



Board of Aldermen Called Meeting

Agenda Packet

January 30, 2024





AGENDA
Spencer Board of Aldermen
Called Meeting
5:30 p.m.

DATE
January 30, 2024

- 1. CALL TO ORDER – Mayor Jonathan Williams**
- 2. INVOCATION & PLEDGE OF ALLEGIANCE – Mayor Jonathan Williams**
- 3. CONSIDER AUTHORIZING – Fire Department staff to apply for an Office of State Fire Marshal (OSFM) matching grant.**
- 4. PRESENTATION & UPDATE – Fire Department Staffing**
 - a. CONSIDER ADOPTING – Budget Ordinance Amendment 23-14.011 Remove SAFER Grant Related Revenue and Expenditures from FY24 Budget**
 - b. CONSIDER ADOPTING – Budget Ordinance Amendment 23-14.012 Funding Addition of Six Full-Time Firefighters**
- 5. CONSIDER ADOPTING – Municipal Agreement with NCDOT to perform a feasibility study for the Northern Rowan Connector (also known as EB5861 or 3rd Street Greenway) project.**
- 6. ADJOURNMENT**



MIKE CAUSEY
INSURANCE COMMISSIONER

BRIAN TAYLOR
STATE FIRE MARSHAL

January 2, 2024

Chief Michael Todd Lanning Jr.
Spencer Fire Department
209 Sowers Ferry Rd
Salisbury, NC 28144

Dear Chief Lanning:

The 2024 Volunteer Fire Department Fund Grant application is now open. Recent legislation changes in HB259 now allows departments up to 8 paid full-time or equivalent to (2080 hours) in a fiscal year, as well as the grant size increased not to exceed forty thousand (\$40,000). Departments that receive less than (\$50,000) per year from Municipal or County funding will no longer have to match the grant. Departments that receive more than (\$50,000) but less than or equal to (\$75,000) shall match one dollar (\$1.00) for each three dollars (\$3.00) of grant funds. Those departments receiving more than (\$75,000) shall match the grant on a dollar-for-dollar basis.

Note: changes have been made to the grant application. Documentation is required for county funding and paid part-time hours.

To submit your application, visit <https://apps.ncdoi.net/f?p=301>. Use your OSFM ID: **mtlanning**

Applications must be submitted no later than **March 1, 2024**. Applicants will be notified of their grant application status via email on **May 15, 2024**.

Applications received will be reviewed using an objective point system with highest priority given to firefighter safety.

Any equipment ordered prior to May 15, 2024 will not be honored by the grant program. DO NOT place any orders for equipment until you have been notified that your grant has been approved. **Equipment purchased that is not on the approved equipment list will not be funded.**

If you are considering a vehicle or building request, please prepare the specifications and receive potential bids prior to the May 15, 2024 announcement date. It is important that you do not make any commitment prior to this date.

If you have questions concerning the 2024 Volunteer Fire Department Fund program, please do not hesitate to contact the Grants division at (919) 647-0000.

Sincerely,

A handwritten signature in black ink that reads "Shirley Lofton".

Shirley Lofton
Grant Fund Administrator

SL/sl

Spencer Fire Department Staffing



Current Staffing

FT Fire Chief

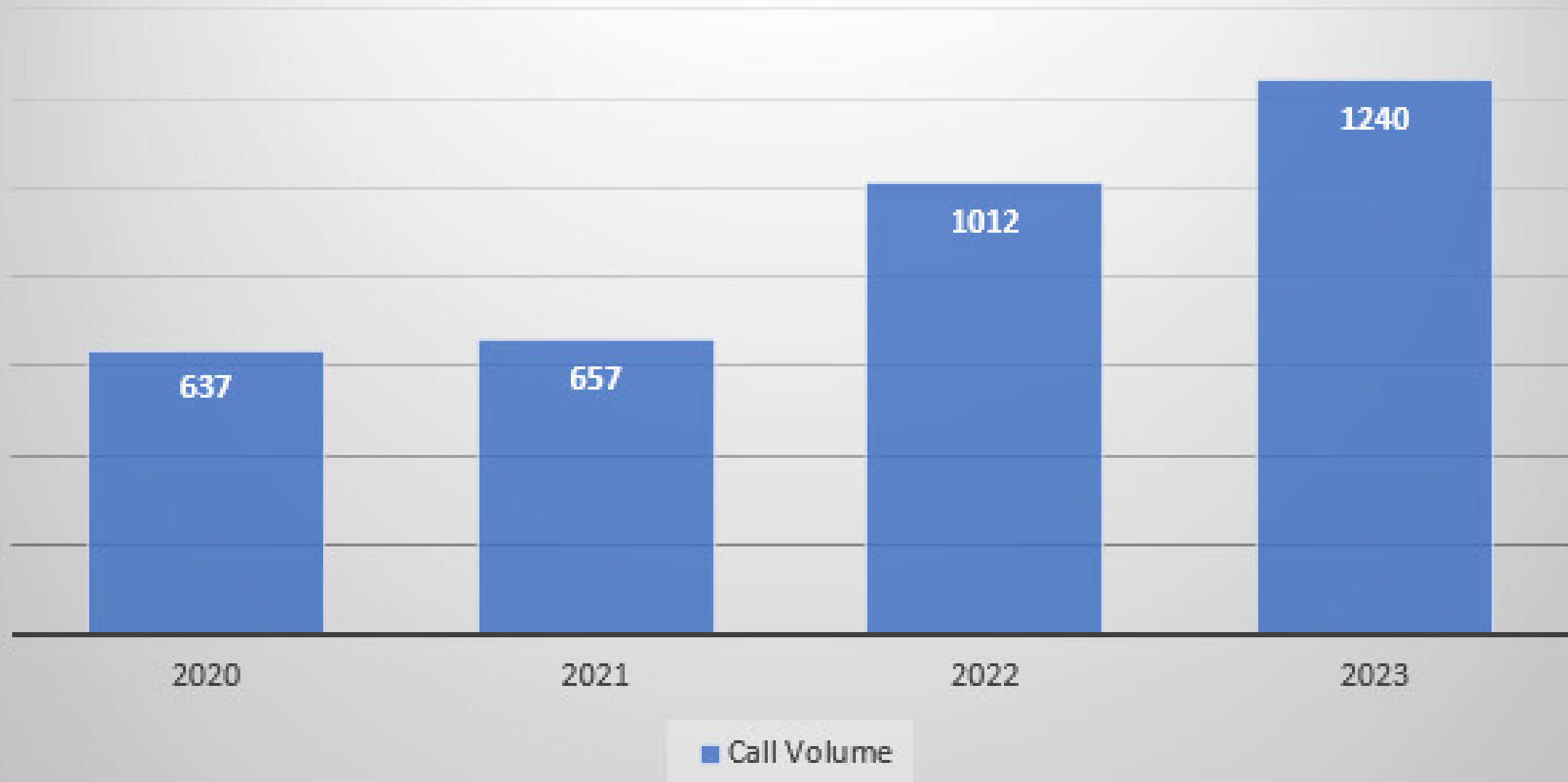
PT Deputy Fire Chief

3 FT Captains

14 PT Firefighters

4 Volunteers

2020-2023 Call Volume



What Does it Take?

