitors as well as residents.

The "Park" system shown in green, would be created by adding to the City's park system along N. Church St., from Harold Rankin Park to the railroad tracks. At the tracks land adjacent to the rail corridor would be developed as a linear park activated by the businesses along W. 1st St. through outdoor open spaces, sidewalks and lawns. Retail and dining would be permitted along the walk. The Park system would connect to an expanded Bob Bolick park that would become part of a larger Entertainment District. The District would incorporate dining, food hall, a brewery, music hall and arts venues.



Holbrook Middle School



DOWNTOWN LOWELL Conceptual Plan

City of Lowell, NC



DOWNTOWN LOWELL Conceptual Plan

City of Lowell, NC





Regular City Council Meeting Memorandum

Prepared By: Scott Attaway

Consideration of Risk-Based Remediation Closure at 1602 N. Main Street

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	New Business Item: D
Reference File	Presented By

To: Lowell Mayor and City Council
From: Scott Attaway, City Manager
Date: 11-7-2023
Re: Risk Based Remediation Closure for 1602 N. Main Street

NCDEQ has requested the attached form be filled out by the property owner of the former Crompton and Knowles property so that NCDEQ can proceed with the closure of this site from the Superfund Section. This is separate from the Brownfield section of NCDEQ.

Attachments

REVISED-Property-Owner-Consent-form-20200420-fillable.pdf

Risk-Based Remediation
Pursuant to Part 8 of Article 9 of Chapter 130A of the General Statutes

Property Owner Consent

The forms following these instructions should be used by the remediating party to document consent of owners of “source site” property, and currently and/or potentially contaminated “off-site property,” as defined in G.S. 130A-310.65, to allow remediation to site-specific remediation standards on their property. Property owners should be informed about potential future restrictions to the use of their property. As a condition of recordation, the property owner must agree to the actual content of all final land-use control instruments. Recordation of these instruments cannot occur without approval by the property owner.

The owners of “off-site property” must be provided a copy of N.C.G.S. 130A, Article 9, Part 8 “Risk-based Environmental Remediation of Sites” and NC DEQ’s publication entitled “Contaminated Property: Issues and Liability.” Owners consenting to site-specific remediation standards will sign the attached consent form affirming that they have read the publication and agree to the use of site-specific remediation standards with an institutional control(s). Note that off-site property also includes any affected publicly owned property, including rights-of-way for public streets, roads and sidewalks.

Note: Use one of the following forms depending on the type of ownership: individual or corporate .

**Individual Property Owner Consent to Risk-Based Remediation
Pursuant to Part 8 of Article 9 of Chapter 130A of the General Statutes**

I, _____, as Owner of the property identified by Parcel/Tax ID # _____,
located at _____, _____, _____, North Carolina, affirm the following:
Street
City
County

1. That I am authorized to provide the consent requested herein;
2. That I have been provided a copy of (1) Part 8 of Article 9 of Chapter 130A of the North Carolina General Statutes and (2) a document entitled "Contaminated Property: Issues and Liability" prepared by the N.C. Department of Environmental Quality in consultation with the N.C. Real Estate Commission and the N.C. Department of Justice's Consumer Protection Division, and have read said documents;
3. That I hereby consent to remediation of the above-identified property to site-specific remediation standards pursuant to Part 8 of Article 9 of Chapter 130A of the North Carolina General Statutes provided that the site-specific remediation standards shall not allow concentrations of contaminants on the above-identified property to increase above the levels present on the date of this written consent;
4. I understand that land-use controls, in the form of a legal land-use restriction document and/or a survey plat recorded in the chain of title on the above-identified property, will be used in lieu of remediation to unrestricted use standards; and
5. I understand that the recordation of the final content and actual language of any land-use restriction and/or survey plat on the above-identified property is conditioned upon my agreement with the content and language of those documents.

IN WITNESS WHEREOF, I execute these presents on this ___ day of _____, 20__.

Owner's name typed or printed: _____

Signatory's name typed or printed: _____

Signatory's title typed or printed: _____

Signature: _____

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public, do hereby certify that
_____ personally appeared before me this day, produced
proper identification in the form of _____, and signed this Property Owner Consent
to Risk-Based Remediation.

WITNESS my hand and official seal this ___ day of _____, 20__.

Notary Public

My Commission expires: _____

[SEAL]

**Corporate Property Owner Consent to Risk-Based Remediation
Pursuant to Part 8 of Article 9 of Chapter 130A of the General Statutes**

I, _____, as Representative of _____ (corporation) which owns of the property identified by Parcel/Tax ID # _____, located at _____, _____, _____, North Carolina, affirm the following:

1. That I am authorized to provide the consent requested herein;
2. That I have been provided a copy of (1) Part 8 of Article 9 of Chapter 130A of the North Carolina General Statutes and (2) a document entitled "Contaminated Property: Issues and Liability" prepared by the N.C. Department of Environmental Quality in consultation with the N.C. Real Estate Commission and the N.C. Department of Justice's Consumer Protection Division, and have read said documents;
3. That I hereby consent to remediation of the above-identified property to site-specific remediation standards pursuant to Part 8 of Article 9 of Chapter 130A of the North Carolina General Statutes provided that the site-specific remediation standards shall not allow concentrations of contaminants on the above-identified property to increase above the levels present on the date of this written consent;
4. I understand that land-use controls, in the form of a legal land-use restriction document and/or a survey plat recorded in the chain of title on the above-identified property, will be used in lieu of remediation to unrestricted use standards; and
5. I understand that the recordation of the final content and actual language of any land-use restriction and/or survey plat on the above-identified property is conditioned upon my agreement with the content and language of those documents.

IN WITNESS WHEREOF, I execute these presents on this ___ day of _____, 20__.

Owner's name typed or printed: _____

Signatory's name typed or printed: _____

Signatory's title typed or printed: _____

Signature: _____

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public, do hereby certify that _____ personally appeared before me this day, produced proper identification in the form of _____, and signed this Property Owner Consent to Risk-Based Remediation.

WITNESS my hand and official seal this ___ day of _____, 20__.

Notary Public

My Commission expires: _____

[SEAL]



City of Lowell
Regular City Council Meeting Memorandum

Prepared By: Scott Attaway

Consideration of Change Order 5 for the Demolition Project at 1602 N. Main Street

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	New Business Item: E
Reference File	Presented By

To: Lowell Mayor and City Council

From: Scott Attaway, City Manager

Date: 11-7-23

Re: Consideration of Change Order 005 for the Property Located at 1602 N. Main Street

Please see the attached change order proposal for the demolition project located at 1602 N. Main Street

Attachments

Trifecta CO 005 Yorkshire Concrete Ret. Walls, SOG, Steps, Pit, Etc. V.2 11.6.23.pdf

Yorkshire Site Drawings CO 005.pdf



TRIFECTA SERVICES COMPANY
1722 Toal Street
Charlotte, NC 28206
704-900-1977
NC License #75369

November 6, 2023

Scott Attaway
City of Lowell
101 W. First Street
Lowell, NC 28098
704-824-3518
sattaway@lowellnc.com

Yorkshire America V.
1602 N. Main Street Lowell, NC

Via Email

CO 005 PROPOSAL FOR SERVICES

Dear Scott,

Trifecta Services Company ("Trifecta") is pleased to submit our Proposal for construction services for the Project. This change order proposal includes all necessary supervision, labor, equipment, permits, disposal, and materials to perform the following detailed Scope of Work at the Project.

SCOPE OF WORK

- Structure numbers are based on the number sequencing used on the drawing submitted with this CO.
- DEQ noted "liquids found will need to be sampled to determine their disposition" as it relates to any freestanding water in tanks, or containments, etc.
- All asbestos removal has already been completed.
- Demolition factors concrete walls as approximately 12" thick and a measurable amount of concrete below grade that is not visible. Walls average 5'-6" total height in most cases.
- All concrete is priced to size and process down to size requirements.
- Structure 1 Behind Bldg. #7 Concrete steps, sidewalk and concrete landing.
 - **Erosion Control:** Some erosion control measures may be required using existing rates.
- Structure 2 Concrete wall, steps, and corner concrete block.
 - **Erosion Control:** Some erosion control measures may be required using existing rates.
- Structure 3 Near Building 26 Concrete wall
- Structure 4 Near Bldg. 10 and 13 Concrete walls
- Structure 5 Near building 9 Concrete wall
- Structure 6 Near Bldg. 17 Concrete pit and concrete slab.
 - Pending results from water samples take.
 - Break up bottom of tank, cap incoming and outgoing with flowable fill top with ABC.
- Structure 7 Near Bldg. 5 Concrete Wall
- Structure 8 Board up windows in bldg. 4
- Structure 9 Concrete sidewalks and concrete slab bump out.



- Concrete in green has not been included.

PRICING

• Structure 1 Concrete sidewalk, steps, landing	\$2,670.00
○ 240 SF	
○ 18 Ton	
• Structure 2 Concrete retaining wall, steps, corner block	\$6,880.00
○ 698 SF	
○ 108 Ton	
• Structure 3 Concrete retaining wall	\$4,700.00
○ 336 SF	
○ 27.45 Ton	
• Structure 4 Concrete retaining wall	\$7,220.00
○ 660 SF	
○ 49.5 Ton	
• Structure 5 Concrete retaining wall	\$6,050.00
○ 300 SF	
○ 22.5 Ton	
• Structure 6 Concrete SOG and pit/tank	\$7,300.00
○ 64 SF	
○ 2.4 Ton	
○ Includes flowable fill.	
• Structure 7 Concrete retaining wall	\$8,800.00
○ 525 SF	
○ 39.38 Ton	
• Structure 8 Bldg. #4 Board up windows	\$4,712.50
○ Total Windows 25 EA averaging \$188.50 per window.	
▪ Cost Per Window	
• Labor	\$112.5
• Equipment/Fuel	\$33.00
• Disposal	\$1.00
• Materials	\$42.00
• Structure 9 Concrete sidewalk and bump out	\$2,650.00
• Total 1-9	\$51,220.00
• Best Value Price Option All Inclusive Discount 1-9	\$49,300.00
• Add Alt. SOG near Building 11	\$6,000.00
• Add Alternate SOG near Building 31	\$7,800.00
• Deduct to not process concrete and send to recycling off site	-\$3,650.00. (items 1-9)

PROJECT SPECIFIC ASSUMPTIONS & CLARIFICATIONS

- All Work will be performed in one (1) mobilization, additional mobilization will be billed at \$2,800.00



TRIFECTA SERVICES COMPANY
1722 Toal Street
Charlotte, NC 28206
704-900-1977
NC License #75369

each.

