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CUMBERLAND ★ COUNTY ★ NORTH CAROLINA

BOARD OF COMMISSIONERS

CANDICE WHITE
Clerk to the Board

KELLIE BEAM
Deputy Clerk

MEMORANDUM

TO: Policy Committee Members (Commissioners Council, Keefe, and Evans)

FROM: Kellie Beam, Deputy Clerk to the Board *KB*

DATE: September 27, 2012

SUBJECT: Policy Committee Meeting – October 4, 2012

There will be a regular meeting of the Policy Committee on Thursday, October 4, 2012 at 10:30 AM in Room 564 of the Cumberland County Courthouse.

AGENDA

1. Approval of Minutes – June 7, 2012 Meeting (Pg. 3)
2. Discussion on Economic Development for Minorities and Women

Attachments:

- A. Resolution to Establish a Verifiable Goal and Guidelines for Participation by Minority Businesses in County Construction Contracts (Excerpt from December 18, 1989 Board of Commissioner Meeting Minutes) (Pg. 16)
 - B. Guidelines for Recruitment and Selection of Minority Businesses for Participation in County Construction Contracts (Excerpt from June 4, 1990 Board of Commissioner Meeting Minutes) (Pg. 19)
 - C. Durham County Minority & Women Enterprises Ordinance (Pg. 27)
3. Discussion on Purchasing Opportunities for Local Businesses

Attachments:

- A. Cumberland County Purchasing Policy Amendments (Excerpt from November 10, 2010 Board of Commissioner Meeting Minutes) (Pg. 40)
- B. Cumberland County Purchasing Procedures Manual and Vendor Information Form (Pg. 42)

- C. Governor Beverly Eaves Perdue's Executive Order No. 50 – Enhanced Purchasing Opportunities for North Carolina Businesses **(Pg. 51)**
- D. Durham County Response to Local Preference/Local Buying **(Pg. 53)**
- 4. Consideration of Proposed Revised Noise Ordinance Requested by Sheriff Butler **(Pg. 57)**
- 5. Discussion on Public Use of County-Owned Facilities Policy with Separate Discussion on the Use of Historic Courthouse **(Pg. 62)**
- 6. Discussion on Proposed Print Management Policy **(No Materials)**
- 7. Report on County Human Service Departments Employment Application **(No Materials)**
- 8. Consideration of Approval of the Rules and Regulations of the Cumberland County Public Utilities Department **(Pg. 65)**
- 9. Other Items of Business

cc: Board of Commissioners
Administration
Legal
Communications Manager
County Department Head(s)
Sunshine List

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CUMBERLAND COUNTY POLICY COMMITTEE
NEW COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564
JUNE 7, 2012 – 10:30 A.M.
MINUTES

MEMBERS PRESENT: Commissioner Jeannette Council, Chairman
Commissioner Charles Evans (arrived at 10:45 a.m.)
Commissioner Jimmy Keefe

OTHER COMMISSIONERS
PRESENT: Commissioner Kenneth Edge

OTHERS PRESENT: James Martin, County Manager
Amy Cannon, Deputy County Manager
James Lawson, Assistant County Manager
Rick Moorefield, County Attorney
Phyllis Jones, Assistant County Attorney
Howard Abner, Assistant Finance Director
Sally Shutt, Communications and Strategic Initiatives
Manager
Julean Self, Assistant Human Resources Director
Dan Domico, Human Resources Department
Thomas Wright, Human Resources Consultant
Candice White, Clerk to the Board
Kellie Beam, Deputy Clerk to the Board
Press

Commissioner Council called the meeting to order.

1. APPROVAL OF MINUTES – MAY 3, 2012

MOTION: Commissioner Keefe moved to approve the minutes as presented.
SECOND: Commissioner Council
VOTE: UNANIMOUS (2-0)

2. APPROVAL OF PROPOSED PERSONNEL CODE CHANGES FOR
IMPLEMENTATION OF CLASSIFICATION AND PAY PLAN
RECOMMENDATION

James Martin, County Manager, introduced the item and stated the proposed personnel code changes relate to the classification and pay plan that is being recommended in the upcoming FY 2013 budget.

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BACKGROUND:

At the May 11, 2012 Budget Planning Session, the Study Team responsible for conducting phase 1 of the Classification and Pay Study presented the results of their study, including the findings and the recommendations endorsed by management and Human Resources. Subject to Board approval of the recommended pay plan, changes to personnel code are proposed to support the plan, and to better manage pay issues including pay equity and salary progression.

RECOMMENDATION:

Consider whether to approve the proposed county personnel code provisions (subject to Board approval of the pay study recommendations).