Structure Fire

Fire Chief- Incident Commander

Additional Chief Officer- Interior supervisor

Engine Company

Captain- Crew supervisor, decides attack method and ensures crew safety.

Engineer- Pumps the hose lines at the correct pressure and ensures they have a stable lifeline.

Firefighter- Pulls and operates the hose line, searches for victims, and extinguishes the fire.

What Does it Take?

Cardiac Arrest

Fire Chief- Ensures scene safety and documents all time stamps.

Engine Company

Captain- Checks for a pulse, initiates chest compressions

Engineer- Inserts an artificial airway and provides breaths for the patient.

Firefighter- Attaches and operates the AED and alternates roles with the captain every two minutes.

Firefighter

Although every call type changes the specific duties, our firefighters are responsible for performing skilled actions pertaining to fire operations. Some of their various expected duties are as follows:

- Perform emergency medical care
- Perform rescue operations
- Participates in risk reduction programs
- Ensure operational readiness of tools, equipment, and apparatus
- Trains daily to ensure they are prepared to mitigate any emergency that arises

Engineer

Although every call type changes the specific duties, our engineers are responsible for safely driving and operating our fire engine. Some of their various expected duties are as follows:

- Ensuring Accurate apparatus placement on scene
 - Securing a water supply
 - Knowledge of pump operations
- Apparatus Maintenance-Identify issues and correct what they can
 - Geographical knowledge of the Town of Spencer

Captain

Although every call type changes the specific duties, our captains ultimately supervise all personnel on the fire truck for each shift. Some of their various expected duties are as follows:

- Issue fire scene assignments pending the arrival of the Fire Chief
- Making well-informed decisions within seconds of arriving on a scene
 - Perform a scene 360 and manage the method of fire attack
- Oversee departmental maintenance for apparatus, hydrants, and training

Staff Training Requirements

Firefighter →

Engineer →

Captain

-Firefighter
Certification
-NCEMT-B
NIMS
100,200, 700
and 800

-EVD
-Class B License
-NC Driver
Operator Cert
(5 Parts)

-Fire Officer
1&2
-Instructor
1&2
-NIMS 300
and 400

1,000 hours
to complete.

300 hours
to complete.

192 hours
to complete. Five
years certified.

February Calendar

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
				Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-
4	5	6	7	8	9	10
Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-
11	12	13	14	15	16	17
Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-
18	19	20	21	22	23	24
Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-
25	26	27	28	29		
Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-	Captain-24 hours PT 7A to 7P- PT 7P to 7A-		

Red- Vacancy

Yellow- Chief Lewis Unavailable

February Calendar with Full Staffing

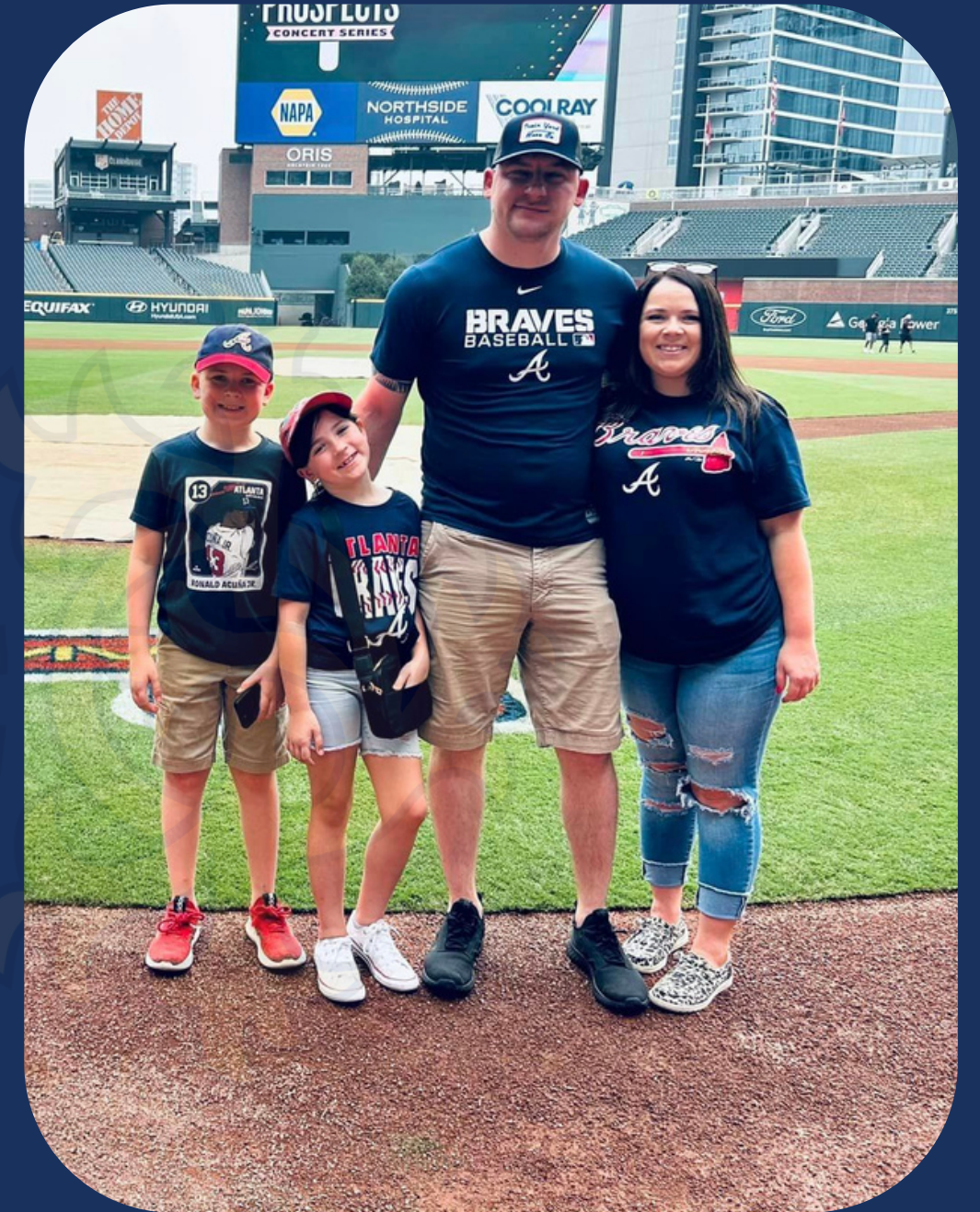
Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
				Captain-24 hours	Captain-24 hours	Captain-24 hours
				Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours
				Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours
4	5	6	7	8	9	10
Captain-24 hours	Captain-24 hours	Captain-24 hours	Captain-24 hours	Captain-24 hours	Captain-24 hours	Captain-24 hours
Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours
Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours
11	12	13	14	15	16	17
Captain-24 hours	Captain-24 hours	Captain-24 hours	Captain-24 hours	Captain-24 hours	Captain-24 hours	Captain-24 hours
Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours
Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours
18	19	20	21	22	23	24
Captain-24 hours	Captain-24 hours	Captain-24 hours	Captain-24 hours	Captain-24 hours	Captain-24 hours	Captain-24 hours
Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours
Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours
25	26	27	28	29		
Captain-24 hours	Captain-24 hours	Captain-24 hours	Captain-24 hours	Captain-24 hours		
Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours	Engineer- 24 hours		
Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours	Firefighter-24 hours		

Fire Chief

Due to staffing shortages, I responded to 417 calls between 5 pm and 8 am, including weekends and town-observed holidays. This alone equates to 498 uncompensated hours.

