CARTERET COUNTY

Board of Commissioners

Agenda Item
IX.

Meeting Date:
19-Oct-15

Presenter:

CARTERET COUNTY
NORTH CAROLINA
1722

ITEM TO BE CONSIDERED

Title: Review & Discussion of Bids Received/Old Beaufort Elementary School

Brief Summary:
Review/Discuss the bids that were received for Old Beaufort Elementary School; discuss next steps.

BACKGROUND

Originating Department
County Manager's Office

Staff Contact:
Rachel Hammer

Attachments:
1
2
3
4
5

REVIEWED BY

County Manager	X	County Attorney	
Clerk to the Board	X	ACM/Finance Director	

County Manager
W. Russell Overman
russello@carteretcountync.gov

MEMORANDUM

TO: Board of Commissioners

FROM: W. Russell Overman, County Manager

RE: Potential Sale of Old Beaufort Elementary School

DATE: October 19, 2015

As you are aware, the Board has declared the Old Beaufort Elementary School as surplus and authorized staff to advertise the property for sale using the sealed bid method. We opened bids on October 2nd and received three bids. I have attached a bid summary sheet along with each of the bids.

In reviewing the bids you will see that they range from $950,000 to $1,760,000 and from ready for a prompt close to Study (due diligence) periods up to 420 days. Two of them have been brought to us by brokers and would require a payment to a broker ranging from $28,500 to $52,800.

I have also attached excerpts Chris has taken from our Facilities Master Plan related to this complex of buildings so that you are aware of the conditions of the buildings. The buildings are quickly deteriorating according to staff members that showed them to potential buyers and with their deterioration come additional liabilities and costs to the county.

My understanding from a phone conversation with School of Government staff is that you can determine which of these to be the most responsive and highest bid based on all of the nuances with each bid. As you make decisions regarding this potential sale, I will remind you that you did reserve the right to reject any and all bids.

302 Courthouse Square
Beaufort, NC 28516

CARTERET COUNTY
REQUEST FOR SEALED BIDS
SALE OF "OLD" BEAUFORT ELEMENTARY
SCHOOL PROPERTY
801 MULBERRY STREET
BEAUFORT, NC

The Carteret County Board of Commissioners has authorized the sale of the "Old" Beaufort Elementary School property located at 801Mulberry Street, Beaufort, NC under North Carolina General Statute 160A-268, Advertisement for Sealed Bids. This property consists of approximately 15.90 acres and five buildings. Sealed bids will be accepted until 3:00 p.m., Friday, October 2, 2015 and will be publicly opened in the County Manager's Office at that time. Bids will be received at the County Manager's office in person or by mail at 302 Courthouse Square, Beaufort, NC 28516. Envelopes shall have affixed on the front the following: Sealed Bid, Old Beaufort Elementary School, October 2, 2015. No bid deposit will be required. The Carteret County Board of Commissioners reserves the right to reject any and all bids.

The Carteret County Board of Commissioners is willing to pay a three percent (3%) commission at closing for any offer brought to the county by a NC licensed realtor that is accepted by the county.

Questions regarding the property or to make arrangements to view the property should be coordinated through the county manager's office by phone at 252-728-8450 or email rachel.hammer@carteretcountync.gov.

Board of Commissioners

Robin V. Comer, Chair
Jonathan Robinson, Vice-Chair
Elaine O. Crittenton
Jimmy Farrington
Terry Frank
Mark Mansfield
Bill Smith

County Manager
W. Russell Overman
russello@carteretcountync.gov

Clerk to the Board
Rachel B. Hammer
rachel.hammer@carteretcountync.gov

BID OPENING
SALE OF *OLD BEAUFORT ELEMENTARY SCHOOL*
3:00 p.m., October 2, 2015

BID FROM	AMOUNT	NOTES
Carolina Coastal Capital, LLC	$1,760,000.00	Seven (7) page contract; details include, but by no means are limited to: $15K deposit payable within seven days after the effective date; closing within 60 days following the expiration of the Study Period (study period defined as 240 days). (Broker)
East Carolina Community Development	$ 950,000.00	Eleven (11) page option agreement; details include, but by no means are limited to: $1,000 Option Payment; term and exercise of option continues from the date of the agreement to August 21, 2016; buyer intends to use property for the construction of commercial buildings and single and multi-family residential housing (seller assures buyer that there are no restrictions on the property which would prohibit such uses, and that the property is zoned so as to allow intended uses). (Broker)
Charles ("Bucky") Oliver	$1,009,000.00	"As-is, where-is," in immediately available funds, prompt close, no conditions except fee-simple insurable title. Bid submitted on a card.

CONTRACT

This Contract is made as of the "Effective Date" (as defined on the signature page to this Contract) by and between **County of Carteret, NC** (collectively the "Sellers"), **Carolina Coastal Capital , LLC** (the "Buyer") and CHICAGO TITLE INSURANCE COMPANY (the "Escrow Agent"). The parties agree as follows:

1. Purchase and Sale of Property. Seller shall sell and Buyer shall purchase the Property (as defined in **Exhibit A**) pursuant to this Contract.

2. Purchase Price and Deposit. Buyer shall deliver **One Million and Seven Hundred Sixty Thousand Dollars ($1,760,000.00),** (the "Purchase Price") at Closing by wire transfer of immediately available U.S. federal funds. In addition, the Buyer shall deliver **Fifteen Thousand Dollars and no cents ($15,000.00)** (the "Initial Deposit") to the Escrow Agent within seven (7) business days after the Effective Date. The Initial Deposit shall be credited toward the Purchase Price. Throughout the term of this Contract, Escrow Agent shall hold and disburse the Initial Deposit and any "Additional Deposit" (as defined in **Exhibit B**) in accordance with the terms and conditions of this Contract. The Initial Deposit and any Additional Deposit shall hereinafter be referred to collectively as the "Deposit". If Buyer cancels this Contract as Buyer is so entitled to do as provided in this Contract, the Deposit shall be returned to Buyer. If the Deposit is forfeited by Buyer pursuant to this Contract, the Deposit shall be paid to Seller as Seller's agreed and total liquidated damages, it being acknowledged and agreed that it would be difficult or impossible to determine Seller's exact damages. At Closing, the Deposit shall be returned to Buyer or credited towards the Purchase Price.

3. Closing. Consummation of the purchase and sale of the Property ("Closing") shall be held on **Sixty (60)** days following the expiration of the Study Period defined in **Exhibit B** (the "Closing Date") at a location mutually acceptable to Buyer and Seller or by mail. Seller shall pay for any deed stamp, transfer or excise tax. Buyer shall pay for recording the Deed and for Buyer's title insurance policy. Each party will bear its own expenses, including its own attorneys' fees. Ad valorem property taxes applicable to the Property for the calendar year of Closing will be prorated on a calendar year basis at Closing. If the current year's taxes have not been determined by the Closing Date, then the proration shall be based on the previous year's taxes, and the parties will adjust between themselves any difference in the estimated and actual prorations within 30 days after the actual tax statements for the Property for the year of Closing have been received. At Closing, Seller shall pay any rollback or deferred taxes and interest resulting from the loss of the Property's eligibility for tax deferment or relief, if applicable. The proceeds due to Seller at Closing will be released immediately after the Deed has been recorded. The Deed shall not be recorded until the closing agent is in possession of immediately available funds in the amount shown on the settlement statement approved by Buyer and Seller, and is prepared to disburse those funds. Seller shall deliver the following items to Escrow Agent at Closing: (a) the Deed, (b) a lien and "no parties in possession" affidavit in form reasonably approved by the Escrow Agent, and (c) Any other documents/affidavits reasonably required by Escrow Agent to issue a title policy to Buyer subject only to matters expressly approved by Buyer and that the persons executing the Deed and other Closing documents are authorized to do so, (d) a form 1099 and (e) a settlement statement (also executed by Seller).