Rick Moorefield, County Attorney, provided a detailed review of the proposed revisions to Cumberland County Code, Chapter 10 - Personnel as indicated below:

Cumberland County Code Proposed Revisions Chapter 10 – PERSONNEL

ARTICLE I. IN GENERAL

Sec. 10-6. Responsibility of department heads.

(a) Department heads shall be responsible for bringing to the attention of the personnel director any condition of these regulations which, in their opinion, is inconsistent with the efficient operation of the department or proper maintenance of employee morale. Appropriate recommendations will accompany any such reportings.

~~(b) Department heads shall report all personnel actions taken with their department to the personnel director as soon as such actions are taken. These actions shall be reported on form CCPD-2 for all agencies except those under competitive services. Those agencies under competitive services will submit the PD-100 HR form for personnel actions. These forms must be signed by the personnel director before any such action shall be valid and binding and the employee paid.~~

(b) Department heads, to include human services, shall report all personnel actions taken within their department to the Human Resources Director prior to implementation. These actions must have the Human Resources Director's approval prior to any being action taken by department heads.

(c) All anticipated vacancies shall be reported by the department head to the personnel **Human Resources D**epartment. ~~The procedure for handling vacancies shall be as follows:~~

- ~~(1) Employees shall be required to submit in writing their intention of terminating employment two weeks in advance of the actual separation date.~~
- ~~(2) The department head shall notify the personnel department immediately upon receipt of such written intention of employment termination.~~
- ~~(3) The personnel director will meet with the terminating employee for the purpose of~~

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an exit interview.

- (4) ~~The department head and the personnel director shall together perform a job audit of the vacancy in order to recruit and select a suitable employee. (Comp. Ords., § 9-1.4)~~

Sec. 10-7. Responsibility of personnel director Human Resources Director.

~~The personnel director shall be responsible for preparation and maintenance of the personnel regulations, including also the position classification plan and perform such other related duties as the County Manager may direct. All matters dealing with personnel shall be routed through the personnel director, who shall maintain a complete system of personnel files and records. The director shall also develop and implement an affirmative action program providing equal employment opportunity for all applicants in the county.~~

The Human Resources Director shall be responsible for preparation and maintenance of the personnel regulations and perform such related duties as the County Manager may direct. All matters dealing with personnel actions which may result in documentation being placed in an employee's personnel file shall be discussed and approved by the Human Resources Director. The Human Resources Director shall maintain a complete system of personnel files and records. The Human Resources Director shall audit the personnel functions and records of all personnel functions throughout the county and report any finding to the County Manager and Board of Commissions annually. The Human Resources Director shall also develop, implement, and maintain talent acquisition, talent management, equal employment, and discipline and grievance policies and procedures for the county.

ARTICLE II. POSITION CLASSIFICATION PLAN*

Sec. 10-26. Coverage of the classification plan.

(a) ~~A position classification plan shall be maintained for all permanent positions and shall be based on the reviewing of duties and functions of the jobs, giving consideration to the relative strength of related positions, difficulty, responsibility, conditions of the work environment, and other factors relative to job responsibilities.~~

(b) ~~Job classification is the reviewing of the duties and functions of the job and, based on duties and responsibilities, a title and grade may be assigned. Job reclassification may result in:~~

- ~~(1) Allocation of position, if it does not exist.~~
- ~~(2) Lateral transfer of existing position requiring title and/or grade change at the same salary.~~
- ~~(3) Reallocation of existing position to a higher or lower classification.~~

(d) ~~Comprehensive salary surveys or studies shall be conducted to gather data on rates being paid for comparable work in determining level of compensation assigned to positions within the county's financial ability.~~

The county shall maintain a current position classification plan that ensures the accuracy of position duties and responsibilities and consolidates similar job

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functions into defined classifications. The County Manager or designee shall determine the duties of each position and shall promulgate procedures to establish, revise and maintain the classification plan to ensure it reflects the duties performed by each employee in the classification system. The County Manager or designee shall make amendments to the classification plan which reflects new types, areas or level of work. The Board of Commissioners shall be notified of all such amendments at its next meeting following the date of the amendment.

Comprehensive salary surveys or studies shall be conducted to gather data on rates of pay for comparable work to determine the level of compensation assigned to positions within the county's financial ability.

Sec. 10-28. Administration of Classification Plan Authority of County Manager; responsibility of department directors.