I covered 31 vacant 12-hour shifts, an additional 372 uncompensated hours, on top of my traditional 40-hour workweek.

32 out of 38 working structure fires in 2023; I could not perform my job as expected due to having to operate with the engine crew.



Deputy Fire Chief

Chief Lewis has been working as a third person on the apparatus for 2023 when possible. This forces him to focus on that role rather than the role of Deputy Fire Chief.

His full-time employer is the Town of China Grove, and his availability to assist in covering shifts is limited.

Captain

Due to staffing shortages, they have been forced to drive the apparatus, which results in their inability to function in their expected role. This has happened 58% of their shifts in 2023.

Out of 38 working structure fires in 2023, our Captains drove for 61%. This left a critical position filled with extremely inexperienced employees.

Staff cannot grow or be successful in their positions as officers when they are rarely able to function in this role.

Part-time Staffing

Currently, our staffing model is that our part-time employees provide 24 hours of daily coverage.

For the past 12 months we have consistently experienced a 25% vacancy rate for our PT shifts. Over the past three months this has increased to 36%.

Currently budgeted \$151,481 for part-time. As of 1/10/24 we have only utilized 35% of this, further demonstrating the staffing shortage we are experiencing.

Volunteers

As of December 31st, 2023, three volunteers were removed from our roster. This was due to non-compliance with the minimum state training requirement of 36 hours per year.

This leaves us with four volunteer members remaining.

In 2023 these four members responded to a total of 21 calls, or 1.5% of our call volume. The three members removed, responded to one call, or .08%.

A Shared Issue

The Town of China Grove has been staffed since 2014 with two full-time employees and one part-time employee as the third person. Beginning in Spring 2023, they transitioned to three full-time employees 24/7. Their part-time budget remained the same, allowing for a fourth person from the hours of 8-5.

The Town of Landis has been staffed since 2013 with two full-time employees and one part-time employee as the third person. Beginning in 2023, they transitioned to three full-time employees 24/7. Their part-time budget changed slightly. They only utilize part-time employees to cover the vacancies of FT employees.

A Shared Issue

The Town of Granite Quarry has been staffed since 2009 with one full-time employee and one part-time employee as the second person. Beginning in the Spring of 2023, they transitioned to two full-time employees and one part-time employee as the third person. Beginning July 2024, they will be staffed with three full-time employees. Their part-time budget changed slightly. They only utilize part-time employees to cover the vacancies of FT employees.

Locke Township Fire Department, a rural non-municipal department, has transitioned to full-time. Their volunteer and part-time base is similar to ours, but due to call volume and to ensure consistency and reliable service to their citizens, they now have three full-time staff 24/7.

The Solution

Addition of three full-time Engineers to join our Captains working a 48/96 schedule. This will allow our officers to focus on their jobs and ensure constant crew continuity. But more is needed to allow for minimum staffing standards. Staff will still be restricted and unable to perform most of the expected functions.

Addition of three full-time Firefighters to join our compliment of Captain and Engineers working a 48/96 schedule. This will ensure a fully staffed truck 24/7. This also means that regardless to the call type, our citizens and business owners are protected and safe.

The Solution

We are requesting to keep our part-time staff to a degree. Their continued employment will serve as our coverage for vacancies at the firefighter level. The remaining full-time positions will be cross-trained and able to serve in the position directly above them. This will ensure each position is staffed by QUALIFIED staff with the knowledge to make critical decisions when seconds matter.

This will also ensure we stay within the State-mandated 15-person roster. Failure to meet this standard will result in being placed on probation and risk the loss of our ISO Class 2 rating.

704-633-2231
spencernc.gov



Post Office Box 45
Spencer, NC 28159-0045

Rowan's Original Gateway.

AGENDA ITEM

Board Meeting Date: 1/30/24

Issue under Consideration:	Budget Ordinance Amendment to Remove Safer Grant Related Revenue and Expenditures from FY24 Budget
Current Status:	The Town included in anticipation of receiving a SAFER grant revenue and expenditures in the FY24 budget to fund six new positions the Fire Department. This Town has been informed that we were not awarded this grant.
Points to Consider:	The Town needs to remove the revenue and expenditures related to the anticipated grant that are included in FY24 budget.
Financial Impact:	There is no financial impact since no new staff was hired pending the grant award.
Options:	Accept or decline by vote of the Board of Aldermen
Recommendations:	Motion to approve Amending the Town of Spencer, North Carolina FY 24-25 removing the Safer grant related revenue and expenditures, Ordinance 23-14.011.
Department:	Town Hall

AN ORDINANCE AMENDING
THE TOWN OF SPENCER, NORTH CAROLINA
FY 23-24 ANNUAL BUDGET
ORDINANCE 23-14.011
JANUARY 30, 2024

BE IT ORDAINED, by the Governing Board of the Town of Spencer, North Carolina, that the following amendment of anticipated fund revenues and departmental expenditures, certain Fee and Charge Schedules, and with certain restrictions and authorizations, are hereby appropriated and approved for the operation of Town Government and its activities for the Fiscal Year beginning July 1, 2023 and ending on June 30, 2024:

Section 1. The Town included revenue for a FEMA SAFER grant for six new positions and related expenditures in the initial Fire Department's approved budget, however, the Town was not approved for this grant.

Section 2. To amend the FY 23-24 revenue and expense appropriations as follows to remove the FEMA SAFER grant related revenue and expenditures:

<u>Revenues</u>				
Account	Title	Current Budget	Amended Budget	(Decrease) Increase
10-3985-005	Federal Grant	\$414,588	\$ 1,625	\$(412,963)
10-3991-000	Fund Balance Approp	637,487	628,262	(9,225)
	Total			\$(422,188)

<u>Expenditures</u>				
Account	Title	Current Budget	Amended Budget	(Decrease) Increase
10-4340-121	Salaries/Wages-Regular	\$462,913	\$210,242	\$(252,671)
10-4340-127	Salaries/Wages-Bonus	15,500	10,700	(4,800)
10-4340-181	FICA	48,265	29,127	(19,138)
10-4340-182	Retirement	61,185	28,888	(32,297)
10-4340-183	Group Insurance	96,100	25,236	(70,864)
10-4340-184	401K Contribution	23,235	10,727	(12,508)
10-4340-185	Workers Compensation	20,950	18,490	(2,460)
10-4340-212	Uniforms	27,725	17,675	(10,050)
10-4340-213	Supplies-Safety	41,575	24,175	(17,400)
	Total			\$(422,188)

Section 3. Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, and to the Town Manager and the Finance Officer for record-keeping.

Adopted this 30th day of January, 2024.