4. Deliverables. Seller shall deliver any and all of the following information relating to the Property within Seller's custody or control to Buyer with five (5) business days of the Effective Date: prior title policy (and copies of all title information relating to the Property), surveys, tax statements for the past three full calendar years, civil and architectural documents and materials, environmental, engineering and soils reports, including wetlands studies, traffic studies and seismic studies, and any zoning information.

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5. Possession. Seller shall deliver possession of the Property to Buyer at Closing.

6. Access to Property. Buyer and its agents may enter the Property to inspect and perform tests and studies. Seller shall reasonably cooperate with Buyer in connection with such inspection and testing. Buyer shall restore Property to a reasonably neat and safe condition free from any disorder or damage caused by Buyer, if any. Buyer shall not permit any liens to attach to the Property due to Buyer's exercise of its rights under this Contract.

7. Assignment. Buyer shall have the right to assign this Contract so long as the assignee is an affiliate entity of Buyer or upon written consent of Seller.

8. Binding Agreement. The terms and conditions of this Contract shall be binding upon and inure to the benefit of Assignor and Assignee and their respective successors and assigns.

9. Governing Law. This Contract shall be governed by and construed in accordance with the laws of North Carolina applicable to contracts made and performed entirely therein.

10. Headings. The headings of this Contract are for reference only and shall not limit or define the meaning of any provision of this Contract.

11. Counterparts. The parties agree that this Contract may be executed by the parties in one or more counterparts and each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

12. Additional Provisions. Additional provisions to this Contract shall be set forth in the attached **Exhibit B**. All such terms and conditions set forth therein shall be incorporated into this Contract by reference as if specifically set forth herein.

BUYER:

Carolina Coastal Capital, LLC,
a North Carolina limited liability company

By: _____
Name: _____
Title: Manager
Date of Execution: 9/29/15

SELLER(S):

County of Carteret, NC

_____
By:
Title:
Date of Execution: _____

_____
By:
Title:
Date of Execution: _____

The "Effective Date" shall be the later of (i) the execution date of Buyer or (ii) the execution date of Seller as provided above.

EXHIBIT A

Legal Description of Real Property and List of Personal Property (collectively, the "Property")

The Property shall include (i) all interest, if any, of Seller in the tenements, hereditaments and appurtenances pertaining to the Property; (ii) all mineral, water and irrigation rights of Seller, if any, running with or otherwise pertaining to the Property; (iii) all interest, if any, of Seller in any road adjoining the Property; (iv) all interest, if any, of Seller in any award made or to be made or settlement in lieu thereof for damage to the Property or any portion thereof by reason of condemnation, eminent domain or exercise of police power; (v) all of Seller's interest in the buildings and any improvements and fixtures on the Property; (vi) all of Seller's interest, to the extent transferable, in all permits and licenses, warranties, contractual rights and intangibles with respect to the operation, maintenance, repair or improvement of the Property. Below is a legal description of the real property portion of the Property.

OWNERS: Carteret County, NC

Description: 15.9 acres (former school – 5 buildings) located at 801 Mulberry Street at the intersection of Highway 70 (Live Oak Street) and Mulberry Street in Beaufort, NC

(approximate property lines shown and acreage to be verified with survey)

Tract 1: PIN#: 730618413787000 –Deed Bk/Pg: 1120/236 - Tax Card Description: Beaufort Old Elementary School

EXHIBIT B

1. Seller shall convey fee simple marketable title to Buyer at Closing subject only to the Permitted Exceptions (as defined below) or as otherwise approved by Buyer in writing. Seller shall set forth upon Exhibit A immediately following the legal description of the Property a list of any and all covenants, easements and other matters of Public Record which affect title to the Property and which shall not be removed or otherwise discharged prior to Closing. All such title matters therein set forth or as otherwise approved by Buyer in writing shall be referred to herein as "Permitted Exceptions".

2. The following public utilities are available to and abut the Property: water, sewer, gas, electricity and telephone.

3. To the best of Seller's knowledge **there are "wetlands"** that exist on the Property and the Property is may be subject to regulation by the Army Corps of Engineers or any similar Federal agency or department.

4. Buyer shall have until 11:59 p.m. EST on the **Two Hundred Fortieth (240th)** day after the Effective Date (the "Study Period") within which to conduct and approve any and all investigations, studies or tests deemed necessary by Buyer, in Buyer's sole discretion, to determine the feasibility of acquiring the Property. In the event that during the Study Period, Buyer, in its sole and exclusive judgment, determines not to purchase the Property for any reason or for no reason, on or prior to the expiration of the Study Period, Buyer shall have the right to cancel and terminate this Contract without liability to Buyer by so sending notice to Seller on or prior to the expiration of the Study Period. In the event Buyer delivers such notice, the Deposit shall be immediately delivered to Buyer by Escrow Agent and this Contract shall be terminated and neither party shall have any further obligation to the other. Buyer may extend the Study Period **two times** for **90** days each time by (i) notifying Seller in writing prior to the then applicable expiration of the Study Period and (ii) depositing **$15,000** as Additional Deposit Money. The Additional Deposit Money shall be **non-refundable** and applicable to the Purchase Price at Closing.

5. Seller hereby represents and warrants to Buyer as of the Effective Date and again as of Closing that: (i) Seller owns fee simple title to the Property; (ii) there is no impending or contemplated condemnation or taking by inverse condemnation of any of the Property, or any portion thereof, by any governmental authorities; (iii) there are no suits or claims pending or to Seller's knowledge, threatened against Seller with respect to or in any manner affecting any of the Property; (iv) Seller has not entered into any other agreement, written or oral, under which Seller is or could become obligated to sell any of the Property to a third party; (v) the Property is not zoned for all commercial uses but may be rezoned by Buyer, (vi) no consent of any third party is required in order for Seller to enter into this Contract and perform Seller's obligations hereunder; (v) Seller is not a party to any service contracts regarding the Property which are not cancellable on 30 days notice. Further, Seller hereby covenants to Buyer as of the Effective Date that: (i) Seller will not enter into nor execute any agreement, written or oral, under which Seller is or could become obligated to sell the Property, or any portion thereof, to a third party, (ii) Seller will not, without the prior written consent of Buyer, take any action before any governmental authority having jurisdiction thereover, the object of which would be to change the present zoning of or other land-use limitations, upon the Property, or any portion thereof, or its potential use; (iii) between the Effective Date and Closing or any earlier termination of this Contract, Seller shall, at its sole cost use commercially reasonable efforts to operate and maintain the Property substantially as heretofore operated by Seller and shall not further encumber the Property in any way. **In the event, the Property is not zoned or governmentally planned so as to permit the use desired by Buyer, Seller, shall cooperate with Buyer in any governmental approval process and promptly execute any documents reasonably required of Seller. In addition, Seller shall, at no expense to Seller, cooperate with Buyer in obtaining all utilities for development of**

the Property. Should the Property not be properly zoned for Buyer's intended use, the obtaining of the proper zoning is a condition precedent to Closing.