- Testing and removal of materials has not been included. Any removal and disposal of soil other than clean fill will be in addition at cost plus.
- Site demolition of vegetation, trees, asphalt, miscellaneous hardscapes, and underground utilities has not been included.



SCHEDULE

The Work shall be performed according to the following schedule:
Day shift, no overtime, or weekends.

10 Workdays (excludes days for testing or screening)

Thank you for the opportunity to earn your business.

Sincerely,

Trifecta Services Company

Mike Craddock
Sr. Estimator
704-699-5549
mcraddock@trifectainc.com



TRIFECTA SERVICES COMPANY
1722 Toal Street
Charlotte, NC 28206
704-900-1977
NC License #75369

Please sign below and return by email:

Sign: _____
Print Name: _____
Title: _____

_____ Date

Enclosure(s): Attachment A



Attachment A to Proposal

Standard Exclusions, Assumptions & Clarifications

Unless modified elsewhere in the Proposal, the following exclusions shall apply to Trifecta's Work: Bonds, taxes, engineering, as-builts, shop drawings, staking, layout, GPR/GPRS, site security, fencing, weather protection, protective covers, liquidated damages, hazardous materials – lead, PBC's, PFAS/PFOS, etc., unforeseen conditions, removal of contaminated waters, debris, laden soil, lagging, underpinning, bracing/shoring/lintels, dewatering, pedestrian barricades, sidewalk closures, off-site work, prevailing wage rates, standby time due to owner/contractor delays or coordination with other trades/enabling work, termination of utility accounts, salvage of items to be relocated or reused, specialty insurance items not listed in this Proposal, pest control, Clearances or 3rd party air monitoring, Overtime or weekend hours, change order work without an agreed value, any work not specifically included in Scope of Work. In addition, the following assumptions and clarifications shall apply to the Trifecta's Work:

- All work will be performed in one (1) mobilization.
- All cutting, capping, and disconnect of MEP's/fire suppression necessary to perform Trifecta's scope or avoid property damage caused by performance of Trifecta's scope by others.
- All utility disconnects by others.
- Patching, sanding, grinding, chemical cleaning or prep for new finishes is *not* included.
- This Proposal does not include handling or disposal of hazardous or contaminated materials.
- Removal, protection, storage and/or reinstallation of any item(s) to be salvaged for reuse or relocation are specifically excluded from this Proposal.
- Power and water – to be provided by Client/Owner/GC
- All debris will be disposed of as C&D; All metal and inert debris is recyclable.
- All C&D and salvage materials shall be removed off-site in a timely manner that is efficient for Trifecta's crew. Only non-salvageable items will be disposed of at local landfill.
- Trifecta will be given adequate site access for personnel and equipment including parking to allow uninterrupted performance of the work as scheduled.
- Trifecta will use the trucking company and disposal site of our choice for demolition and construction debris.
- Trifecta will retain all rights to the salvage of the demolished material. Missing salvage from the time of the walk to the project start will require a pricing change as a salvage credit has been factored into Trifecta's pricing.
- Fuel increases in excess of 10% of the local price as of the date of this Proposal shall result in a surcharge.

Terms & Conditions

Pricing in the Proposal is only guaranteed for thirty (30) days and is based on Trifecta having free, clear and unobstructed access to the work area. Pricing breakout is for accounting purposes only and does not represent stand-alone prices. Proposal must be signed at least two weeks prior to requested start date in order to ensure adequate time to schedule the Work. Payment shall be 100% of the completed Work, final payment including retainage (if any) due NET 30 from completion of Trifecta's Work, whether or not Client has received payment from another party. Overdue balances will accrue interest at 18% per annum or the maximum legal amount for all overdue payments and to recover all expenses, including reasonable attorneys' fees and costs incurred in collecting any overdue balances. Trifecta reserves the right to refuse change order work that is not approved for payment in advance of performance.

Upon execution of this Proposal or commencement of Trifecta's Work, this Proposal shall become a binding contract between the Parties. The Proposal, together with any attachments, exhibits, or mutually agreed Descopes Notes, will be automatically incorporated into any final contract between the Parties, regardless of any merger clause or other contractual language agreed to by the Parties purporting to exclude this Proposal, now or in the future. In the event of any conflict between this Proposal and any other contractual provision dealing with pricing, scope, inclusions, and/or exclusions related to Trifecta's Work, or incorporation of this Proposal into a subsequent agreement, this Proposal (together with any amendments thereto in writing and signed by the Parties) shall control.

SOUTH FORK
CATAWBA RIVER



Legend

- EXISTING BUILDING FOOTPRINT AND BUILDING ID
- DEMOLISHED BUILDING FOOTPRINT AND BUILDING ID
- FORMER WWTP TANK
- WWTP TANK
- FORMER SUBSTATION
- CLARIFIER
- PROPERTY BOUNDARY



Regular City Council Meeting Memorandum

Prepared By: Scott Attaway

Consideration of Withers Ravenel for Part-F and LWCF Grant Administration

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	New Business Item: F
Reference File	Presented By

To: Lowell Mayor and City Council

From: Scott Attaway, City Manager

Date: 11-10-23

Re: Consideration of Withers Ravenel Proposal for Part-F and LWCF Grant Administration

Please see the attached proposal from Withers Ravenel, one of the City's on-call engineering and consulting firms. This proposal includes the project description, timeline for services, scope of services including: project management, grant administration services, compliance services during construction, boundary/topographic/tree surveys, subsurface utility engineering, schematic designs, design development, construction drawings, opinion of probable cost, and bid advertisement services.

Attachments

2023.11.10_Lowell Harold Rankin Park Improvements DRAFT Agreement.pdf



November 10, 2023

Scott Attaway, City Manager
City of Lowell
101 W. First Street
Lowell, NC 28098

**RE: Proposal for Professional Services
Lowell Harold Rankin Park Improvements
Lowell, North Carolina
WithersRavenel Project No. 23-1202**

Dear Mr. Attaway,

WithersRavenel, Inc. is pleased to provide this proposal to City of Lowell for consulting services. The project encompasses 5 parcels totaling approximately 12 acres and is described as Gaston County, NC PINs: 3576309360, 3576402132, 3576402540, a portion of 3576405704, and 3576307512 (not currently owned by the City).

We look forward to collaborating with you on this project. Please feel free to contact me with any questions and/or to discuss any aspect of the attached proposal. My contact information is below.

Sincerely,
WithersRavenel

Nicole Steele, PLA, ASLA
Project Manager, Landscape Architecture, Design & Planning
nstele@withersravenel.com
919.270.4320

City of Lowell Lowell, North Carolina Proposal for Professional Services

A. Project Description

This fee proposal is intended to provide the scope of services and associated fees to provide consulting services per request of City of Lowell and formalize an agreement for the implementation and logistics for these services.

This proposal is based on the project site located at 519 Park Circle in Gaston County, Lowell, North Carolina.

Listed below is a summary of several key aspects of the project based on our discussions, preliminary research, and Exhibit III. Refer to the Scope of Services and Additional Services/Exclusions for further detailed information.

- ▶ The project is funded in part by PARTF and LWCF grant awards. All work must meet or exceed the minimum requirements for design and reporting as required by the grant contracts.
 - ▶ The project is anticipated to be designed and constructed in multiple phases; this contract only pertains to Phase 1.
 - ▶ This proposal includes services for the scope of work and grant administration associated with the required elements per the PARTF and LWCF grant award contracts. Listed below are the park elements eligible for grant reimbursement:
 - Multi-purpose field
 - Half-court basketball court
 - Four (4) pickleball courts
 - Bocce ball court
 - Expanded playground area with safety surfacing and selection of equipment
 - Utility connections for pre-fabricated restroom building (selection to be provided by owner)
 - Pedestrian walkways
 - Nature trail through existing tree area
 - ▶ The Client has requested that WithersRavenel provide detailed support for grant-related activities to meet all deadlines and compliance with all administrative guidelines.
 - ▶ The Client has requested that WithersRavenel manage and oversee the bid advertisement and procurement process.
- ▶ A traffic study may be required and may be contracted separately or as a subconsultant if deemed necessary by NCDOT.
- ▶ To the best of our knowledge based on readily available public data and site observation, there are no streams, wetlands or other significant natural resources in the park. According to the USFWS National Wetland Inventory, there are no wetlands within Harold Rankin Park or the project area. Additionally, there are no floodways or floodplains in the park or project area. Site limitations identified hereafter may change the Scope of Services provided in this proposal.
 - Amendments or additional proposals for Subconsultant Services, Additional Design Services, Permitting, and all Services During Construction and Closeout will be provided separately.

For the purposes of this proposal and any subsequent agreements the following references shall apply:

- ▶ City of Lowell shall be known as the “Client”; WithersRavenel shall be known as the “Consultant”; The property and overall project shall be known as the “Project”; Lowell shall be known as “City”; Gaston County shall be known as “County”; The executed proposal shall be known as the “Agreement”.
- ▶ The following agency references apply: North Carolina Department of Transportation shall be known as “NCDOT”; US Army Corps of Engineers shall be known as “USACE”; North Carolina Department of Environmental Quality shall be known as “NCDEQ”.
 - The following entity references apply: Parks and Recreation Trust Fund shall be known as “PARTF”; Land and Water Conservation Fund shall be known as “LWCF”.