Anna Kanode Ward, Town Clerk

Jonathan Williams, Mayor

704-633-2231
spencernc.gov



Post Office Box 45
Spencer, NC 28159-0045

AGENDA ITEM

Board Meeting Date: 1/30/24

The issue under Consideration:	Budget Ordinance Amendment for the addition of six full-time staff members.
Current Status:	The Town included revenue and expenditures in the FY24 budget to fund six new positions in the Fire Department in anticipation of receiving a SAFER grant. However, this Town has been informed that we were not awarded this grant.
Points to Consider:	The phasing of six full-time positions in the FY24 budget. Beginning with three engineers in April and three firefighters in June.
Financial Impact:	The total projected cost for the new positions is projected to be \$54,464. The Fire Department has struggled to fill shifts this year with Part-Time firefighters. As a result, it is anticipated that the Town will be \$18,000 below budget for Part-time/Temporary Wages due to this issue that can be reallocated towards these full-time positions. The FY24 Budget also has \$10,000 that could be allocated towards the positions also. This would leave \$26,483 that would be required to be budgeted from Fund Balance. It is also projected that next year's tax rate would have to be increased by at least 7.5 cents to cover the cost of these six new positions.
Options:	Accept or decline by vote of the Board of Aldermen.
Recommendations:	Motion to approve Budget Ordinance 23-14.012 amending the Town of Spencer, North Carolina FY 23-24 budget for the funding of six full-time employees.
Department:	



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Post Office Box 45
Spencer, NC 28159-0045

Rowan's Original Gateway.

	Fire Department
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AN ORDINANCE AMENDING
THE TOWN OF SPENCER, NORTH CAROLINA
FY 23-24 ANNUAL BUDGET
ORDINANCE 23-14.012
JANUARY 30, 2024

BE IT ORDAINED, by the Governing Board of the Town of Spencer, North Carolina, that the following amendment of anticipated fund revenues and departmental expenditures, certain Fee and Charge Schedules, and with certain restrictions and authorizations, are hereby appropriated and approved for the operation of Town Government and its activities for the Fiscal Year beginning July 1, 2023 and ending on June 30, 2024:

Section 1. The Town was not awarded a FEMA SAFER grant for six new positions and those positions are critical for meeting safety standards due to lack of ability to fill shifts with part-time staff.

Section 2. The Town desires to phase in three new Engineers in April and three Firefighters in mid-June without grant support to meet required staffing standards.

Section 3. The Town amends the FY 23-24 revenue and expense appropriations as follows to provide the staffing as identified in Section 2:

<u>Revenues</u>				
Account	Title	Current Budget	Amended Budget	(Decrease) Increase
10-3991-000	Fund Balance Approp	\$628,262	\$654,745	\$26,483
<u>Expenditures</u>				
Account	Title	Current Budget	Amended Budget	(Decrease) Increase
10-4110-999	Contingencies	\$ 15,000	\$ 5,000	\$(10,000)
10-4340-121	Salaries/Wages-Regular	210,242	248,109	37,867
10-4340-122	Overtime	20,000	20,500	500
10-4340-126	Part-time/Temporary	151,481	133,481	(18,000)
10-4340-181	FICA	29,127	32,063	2,936
10-4340-182	Retirement	28,888	33,841	4,953
10-4340-183	Group Insurance	25,236	31,545	6,309
10-4340-184	401K Contribution	10,727	12,645	1,918
	Total			\$26,483

Section 3. Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, and to the Town Manager and the Finance Officer for record-keeping.

Adopted this 30th day of January, 2024.

Anna Kanode Ward, Town Clerk

Jonathan Williams, Mayor

704-633-2231
spencernc.gov



Post Office Box 45
Spencer, NC 28159-0045

AGENDA ITEM

Board Meeting Date:

Called Meeting 1.30.24, 5:30 PM

Issue under Consideration:	Municipal Agreement with NCDOT to move forward with Feasibility Study for EB-5861 project
Current Status:	Overall project has been partially funded for several years but Town has been unable to provide full 20% match and overall cost has gone up due to construction costs and scope change.
Points to Consider:	This agreement would fund an initial Feasibility Study for the project at \$45,162 cost. Town continues to pursue alternate sources of funding for local match and expanded costs.
Financial Impact:	\$9,032 local match is in current year budget
Options:	Approve or disapprove authorization to enter into municipal agreement.
Recommendations:	Approve
Department:	Planning and Manager
Attachments:	1. Draft Municipal Agreement

Executive Summary

The Executive Summary is a summation of this agreement and is not intended to be used as the agreement between the Department (North Carolina Department of Transportation) and the Party (Entity).

Entity: Town of Spencer

County: Rowan

TIP: EB-5861

Project: Third Street Greenway

Scope: the design of a greenway and sidewalk located west of Old Mocksville Road near Grants Creek at existing Salisbury greenway to Fieldcrest Cannon Lane in Spencer.

Eligible Activities:

PE	47317.1.1	Design
		Environmental
ROW		ROW Acquisition
		Utility Relocation
CON		Construction
OTHER		
FEDERAL-AID	4731701	

Fund Source	Federal Funds Amount	Reimbursement Rate	Non-Federal Match \$	Non-Federal Match Rate
Transportation Alternatives Program (TAANY)	\$36,130	80 %	\$9,032	20 %
Total Available Funding		\$45,162		

Responsibility: The Town of Spencer shall be responsible for all aspects of the project.

NORTH CAROLINA

**LOCALLY ADMINISTERED PROJECT -
FEDERAL**

ROWAN COUNTY

DATE: 1/10/2024

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

TIP #: EB-5861

AND

WBS Elements: PE 47317.1.1

ROW _____

TOWN OF SPENCER

CON _____

OTHER FUNDING: _____

FEDERAL-AID NUMBER: 4731701

CFDA #: 20.205

Total Funds [NCDOT Participation] \$36,130

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the Town of Spencer, hereinafter referred to as the "Municipality".

WITNESSETH:

WHEREAS, the Infrastructure Investment and Jobs Act (IIJA) allows for the allocation of federal funds to be available for certain specified transportation activities; and,

WHEREAS, the Municipality has requested federal funding for Third Street Greenway, hereinafter referred to as the Project, in Rowan County, North Carolina; and,

WHEREAS, subject to the availability of federal funds, the Municipality has been designated as a recipient to receive funds allocated to the Department by the Federal Highway Administration (FHWA) up to and not to exceed the maximum award amount of \$36,130 for the Project; and,

WHEREAS, the Department has agreed to administer the disbursement of said funds on behalf of FHWA to the Municipality for the Project in accordance with the Project scope of work and in accordance with the provisions set out in this Agreement; and,

WHEREAS, the Department has programmed funding in the approved Transportation Improvement Program for the Project; and,

WHEREAS, the governing board of the Municipality has agreed to participate in certain costs and to assume certain responsibilities in the manner and to the extent as hereinafter set out; and,

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly including, but not limited to, the following applicable legislation: General Statutes of North Carolina (NCGS) Section 136-66.1, Section 136-71.6, Section 160A-296 and 297, Section 136-18, Section 136-41.3 and Section 20-169, to participate in the planning, construction and/or implementation of the Project approved by the Board of Transportation.

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

1. GENERAL PROVISIONS

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT

All parties to this Agreement, including contractors, subcontractors, and subsequent workforces, associated with any work under the terms of this Agreement shall provide reports as required by the Federal Funding Accountability and Transparency Act (FFATA) for this Project.