6. In the event either party (the "defaulting party") is in default of any provision of this Contract, the non-defaulting party, as a condition precedent to the exercise of its remedies, shall be required to give the defaulting party written notice of the same. The defaulting party shall have thirty (30) days, or such other period of time as may be otherwise specifically stated in this Contract, following the receipt of such notice to cure the default. If the defaulting party timely cures the default, the default shall be deemed waived, and this Contract shall continue in full force and effect. If the defaulting party does not timely cure such default, the non-defaulting party shall be entitled to pursue its remedies as further provided in this Section 6. If Buyer shall default in the performance of this Contract or if the Closing shall not occur through or by reason of any fault of Buyer, and Buyer shall fail to timely cure the same, Seller shall be entitled, as its only remedy, to terminate this Contract and retain the Deposit as liquidated damages (which the parties hereto have agreed to be fair and reasonable). The Escrow Agent shall be deemed irrevocably instructed to deliver the Deposit to Seller in the event that this Contract is terminated by Seller due to an uncured default on the part of Buyer. If Seller breaches this Contract prior to Closing, the Due Diligence Period shall be extended until the breach is cured or Buyer may either: (i) cancel this Contract in its entirety whereupon the Deposit shall be paid immediately by Escrow Agent to Buyer, Seller shall promptly reimburse to Buyer its reasonable and documented out-of-pocket due diligence expenses and, except as otherwise provided in this Contract, neither of the parties shall have any further liability or obligation hereunder; or, (ii) seek specific performance against Seller in which event Closing shall be automatically extended as necessary. Notwithstanding the foregoing, if specific performance is unavailable as a remedy to Buyer because of Seller's affirmative act or intentional omission, Buyer shall be entitled to pursue all rights and remedies available at law or in equity.

7. NOTICES.

(a) Except as otherwise required by law, any notice required or permitted hereunder shall be in writing and shall be given by personal delivery, e-mail, or by deposit in the U.S. Mail, certified or registered, return receipt requested, postage prepaid, addressed to the parties at the addresses set forth below, or at such other address as a Party may designate in writing pursuant hereto, or by telecopy (fax), or any express or overnight delivery service (e.g., Federal Express), delivery charges prepaid:

if to Seller(s):

County of Carteret, NC
Attn: Russell Overman
County Manager
302 Courthouse Square
Beaufort, NC 28516
Phone: 252-728-8450
E-mail: russello@carteretcountync.gov

County of Carteret, NC
Attn: Rob Wheatly – County Attorney
710 Cedar Street
Beaufort, NC 28516
Phone: 252-728-3158
E-mail: rwheatly@wwnwpa.com
Email 2: rob@wwnwpa.com

if to Buyer:

Carolina Coastal Capital, LLC
Attn: Matt Cunningham
803 Shelley Road
Raleigh, NC 27609
Phone: (919) 977-4189
E-mail: Matt@LeeLawFirm.com

To Escrow Holder:

Chicago Title Insurance Company
Attn: James Williams
421 Fayetteville Street, Suite1116
Raleigh, NC 27601
Tel.: (919) 833-6900
Fax: (919) 833-6905
Email: jay.williams@ctt.com

(b) Effective Date of Notices. Notice shall be deemed to have been given on the date on which such notice is delivered, if notice is given by personal delivery, e-mail or telecopy, and on the date of deposit if deposited with the overnight carrier, if used. Notice shall be deemed to have been received on the date on which the notice is received, if notice is given by personal delivery, and on the second (2nd) day following deposit in the U.S. Mail, if notice is mailed. If escrow has opened, a copy of any notice given to a party shall also be given to Escrow Agent by regular U.S. Mail or by any other method provided for herein.

8. Signage. Intentionally deleted.

9. Confidentiality. **Each party hereby covenants to the other that it shall keep in strictest confidence all of the terms and conditions of this Contract; provided that, Buyer shall be entitled to disclose such information as it deems appropriate to its prospective lenders, tenants, government agencies and consulting professionals.**

10. Hazardous Materials. Seller represents and warrants that (A) the Property is not in violation of any federal, state or local environmental laws and regulations, and (B) no underground or above-ground

storage tanks or Hazardous Substances are located at the Property. Seller shall promptly provide to Buyer notice of, and if applicable a copy of, any notice Seller receives with respect to any adverse environmental matters or storage tanks at the Property. "Hazardous Substances" means any substances, materials or wastes which are or become defined as hazardous or toxic or are regulated by, or otherwise give rise to liability under, any applicable local, state or federal law, including substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101), and also including substances that are (A) petroleum, (B) asbestos, (C) polychlorinated biphenyls, (D) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Sec. 1251, et. seq. (33 U.S.C. Sec. 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Sec. 1317), (E) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901, et. seq. (42 U.S.C. Sec. 6903) or (F) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sec. 9601, et. seq. (42 U.S.C. Sec. 9601). The representations and warranties in this Section shall be true at Closing as though they were made on the Closing Date and will survive Closing.

11. Buyer and Seller warrant and covenant that there are no brokers involved in this transaction other than Gary Mercer of Mercer Realty. **Seller shall pay broker as outlined in the sealed bid request pursuant to a separate agreement**. Other than as stated herein, Buyer and Seller shall hold one another harmless from and against any claims in connection with broker's fees or real estate agent commissions in connection with the procurement of this sales transaction

12. All expiration dates in this contract (due diligence expiration, extension expirations, closing dates, etc.) shall be extended to the following Monday if the actual contract date falls on a Saturday, Sunday or legal holiday.

13. **Buyer hereby agrees to deed restrict the Property to prohibit residential development.**

STATE OF NORTH CAROLINA
COUNTY OF CARTERET

OPTION AGREEMENT

THIS OPTION AGREEMENT is made and entered into as of the _1st day of October, 2015, by and between _**Carteret County** ___, (hereinafter referred to as "Seller"), and **East Carolina Community Development, Inc.,** a North Carolina non-profit corporation (hereinafter referred to as "Buyer").

For and in consideration of the sum of **One Thousand and No/100 Dollars ($1,000.00), ("Option Payment")** paid by Buyer to Seller, the receipt of which hereby is acknowledged, which shall be non-refundable except as otherwise provided herein, but applied to the Purchase Price, of the covenants hereinafter contained, and of other good and valuable considerations, the legal sufficiency of which hereby are acknowledged, it is agreed as follows:

1. GRANT OF OPTION. Seller does hereby grant to Buyer the exclusive option to purchase an approximately 15.9 acres on 801 Mulberry Street, Beaufort, North Carolina (hereinafter the "Property") upon the terms and conditions hereinafter set forth. The Property is further identified as shown on the map attached as **EXHIBIT A** attached hereto. A survey shall be made before closing of the Property at the expense of Buyer and the deed shall be prepared from said survey.

2. TERM AND EXERCISE OF OPTION. This option shall continue from the date of this agreement until 6:00 p.m. Eastern Time on August 21st, 2016 **(the "Option Period")** and shall be exercisable by delivery of written notice thereof to Seller on or before the expiration date and time of the Option Period, by mail delivered by a nationally-recognized overnight courier service or by electronic (e-mail) transmission. Notice of exercise shall be deemed delivered to Seller when said written notice is received as evidenced by written confirmation of mail delivery or by confirmation of electronic transmission.