B. Timeline for Services

WithersRavenel will begin work upon receipt of this executed Agreement and written notice to proceed from the Client. Estimated timeframe(s) for the basis of the services described in the Scope of Services are shown below.

- ▶ Due Diligence: Estimated 2 months;
- ▶ Design Services: Estimated 7 months;
 - Bid Advertisement Services: 3 months;
 - Compliance Services During Construction: 8 months.

The above estimated timeframes may be impacted by, among other things:

- ▶ Timeliness and plan reviews of review agencies including the City of Lowell;
- ▶ Timeliness and accuracy of information provided by the Client and other Client consultants.

From the above and factoring in variability in the approval process, we estimate the total project timeframe for the Scope of Services to be 12 months for design and engineering services and 8 months for compliance services during construction.

If available, opportunities to adjust these estimated timeframes can be discussed. Implementation of agreed-upon adjustments may result in adjustments to WithersRavenel fees.

Certain tasks, such as reviews and approvals, are performed by third parties, including governmental agencies, over which neither Client nor WithersRavenel have control or responsibility. As such, neither party is responsible for delays or the resulting cost impacts caused by third parties.

C. Scope of Services

WithersRavenel shall provide the services identified under each task below as its “Basic Services” under the Agreement:

Task 1. Project Management & Administration

1.1 Project Management

WithersRavenel shall provide coordination and communication efforts for items relating to the Project that are not specifically covered in separate tasks outlined in the scope with specific items shown below:

- ▶ In-person kick off meeting and site visit with Client;
- ▶ Coordination and correspondence with City of Lowell;
- ▶ Coordinate and attend bi-weekly project meetings with City of Lowell;
- ▶ Attend virtual coordination meetings with Owner, utility provider(s), and sub-consultants, if applicable, meeting attendance pertains to general and civil site discussions only;

- ▶ Coordinate and attend virtual review meetings with Owner to review and approve schematic design plans, design development plans, construction drawing plans, and bid document packet;
- ▶ Manage internal project processes, communication, and resources during process through design as noted in the Scope of Services.

1.2 Grant Administration Services

WithersRavenel will be responsible for the following administration related activities for PARTF Award 2023-1071 Contract Period 12/1/23-11/30/26, and LWCF #37-01090 Contract Period 10/1/23-9/30/26:

- ▶ Participate with the City in any project kick-off meetings with the funding agencies;
- ▶ Maintain a comprehensive digital file system for all project documents and records to assist with monitoring and auditing, including grant contract, scope of work, all financial records, project costs, correspondence, bid documents, invoices and reimbursement requests;
- ▶ Register for and maintain grant records through the NC Parks' WebGrants System;
- ▶ Work with the Client to ensure that action items and routine paperwork updates are accomplished;
- ▶ Prepare drafts of all necessary progress reports for Client in the contract. Submit draft reports to the Client for review, edit and approval. Submit reports to proper recipients on Client's behalf
- ▶ Track expenditures for the project, request reimbursements to obtain grant funds, and manage funds efficiently and effectively in accordance with the approved budget;
- ▶ Prepare reimbursement requests and compile necessary supporting documentation for eligible expenses that occur within the grant period. Submit information to the Client for review, edit and approval. Submit finalized requests to the funding agency on the Client's behalf;
- ▶ Work with the Client to prepare and finalize any necessary paperwork and amendments and revisions and ensure accordance with guidelines;
- ▶ Act as liaison between the Client and the funding agency;
- ▶ Assist the Client with on-site grant administration inspections and monitoring visits (estimated one annual site visit);
- ▶ Work with the Client to complete all required closeout activities and final reports;
- ▶ Conduct as needed phone consultations with the Client.

1.3 Compliance Services During Construction:

WithersRavenel will provide for the following compliance related activities for PARTF Award 2023-1071 Contract Period 12/1/23-11/30/26, and LWCF #37-01090 Contract Period 10/1/23-9/30/26 during the construction period duration as identified in the timeline for services:

- ▶ Participate in the pre-construction meeting by discussing what will be expected from the funding agency during the project;
- ▶ Verify non-debarment status of prime contractor. Contractor is responsible for verifying non-debarment status of its subcontractors;
- ▶ Work with the Client and Consultant to ensure compliance with funding guidelines during bidding and construction (i.e. Davis Bacon and Build American, Buy American);
- ▶ Work with the Consultant and construction contractor to ensure compliance during construction, and to keep project moving forward and on schedule;
- ▶ Assure that the labor involved in any contracts over \$2,000 are the prevailing local wages for labor. Review and document compliance and maintain for future audit.

Task 2. Due Diligence Phase

2.1 Boundary Survey

- ▶ WithersRavenel will conduct a boundary survey of PIN(s) 3576309360, 3576402132, 3576402540, a portion of 3576405704, and 3576307512 (not currently owned by the City);
- ▶ Research subject property and adjoining properties for deeds and recorded maps. Traverse along property lines locating existing property corners as may be found on the subject properties and property corners on adjacent properties as may be necessary to help reestablish the boundary of the subject properties. WR will identify any encroachments, overlaps or under laps. WR will also locate all visible and obvious site improvements including buildings, drives, walkways, signs, utilities, etc.;
- ▶ Horizontal control will be based on NC State Grid NAD'83 (2011) or most current North Carolina Grid Available within 2000 feet of each this site. If no NC Grid monuments are within 2000 feet of site, Global Positioning Surveys (GPS) will be used to tie property to NC Grid System;
- ▶ Set necessary property corners with 18" long, 5/8" iron pipes and provide owner with copies of the finished map signed and sealed.
- ▶ **Not Included in the Scope:** Time and expense for resolution of conflicts of boundary with adjacent properties such as gaps and overlaps, and/or conflicts between deeds is not included in this task and fee.

2.2 Topographic Survey

- ▶ Survey Limits: Topo will include the area outlined in orange in Exhibit III; This includes extending topo to the northern R/W of Rogosin Blvd. and to the eastern R/W of N. Main Street. The total area to be included in the topo is ±12 acres;
- ▶ Horizontal control will be based on NC State Grid, NAD'83(2011) or most current North Carolina Grid Available within 2000 feet of each this site. If no NC Grid monuments are within 2000 feet of site, Global Positioning Surveys (GPS) will be used to tie property to NC Grid System;
- ▶ Vertical control will be based on NAVD'88 and will be tied to the nearest published County or NGS benchmark, or by means of GPS utilizing the North Carolina GPS Virtual Reference System (VRS);
- ▶ Contours will be mapped at 1 foot intervals;
- ▶ Locate all visible and obvious site improvements such as roadways, drives, walkways, signs, parking spaces, roadway markings, etc.;
- ▶ Conventional survey will be completed using spot grades at approximate 50' intervals and/or LiDAR mapping using UAS (Unmanned Air System). Agreement to this proposal will constitute permission to fly the UAS over the project site and properties;
- ▶ Utilities will be located based on observation of visible and obvious surface features. Sub-surface utility location may be performed under separate task;
- ▶ Storm and Sanitary Sewer will be located to include top and invert elevations, pipe sizes and types, where such determinations are possible;
- ▶ A project benchmark will be set and identified in the mapping.
- ▶ **Deliverable:** Mapping will be completed to a scale to be determined by client's engineer and will be delivered as a signed hard copy in PDF format and as a digital CAD file in AutoCAD .dwg format.

2.3 Tree Survey

- ▶ Locate trees on the subject parcel area as required to meet the City Standards of Lowell, NC.
- ▶ **Deliverable:** All tree data points will be drafted and delivered as a digital CAD file in AutoCAD .dwg format.

2.4 Quality Level B SUE

WithersRavenel will utilize both Electromagnetic (EM) and Ground Penetrating Radar (GPR) equipment to designate all utilities within the proposed project limits according to Exhibit III as follows:

- ▶ Utilities such as irrigation, storm drainage, and gravity sewer will not be marked as part of the Level B Investigation unless specifically requested;
- ▶ All utilities will be designated and marked using the American Public Works Association (APWA) guidelines with marking paint and/or pin flags;
- ▶ A detailed field sketch depicting all utility structures and designated utilities will be provided to assist with the survey of all marked utilities.
- ▶ **Deliverable:** All utility data will be drafted and delivered as a digital CAD file in AutoCAD .dwg format.

2.5 Hydrant Testing

- ▶ The Consultant will request one (1) hydrant test from the City of Lowell. The test will be performed by WR staff using the two-hydrant method in which one hydrant will be used to measure static and residual pressure and an adjacent hydrant will be used to measure flow. All testing will be coordinated with the City of Lowell fire marshal or other applicable municipal agency.
- ▶ Any fees required by the City will either be paid for by the Client directly or be invoiced as a project expense.
- ▶ The Consultant will provide a summary of the test results for the test. The results will include the data obtained from field measurements and the theoretical hydrant flow at 20 psi. A hydrant flow curve will also be provided.
- ▶ If any additional hydrant tests are required, Consultant will be entitled to additional fees.
- ▶ **Deliverable:** PE sealed hydrant test results and calculations.

Task 3. Schematic Design (SD's)

This task is limited to the design and engineering services needed to construct the required elements in the PARTF grant contract executed October 24, 2023.

WithersRavenel will coordinate with the Owner to review the existing master plan and develop a site plan that responds to the needs of the project.

The site plan will show existing features and proposed improvements (as noted above) as well as meet all local regulatory requirements. All plans will be prepared in AutoCAD format and PDFs will be provided. Plans will not be sealed/signed at this phase. Schematic drawings, assumed to be approx. 30% complete, will be reviewed by the Owner. The following will be provided with the Schematic Design submittal:

- ▶ Plans
 - Existing Conditions Plan
 - Demo plan
 - Site Plan
 - Preliminary Utility Plans
 - Preliminary Grading and Drainage Plan
 - Preliminary Landscape Plan
 - Preliminary stormwater analysis and memo (excludes SCM design)
- ▶ This task includes one (1) submittal. All comments will be addressed in the subsequent phase. Submittals reflecting major design changes requested by the Owner or other Consultant are subject to additional fees.
- ▶ As part of this task, we will coordinate with the following suppliers, as selected by the Owner:
 - Pre-engineered restroom
 - Playground

3.1 PARTF Funding – SD’s

PARTF funding includes the scope listed above and covers 44.19% of the cost of Task 3.