~~(a) The county manager shall be responsible for the administration and maintenance of the position classification plan and shall have authority to allocate new classifications and reallocate existing classifications within the salary plan for all existing county positions. Positions governed by state personnel are exempt from this policy.~~

~~(b) Department directors shall be responsible for making reclassification requests to the personnel director when significant changes have occurred in position duties and responsibilities.~~

The County Manager or designee shall be responsible for the administration and maintenance of the position classification plan and shall have authority to establish new classifications and reallocate existing positions to the appropriate classifications within the classification plan for all county positions. Positions governed by the State Personnel Act must also be submitted to the Human Resources Director prior to any action regarding the establishment of new classifications and the reallocation of existing positions.

Sec. 10-29. Same-Changes in existing positions.

~~When the county manager finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, he shall:~~

- ~~(1) Direct that the existing class specification be revised,~~
 - ~~(2) Reallocate the position to the appropriate class within the existing classification plan, or~~
 - ~~(3) Recommend that the board of county commissioners amend the position classification plan to establish a new class to which the position may be allocated.~~
- ~~(Comp. Ords., § 9-2.2)~~

Sec. 10-30. Same-New positions.

New positions shall be established by the board of county commissioners **Board of Commissioners** based on the recommendations of the County Manager, who shall either:

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- (1) ~~Allocate the new position to the appropriate class within the existing classification plan, or~~
- (2) ~~Ask the board to amend the position classification plan to establish a new class to which the new position may be allocated. (Comp. Ords., § 9-2.2)~~

ARTICLE III. SALARY PLAN*

Sec. 10-46. Coverage.

~~The schedule of salary ranges and assignment of classes to salary ranges, attached to the ordinance from which this section is derived, shall be the salary plan of the county. The salary plan shall include all permanent classes of positions included in the classification plan. (Comp. Ords., § 9-3.1)~~

A salary plan shall be established by the Board of Commissioners and shall be maintained on a current basis. The County Manager or designee shall be responsible for the administration and maintenance of the salary plan. The plan will include salary ranges commensurate with the responsibilities and difficulty of the work, and will take into account the prevailing compensation for comparable positions in the other agencies of government and other relevant factors. Also, it will provide for special compensation programs which enhance the county's competitive position for the purpose of talent acquisition, retention, and productivity. It will provide for the salary advancement of employees based upon changes in job responsibilities, equity, prevailing market conditions, and performance depending upon the availability of funds.

All salary ranges will have a minimum, midpoint and maximum rate of pay. Employees shall be paid in compliance with all federal and state laws.

Sec. 10-47. Maintenance.

~~The county manager shall be responsible for the administration and maintenance of the salary plan. Each year, prior to the preparation of the annual budget, the personnel director shall secure information concerning the general level of salaries paid and fringe benefits provided comparable municipal, county and state employees, and any change in the cost of living in the area during the fiscal year. The personnel director shall conduct continuing studies of the relationships between classes in order to reduce or eliminate inequities between classes of positions. Based on the studies and recommendations of the personnel director and the general financial condition of the county, the county manager shall recommend to the board of county commissioners such increases, reductions or amendments of the salary plan as he deems necessary to maintain the fairness and adequacy of the salary plan.~~

~~(Comp. Ords., § 9-3.2)~~

~~State law reference Responsibilities of county manager relative to pay plan, G.S. § 153A-92(c).~~

Sec. 10-48. Employee Compensation.

Each new employee shall be appointed at the minimum salary which has been established for the classification in which he is employed except:

- (1) ~~If the employee does not meet the minimum requirements of the position, and~~

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~~qualified applicants for the position are not available, the county manager may designate the employee as a trainee to be appointed at a salary below the minimum;~~

- ~~(2) When the county manager shall determine that there has been a demonstrated inability to recruit at the minimum salary, or if an applicant possesses exceptional qualifications or prior experience, the county manager may authorize the employment of the applicant at a salary level up to and including the maximum of the salary range provided for that position classification, subject to the availability of appropriated salary and benefit funds;~~

~~*State law reference Board of commissioners to fix or approve pay schedules, expense allowances and other compensation of county employees, G.S. § 153A-92(a).~~

- ~~(3) When the county manager shall identify, critical staffing levels of a particular work unit within a department, or when unusual or peak work demands cannot be met, the county manager may authorize the emergency assignment of employees normally assigned to another work unit in that department to temporarily [staff] the critically staffed work unit. These employees must be permanently assigned to the same or similar job classification as the position for which they will be temporarily performing duties. The county manager shall determine the rate of supplemental pay for work performed during the emergency assignment, based upon the critical nature of the work to be performed and the limited resources available to perform the work;~~