3. PURCHASE PRICE. The purchase price for the property shall be Nine Hundred Fifty Thousand Dollars ($950,000.00) to be paid by the Buyer to Seller at the closing. At Closing, the Option Payment and any extension fees paid by Buyer to Seller shall be applied to the purchase price as earnest money.

4. TITLE. Seller represents, warrants and covenants to and with Buyer that Seller owns fee simple title to the Property and that the title to the Property is marketable and free from any restrictions or encumbrances other than those described on **EXHIBIT B** attached hereto ("Permitted Encumbrances"). Buyer shall examine title to the Property prior to the expiration date of the Option Period. In the event Buyer objects to any restriction or encumbrance on the Property (other than Permitted Encumbrances), other than any monetary lien which Seller agrees to pay on or before Closing, Buyer's sole remedy shall be termination of this Option Agreement and a full and immediate refund of all Option Payments and any extension fees. In the event Buyer objects to any restriction or encumbrance on the Property (other than Permitted Encumbrances) and terminates this Option Agreement, Seller agrees to immediately refund to Buyer all Option Payments and any extension fees.

5. WATER, SEWER AND ELECTRICITY. Seller represents, warrants and covenants to and with Buyer that city water and sewer and electricity are available to the Property at no charge to Buyer other than customary usage fees.

6. ZONING AND USE OF PROPERTY. Buyer intends to use Property for the construction of commercial buildings and single and multi-family residential housing. Seller has assured Buyer that there are no restrictions on the Property which would prohibit such uses, and that the Property is zoned so as to allow the intended uses. If it is determined that there are unacceptable restrictions for the Buyer's intended use of the Property or if rezoning is necessary, Buyer shall notify Seller in writing of such restrictions or zoning problem prior to the expiration date of the Option Period, and Seller shall have a reasonable period (not to exceed 90 days) to have the unacceptable restrictions promptly removed and/or have the Property re-zoned to allow the intended uses. In the event Seller fails to resolve any use or zoning objection to Buyer's satisfaction within the deadline set forth above, Buyer shall have the option to either (a) purchase the Property as is, or (b) terminate this Option. If Buyer elects to terminate this Option for the reason set forth in the preceding sentence, Seller shall immediately refund to Buyer all Option Payments and extension fees paid by Buyer.

7. CLOSING. If Buyer exercises its option to purchase the Property, the closing of the purchase will take place no later than December 21, 2016 ("Closing Deadline"), at a time and place mutually agreed upon by the parties. Buyer shall have the option to extend the Closing Deadline up to three (3) consecutive times for thirty (30) days each by notice of such extension

given by Buyer to Seller and payment to Seller of the sum of Ten Thousand Dollars ($10,000.00) for each such extension, on or prior to the Closing Deadline, as extended. Each extension fee shall become additional option money and shall be non-refundable (except as otherwise may be provided herein), and applied to the purchase price if closing occurs. **TIME IS OF THE ESSENCE** with regard to the closing. All payments of extension fees shall be hand-delivered or sent by mail delivered by a nationally-recognized overnight courier service to Seller's address described below in the section entitled "NOTICE."

8. DEED. At the closing, upon the payment of the purchase price by Buyer, Seller shall execute and deliver to Buyer a general warranty deed to the Property, which shall convey good and marketable fee simple title to Buyer, its successors and assigns, free and clear of all liens, restrictions and encumbrances except Permitted Encumbrances (defined above) and insurable at standard rates. With the delivery of the deed, Seller shall deliver physical possession of the Property to Buyer free and clear of all tenancies. Except as herein otherwise provided, the usual practices in connection with the sale of real estate in the State of North Carolina shall govern as to adjustments, prorations, documentary stamps, recording fees, and similar terms. Seller shall be responsible for payment of any deferred taxes assessed against the Property applicable to any time before the date of closing.

9. NON-EXERCISE OF OPTION. In the event Buyer does not to exercise this Option and close the purchase of the Property as provided herein, except as otherwise provided herein or unless such failure is due to Seller's fault or breach of a condition or warranty as provided herein, all monies paid by Buyer to Seller may be retained by Seller, and all rights of Buyer under this agreement shall terminate.

10. ASSIGNMENTS. Prior to the closing date, Buyer shall have the privilege of assigning its rights under this agreement. Seller shall close the transaction with Buyer or such other entity or entities as Buyer may designate.

11. BROKERAGE. Each party shall be solely responsible for paying any real estate commission or brokerage fees incurred as a result of any action or conduct by such party giving rise to a claim for such commission or brokerage fee.

12. NOTICE. All notices required or permitted herein shall be hand-delivered or sent by mail delivered by a nationally-recognized overnight courier service or electronic (e-mail)

transmission, and if by mail shall be addressed as follows, and if by email shall be sent to the email address shown below:

If intended for SELLER:

___Carteret County_____
_____
_____

If intended for BUYER:

Keith D. Walker
East Carolina Community Development, Inc.
108 Professional Park Drive
Beaufort, NC 28516
kwalker@eccdi.com

13. MISCELLANEOUS. This agreement contains the entire agreement among the parties with respect to its subject matter. This agreement shall be binding upon and inure to the benefit of the parties and their representatives, successors, and assigns. This agreement may be amended only by a written instrument duly executed by the party to be charged therewith.

Any forbearance, failure or delay by any party to exercise any right, power or remedy under this agreement shall not be deemed to be a waiver of such right, power or remedy, and any single or partial exercise of any such right, power or remedy under this agreement shall not preclude the further exercise thereof; and every right, power or remedy of any party shall continue in full force and effect until such right, power or remedy is waived specifically by an instrument in writing executed by such party.

The invalidity or unenforceability of any provision of this agreement shall not affect the validity or enforceability of any other provision.

Seller agrees that Buyer will be irreparably damaged in the event that Buyer exercises the option and this agreement is not specifically enforced and, accordingly, all obligations to perform under this agreement by Seller shall be enforceable by Buyer by a decree of specific performance.

The headings of this agreement are for purposes of reference only and shall not limit or define the meaning of any provision of this agreement.

All terms and provisions of this agreement shall survive and exist following the closing of the transactions contemplated herein.

This agreement may be executed by electronic or facsimile transmission and in one or more counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

14. RECORDING OF OPTION. The parties agree that this agreement shall not be recorded. Upon request of Buyer, Seller shall execute and deliver to Buyer a short form of this instrument suitable for recording, which instrument shall not reveal the purchase price and/or any other dollar amount herein mentioned. In the event that the option provided herein shall not be exercised by Buyer, shall terminate for any reason, or otherwise shall not result in the conveyance of the Property hereunder, Buyer agrees to execute and deliver to Seller upon request therefor an instrument in proper form for recordation in the office of the Register of Deeds, evidencing the expiration or termination.

IN WITNESS WHEREOF, the parties have caused this Option to be properly executed, as of the day and year first above written.

-Signatures are on the following pages.-

SELLER:

BUYER:

EAST CAROLINA COMMUNITY DEVELOPMENT, INC

By: _____
Keith D. Walker, CEO & President

STATE OF NORTH CAROLINA
COUNTY OF CARTERET

I, Ashley T. Nelson, a Notary Public, certify that **Keith D. Walker** personally came before me this day and acknowledged that he is the CEO & President of **East Carolina Community Development, Inc.,** a corporation, and that by authority duly given and as the act of the corporation, the foregoing Option Agreement was signed in its name by its CEO & President.