3.2 LWCF Funding – SD’s

LWCF funding includes the scope listed above and covers 44.19% of the cost of Task 3.

3.3 City Funding – SD’s

City funding includes the scope listed above and covers 11.63% of the cost of Task 3.

Task 4. Design Development (DD’s)

WithersRavenel will revise the schematic drawings based on comments from the Owner.

- ▶ The DD set will be considered approximately 65% complete and include the following sheets:
 - Cover Sheet
 - Existing Conditions and Survey
 - Demolition Plan - identifies those existing features to be removed and also protected.
 - Site Layout Plan – defines the horizontal layout of site improvements and identifies materials and key dimensions.
 - Utilities Plan – defines water and sewer utility connections for restroom building.
 - Grading and Drainage Plan – defines the critical spot elevations and illustrates the proposed contours as well as any stormwater conveyance and drainage infrastructure deemed necessary for proper drainage of park elements.
 - Erosion Control Plan – defines temporary and permanent erosion control measures, including Pre- & Post-Development Erosion Control Plan.
 - Planting Plan – defines minimum plantings required per applicable code with species, quality, size, and quantity.
 - Construction Details – defines detailing required to support proper site construction.
 - Architectural plans and details provided by the pre-engineered restroom manufacturer (mechanical, electrical, and plumbing plans for the restroom to be provided by the supplier and are excluded from WR’s scope).
- ▶ Design Development plans will be provided to and reviewed with the Owner.
- ▶ As part of this task we will coordinate with the following suppliers, as selected by the Owner:
 - Pre-engineered restroom
 - Playground
- ▶ Outline Technical Specifications will be provided for Divisions 02 through 33, as applicable.
- ▶ Any major changes to the site plan and/or program after the schematic design submittal shall be considered additional services.

4.1 PARTF funding – DD’s

PARTF funding includes the scope listed above and covers 44.19% of the cost of Task 4.

4.2 LWCF funding – DD’s

LWCF funding includes the scope listed above and covers 44.19% of the cost of Task 4.

4.3 City Funding = DD’s

City funding includes the scope listed above and covers 11.63% of the cost of Task 4.

Task 5. Construction Drawings (CD's)

This task includes one (1) round of revisions following Owner review of Design Development plans and receipt of comments prior to submitting for City permitting. Upon completing revisions, we will prepare applications and submit plans to the City of Lowell.

Plans submitted to the City will be sealed/signed by licensed professionals. WR will pay all required permit fees and be reimbursed by the client at cost plus 15%.

The construction drawings will respond to all comments from AHJ reviews. We anticipate no more than two (2) re-submittals for each permit application following the initial submittals. As part of this task, we will prepare comment responses as necessary with each resubmittal.

5.1 PARTF funding - CD's

LWCF funding includes the scope listed above and covers 44.19% of the cost of this task.

5.2 LWCF funding - CD's

LWCF funding includes the scope listed above and covers 44.19% of the cost of this task.

5.3 City Funding - CD's

City funding includes the scope listed above and covers 11.63% of the cost of Task 4.

Task 6. Opinion of Probable Construction Cost

WithersRavenel will provide an opinion of probable construction cost estimate (OPCC) for the following:

- ▶ Preliminary OPCC estimate based on Design Development plan set;
- ▶ Final OPCC based on Construction Drawings plan set.

WithersRavenel does not guarantee the final cost of construction. Costs are based on the best information we have at the time; however, they are provided for reference only and can fluctuate based on the volatility of the construction trade.

Task 7. Bid Advertisement Services

WithersRavenel will provide services to prepare, manage, and oversee the activities of the public bid selection process as follows:

7.1 Bid Document Preparation

WithersRavenel will prepare required forms and documentation for public bid selection process including:

- ▶ Coordinate with Owner on dates, times, and means of distribution for bid announcement, length of advertisement, meetings, and bid opening;
- ▶ Prepare front-end (Divisions 00 and 01) specifications for procurement and contracting requirements, including grant specific forms and requirements;
- ▶ Prepare bid advertisement and bid forms;
- ▶ Review bid packet for compliance with federal and state regulations required by the grant contracts;
- ▶ Compile bid packet for review and approval by Owner prior to advertisement.

7.2 Bid Administration

WithersRavenel will provide public bid phase activity oversight including the following:

- ▶ Provide construction documents via electronic bidding service;

- ▶ Conduct in-person Pre-Bid Meeting
- ▶ Manage receipt of contractor questions (RFIs) during bidding and issue responses to compiled questions according to published bid timeline;
- ▶ Prepare and issue addenda (estimated 2 addenda);
- ▶ Conduct in-person bid opening;
- ▶ Evaluate bids and prepare bid tabulation;
- ▶ Provide award recommendations to the Owner.

The above services apply to only one (1) bidding cycle. It does not include more than one bid attempt due to insufficient, incomplete, and non-compliant bids and due to rejection by the Owner. Managing additional bid cycles will be considered additional services.

D. Exclusions/Additional Services

Services that are not included in Section C or are specifically excluded from this Agreement (see below) shall be considered Additional Services if those services can be performed by WithersRavenel and its agents if requested in writing by the Client and accepted by WithersRavenel. Additional services shall be paid for by the Client in accordance with the Fee & Expense Schedule outlined in Exhibit II.

Consultant proposes to provide grant administration services as described in Section 1.2 of this proposal on an hourly basis until the funds are depleted. If the funds are not sufficient to carry out administration through anticipated closeout in late 2026, Client can request an additional proposal to complete the project.

If the grant project period is extended beyond November 2026 for any reason, and the administration funds have been expended, the grant administration fees for the remainder of the project will be assessed and reviewed with the Client accordingly.

The following list is not all inclusive and the Scope of Services defines the services to be provided by WithersRavenel for this project. The exclusions are described below but are not limited to the following:

Design Services

- ▶ Off-site improvements;
- ▶ Offsite utility or road improvements;
- ▶ Pump Station design and permitting;
- ▶ Forcemain design and permitting;
- ▶ Reclaim waterline design;
- ▶ LEED certification coordination;
- ▶ Pavement design;
- ▶ Structural/foundation design and certification;
- ▶ Greenway bridge design & permitting;
- ▶ Boardwalk design & permitting;
- ▶ Signal design;
- ▶ Dumpster enclosure details;
- ▶ Grease trap design;
- ▶ Equipment Selections/Design;
- ▶ Site Lighting, including fixture selection; and electrical engineering;

Documents/Drawings

- ▶ Conceptual Drawings;
- ▶ Sketch Plans;
- ▶ Record (As-Built) Plans;

Environmental Services

- ▶ SHPO Historic Resources Assessment;
- ▶ Endangered Species Assessment;
- ▶ Wetland Delineations;
- ▶ USACE Jurisdictional Determination;
- ▶ NCDWR/Local Municipality Buffer Determination;
- ▶ Phase I & II ESA's;

Geomatics Services

- ▶ Annexation Plats;
- ▶ Tree survey/cover report by Registered Forester;
- ▶ Surveys for off-site improvements;
- ▶ Platting services;
- ▶ Plot Plans;
- ▶ ALTA Surveys;
- ▶ GIS mapping services;
- ▶ Construction staking;
- ▶ Building staking;
- ▶ As-built (record drawing) surveys;
- ▶ Easements, Easement/ROW Plats;

Landscape Architecture Services

- ▶ Irrigation design;
- ▶ Entrance/signage feature design;
- ▶ Water feature and/or pool design;
- ▶ Renderings;
- ▶ Park improvements not identified in this proposal scope;
- ▶ Public art design or commissioning;

Offsite/Specialty

- ▶ Development agreements;
- ▶ Preparation of electronic file suitable for GPS machine control;
- ▶ Expert witnesses;

Permitting Services

- ▶ Building permits and associated work;
- ▶ 401/404 permitting;
- ▶ Floodplain Development permit;
- ▶ Stormwater permitting;
- ▶ Sign permitting;
- ▶ NCDOT Permitting;
- ▶ NCDEQ Permitting;

Planning/Studies

- ▶ Land Planning services other than listed above;
- ▶ Entitlement services;
- ▶ Variance and Quasi-Judicial processes;
- ▶ Off-site Sewer Analysis;
- ▶ Traffic Impact Analysis;
- ▶ Signalization Studies;
- ▶ Existing sewer hydraulic analyses;
- ▶ Special & Conditional Use Permits;

Project Management

- ▶ Additional Meetings/Site Visits;
- ▶ Adjacent property owner discussions;
- ▶ Neighborhood meetings;
- ▶ Attendance at formal regulatory meetings unless noted above;

Services by Others

- ▶ Geotechnical services;
- ▶ Architectural and MEP services;
- ▶ Structural Services;
- ▶ Arborist/Registered Forester Services;

▶ Traffic Impact Analysis

Services During Construction

- ▶ Pay application reviews;
- ▶ Change order reviews;
- ▶ Shop Drawing review;
- ▶ RFI's during bidding;
- ▶ Construction administration;
- ▶ Construction management;
- ▶ Dry utility coordination/design;
- ▶ NPDES monitoring/reporting;
- ▶ Loan draw certifications;
- ▶ Bonds and Bond Estimates;
- ▶ Record drawings/as-builts;
- ▶ Engineer Certifications;
- ▶ O&M/SWMP Manuals;

Stormwater Services

- ▶ Stormwater Management Plan;
- ▶ Stormwater Pollution Prevention Plan (SPPP) update or revision;
- ▶ Secondary containment designs;
- ▶ SCM design;
- ▶ Culvert design;
- ▶ Dam inspection, engineering, or analysis;
- ▶ Dam breach analysis;
- ▶ Flood studies, floodplain permitting or coordination with FEMA (such as for a LOMR-F, CLOMR/LOMR, etc.);
- ▶ Soil investigations (such as Seasonal high-water table determinations);
- ▶ Soil Media Mix Testing and Gradation Certification;
- ▶ Downstream impact analysis;
- ▶ Nutrient calculations;
- ▶ Peak flow analysis;
- ▶ SCM conversion.