AGREEMENT MODIFICATIONS

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

LOCAL PUBLIC AGENCY TO PERFORM ALL WORK

The Municipality shall be responsible for administering all work performed and for certifying to the Department that all terms set forth in this Agreement are met and adhered to by the Municipality and/or its contractors and agents. The Department will provide technical oversight to guide the Municipality. The Department must approve any assignment or transfer of the responsibilities of the Municipality set forth in this Agreement to other parties or entities.

PERSON IN RESPONSIBLE CHARGE

The Municipality shall designate a person or persons to be in responsible charge of the Project, in accordance with Title 23 of the Code of Federal Regulations, Part 635.105. The person, or persons, shall be expected to:

- Administer governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;

- Maintain knowledge of day to day project operations and safety issues;
- Make or participate in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
- Visit and review the project in accordance with the project scope and scale;
- Review financial processes, transactions and documentation to reduce the likelihood of fraud, waste, and abuse;
- Direct project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation; and
- Be aware of the qualifications, assignments and on-the-job performance of the agency and consultant staff at all stages of the project.

The person in responsible charge must be a full-time employee of the Municipality, but the duties may be split among several employees, if necessary.

COMPLIANCE WITH STATE/FEDERAL POLICY

The Municipality, and/or its agent, including all contractors, subcontractors, or sub-recipients shall comply with all applicable Federal and State policies and procedures, stated both in this Agreement and in the Department's guidelines and procedures, including the *Local Programs Management Handbook*.

FAILURE TO COMPLY - CONSEQUENCES

Failure on the part of the Municipality to comply with any of the provisions of this Agreement will be grounds for the Department to terminate participation in the costs of the Project and, if applicable, seek repayment of any reimbursed funds.

2. SCOPE OF PROJECT

The Project consists of the design of a greenway and sidewalk located west of Old Mocksville Road near Grants Creek at existing Salisbury greenway to Fieldcrest Cannon Lane in Spencer.

The Department's funding participation in the Project shall be restricted to the following eligible items:

- Design
- Environmental Documentation

as further set forth in this Agreement.

3. FUNDING

PROGRAMMING AND AUTHORIZATION OF FEDERAL FUNDS

The funding currently programmed for the project in the State Transportation Improvement Program (STIP) is Transportation Alternatives Program (TAANY). The funding source may be modified with the coordination and approval of the respective Metropolitan Planning Organization (MPO) and/or the Department prior to authorization of funds. The Department will authorize and reimburse federal funding based on the type of federal funding that is programmed in the STIP at the time of the authorization request. The Department will notify the Municipality of the type of federal funds authorized by issuing a Technical Amendment – Funds Authorization letter. A modification in the source of funds will have no effect on project responsibilities outlined in this agreement.

REIMBURSEMENT FOR ELIGIBLE ACTIVITIES

Subject to compliance by the Municipality with the provisions set forth in this Agreement and the availability of federal funds, the Department shall reimburse (80%) of eligible expenses incurred by the Municipality up to a maximum amount of Thirty-Six Thousand One Hundred Thirty Dollars (\$36,130), as detailed below. The Municipality shall provide the non-federal match, as detailed in the FUNDING TABLE below, and all costs that exceed the total available funding.

FUNDING TABLE

Fund Source	Federal Funds Amount	Reimbursement Rate	Non-Federal Match \$	Non-Federal Match Rate
Transportation Alternatives Program (TAANY)	\$36,130	80%	\$9,032	20%
Total Available Funding		\$45,162		

WORK PERFORMED BY NCDOT

All work performed by the Department on this Project, including, but not limited to, reviews, inspections, and Project oversight, during any phase of the delivery of the Project, shall reduce

the funding available to the Municipality under this Agreement. The Department will set aside, but is not limited to, ten percent (10%) of the total available funding, or \$4,516, to use towards the costs related to review and oversight of this Project. These costs may include but are not limited to: review and approval of plans, environmental documents, contract proposals, and engineering estimates; performance of any phase of work, for example, contract administration or construction engineering and inspection; oversight of any phases; or any other items as needed to ensure the Municipality's appropriate compliance with state and federal regulations.

In the event that the Department does not utilize all the set-aside funding, then those remaining funds will be available for reimbursement to the Municipality at the above reimbursement rate. For all costs of work performed on the Project, whether incurred by the Municipality or by the Department, the Municipality shall provide the non-federal match. The Department will bill the Municipality for the non-federal match of any costs that the Department incurs on the Project and for any costs that exceed the total available funding.

4. PERIOD OF PERFORMANCE

The Municipality has three (3) years to complete all work outlined in the Agreement from the date of authorization of Federal Preliminary Engineering funds. Completion for this Agreement is defined as completion of all construction activities or implementation activities, acceptance of the project, and submission of a final reimbursement package to the Department.

If additional time is needed to complete the Project, then a supplemental agreement must be executed. The Department may allow up to three additional months for submission of final reimbursement package by the Municipality, without entering into a supplemental agreement. The Department and/or FHWA reserves the right to revoke the funds awarded if the Municipality is unable to meet milestone dates included herein.

5. PRELIMINARY ENGINEERING AUTHORIZATION

If Preliminary Engineering is an eligible expense, then upon receipt of an executed agreement, the Department will authorize Preliminary Engineering funds and shall notify the Municipality, in writing, once funds have been authorized and can be expended. The Municipality shall not initiate any work, nor solicit for any professional services prior to receipt of written authorization from the Department to proceed. Any work performed, or contracts executed, prior to receipt of written authorization to proceed will be ineligible for reimbursement.

6. PROFESSIONAL AND ENGINEERING SERVICES

The Municipality shall comply with the policies and procedures of this provision if the Municipality is requesting reimbursement for the Preliminary Engineering contract or the Construction Contract Administration / Construction Engineering and Inspection contract.

PROCUREMENT POLICY

When procuring professional services, the Municipality must adhere to Title 2 Code of Federal Regulations Part 200; Title 23 of the Code of Federal Regulations, Part 172; Title 40 United States Code, Chapter 11, Section 1101-1104; NCGS 143-64.31; and the Department's *Policies and Procedures for Major Professional or Specialized Services Contracts*. Said policies and standards are incorporated in this Agreement by reference at www.fhwa.dot.gov/legisregs/legislat.html and www.ncleg.net/gascripts/Statutes/Statutes.asp.

- The Municipality shall ensure that a qualified firm is obtained through an equitable selection process, and that prescribed work is properly accomplished in a timely manner and at a just and reasonable cost.
- All Professional Services Firms shall be pre-qualified by the Department in the Work Codes advertised.
- A pre-negotiation audit will be conducted by the Department's External Audit Branch. The Municipality shall not execute a consultant contract until the Department's review has been completed.

SMALL PROFESSIONAL AND ENGINEERING SERVICES FIRMS REQUIREMENTS

Any contract entered into with another party to perform work associated with the requirements of this Agreement shall contain appropriate provisions regarding the utilization of Small Professional Services Firms (SPSF). This policy conforms with the SPSF Guidelines as approved by the North Carolina Board of Transportation.