WITNESS my hand and official stamp or seal this 2nd day of October, 2015.

_____
Notary Public

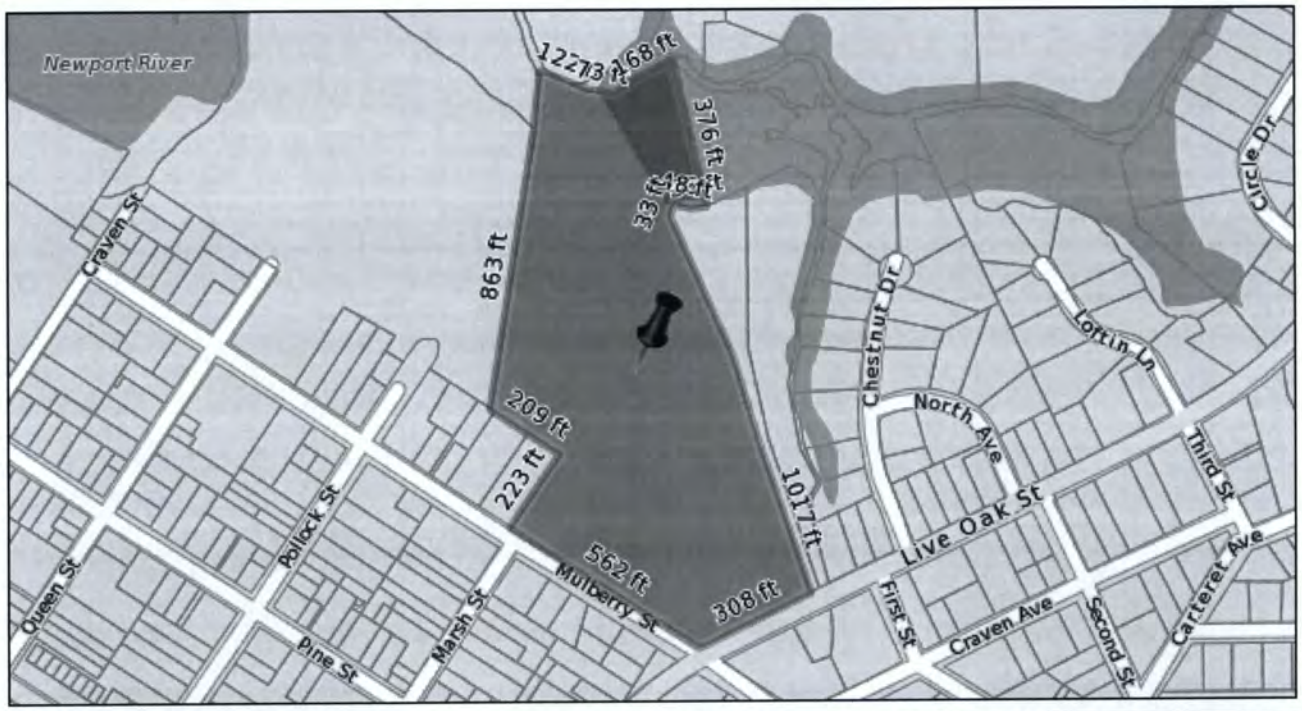
My Commission Expires: 8-4-2020

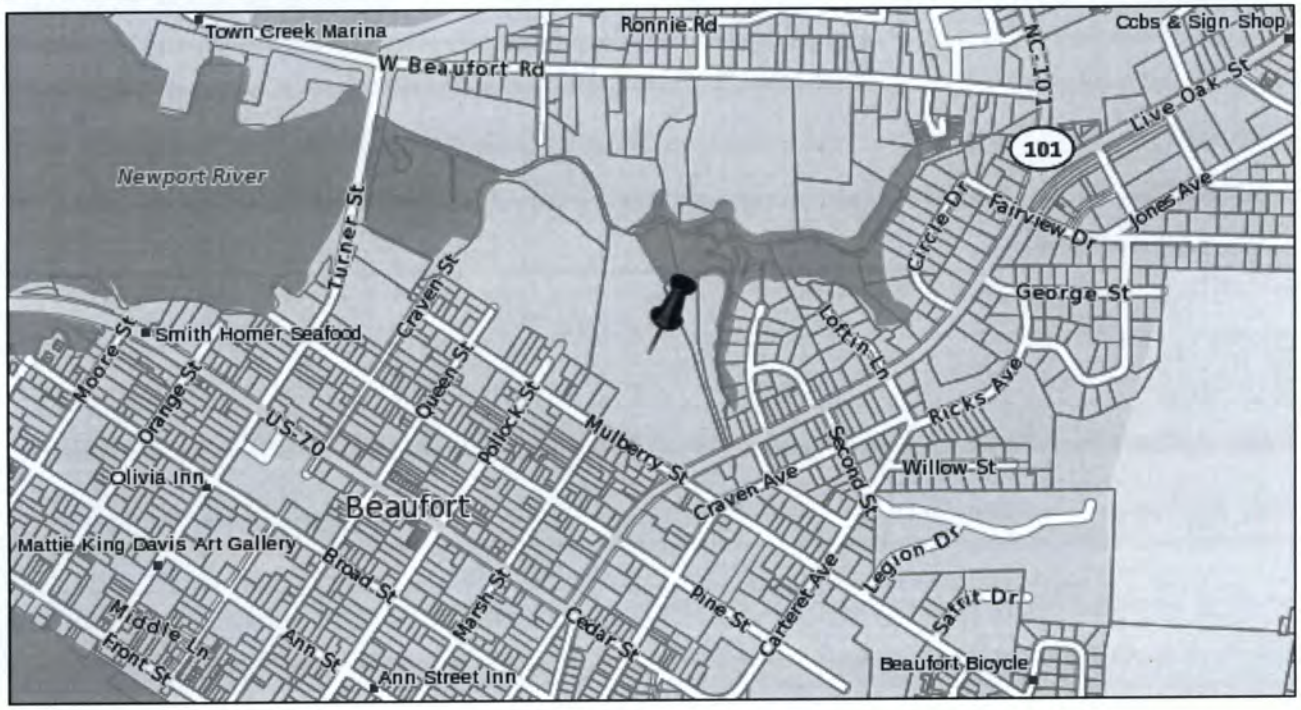
ASHLEY T NELSON
NOTARY PUBLIC
CARTERET COUNTY, NC
My Commission Expires 8-4-2020

EXHIBIT A

(Map)

Address: 801 MULBERRY ST BEAUFORT NC 28516
Parcel: 730618413787000





Tax Record Report for Parcel 730618413787000 at 801 MULBERRY ST, BEAUFORT, NC 28516

Location

Owner Address	302 COURTHOUSE SQUARE SUITE 200 BEAUFORT, NC 28516	City Jurisdiction	BEAUFORT
Township	1159	House # for rng srch	0
Legal Description	BEAUFORT OLD ELEMEMTARY SCHOOL		

Tax and Value Information

Tax Id #	730618413787000	Parcel Nbr	730618413787000
Owner	CARTERET COUNTY	Deed Page	236
Deed Book	1120	Structure Value	3,269,480
Land Value	1,290,300	Tax Value	4,562,276
Other Value	2,496		

Property Characteristics

Property Type	Public Records	Year Built	1998
Bedrooms	0	Baths	2
Total Square Footage	6,685	Acres	15.90

Tax records last updated Carteret County: 9/29/15
Information is deemed to be reliable, but is not guaranteed. See copyright notice.