General

- ▶ All plan submittal, review, or permitting fees;
- ▶ Any work previously provided in other proposals;
- ▶ Any other services not specifically listed within Section C.

E. Client Responsibilities

The following items will be provided by the Client and WithersRavenel will rely upon the accuracy and completeness of this information:

- ▶ General:
 - Provide representative for communications and decisions;

- Coordination and designation of a primary contact for architect, contractor, and other consultants engaged by the Client;
 - Provide in writing, any information as to Client's requirements for design;
 - Provide any information needed to complete the Project not specifically addressed in the Scope of Services;
 - Provide all available information pertinent to the Project, including any GIS information, reports, maps, drawings, utility data and/or survey, and any other data;
 - Examine all proposals, reports, sketches, estimates and other documents presented by the Consultant and render in writing decisions pertaining thereto within a reasonable period so as not to delay the services of the Consultant;
 - Give prompt written notice to Consultant whenever Client observes or otherwise becomes aware of any defect in the Project or the services of Consultant;
 - Attend City or City meetings as required/needed;
 - Provide access to property for Consultant and subconsultants;
 - Acquire all off-site utility and/or construction easements required for this Project;
 - Manage and coordinate the work of any subconsultants/subcontractors that are not directly subcontracted through the Consultant;
 - All submittal, review, or permitting fees associated with the Project;
 - Any legal representation requiring an attorney at law.
- ▶ Responsibilities Specific to Grant Administration and Funding:
- Create an accounting system for the PARTF and for the LWCF projects: Client must establish an accounting system for the projects to track expenditures as well as grant funds received by PARTF and LWCF via reimbursement.
 - Create and adopt Grant Budget Ordinance for Project
 - Conduct Audits as Required in Attachment A of PARTF and LWCF contracts
 - View the PARTF Accounting Workshop: The Client's contract administrator and finance officer are strongly encouraged to view the PARTF Accounting Workshop.
 - Tracking Project Expenditures: The Client is responsible for maintaining fiscal controls and fund accounting procedures that are based on generally accepted accounting standards and principles. The following minimum requirements must be met:
 - Establish a separate account and supporting documents for the grant.
 - Use the grant's project numbers for coding all expenditures. Example: PARTF # 2020-9999
 - Itemize all supporting records/documents of project expenditures by project element as listed in the application's project costs.
 - Records/documents must have sufficient detail to show the exact nature of all expenditures, and that they are directly related to a project element.
 - Register for E-Pay System: The Client must be registered and eligible to receive electronic payments. Please contact the State Controller's Office at (919) 707-0795 to register or ask questions.
 - Audit Procedures & Retaining Financial Records: The Client's regional consultant will check the reimbursement request to ensure the reimbursement forms and documentation submitted are complete and correct. The Client shall retain all books, records, documents, dates, and other materials relevant to the grant contract and project for at least five years after completion of the project. These records shall be subject to inspecting, reviewing, copying or audit by DNCR and the State Auditor's Office. The records must support all project costs and billings submitted to DNCR. Deeds and easements documenting PARTF

and LWCF restrictions must be maintained in perpetuity by the Client. Client needs to consult with their attorneys to ensure that they are complying with all bidding and contracting requirements.

- Permanent Signage at Site: Part of the post-award site inspection will be to have signage installed acknowledging the funding agencies per program guidance. The Client is responsible for providing this signage prior to the post-award site inspection.

F. Compensation for Services

WithersRavenel proposes to provide the Basic Services outlined in Section C on a lump sum or hourly basis with budgets as shown below plus reimbursable expenses in accordance with Exhibit II. The amounts set forth below have been determined based on the nature, scope and complexity of the Project as represented in the information provided to WithersRavenel by Client prior to submittal of this proposal; subsequent changes thereto may result in additional fees.

Task No.	Task Name	Fee
Task 1	Project Management & Administration (not Included in PARTF/LWCF)	
1.1	Project Management	\$21,500.00
1.2	Grant Administration (<i>Hourly NTE</i>)	\$50,000.00
1.3	Compliance During Construction (<i>Hourly NTE</i>)	\$15,000.00
Task 2	Due Diligence Phase (not included in PARTF/LWCF)	
2.1	Boundary Survey	\$10,500.00
2.2	Topographic Survey	\$9,000.00
2.3	Tree Survey	\$2,100.00
2.4	Quality Level SUE B	\$10,400.00
2.5	Hydrant Testing	\$2,500.00
Task 3	Schematic Design (SD's)	
3.1	PARTF Funding – SD's	\$10,384.65
3.2	LWCF Funding – SD's	\$10,384.65
3.3	City Funding – SD's	\$2,733.05
Task 4	Design Development (DD's)	
4.1	PARTF Funding—DD's	\$17,676.00
4.2	LWCF Funding—DD's	\$17,676.00
4.3	City Funding—DD's	\$4,652.00
Task 5	Construction Documents (CD's)	
5.1	PARTF Funding—CD's	\$14,139.85
5.2	LWCF Funding—CD's	\$14,139.85
5.3	City Funding—CD's	\$3,721.60
Task 6	Opinion of Probable Construction Cost (not included in PARTF/LWCF)	\$7,500.00
Task 7	Bid Advertisement Services (not included in PARTF/LWCF)	
7.1	Bid Document Preparation	\$5,500.00
7.2	Bid Administration	\$8,500.00
	Total	\$238,007.65

(Hourly NTE) Denotes hourly tasks with a Not To Exceed fee. The fee budget represented is a good faith estimate of what can be reasonably expected during the performance of this contract.

Fee Summary / Funding Source			
TASK	PARTF Funding	LWCF Funding	City Funding
Task 1 - Project Management /Administration			\$86,500.00
Task 2 - Due Diligence Phase			\$34,500.00
Task 3 - Schematic Design (SD's)	\$10,384.65	\$10,384.65	\$2,733.05
Task 4 - Design Development (DD's)	\$17,676.00	\$17,676.00	\$4,652.00
Task 5 - Construction Documents (CD's)	\$14,139.85	\$14,139.85	\$3,721.60
Task 6 - Opinion of Probable Construction Cost			\$7,500.00
Task 7 - Bid Advertisement Services			\$14,000.00
TOTAL FEE PER SOURCE	\$42,200.50	\$42,200.50	\$153,606.65

Invoices will be issued monthly, based on the percentage of completion for each lump sum task and the hourly rate for WithersRavenel personnel in accordance with Exhibit II for hourly tasks, as accomplished during the billing period. Payment is due upon receipt of invoice.

The above fees are based on the estimated timelines noted in Section B. Any adjustments to those timelines may result in additional fees.

Consultant may alter the distribution of compensation between individual Tasks noted herein to be consistent with services rendered but shall not exceed the total Lump Sum amount unless approved in writing by the Client.

The attached Exhibit II, Fee & Expense Schedule, is based on Consultant's rates as of the date of this proposal and may be subject to change for hourly tasks and any Additional Services that occur after any adjustments to such rates go into effect.

G. Acceptance

This proposal is valid 60 days from the date it is transmitted to Client. Receipt of an executed copy of this proposal will serve as the written Agreement between WithersRavenel and City of Lowell. All Exhibits identified after the signature blocks below, including the Standard Terms and Conditions (Exhibit I) and the Fee & Expense Schedule (Exhibit II), are incorporated herein and are integral parts of the Agreement.

OFFERED BY:

WithersRavenel

ACCEPTED BY:

City of Lowell



11/9/23

Signature

Date

Nicole Steele, PLA, ASLA

Name

Project Manager, Landscape Architecture

Title

Signature

Date

Scott Attaway

Name

City Manager

Title



11/9/23

Signature

Date

Courtney Landoll, PLA, ASLA

Name

Director of Landscape Architecture

Title

Attachments:

Exhibit I- Standard Terms and Conditions

Exhibit II- Fee & Expense Schedule

Exhibit III- Survey Limits

Exhibit I

Standard Terms and Conditions

The proposal submitted by WithersRavenel, INC. ("CONSULTANT") is subject to the following terms and conditions, which form an integral part of the Agreement. By accepting the proposal, the services, or any part thereof, the CLIENT agrees and accepts the terms and conditions outlined below:

1. Payment:

- a) The CLIENT will pay CONSULTANT for services and expenses in accordance with periodic invoices to CLIENT and a final invoice upon completion of the services. Each invoice is due and payable in full upon presentation to CLIENT. Invoices are past due after 30 days. Past due amounts are subject to interest at a rate of one and one-half percent per month (18% per annum) on the outstanding balance from the date of the invoice.
- b) If the CLIENT fails to make payment to the CONSULTANT within 45 days after the transmittal of an invoice, the CONSULTANT may, after giving 7 days written notice to the CLIENT, suspend services under this Agreement until all amounts due hereunder are paid in full. If an invoice remains unpaid after 90 days from invoice date, the CONSULTANT may terminate the Agreement. If Consultant initiates legal proceedings to collect the fees owed, Consultant shall also be entitled to recover the reasonable expenses of collection including attorney's fees.

2. Notification of Breach or Default: The CLIENT shall provide prompt written notice to the CONSULTANT if CLIENT becomes aware of any breach, error, omission, or inconsistency arising out of CONSULTANT's services or any other alleged breach of contract or negligence by the CONSULTANT. The failure of CLIENT to provide such written notice within ten (10) days from the time CLIENT became aware of the fault, defect, error, omission, inconsistency, or breach, shall constitute a waiver by CLIENT of all claims against the CONSULTANT arising out of such fault, defect, error, omission, inconsistency, or breach. Emails shall be considered adequate written notice for purposes of this Agreement.