- The Municipality shall not advertise nor enter into a contract for services performed as part of this Agreement, unless the Department provides written approval of the advertisement or the contents of the contract.
- If the Municipality fails to comply with these requirements, the Department will withhold funding until these requirements are met.

WORK BY ENTITY

If the Design, Planning, Contract Administration and/or Construction Engineering and Inspection required for this project will be undertaken by the Municipality, and the Municipality requests reimbursement, then the Municipality must submit a request and supporting documentation to the Department for review and approval, prior to any work being initiated by the Municipality.

7. PLANNING / ENVIRONMENTAL DOCUMENTATION

The Municipality shall prepare the environmental and/or planning document, including any environmental permits, needed to construct the Project, in accordance with the National Environmental Policy Act (NEPA) and all other appropriate environmental laws and regulations. All work shall be performed in accordance with Departmental procedures and guidelines. Said documentation shall be submitted to the Department for review and approval.

- The Municipality shall be responsible for preparing and filing with all proper agencies the appropriate planning documents, including notices and applications required to apply for those permits necessary for the construction of the desired improvements. Copies of approved permits should be forwarded to the Department.
- The Municipality shall advertise and conduct any required public hearings.
- If any permit issued requires that action be taken to mitigate impacts associated with the improvements, the Municipality shall design and implement a mitigation plan. The Department will determine if any mitigation costs are eligible for reimbursement. The Municipality shall bear all costs associated with penalties for violations and claims due to delays.
- The Municipality shall be responsible for designing an erosion control plan if required by the North Carolina Sedimentation Pollution Control Act of 1973, NCGS 113A, Article 4, incorporated in this Agreement by reference at www.ncleg.net/gascripts/Statues/Statutes.asp and obtaining those permits required thereby in order to construct the Project. During the construction of the improvements, the Municipality, and its contractors and agents, shall be solely responsible for compliance with the provisions of said Act and the plan adopted in compliance therewith.

8. DESIGN

CONTENT OF PLAN PACKAGE

The Municipality, and/or its agent, shall prepare the Project's plans, specifications, and a professional estimate of costs (PS&E package), in accordance with the Department's guidelines and procedures, and applicable Federal and State standards. All work shall be submitted to the Department for review and approval. The plans shall be completed to show the design, site plans, landscaping, drainage, easements, and utility conflicts.

9. RIGHT OF WAY / UTILITY AUTHORIZATION

If the costs of right of way acquisition or utility relocation are an eligible expense, the Municipality shall submit a letter of request to the Department to authorize and set up right of way and/or utility funding. The acquisition for right of way, construction easements, and/or utility relocation may be undertaken only after the Municipality receives written authorization from the Department to proceed.

10. PROJECT LIMITS AND RIGHT OF WAY (ROW)

The Municipality shall comply with the policies and procedures of this provision regardless of whether the Municipality is requesting reimbursement for the Right of Way phase of the Project.

SPONSOR PROVIDES ROW

The Municipality, at no liability whatsoever to the Department, shall be responsible for providing and/or acquiring any required ROW and/or easements for the Project.

ROW GUIDANCE

The Municipality shall accomplish all ROW activities, including acquisition and relocation, in accordance with the following: Title 23 of the Code of Federal Regulations, Part 710, Subpart B and Title 49 of the Code of Federal Regulations, Part 24, [Uniform Act] incorporated by reference at www.fhwa.dot.gov/legregs/directives/fapgtoc.htm; NCGS, Chapter 133, Article 2, Sections 133-5 through 133-18, Relocation Assistance, incorporated by reference at www.ncleg.net/gascripts/Statutes/Statutes.asp; and the North Carolina Department of Transportation Right of Way Manual.

APPRAISAL

The Municipality shall submit the appraisal to the Department for review and approval in accordance with Departmental policies and procedures.

CLEARANCE OF PROJECT LIMITS / ROW

The Municipality shall remove and dispose of all obstructions and encroachments of any kind or character (including hazardous and contaminated materials) from said ROW, with the exception that the Municipality shall secure an encroachment agreement for any utilities (which shall remain or are) to be installed within the Department's ROW, or follow other applicable approval process, for utilities within the Municipality's ROW. The Municipality shall indemnify and save harmless the Department, Federal Highway Administration, and the State of North Carolina, from any and all damages and claims for damages that might arise on account of said right of way acquisition, drainage, and construction easements for the construction of said Project. The Municipality shall be solely responsible for any damages caused by the existence of said material now and at any time in the future and will save the Department harmless from any legal actions arising as a result of this contaminated and/or hazardous material and shall provide the Department with documentation proving the proper disposal of said material.

RELOCATION ASSISTANCE

The Municipality shall provide relocation assistance services and payments for families, businesses, and non-profit organizations being displaced by the Project in full accordance with the Federal relocation requirements of Title 49 Code of Federal Regulations, Part 24 [Uniform Act], as amended. Relocation assistance services and payments may be accomplished by contract with any other municipal corporation, or State or Federal agency, rendering such services upon approval by the Department and Federal Highway Administration.

11. UTILITIES

The Municipality, and/or its agent, at no liability to the Department, shall relocate, adjust, relay, change or repair all utilities in conflict with the Project, regardless of ownership. All utility work shall be performed in a manner satisfactory to and in conformance with State and Federal rules and regulations, prior to Municipality beginning construction of the project. This Agreement does not modify or supersede any existing Utility Encroachment Agreements that may be in place.

12. RIGHT OF WAY / UTILITY / RAILROAD CERTIFICATION

The Municipality, upon acquisition of all right of way/property necessary for the Project, relocation of utilities, and coordination with the railroad shall provide the Department all required documentation (deeds/leases/easement/plans/agreements) to secure certification. Certification is only issued after all ROW is in public ownership or property is publicly accessible by a legal document; utilities in conflict with the project are relocated, or a plan for their relocation during construction has been approved; and coordination with the railroad (if applicable) has occurred and been documented.

13. CONTRACT PROPOSAL AND ENGINEER'S ESTIMATE

CONTRACT PROPOSAL

The Municipality shall develop a contract proposal that will be advertised for bids. The proposal shall comply with NCDOT Specifications and Standard Drawings as applicable to the Project. The proposal shall also contain provisions, as applicable, per Title 23 Code of Federal Regulations 633 and 635 to include, but not be limited to: FHWA 1273, Buy America, Davis-Bacon Wage Rates, Non-discrimination, DBE Assurances, Contractor Certification regarding suspension and debarment, and other provisions as required by the Department.

ENGINEER'S ESTIMATE

The Municipality shall develop an itemized engineer's estimate to show items referenced to the NCDOT Standard Specifications, if applicable, along with units and unit price. The engineer's estimate will be used as the basis for comparing bids received.

14. CONSTRUCTION AUTHORIZATION

The Municipality shall submit the required environmental and/or planning document, ROW certification, final construction plans, total contract proposal, and an estimate of Project costs (final PS&E package) to the Department for review and approval.

- After approval of all documentation, the Department will request construction authorization from the Federal Highway Administration.
- The Municipality shall not advertise for bids prior to receiving written construction authorization from the Department.