EXHIBIT B

(Permitted Encumbrances)

CONFIRMATION OF COMPENSATION

See Guidelines (Standard Form 770G) on proper use of this form.

Property Address: 801 Mulberry St., Beaufort, NC 28516 ("Property")

☐ Buyer or ☒ Seller: Carteret County ("Client")

Real Estate Firm: ReMax Ocean Properties ("Firm")

1. **Disclosure.** A real estate firm is required by law to timely disclose to their client the receipt of (or promise or expectation of receiving) any compensation, incentive, bonus, rebate and/or other valuable consideration of more than nominal value ("Compensation") from any other party or person in a real estate sales transaction and confirm such disclosure in writing before making or accepting any offer.

2. **Confirmation.** Firm hereby confirms that in connection with the sale or purchase of the Property, Firm expects to receive the following Compensation **(check all applicable boxes)**:

☒ Monetary: $ _____ or 3.000 percent of sales price of Property received/to be received from County of Carteret

☐ Non-monetary: (describe) _____ received/to be received from _____ estimated value: $ _____

☐ Other: _____

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. MAKES NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION.

Firm ReMax Ocean Properties
Real Estate Firm Name

By: _____ Date: October 2, 2015
Individual agent signature
Matthew Johnson

ACKNOWLEDGEMENT BY CLIENT

Client hereby acknowledges receipt of a completed copy of this form.

Client: _____ Date: _____

Client: _____ Date: _____

Client: _____ Date: _____

Entity Client: Carteret County
(Name of LLC/Corporation/Partnership/Trust/etc.)

By: _____ Date: _____

Name: _____ Title: _____

REALTOR®
North Carolina Association of REALTORS®, Inc.

EQUAL HOUSING OPPORTUNITY

STANDARD FORM 770
Revised 7/2014
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RE/MAX Ocean Properties 3326 Bridges St. Morehead City, NC 28557
Phone: (252)222-3222 Fax: (252)726-8022 Meredith Johnson

Untitled

Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

October 2, 2015

I offer to purchase the "old" Beaufort Elementary School Property "As-is, where-is", in immediately available funds, prompt close, no conditions except fee-simple insurable title for $1,009,000.

Respectfully

Charles [illegible]

CO II

Old Beaufort Elementary Site

Facility Condition Update

OBES (Facility Condition Update)

Carteret County - Property Condition Assessment

16-Feb-15

Building	Site	Structure	Exterior	Interior	Mechanical	Electrical	Plumbing	Fire Alarm	Fire Sprinkler	Overall Rating
Beaufort Elementary School - New Cafeteria	Acceptable	Acceptable	Acceptable	Good	Acceptable	Acceptable	Acceptable	None/Not present	None/Not present	Acceptable
Beaufort Elementary School - Classroom Building	Acceptable	Poor	Marginal	Poor	Poor	Poor	Poor	None/Not present	None/Not present	Poor
Beaufort Elementary School - Gymnasium	Acceptable	Marginal	Poor	Poor	Poor	Poor	Poor	None/Not present	None/Not present	Poor
Beaufort Elementary School - Original Building	Acceptable	Marginal	Poor	Poor	Poor	Poor	Poor	Poor	None/Not present	Poor

Good | Acceptable | Marginal | Poor | None/Not present

Poor

The building systems are very aged and/or have been poorly maintained. They have exceeded their lifespan and require either immediate replacement, or should be replaced within five years. Extensive repair and/or renovation of these systems may not be cost-effective, regardless of time frame.

OBES (Facility Condition Update)

Old Beaufort Elementary School

AHERA Plan & Inspection Report , Sept. 1988 (Asbestos Hazards Emergency Response Act)

Prepared by: Roberts Environmental Services, Inc.

Asbestos material identified in Main Bldg. & Classroom Annex

D. SUMMARY OF FINDINGS

The following summarizes the findings for each of the buildings inspected. The presence or absence of asbestos is noted under each of three building material categories: 1) Surfacing Materials; 2) Thermal System Insulation; and 3) Miscellaneous Materials.

1. Main Building:

   a. Surfacing Materials - Asbestos present in wall material
   b. Thermal System Insulation - Asbestos present in six types of insulation
   c. Miscellaneous Materials - Three types of asbestos present Asbestos present in floor tile, counter tops, and fume hood

2. Classroom Building:

   a. Surfacing Materials - No asbestos found
   b. Thermal System Insulation - Two types of asbestos present
   c. Miscellaneous Materials - Asbestos present in linoleum and floor tile

Prepared By Roberts Environmental Services, Inc.

OBES (Facility Condition Update)

Existing Conditions

Beaufort Elementary (Main)

MAIN Bldg.

Poor

Constructed:	1947
Leased / Owned:	Owned
Square Footage:	47,784

The existing, original, classroom building is a 48,000 square foot facility, of solid masonry walls, pour concrete floors, atop concrete footings. The structure appears to be generally sound. There appears to be some cracking likely existing for years. The stone cornice work was spalling at main entrance which should be considered hazardous as large pieces were "hanging", and some had previously fallen. None of the existing systems are in operation. The existing building will not comply with current accessibility. The building has sustained copious amounts of water damage in multiple areas. Recommendations for remediation: If the intent is to repurpose this facility, all MEP systems will need to be replaced, all windows will need to be replaced, the roof will need to be replaced, water damaged areas in building will need to be repaired including ceilings, walls, stairwells, existing masonry jointing should be ground and tuck-pointed, existing stone cornice work should be secured to building. $3,600,000

OBES (Facility Condition Update)

Existing Conditions

Poor

Beaufort Elementary (Main)

Site	Type	Condition	Notes
Utilities	Not Operational	off	Public
Paving	Asphalt	ok	Some cracking / ponding
Curb/Gutter	Concrete	ok	No major deficiencies noticed
Drainage	Sheet	ok	Some ponding & back graded areas
Irrigation	N/A		
Landscaping	Lawn		Minimal trees & shrubs

Structure			
Foundations	Concrete	fair	Some exterior wall cracking
Floors	Concrete	fair	Crawlspace, moisture, some rust, insulation
Frame	Masonry	fair	Lots of cracking around, cosmetic / structure

Exterior			
Veneer	Brick	fair	Some deficiencies on jointing
Boxing/Trim	Stone / Brick	fair	Some damage to stone
Gutter/D.S	External	fair / poor	Cracked / leaking DS
Doors	Wood	poor	Swollen / stick, aluminum dated but fair
Windows	Wood	fair / poor	Lead? Some moisture in places
Roof	Flat	poor / fail	Multiple leaks throughout

OBES (Facility Condition Update)

Poor

Existing Conditions

Beaufort Elementary (Main)

Interior	Type	Condition	Notes
Floors	Carpet / CT	fail	Lots of mold / mildew, standing water throughout
Walls	GWB / Plaster	fail / poor	Lots of moisture, mold, cracking
Ceilings	ACT / Plaster	fail	Lots of leaks, mold, mildew
Doors/Frames	ND / Wood	poor	Mold / mildew throughout
Stairs	Steel	fair	Mold / roof cave-in (debris)