3. Standard of Care: CONSULTANT shall perform its services in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with the standards of professionals providing the same services in the same or a similar locality as the Project. THERE ARE NO OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE THAT WILL OR CAN ARISE OUT OF THE SERVICES PROVIDED BY CONSULTANT OR THIS AGREEMENT.

4. Waiver of Consequential Damages/Limitation of Liability: CLIENT agrees that CONSULTANT's aggregate liability for all claims that may be asserted by CLIENT is limited to \$50,000 or to the fee paid to CONSULTANT under this Agreement, whichever is greater. Both CLIENT and CONSULTANT hereby waive any right to pursue claims for consequential damages against one another, including any claims for lost profits.

5. Representations of CLIENT: CLIENT warrants and covenants that sufficient funds are available or will be available upon receipt of CONSULTANT's invoice to make payment in full for the services rendered by CONSULTANT.

6. Ownership of Instruments of Service: All reports, plans, specifications, field data and notes and other documents, including all documents on electronic media, prepared by the CONSULTANT as instrument of service, shall remain the property of the CONSULTANT. The CONSULTANT shall retain all common law, statutory and other rights, including the copyright thereto. In the event of termination of this Agreement and upon full payment of fees owed to CONSULTANT, CONSULTANT shall make available to CLIENT copies of all plans and specifications.

7. Change Orders: CONSULTANT will treat as a proposed change order any written or oral order (including directions, instructions, interpretations, or determinations) from CLIENT which requests changes in the Agreement or CONSULTANT's Scope of Services. If CONSULTANT accepts the proposed

change order, CONSULTANT will give CLIENT written notice within ten (10) days of acceptance of any resulting increase in CONSULTANT's fees.

8. Opinion of Cost/Cost Estimates: Since the CONSULTANT has no control over the cost of labor, materials, equipment or services furnished by others, or over methods of determining prices, or over competitive bidding or market conditions, any and all opinions as to costs rendered hereunder, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of CONSULTANT'S experience and qualifications and represent its reasonable judgment as an experienced and qualified professional familiar with the construction industry; but the CONSULTANT cannot and does not guarantee the proposals, bids or actual costs will not vary significantly from opinions of probable costs prepared by it. If at any time the CLIENT wishes assurances as to the amount of any costs, CLIENT shall employ an independent cost estimator to make such determination.

9. Assignment and Third Parties: Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the CLIENT and CONSULTANT, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the CLIENT and the CONSULTANT and not for the benefit of any other party. Neither the CLIENT nor the CONSULTANT shall assign, sublet, or transfer any rights under or interests in this Agreement without the written consent of the other, which shall not be unreasonably withheld. However, nothing contained herein shall prevent or restrict the CONSULTANT from employing independent subconsultants as the CONSULTANT may deem appropriate to assist in the performance of services hereunder.

10. Project Site: Should CLIENT not be owner of the Project site, then CLIENT agrees to notify the site owner of the possibility of unavoidable alteration and damage to the site. CLIENT further agrees to indemnify, defend, and hold harmless CONSULTANT against any claims by the CLIENT, the owner of the site, or persons having possession of the site which are related to such alteration or damage.

11. Access to Site: CLIENT is responsible for providing legal and unencumbered access to site, including securing all necessary site access agreements or easements, to the extent necessary for the CONSULTANT to carry out its services.

12. Survival: All of CLIENT's obligations and liabilities, including but not limited to, its indemnification obligations and limitations of liability, and CONSULTANT's rights and remedies with respect thereto, shall survive completion, expiration or termination of this Agreement.

13. Termination: Either party may terminate the Agreement with or without cause upon ten (10) days advance written notice, if the other party has not cured or taken reasonable steps to cure the breach giving rise to termination within the ten (10) day notice period. If CLIENT terminates without cause or if CONSULTANT terminates for cause, CLIENT will pay CONSULTANT for all costs incurred, non-cancelable commitments, and fees earned to the date of termination and through demobilization, including any cancellation charges of vendors and subcontractors, as well as demobilization costs.

14. Severability: If any provision of this Agreement, or application thereof to any person or circumstance, is found to be invalid then such provision shall be modified if possible, to fulfill the intent of the parties as reflected in the original provision. The remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by applicable law.

15. No Waiver: No waiver by either party of any default by the other party in the performance of any provision of this Agreement shall operate as or be

construed as a waiver of any future default, whether like or different in character.

16. Merger, Amendment: This Agreement constitutes the entire Agreement between the CONSULTANT and the CLIENT and all negotiations, written and oral understandings between the parties are integrated and merged herein. This Agreement can be supplemented and/or amended only by a written document executed by both the CONSULTANT and the CLIENT.

17. Unforeseen Occurrences: If, during the performance of services hereunder, any unforeseen hazardous substance, material, element of constituent or other unforeseen conditions or occurrences are encountered which affects or may affect the services, the risk involved in providing the service, or the recommended scope of services, CONSULTANT will promptly notify CLIENT thereof. Subsequent to that notification, CONSULTANT may: (a) if practicable, in CONSULTANT's sole judgment and with approval of CLIENT, complete the original Scope of Services in accordance with the procedures originally intended in the Proposal; (b) Agree with CLIENT to modify the Scope of Services and the estimate of charges to include study of the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated herein; or (c) Terminate the services effective on the date of notification pursuant to the terms of the Agreement.

18. Force Majeure: Should completion of any portion of the Agreement be delayed for causes beyond the control of or without the fault or negligence of CONSULTANT, including force majeure, the reasonable time for performance shall be extended for a period at least equal to the delay and the parties shall mutually agree on the terms and conditions upon which Agreement may be continued. Force majeure includes but is not restricted to acts of God, acts or failures of governmental authorities, acts of CLIENT's contractors or agents, fire, floods, epidemics, pandemics, riots, quarantine restrictions, strikes, civil insurrections, freight embargoes, and unusually severe weather.

19. Safety: CONSULTANT is not responsible for site safety or compliance with the Occupational Safety and Health Act of 1970 ("OSHA"). Job site safety remains the sole exclusive responsibility of CLIENT or CLIENT's contractors, except with respect to CONSULTANT'S own employees. Likewise, CONSULTANT shall have no right to direct or stop the work of CLIENT's contractors, agents, or employees.

20. Dispute Resolution/Arbitration: Any claim or other dispute arising out of or related to this Agreement shall first be subject to non-binding mediation in accordance with the then-current Construction Industry Mediation Procedures of the American Arbitration Association ("AAA"). If mediation is unsuccessful, such claim or other dispute shall be subject to arbitration in accordance with the AAA's then-current Construction Industry Arbitration Rules. Any demand for arbitration shall be filed in writing with the other party and with the American Arbitration Association. CLIENT agrees to the inclusion in such arbitration (whether by initial filing, by joinder or by consolidation) of any other parties and of any other claims arising out of or relating to the Project or to the transaction or occurrence giving rise to the claim or other dispute between CLIENT and CONSULTANT.

21. Independent Contractor: In carrying out its obligations, CONSULTANT shall always be acting as an independent contractor and not an employee, agent, partner, or joint venture of CLIENT. CONSULTANT's work does not include any supervision or direction of the work of other contractors, their employees or agents, and CONSULTANT's presence shall in no way create

any liability on behalf of CONSULTANT for failure of other contractors, their employees, or agents to perform their work properly or correctly.

22. Hazardous Substances: CLIENT agrees to advise CONSULTANT upon execution of this Agreement of any hazardous substances or any condition existing in, on or near the Project Site presenting a potential danger to human health, the environment or equipment. By virtue of entering into the Agreement or of providing services, CONSULTANT does not assume control of, or responsibility for, the Project site or the person in charge of the Project site or undertake responsibility for reporting to any federal, state, or local public agencies, any conditions at the Project site that may present a potential danger to the public, health, safety, or environment except where required of CONSULTANT by applicable law. In the event CONSULTANT encounters hazardous or toxic substances or contamination significantly beyond that originally represented by CLIENT, CONSULTANT may suspend or terminate the Agreement. CLIENT acknowledges that CONSULTANT has no responsibility as a generator, treater, storer, or disposer of hazardous or toxic substances found or identified at a site. Except to the extent that CONSULTANT has negligently caused such pollution or contamination, CLIENT agrees to defend, indemnify, and hold harmless CONSULTANT, from any claim or liability, arising out of CONSULTANT'S performance of services under the Agreement and made or brought against CONSULTANT for any actual or threatened environmental pollution or contamination if the fault (as defined in N.C.G.S. 22B-1(f)(7)) of CLIENT or its derivative parties (as defined in N.C.G.S. 22B-1(f)(3)) is a proximate cause of such claim or liability.

23. Choice of Law: The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the law of the State of North Carolina, excluding only its conflicts of laws principles.

24. Construction Services: If construction administration and review services are requested by the CLIENT, CLIENT agrees that such administration, review, or interpretation of construction work or documents by CONSULTANT shall not relieve any contractor from liability in regard to its duty to comply with the applicable plans, specifications, and standards for the Project, and shall not give rise to a claim against CONSULTANT for contractor's failure to perform in accordance with the applicable plans, specifications or standards.

25. Field Representative: If CONSULTANT provides field services or construction observation services, the presence of the CONSULTANT's field personnel will only be for the purpose of providing observation and field testing of specific aspects of the Project. Should a contractor be involved in the Project, the CONSULTANT's responsibility does not include the supervision or direction of the actual work of any contractor, its employees, or agents. All contractors should be so advised. Contractors should also be informed that neither the presence of the CONSULTANT's field representative nor the observation and testing by the CONSULTANT shall excuse contractor in any way for defects in contractor's work. It is agreed that the CONSULTANT will not be responsible for job or site safety on the Project and that the CONSULTANT does not have the right to stop the work of any contractor.

26. Submittals: CONSULTANT's review of shop drawings and other submittals is to determine conformity with the design concept only. Review of shop drawings and submittals does not include means, methods, techniques, or procedures of construction, including but not limited to, safety requirements.