15. CONTRACTOR PROCUREMENT

ADVERTISE FOR BIDS

Upon receipt of written construction authorization from the Department, the Municipality may advertise the Project. The Municipality shall follow applicable Federal and/or State procedures pertaining to the advertisement of the Project, bid opening, and award of the contract, according to Title 2 of the Code of Federal Regulations, Part 200 and Title 23 of the Code of Federal Regulations, Part 633 and Part 635, incorporated by reference at www.fhwa.dot.gov/legisregs/directives/fapgtoc.htm; and NCGS, Chapter 143, Article 8 (Public Contracts), incorporated by reference at www.ncleg.net/gascripts/Statutes/Statutes.asp.

CONSTRUCTION CONTRACTOR REQUIREMENTS

All Contractors submitting bids on the project shall be pre-qualified by the Department. All proposed subcontractors must be pre-qualified before construction work begins. Any subcontractors who are proposed to meet the Disadvantaged Business Enterprise goal must be certified by the Department.

CONSTRUCTION SUBCONTRACTOR REQUIREMENTS

Any contract entered into with another party to perform work associated with the requirements of this Agreement shall contain appropriate provisions regarding the utilization of Disadvantaged Business Enterprises (DBEs), or as required and defined in Title 49 of the Code of Federal Regulations, Part 26 and the North Carolina Administrative Code. These provisions are incorporated into this Agreement by reference <https://connect.ncdot.gov/projects/Contracts/Pages/LGA-Projects.aspx>.

- The Municipality shall not advertise nor enter into a contract for services performed as part of this Agreement, unless the Department provides written approval of the advertisement or the contents of the contract.
- If the Municipality fails to comply with these requirements, the Department will withhold funding until these requirements are met.

AWARDING CONTRACT

After the advertisement of the Project for construction bids, the Municipality shall request concurrence from the Department to award the construction contract by submitting a letter along

with tabulated bids received depicting Disadvantaged Business Enterprises (DBE) goals, and a resolution recommending award of the Project to the lowest responsible, responsive bidder. The Department will review the submitted information and provide written approval to the Municipality prior to the contract being awarded by the Municipality.

DELAY IN PROCUREMENT

In the event the Project has not been let to contract within six (6) months after receiving construction authorization from the Department, the Municipality shall be responsible for documenting to the Department justification for project delay and that the Project remains in compliance with the terms of this Agreement, the approved plans and specifications, and current codes.

FORCE ACCOUNT

Force account work is only allowed when there is a finding of cost effectiveness for the work to be performed by some method other than a contract awarded by a competitive bidding process, or there is an emergency. Written approval from the Department is required prior to the use of force account by the Municipality. Federal Highway Administration regulations governing Force Account are contained in Title 23 Code of Federal Regulations, Part 635.201, Subpart B; said policy being incorporated in this Agreement by reference www.fhwa.dot.gov/legisregs/directives/cfr23toc.htm. North Carolina General Statutes governing the use of Force Account, Chapter 143, Article 8 (Public Contracts) can be found at www.ncleg.net/gascripts/Statutes/Statutes.asp.

16. CONSTRUCTION

The Municipality, and/or its agents shall construct the Project in accordance with the plans and specifications of the Project as filed with, and approved by, the Department. During the construction of the Project, the procedures set out below shall be followed:

CONSTRUCTION CONTRACT ADMINISTRATION

The Municipality shall comply with the NCDOT Construction Manual as referenced at <http://www.ncdot.org/doh/operations/dp%5Fchief%5Feng/constructionunit/formsmanuals/construction/>, which outlines the procedures for records and reports that must be adhered to in order to obtain uniformity of contract administration and documentation. This includes, but is not limited to, inspection reports, material test reports, materials certification, documentation of quantities,

project diaries, and pay records. The Municipality, and/or its agent, shall perform the construction engineering, sampling and testing required during construction of the Project, in accordance with Departmental procedures, including the Department's Guide for Process Control and Acceptance Sampling and Testing. The Municipality shall document that said compliance was accomplished in accordance with State and Federal procedures, guidelines, standards and specifications.

RETAINAGE

The Municipality shall not retain any portion of a payment due the contractor.

SIGNAGE

The Municipality shall provide and maintain adequate signage and other warning devices for the protection of the public in accordance with the approved traffic control plans for the Project and the current edition of the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways, or any subsequent revision of the same, published by the Federal Highway Administration and effective at the time of award of the contract.

SITE LAYOUT

The Municipality shall be responsible for ensuring that all site layout, construction work, and Project documentation are in compliance with applicable city, state and federal permits, guidelines, and regulations, including American Association of State Highway and Transportation Officials (AASHTO) guidelines and Americans with Disabilities Act (ADA) Standards for Accessible Design (www.usdoj.gov/crt/ada/stdspdf.htm).

RIGHT TO INSPECT

The Department and representatives of the Federal Highway Administration shall have the right to inspect, sample or test, and approve or reject, any portion of the work being performed by the Municipality or the Municipality's contractor to ensure compliance with the provisions of this Agreement. Prior to any payment by the Department, any deficiencies inconsistent with approved plans and specifications found during an inspection must be corrected.

CONTRACTOR COMPLIANCE

The Municipality will be responsible for ensuring that the contractor complies with all of the terms of the contract and any instructions issued by the Department or FHWA as a result of any review or inspection made by said representatives.

CHANGE ORDERS

If any changes in the Project plans are necessary, the Department must approve such changes prior to the work being performed.

SHOP DRAWINGS

Shop Drawings shall be submitted in accordance with the approved plans and specifications and may require review by the Designer.

17. CLOSE-OUT

Upon completion of the Project, the Municipality shall be responsible for the following:

FINAL INSPECTION

The Municipality shall arrange for a final inspection by the Department. Any deficiencies determined during the final field inspection must be corrected prior to final payment being made by the Department to the Municipality. Additional inspection by other entities may be necessary in accordance with the Department's guidelines and procedures. The Municipality shall provide the Department with written evidence of approval of completed project prior to requesting final reimbursement.

FINAL PROJECT CERTIFICATION

The Municipality will provide a certification to the Department that all work performed for this Project is in accordance with all applicable standards, guidelines, and regulations.

18. MAINTENANCE

The Municipality, at no expense or liability to the Department, shall assume all maintenance responsibilities for the Third Street Greenway, or as required by an executed encroachment agreement.

19. REIMBURSEMENT

SCOPE OF REIMBURSEMENT

Activities eligible for funding reimbursement for this Project shall include:

- Design
- Environmental Documentation

REIMBURSEMENT GUIDANCE

The Municipality shall adhere to applicable administrative requirements of Title 2 Code of Federal Regulations, Part 200 (www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm) "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards." Reimbursement to the Municipality shall be subject to the policies and procedures contained in Title 23 Code of Federal Regulations, Part 140 and Part 172, which is being incorporated into this Agreement by reference at www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm. Reimbursement to the Municipality shall be subject to the guidance contained in Title 2 Code of Federal Regulations, Part 170 (<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>) and Office of Management and Budget (OMB) "Federal Funding Accountability and Transparency Act" (FFATA). Said reimbursement shall also be subject to the Department being reimbursed by the Federal Highway Administration and subject to compliance by the Municipality with all applicable federal policy and procedures.

REIMBURSEMENT LIMITS

- **WORK PERFORMED BEFORE NOTIFICATION**

Any costs incurred by the Municipality prior to written notification by the Department to proceed with the work shall not be eligible for reimbursement.