Mechanical			
Split System	Not Operational		Boiler / chiller
Package			
T-Stats			
Controls			

Electrical			
Service/Panels			No electricity on site, no devices or fixtures can be tested, likely failed
Lighting			
Communications			

OBES (Facility Condition Update)

Existing Conditions

Beaufort Elementary (Main)

Plumbing	Type	Condition	Notes
Water Closets			
Lavatories			No water on at site / building, no fixtures can be tested, likely failed
Hot Water System			

Fire Alarm			
FACP	Not Operational		Rust, mold, mildew

Fire Sprinkler			
Pump	N/A	N/A	N/A
Riser	N/A	N/A	N/A
Heads	N/A	N/A	N/A

OBES (Facility Condition Update)

Existing Conditions

Beaufort Elementary (Cafeteria)

CAFETERIA

Constructed:	1947
Leased / Owned:	Owned
Square Footage:	
Cafeteria	6,724
Café / Class	4,032

Cafeteria

The existing cafeteria is a 6,800 square foot building of masonry and some steel framing. Given the age of this structure and general overall condition, the only viable recommendation is for total demolition. $68,000 (demo)

Classroom/Cafeteria

The (most current structure) classroom/cafeteria is a 4,000 square foot building constructed of masonry walls, concrete slab and steel framing at roof. This building is currently in use. The structure is considered sound. There are signs of expansion/contraction cracking. Accessibility is adequate in its current use. All systems are considered to be adequate in their current use. Recommendations of remediation: Monitor exterior wall cracking and add control/expansion jointing if applicable. $0

OBES (Facility Condition Update)

Existing Conditions

Beaufort Elementary (Cafeteria)

Site	Type	Condition	Notes
Utilities	Public	ok	Beaufort water / sewer, Duke Power
Paving	Asphalt	ok	Minimal deficiencies
Curb/Gutter	Concrete	ok	Minimal deficiencies
Drainage	Sheet	ok	Minimal deficiencies / No ponding
Irrigation			
Landscaping	Lawn	ok	Mature

Structure			
Foundations	Concrete	ok	No known / noticeable deficiencies
Floors	Concrete	ok	No known / noticeable deficiencies
Frame	Steel	ok	No known / noticeable deficiencies

Exterior			
Veneer	Masonry / Brick	ok	Some cosmetic cracking
Boxing/Trim	N/A		
Gutter/D.S.	Exterior	ok	Some ponding / wash
Doors	Hollow Metal	ok	No known / noticeable deficiencies
Windows	Aluminum	ok	No known / noticeable deficiencies
Roof	Flat	ok	No known / noticeable deficiencies

OBES (Facility Condition Update)

Existing Conditions

Beaufort Elementary (Cafeteria)

Interior	Type	Condition	Notes
Floors	VCT	ok	No known / noticeable deficiencies
Walls	GWB	ok	No known / noticeable deficiencies
Ceilings	ACT	fair	Sagging
Doors/Frames	Metal / Wood	ok	No known / noticeable deficiencies
Stairs			

Mechanical			
Split System			
Package	Electric	ok	No known / noticeable deficiencies
T-Stats	Electric	ok	No known / noticeable deficiencies
Controls			

Electrical			
Service/Panels	MDP		No known / noticeable deficiencies
Lighting	Fluorescent		No known / noticeable deficiencies
Communications	N/A		

OBES (Facility Update)

Existing Conditions

Beaufort Elementary (Classrooms)

CLASSROOMS Aux.

Poor

Constructed:	1947
Leased / Owned:	Owned
Square Footage:	14,330

The existing (non-connected to main CR building) is a 14,330 square foot building constructed from steel columns and beams with an exterior wall panel and clip configuration. Given the age of this structure and general overall condition, the only viable recommendation is for total demolition. $143,330 (demo)

OBES (Facility Update)

Existing Conditions

Poor

Beaufort Elementary (Classrooms)

Site	Type	Condition	Notes
Utilities	Public		Beaufort water / sewer, Duke Power
Paving	Lawn	poor	Lawn parking – likely covered asphalt paving
Curb/Gutter	Concrete Curb	poor	
Drainage	Sheet	poor	Some sloping to building & ponding
Irrigation	None		
Landscaping	Lawn	ok	Mature

Structure			
Foundations	Concrete	poor	Steel frame building with Kalwall exterior walls, Kalwall system has rusted at connection points to failure
Floors	Wood	poor	Severe water damage throughout, rot suspected in multiple places
Frame	Steel	failure	Steel frame is torqueing, deflating under load stress, entire frame may be compromised

Exterior			
Veneer	Brick / Kalwall	failure	Steel frame has deteriorated, brick has severe settlement cracking
Boxing/Trim	Aluminum	failure	Integral to Kalwall system, failed
Gutter/D.S.	Light Gauge Steel	failure	Multiple leaks and damaged sections
Doors	Wood	failure	Cracked, damaged & inoperable
Windows	Kalwall	failure	Boarded over, Kalwall frame broken in multiple places
Roof	EPDM	failure	Roof leaks badly, lots of mold and mildew throughout

OBES (Facility Condition Update)

Existing Conditions

Poor

Beaufort Elementary (Classrooms)

Interior	Type	Condition	Notes
Floors	CPT / Tile	failure	No floor finishes are salvageable due to mold, mildew and water damage
Walls	GWB / Paneling	failure	No walls or finishes are salvageable due to mold, mildew and water damage
Ceilings	Lay-in / ACT	failure	Due to water damage, no ceilings are salvageable
Doors/Frames	Wood	failure	Due to water damage, no doors / frames are salvageable
Stairs			

Mechanical			
Split System	N/A		
Package	Boiler / Chiller	failure	Not in operation, suspected to be non-salvageable
T-Stats	N/A		
Controls	N/A		

Electrical			
Service/Panels	Main / Subs	failure	Disconnected, water and weather damage
Lighting	Fluorescent	failure	Water damage
Communications	N/A		

OBES (Facility Condition Update)

Existing Conditions

Beaufort Elementary (Classrooms)

Poor

Plumbing	Type	Condition	Notes
Water Closets	Flush valve	failure	Inoperable, not connected
Lavatories	Wall mounted	failure	Damaged, do not meet accessibility code
Hot Water System	Individual tanks	failure	Inoperable, disconnected

Fire Alarm			
FACP	None	n/a	No system was in place at time of visit

Fire Sprinkler			
Pump	None	n/a	No system was in place at time of visit
Riser	None	n/a	
Heads	None	n/a	

OBES (Facility Condition Update)

Existing Conditions

Beaufort Elementary (Gymnasium)

GYM

Poor

Constructed:	1947
Leased / Owned:	Owned
Square Footage:	8,419

The existing gymnasium is a 8,400 square foot building constructed of solid masonry walls, heavy timber trusses/framing, atop (an assumed) concrete footing. This building appears to have some semblance of a crawl space or elevated floor system. There are multiple areas of apparent rot in the gym. Some of the auxiliary rooms had standing water on the floors; it was undeterminable as to the source of the water. Accessibility to and from this facility is adequate. Recommendations for remediation: If the intent is to repurpose this building, new floor framing will be needed over a large portion of the room, new MEP systems will need to be installed, the source of the water will need to be confirmed and alleviated. The roof will need to be replaced. $630,000

OBES (Facility Condition Update)