Exhibit II

Fee & Expense Schedule

Description	Rate	Description	Rate	Description	Rate
Engineering & Planning		Funding & Asset Management		Environmental	
Construction Project Professional	\$145	GIS Senior Specialist	\$165	Environmental Technician I	\$80
Construction Manager I	\$150	GIS Specialist	\$145	Environmental Technician II	\$95
Construction Manager II	\$165	GIS Survey Technician I	\$75	Environmental Technician III	\$100
Senior Construction Manager	\$185	GIS Survey Technician II	\$100	Senior Environmental Technician	\$110
CAD Technician I	\$105	GIS Survey Technician III	\$115	Environmental Project Geologist I	\$145
CAD Technician II	\$115	GIS Survey Lead	\$130	Environmental Project Geologist II	\$160
Senior CAD Technician	\$140	GIS Technician	\$95	Environmental Project Geologist III	\$180
Designer I	\$130	GIS Analyst I	\$115	Environmental Senior Project Geologist	\$200
Designer II	\$150	GIS Analyst II	\$130	Environmental Assistant Project Manager	\$160
Senior Designer	\$170	GIS Project Manager	\$165	Environmental Project Manager	\$180
Landscape Architect I	\$150	F&AM Assistant Project Manager	\$160	Environmental Senior Project Manager	\$200
Landscape Architect II	\$175	Intern I	\$65	Environmental Director	\$230
Landscape Architect III	\$190	Intern II	\$85	Environmental Project Engineer I	\$145
Senior Landscape Architect	\$210	F&AM Implementation Specialist	\$145	Environmental Project Engineer II	\$160
Landscape Designer I	\$130	F&AM Project Consultant I	\$115	Environmental Project Engineer III	\$180
Landscape Designer II	\$140	F&AM Project Consultant II	\$125	Environmental Senior Project Engineer	\$200
Planning Technician	\$110	F&AM Project Consultant III	\$130	Environmental Principal	\$250
Planner I	\$120	F&AM Project Consultant IV	\$135	Environmental Project Scientist I	\$145
Planner II	\$140	F&AM Senior Project Consultant I	\$145	Environmental Project Scientist II	\$160
Planner III	\$165	F&AM Senior Project Consultant II	\$150	Environmental Project Scientist III	\$180
Senior Planner	\$175	F&AM Project Manager	\$165	Senior Environmental Project Scientist	\$200
Project Engineer I	\$165	F&AM Principal	\$250	Environmental Scientist I	\$105
Project Engineer II	\$175	F&AM Director	\$230	Environmental Scientist II	\$125
Project Engineer III	\$190	F&AM Staff Professional I	\$70	Environmental Scientist III	\$135
Senior Project Engineer	\$210	F&AM Staff Professional II	\$110	Environmental Geologist I	\$105
Assistant Project Manager	\$175	F&AM Staff Professional III	\$150	Environmental Geologist II	\$125
Project Manager	\$190	F&AM Staff Professional IV	\$185	Environmental Geologist III	\$135
Senior Project Manager	\$210	F&AM Senior Project Manager	\$210	Environmental Professional I	\$105
Resident Project Representative I	\$100	F&AM Senior Technical Consultant	\$240	Environmental Professional II	\$125
Resident Project Representative II	\$115	Geomatics		Environmental Professional III	\$135
Resident Project Representative III	\$130	Geomatics CAD I	\$100	Environmental Sr. Technical Consultant	\$225
Senior Resident Project Representative	\$140	Geomatics CAD II	\$115	Administrative	
Staff Professional I	\$90	Geomatics CAD III	\$130	Administrative Assistant	\$65
Staff Professional II	\$140	Geomatics Project Manager I	\$165	Administrative Assistant I	\$80
Staff Professional III	\$150	Geomatics Project Manager II	\$175	Administrative Assistant II	\$90
Staff Professional IV	\$185	Geomatics Project Manager III	\$185	Administrative Assistant III	\$100
Senior Staff Professional	\$195	Geomatics Project Professional I	\$145	Marketing Administration I	\$90
Senior Technical Consultant	\$245	Geomatics Project Professional II	\$170	Marketing Administration II	\$115
Client Experience Manager	\$225	Geomatics Principal	\$235	Director of Marketing	\$145
Director	\$230	Geomatics Remote Sensing Crew I	\$210	Office Administration	\$70
Principal	\$250	Geomatics Remote Sensing Crew II	\$295	Office Administrator I	\$115
Zoning Specialist	\$325	Geomatics Survey Crew I	\$150	Office Administrator II	\$120
Project Coordinators		Geomatics Survey Crew II (2 Man)	\$190	Office Administrator III	\$125
Project Coordinator I	\$95	Geomatics Survey Crew III (3 Man)	\$225	Other	
Project Coordinator II	\$110	Geomatics Senior Manager	\$210	Expert Witness	\$400
Project Coordinator III	\$120	Geomatics Survey Tech I	\$60	Expenses	
Senior Project Coordinator	\$130	Geomatics Survey Tech II	\$90	Bond Prints (Per Sheet)	\$1.75
Lead Project Coordinator	\$140	Geomatics Survey Tech III	\$115	Mylar Prints (Per Sheet)	\$11.00
KNA		Geomatics Survey Tech IV	\$125	Mileage	Per IRS
CAD Designer	\$80	Geomatics Sr. Technical Consultant	\$210	Delivery - Project Specific (Distance & Priority)	
Construction Observer	\$85	Geomatics SUE Crew 1	\$190	Subcontractor Fees (Markup)	1.15
Engineer	\$137	Geomatics SUE Crew 2	\$260	Expenses / Reprod. / Permits (Markup)	1.15

Exhibit III Survey Limits





Regular City Council Meeting Memorandum

Prepared By: Lisa Nolen

Consideration of Budget Amendment #8

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	New Business Item: G
Reference File	Presented By

To: Scott Attaway, City Manager
From: Jeff Harrison, Assistant Chief
Date: November 3, 2023
Re: Consideration of Budget Amendment #8

The Police Department recently purchased a Kawasaki Mule UTV and an enclosed utility trailer used for storage and transport. Both the UTV and the trailer came with Lowell Fire Department markings on them and the UTV's body color is red. The UTV will be wrapped GREY to match our patrol cars, LPD markings will also be applied. and Trailer will have the LVFD markings removed and replaced with LPD markings. This amendment will move money from the general fund onto the Public Safety budget, line 10-5100-5800 asset forfeiture.

Asset forfeiture is controlled substance tax money received from the state. When officers seize a taxable amount of any controlled substance, the person found in possession of the drugs is required by law to pay unauthorized substance taxes for the drugs. A portion of that money is returned to the police department via tax collected check sent to the city. Ms. Nolen has calculated \$4,544.45 revenue has been received through the unauthorized substance tax by the City of Lowell. This money has restricted use and must be used to purchase equipment, or anything related to drug enforcement.

The wrap and graphics for the UTV are \$700.00.
The graphics for the trailer are \$1,200.00.

This amendment moves \$1,900.00 from the general fund to the public safety budget line 10-5100-5800 asset forfeiture.

Attachments

Budget Amendment #8 FY 2023-2024.pdf

City Of Lowell
Budget Amendment #8
Budget Ordinance FY 23-24

BE IT ORDAINED by the City Council of the City of Lowell, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2024:

Section 1: To amend the General Fund balance to be changed as follows:

General Fund:		
Fund Balance:		
	<u>Decrease</u>	<u>Increase</u>
10-3990-0000 Fund Balance Appropriated	\$1,900.00	

This will result in a decrease of \$1,900.00 in the General Fund Balance Appropriated.

Section 2: To amend the General Fund, the appropriations are to be changed as follows:

General Fund:		
Expenses:		
	<u>Decrease</u>	<u>Increase</u>
10-5100-5800 Asset Forfeiture		\$1,900.00

This amendment will result in an increase of \$1,900.00 in the Public Safety appropriations for Asset Forfeiture in FY 23-24 from \$0 to \$1,900.00.

Section 3: Copies of this budget amendment shall be furnished to the Clerk of the City Council, and to the Budget Officer and the Finance Officer for their direction.

Adopted this _____ day of November, 2023.

Mayor

Attest:

City Clerk



Regular City Council Meeting Memorandum

Prepared By: Lisa Nolen

Consideration of Budget Amendment #9

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	New Business Item: H
Reference File	Presented By

To: Scott Attaway, City Manager
From: Tori Dellinger, Parks & Recreation
Date: November 6, 2023
Re: Consideration of Budget Amendment #9

The City of Lowell recently received a generous donation in the amount of \$1,200.00 from the Lowell's Women's Club designated to purchase two benches that are in the McCord Family Park.

Please see attached Budget Amendment #9 for consideration to receive these funds.

Attachments

Budget Amendment #9 FY 2023-2024.pdf

City Of Lowell
Budget Amendment #9
Budget Ordinance FY 23-24

BE IT ORDAINED by the City Council of the City of Lowell, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2024:

Section 1: To amend the General Fund, estimated revenues are to be changed as follows:

General Fund:

Revenue:

	<u>Decrease</u>	<u>Increase</u>
10-3360-0000 Donations Received		\$1,200.00

This will result in an increase of \$1,200.00 in the General Fund estimated revenues, bringing the revenues budgeted for FY 23-24 from \$5,006,773.93 to \$5,007,973.93.

Section 2: To amend the General Fund, the appropriations are to be changed as follows:

General Fund:

Expenses:

	<u>Decrease</u>	<u>Increase</u>
10-6120-3300 Parks & Rec. Supplies		\$1,200.00

This amendment will result in an increase of \$1,200.00 in the Parks & Rec. appropriations for Supplies in FY 23-24 from \$5,000.00 to \$6,200.00.

Section 3: Copies of this budget amendment shall be furnished to the Clerk of the City Council, and to the Budget Officer and the Finance Officer for their direction.

Adopted this _____ day of November, 2023.