- **NO REIMBURSEMENT IN EXCESS OF APPROVED FUNDING**

At no time shall the Department reimburse the Municipality costs that exceed the total funding per this Agreement and any Supplemental Agreements.

- **UNSUBSTANTIATED COSTS**

The Municipality agrees that it shall bear all costs for which it is unable to substantiate actual costs or any costs that have been deemed unallowable by the Federal Highway Administration and/or the Department's Financial Management Division.

- **WORK PERFORMED BY NCDOT**

All work performed by the Department on this Project, including, but not limited to, reviews, inspections, and Project oversight, shall reduce the maximum award amount of \$36,130 available to the Municipality under this Agreement. The Department will bill the Municipality for the non-federal match of any costs that the Department incurs on the Project and for any costs that exceed the total available funding.

- **CONSTRUCTION ADMINISTRATION**

Reimbursement for construction contract administration will be made as governed by Departmental policy that limits reimbursement for construction contract administration to no more than fifteen (15%) percent of the actual construction contract of the Project. These costs will also include any cost overruns and charges to the Project by the Department during the Construction Phase.

- **CONSTRUCTION CONTRACT UNIT PRICES**

Reimbursement for construction contract work will be made on the basis of contract unit prices in the construction contract and any approved change orders.

- **RIGHT OF WAY**

Reimbursement will be limited to the value as approved by the Department. Eligible costs for reimbursement of Right of Way Acquisition include: realty appraisals, surveys, closing costs, and the agreed upon just compensation for the property, at the reimbursement rate as shown in the FUNDING TABLE.

- **FORCE ACCOUNT**

Invoices for force account work shall show a summary of labor, labor additives, equipment, materials and other qualifying costs in conformance with the standards for allowable costs set forth in 2 CFR 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards." Reimbursement shall be based on actual eligible costs incurred with the exception of equipment owned by the Municipality or its Project partners. Reimbursement rates for equipment owned by the

Municipality or its Project partners cannot exceed the Department's rates in effect for the time period in which the work is performed.

BILLING THE DEPARTMENT

▪ PROCEDURE

The Municipality may bill the Department for eligible Project costs in accordance with the Department's guidelines and procedures. Proper supporting documentation shall accompany each invoice as may be required by the Department. By submittal of each invoice, the Municipality certifies that it has adhered to all applicable state and federal laws and regulations as set forth in this Agreement.

Along with each invoice, the Municipality is responsible for submitting the FFATA Subrecipient Information Form, which is available at <https://connect.ncdot.gov/municipalities/Funding/Pages/default.aspx>.

▪ INTERNAL APPROVALS

Reimbursement to the Municipality shall be made upon approval of the invoice by the Department's Financial Management Division.

▪ TIMELY SUBMITTAL OF INVOICES

The Municipality may invoice the Department monthly for work accomplished, but no less than once every six (6) months to keep the Project funds active and available. If the Municipality is unable to invoice the Department, then they must provide an explanation. Failure to submit invoices or explanation may result in de-obligation of funds.

▪ FINAL INVOICE

All invoices associated with the Project must be submitted within six (6) months of the completion of construction and acceptance of the Project to be eligible for reimbursement by the Department. Any invoices submitted after this time will not be eligible for reimbursement.

20. REPORTING REQUIREMENTS AND RECORDS RETENTION

PROJECT EVALUATION REPORTS

The Municipality is responsible for submitting quarterly Project evaluation reports, in accordance with the Department's guidelines and procedures, that detail the progress achieved to date for the Project.

PROJECT RECORDS

The Municipality and its agents shall maintain all books, documents, papers, accounting records, Project records and such other evidence as may be appropriate to substantiate costs incurred under this Agreement. Further, the Municipality shall make such materials available at its office and shall require its agent to make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of payment of the final voucher by the Federal Highway Administration, for inspection and audit by the Department's Financial Management Section, the Federal Highway Administration, or any authorized representatives of the Federal Government.

21. OTHER PROVISIONS

REFERENCES

It will be the responsibility of the Municipality to follow the current and/or most recent edition of references, websites, specifications, standards, guidelines, recommendations, regulations and/or general statutes, as stated in this Agreement.

INDEMNIFICATION OF DEPARTMENT

The Municipality agrees to indemnify and hold harmless the Department, FHWA and the State of North Carolina, to the extent allowed by law, for any and all claim for payment, damages and/or liabilities of any nature, asserted against the Department in connection with this Project. The Department shall not be responsible for any damages or claims, which may be initiated by third parties.

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.

TITLE VI - CIVIL RIGHTS ACT OF 1964

The Municipality shall comply with Title VI of the Civil Rights Act of 1964, (Title 49 CFR, Subtitle A, Part 21). Title VI prohibits discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

OTHER AGREEMENTS

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

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.

IMPROPER USE OF FUNDS

Where either the Department or the FHWA determines that the funds paid to the Municipality for this Project are not used in accordance with the terms of this Agreement, the Department will bill the Municipality.

TERMINATION OF PROJECT

If the Municipality decides to terminate the Project without the concurrence of the Department, the Municipality shall reimburse the Department one hundred percent (100%) of all costs expended by the Department and associated with the Project.

AUDITS

In accordance with 2 CFR 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," Subpart F – Audit Requirements, and the Federal Single Audit Act Amendments of 1996, the Municipality shall arrange for an annual independent financial and compliance audit of its fiscal operations. The Municipality shall furnish the Department with a copy of the annual independent audit report within thirty (30) days of completion of the report, but not later than nine (9) months after the Municipality's fiscal year ends.

REIMBURSEMENT BY MUNICIPALITY

For all monies due the Department as referenced in this Agreement, reimbursement shall be made by the Municipality to the Department within sixty (60) days of receiving an invoice. A late payment penalty and interest shall be charged on any unpaid balance due in accordance with NCGS 147-86.23.

USE OF POWELL BILL FUNDS

If the other party to this agreement is a Municipality and fails for any reason to reimburse the Department in accordance with the provisions for payment hereinabove provided, NCGS 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to Municipality by NCGS 136-41.1, until such time as the Department has received payment in full.

ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties and there are no understandings or agreements, verbal or otherwise, regarding this Agreement except as expressly set forth herein.

AUTHORIZATION TO EXECUTE

The parties hereby acknowledge that the individual executing the Agreement on their behalf is authorized to execute this Agreement on their behalf and to bind the respective entities to the terms contained herein and that he has read this Agreement, conferred with his attorney, and fully understands its contents.

FACSIMILE SIGNATURES

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

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).

22. SUNSET PROVISION

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.

IT IS UNDERSTOOD AND AGREED that the approval of the Project by the Department is subject to the conditions of this Agreement, and that no expenditures of funds on the part of the Department will be made until the terms of this Agreement have been complied with on the part of the Municipality.

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

L.S. ATTEST:

TOWN OF SPENCER

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

NCGS 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

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

(SEAL)

(FINANCE OFFICER)

Federal Tax Identification Number

Town of Spencer

Remittance Address:

DEPARTMENT OF TRANSPORTATION

BY: _____
(CHIEF ENGINEER)

DATE: _____

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