Existing Conditions

Beaufort Elementary (Gymnasium)

Poor

Site	Type	Condition	Notes
Utilities			
Paving	N/A		
Curb/Gutter	N/A		
Drainage	Sheet	ok	Some ponding at building
Irrigation	N/A		
Landscaping	Lawn	mature	Mature trees, close to building

Structure			
Foundations	Concrete / Spread	fair	Some cracking
Floors	Wood	fair	Some rot noticed throughout
Frame	Masonry Steel Trusses	fair	Some wall cracking

Exterior			
Veneer	Brick	fair	Some deficiencies of mortar joints
Boxing/Trim	Wood	fair / poor	Rot, paint deterioration
Gutter/D.S.	None		
Doors	Wood	poor	Rot, swollen at jambs, hardware
Windows	N/A		
Roof	Shingle	poor / fail	Old, leaking

OBES (Facility Condition Update)

Existing Conditions

Poor

Beaufort Elementary (Gymnasium)

Interior	Type	Condition	Notes
Floors	Wood / Concrete	poor	Rot, water standing
Walls	Masonry	fair	
Ceilings	Open / Deck	poor	Leaking
Doors/Frames	Steel	poor	Rust
Stairs	Wood	fail	Rot

Mechanical			
Split System	Not Operational		Boiler, chiller
Package			
T-Stats			
Controls			

Electrical			
Service/Panels			No utilities were on at site, no fixtures could be tested, likely failed
Lighting			
Communications			

OBES (Facility Condition Update)

Poor

Existing Conditions

Beaufort Elementary (Gymnasium)

Plumbing	Type	Condition	Notes
Water Closets			
Lavatories			
Hot Water System			

Fire Alarm			
FACP			

Fire Sprinkler			
Pump	N/A		N/A
Riser	N/A		N/A
Heads	N/A		N/A

OBES (Facility Condition Update)

Auditorium

OBES (Facility Condition Update)

Suspended Ceilings Throughout

OBES (Facility Condition Update)

Lead Based Paint

OBES (Facility Condition Update)

Pipe, Ceiling & Flooring Asbestos: Chrysotile & Amosite

OBES (Facility Condition Update)

Dilapidated Stairwell Structures

OBES (Facility Condition Update)

Exposed Building Shell Areas

OBES (Facility Condition Update)

Additional Environmental Hazards

OBES (Facility Condition Update)

Environmental Hazards & Fuel Tanks

OBES (Facility Condition Update)

Dilapidated Annex. Structures

NC Requirements for Demolition/Renovation & Asbestos-Containing Materials

Regulated asbestos-containing materials must be removed prior to any activity that will disturb the material.
Only North Carolina accredited asbestos professionals can perform these activities. If asbestos is present in a building, it should be handled so that asbestos fibers are not released into the air. Asbestos-containing materials must be maintained adequately wet at all times during the demolition and renovation, and there should be no visible emission

The Health Hazards Control Unit (HHCU) of the N.C. Department of Health & Human Services, Division of Public Health, must be notified of plans to demolish a building, including residences demolished for commercial or industrial expansion.

Notification of demolition is required by law *even if no asbestos is present* in the building.
Materials containing asbestos that can be crumbled or reduced to powder by hand pressure ***must be removed prior to demolition or renovation activities that will disturb the material***. The removal must be done only by N.C.-accredited asbestos professionals.

Owners or operators must obtain an asbestos removal permit from the HHCU prior to any renovation project that will disturb more than 35 cubic feet, 160 square feet, or 260 linear feet of regulated asbestos-containing material. Demolition notifications and asbestos removal permit applications are to be submitted using the application form (DHHS-3768).

Note: Obtaining a demolition permit from a local city or county building inspections department does NOT satisfy or meet the notification requirements of the NC HHCU.

OBES (Facility Condition Update)

Asbestos Hazard Management: Rules & Regulations

Statutes

The Asbestos Hazard Management Program (AHMP) is established under N.C. General Statute §130A-444 through 452 - Asbestos Hazard Management.

Administrative penalty provisions may be found under N.C. General Statute §130A-22(b1) and (b2).

Changes to Asbestos Containing Material Permit Fees for Demolition Projects: N.C. General Statute §130A-450.
DHHS Memo: Asbestos Removal Permit Fee Increase Effective September 1, 2008

North Carolina Air Quality regulations also address demolition of structures by intentional burning for the purpose of training firefighting personnel. Information on the applicable statutes may be found at www.daq.state.nc.us/enf/openburn/

Rules

Rules (administrative code) adopted by the North Carolina Health Commission to implement the statutes may be found under 10A NCAC 41C .0601 - Asbestos Hazard Management Program

The AHMP Rules adopt the National Emission Standards for Hazardous Air Pollutants (NESHAP) relating to asbestos demolition and renovation by reference. These regulations may be found at 40 CFR Part 61, Subpart M - National Emission Standard for Asbestos (40 CFR 61-141-157).

The AHMP Rules adopt the Asbestos Hazard Emergency Response Act (AHERA) relating to the management of asbestos containing materials in schools. The AHERA regulation may be found at 40 CFR Part 763, Subpart E - Asbestos-Containing Materials in Schools.

Rules relating to North Carolina Air Quality regulations and demolition of structures by intentional burning for the purpose of training firefighting personnel may be found at www.daq.state.nc.us/enf/openburn/

OBES (Facility Condition Update)

Asbestos Hazard Management. § 130A-444.

Definitions: Unless a different meaning is required by the context, the following definitions apply throughout this Article:

(1) "AHERA" means Title II, Asbestos Hazard Emergency Response Act of the Toxic Substances Control Act, 15 U.S.C. § 2601, et seq., as amended by the Asbestos School Hazard Abatement Reauthorization Act of 1990, P.L. 101-637, 104 Stat. 4589 ("ASHARA").

(2) "Asbestos" means asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite and actinolite.

(3) "Asbestos containing material" means material which contains more than one percent (1%) asbestos, including friable asbestos containing material and nonfriable asbestos containing material.

(3a) "Asbestos NESHAP for demolition and renovation" means that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 CFR §§ 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).

(4) "Abatement" means work performed to repair, maintain, remove, isolate, or encapsulate asbestos containing material. The term does not include inspections, preparation of management plans, abatement project design, taking of samples, or project overview.

(5) "Friable" means any material that when dry can be broken, crumbled, pulverized, or reduced to powder by hand pressure, and includes previously nonfriable material after such material becomes damaged to the extent that when dry it can be crumbled, pulverized, or reduced to powder by hand pressure.

(6) "Management" means all activities related to asbestos containing material, including inspections, preparation of management plans, abatement project design, abatement, project overview, and taking of samples.

(6a) "Person" means an individual, a corporation, a company, an association, a partnership, a unit of local government, a State or federal agency, or any other legal entity.

(7) "Public area" means those areas in any building other than a residence that are not covered under the Occupational Safety and Health Act of 1970, Pub. L. 91-596, 84 Stat. 1590, 29 U.S.C. § 651, et seq., as amended.

(8) "Removal" means stripping, chipping, sanding, sawing, drilling, scraping, sucking, and other methods of separating material from its installed location in a building.

(9) "Residence" means any single family dwelling or any multi-family dwelling of fewer than 10 units. (1989, c. 724, s. 1; 1993 (Reg. Sess., 1994), c. 686, s. 2; 1995, c. 123, s. 7.)