Mayor

Attest:

City Clerk



Regular City Council Meeting Memorandum

Prepared By: Tori Dellinger

Consideration of Lowell Community Committee Application

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	New Business Item: I
Reference File	Presented By

To: Scott Attaway, City Manager
From: Tori Dellinger, Parks & Recreation
Date: November 6, 2023
Re: Consideration of Lowell Community Committee Application

The following Lowell Community Committee application has been submitted for your consideration.

On October 21, 2023, Mr. Jerel Mackey, 1102 North Main Street, Lowell, NC 28098, submitted his application for appointment to the Lowell Community Committee. Mr. Mackey moved to Lowell in 2022 and is eager and excited to learn more about the community and contribute to Lowell's future growth and success. City staff recommend Mr. Mackey be brought before the City Council for the consideration of appointment during their meeting scheduled for November 14, 2023.

If appointed, Mr. Mackey's term would be for three (3) years, ending on December 31, 2026.



City of Lowell

Regular City Council Meeting Memorandum

Prepared By: Scott Attaway

Consideration of Lowell Planning & Zoning Board Applicant

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	New Business Item: J
Reference File	Presented By

To: Scott Attaway, City Manager

From: Joe Gates, Planning Director

Date: Tuesday, November 7, 2023

Re: Application for Planning and Zoning Board Appointment - Natasha Shuford

Natasha Shuford of 808 Dogwood Street, Lowell, NC, submitted an application for appointment to the Lowell Community Committee and the Planning Board. Natasha has been a resident of Lowell, NC for 2 years and has 20 years of experience working with cities, contractors, and local businesses in every city she has lived in. Her application for appointment has been attached to the agenda item.

Staff is recommending Ms. Shuford be brought before the City Council for the consideration of appointment during their meeting scheduled for November 14th, 2023. If appointed, Ms. Shuford's term would be for 3 years ending on December 31, 2026.

Attachments

Application for Appointment - Planning and Zoning Board.pdf

Application for Appointment / Re-Appointment to a Board/Committee for the City of Lowell, NC

Applicant Name

Natasha Shuford

Date of Application

10/25/2023

Home Address

808 Dogwood St
Lowell, NC 28098
[Map It](#)

Cell Phone (for City Hall use only)

2542895447

Home Phone

2542895447

Email Address

nshuford@ymail.com

In order to consider this application and provide balance and diversity to the various Boards/Committees, the City of Lowell requests that the following information be voluntarily provided:

Age

45

Gender

Female

Occupation

Manager/Self Employed

Do you reside within the City Limits of Lowell?

Yes

Do you reside within the Lowell Extraterritorial Jurisdiction?

No

Length of residence in Lowell (i.e. __ years, __ months)

2 years, 3 months

Committee or Board Preference

Which committees/boards are you interested in serving on?

- Lowell Community Committee
- Planning and Zoning Board

Board/Committee Preference

Planning and Zoning Board

Questionnaire

Why do you want to serve or continue to serve on this board/committee?

I want to have a voice in shaking the future growth of our city. I want to utilize my current skills to help influence and shape positive experiences for our citizens (both current and future).


Why do you think you would be an asset to this board/committee?

I have 20 years of experience in working with cities, contractors, and local businesses in every city I've lived in. I have a history of building great teams, helping to voice the vision of the team I'm on, and I have a vested interest in our community's long term growth.

What do you feel are your qualifications for serving on the board/committee requested?

I have worked with local governments for directly for more than ten years on zoning, planning, and find raising for projects. I've been a small business owner in three states for twenty years and have a great reputation with each city I've done business in and with.

Ethics Guidelines

 I agree to the Ethics Guidelines for City Committees/Boards. If appointed or re-appointed, I pledge to comply with the following ethics guidelines for boards as adopted by the City of Lowell.


Members of boards shall not discuss, advocate, or vote on any matters in which they have a conflict of interest or an interest which reasonably might appear to be in conflict with the concept of fairness in dealing with public business. A conflict of interest or potential conflict occurs if a member has a separate, private, or monetary interest, either direct or indirect, in any issue or transaction under consideration. Any member who violates this provision may be subject to removal from the board.

If the board believes he/she has conflict of interest, then the member should ask the board to be excused from voting. The board should then vote on the question on whether or not the excuse the member making the request. In cases where the individual member or the board establishes a conflict of interest, then the board member shall remove themselves from the voting area.

Date

10/25/2023

Criminal Background Check

 I understand that a criminal background check will be conducted on new committee members and reappointed members.



Regular City Council Meeting Memorandum

Prepared By: Scott Attaway

Resolution of the City of Lowell City Council to Retain Cranfill Sumner LLP; Milberg Coleman Bryson Phillips Grossman, LLC; and Napoli Shkolnk, PLLC as Special Counsel for PFAS Micro-Plastics Water Contamination Litigation

Meeting	Agenda Group	
Tuesday, November 14, 2023, 6:00 PM	New Business	Item: K
Reference File	Presented By	

To: Lowell Mayor and City Council

From: Scott Attaway, City Manager

Date: 11-10-23

Re: : Resolution of the City of Lowell City Council to Retain Cranfill Sumner LLP; Milberg Coleman Bryson Phillips Grossman, LLC; and Napoli Shkolnk, PLLC as Special Counsel for PFAS Micro-Plastics Water Contamination Litigation

Cranfill Sumner, Milberg Coleman Bryson Phillips Grossman, and Napoli Shkolnik ("Firms") are jointly representing public water supply systems ("PWSs") against corporate defendants including 3M, DuPont, Chemours, Tyco, and many others to recover the costs of PFAS contamination in the public water supply. The Companies manufactured and distributed aqueous film-forming foam ("AFFF") products that were used for many years to extinguish flammable liquid fires at airports, military bases, fire training centers, gas stations, oil refineries, and other locations. AFFF contains high levels of toxic PFAS forever chemicals that have been linked to cancers and reproductive and developmental issues. The PFAS chemicals from the AFFF products have washed into rivers, streams, and underground aquifers and have now contaminated PWSs. The EPA and States have adopted regulations regarding the amount of PFAS chemicals that can safely be in public water sources, and PWSs are now incurring substantial costs to meet these EPA and State mandates through upfits to their water treatment facilities to filter out PFAS, as well as costs associated with ongoing compliance and PFAS testing.

There are pending settlements with 3M (up to \$12.5 billion) and DuPont (\$1.18 billion), and litigation remains ongoing with numerous other defendants including Tyco, Kidde-Fenwal, Dynax, Buckeye Fire Equipment, and others. The funds to be paid from these settlements will be general funds for municipalities. The Firms expect this may be \$30-\$40 billion litigation by the time all defendants are litigated. Paul Napoli of Napoli Shkolnik is the co-lead of the multi-district litigation ("MDL") and who has been working on this issue for decade and represents hundreds of cities across the country. The MDL has so far been joined by hundreds of PWSs across the nation. In this area, the Firms are currently representing Mount Holly, Belmont, Mooresville, Salisbury, Concord, Mount Pleasant, and Albemarle in this litigation, and many other cities and counties in this area and across the state have already or are in the process of joining the litigation. Gastonia/Two Rivers Utilities (Lowell's water source) reports PFAS detect in the water supply from 2019, although below the current proposed EPA limit. Further, the City is subject to UCMR-S testing requirements by the EPA on account of PFAS. As such, the City has been damaged and has viable claims against both the settling and non-settling AFFF defendants.

The Firms will: 1) represent the City in litigating claims against the non-settling AFFF defendants; 2) represent the City in in the 3M and DuPont settlements; and 3) investigate and, if appropriate, litigate the City's claims relating to PFAS contamination in wastewater treatment and solid waste facilities, as well as claims relating to other emerging contaminants

such as 1,4 Dioxane and micro- plastics. The Firms expect funds in the 3M and DuPont settlement to begin being paid out in 2024. It is unknown when or if settlements will be had with the other defendants, but there is potential for those claims to be resolved in the next 1-2 years.

Staff recommends adoption of the attached Resolution retaining the Firms to represent the City of Lowell and authorizing the City Manager to sign the attached Retainer Agreement.

Attachments

RS14-2023 Resolution PFAS.pdf



RESOLUTION #14-2023 OF THE CITY OF LOWELL CITY COUNCIL TO RETAIN CRANFILL SUMNER LLP; MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, LLC; AND NAPOLI SHKOLNK, PLLC AS SPECIAL COUNSEL

WHEREAS, the City desires to appoint and employ the attorneys at the law firms of Cranfill Sumner LLP; Milberg Coleman Bryson Phillips Grossman, LLC; and Napoli Shkolnk, PLLC as special counsel for the City for the purpose of investigating and litigating the City's potential claims for injuries and/or property damages arising out of emerging hazardous contaminants including, but not limited to, per- and polyfluoroalkyl and related substances (PFAS/PFOA), 1,4 Dioxane, and micro-plastics (the "Claims"), including representation in connection with the Aqueous Film-Forming Foams (AFFF) Products Liability Litigation MDL No. 2873 pending in the United States District Court, District of South Carolina, now, therefore be it:

RESOLVED, that the City Council hereby appoint and employ the law firms of Cranfill Sumner LLP; Milberg Coleman Bryson Phillips Grossman, LLC; and Napoli Shkolnk, PLLC as special counsel to investigate and litigate the Claims on the terms and conditions of the Retainer Agreement attached hereto as "Exhibit A," and that the City Manager is fully authorized to execute the Retainer Agreement on behalf of the City.

Adopted this the ____ day of _____, 2023.

Sandy Railey, Mayor

ATTEST:

Cheryl Ramsey, City Clerk



City of Lowell

Regular City Council Meeting Memorandum

Prepared By: Cheryl Ramsey

To Consider Approval of Closed Session Minutes

Meeting	Agenda Group
Tuesday, November 14, 2023, 6:00 PM	Closed Session Item: C
Reference File	Presented By

To: Scott Attaway, City Manager
From: Cheryl Ramsey
Date: October 26, 2023
Re: Approval of Closed Session Minutes

From:
November 8, 2022
December 13, 2022
January 10, 2023
April 11, 2023
May 9, 2023
June 13, 2023
July 11, 2023
October 10, 2023