- ~~(4) When the county manager shall identify a developing trend indicating unusual or persistent difficulty in turnover and/or retention of sufficient staffing in a particular job classification or work unit or when the county manager shall identify a specific concern regarding the retention of a critical position, the county manager may authorize a salary increase up to and including the maximum of the salary range provided for the affected position(s) subject to the availability of appropriated salary and benefit funds. Or, the county manager may authorize a separate supplemental payment to employees in the applicable positions. The annual amount of these payments shall not exceed more than ten percent of the midpoint salary of the position classification. Employees must meet performance expectations to be eligible for salary increases or supplemental payments. Supplemental payments shall terminate when the county manager shall determine and notify in writing that the turnover and/or retention trend justifying the salary increases or supplemental payments has terminated. When determining appropriate salary or supplemental payment amounts, the county manager shall take into consideration relevant factors including salaries paid in comparable and competitive job markets, and liability impact for failure to meet state staffing mandates.~~

~~(Comp. Ords., § 9-3.5; Ord. of 5-17-93; Ord. of 2-7-94; Res. of 4-3-2000; Amend. of 12-1-2003)~~

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The County Manager or designee shall establish policies and procedures governing compensation of employees within the approved classification and pay plan as adopted by the Board of Commissioners. This includes new hires, reinstatements, reclassifications, promotions, demotions or transfers and in-range salary adjustments. The County Manager or designee shall establish these policies and procedures not inconsistent with state, federal and local laws governing compensation and employment. The Board of Commissioners must adopt any amendments to the classification and pay plan or benefits before the change can become effective.

Each new employee shall be compensated at a rate of pay within the assigned salary range. The County Manager or designee is responsible for ensuring salary inequities are not created with the rates of pay for existing employees.

To the extent that longevity, career development, and/or law enforcement step plan are funded in each fiscal year's budget, the County Manager or designee shall maintain procedures for awarding such payment(s). Employees who are hired or re-employed on or after 7-1-2012 will not be eligible for longevity pay and/or the law enforcement career development payment.

~~Sec. 10-49. Salary of trainee.~~

~~A new employee who does not meet all of the established qualifications for a position may be appointed, with the approval of the county manager, at a training salary no more than two steps below the minimum salary established for the position. The employee shall continue to receive a reduced salary during the probationary period until the appointing department head shall determine that the trainee is qualified to assume the responsibilities of the position, or until the end of the probationary period when the employee is either discharged or moved to a listed rate in the salary range established for the position. The probationary period shall not exceed six months.~~
(Comp. Ords., § 9-3.6)

~~Sec. 10-50. Payment at a listed rate.~~

~~All employees covered by the salary plan shall be paid at a listed rate within the salary ranges established for their respective job classifications except employees in a trainee status or employees whose present salaries are above the established maximum rate following transition to a new pay plan.~~
(Comp. Ords., § 9-3.4)

~~Sec. 10-51. Salary of part-time employee.~~

~~The pay plan established by this chapter is for full-time service. An employee appointed for less than full-time service shall be paid at an hourly rate or at a part-time/monthly salary if one is established for the position in question, whichever is applicable.~~
(Comp. Ords., § 9-3.12)

~~Sec. 10-52. Salary of promoted employee.~~

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~~An employee promoted to a position in a grade having a higher salary range shall receive a one-step salary increase or an increase to the minimum step of the new grade, whichever is higher.~~

~~(Comp. Ords., § 9-3.9; Ord. of 7-1-85)~~

Sec. 10-53. Salary of demoted employee.

~~A demoted employee shall be reinstated to his former position or similar position at his former grade and step, provided a vacancy exists and if qualified. (Comp. Ords., § 9-3.11; Ord. of 7-1-85; Ord. of 8-1-88)~~

Sec. 10-54. Salary of reclassified employee.

~~An employee whose position is reclassified to a class having a higher pay range shall receive a one-step salary increase or an increase to the minimum step of the new salary range, whichever is higher. An employee whose position is reclassified to a class having a lower pay range shall not receive a reduction in salary as a result of the reclassification. (Comp. Ords., § 9-3.8)~~

Sec. 10-55. Salary of transferred employee.

~~The salary of an employee transferring to a position of the same grade shall not be affected by the transfer. The salary of an employee transferring to a lower position shall be reduced to the grade and minimum step of the lower position, subject to the provisions of section 10-48(2). (Comp. Ords., § 9-3.10; Ord. of 7-1-85)~~

Sec. 10-56. Earned salary increments.

- ~~(a) Salary increases above the minimum established for each class of positions shall be granted only in recognition of superior or improved performance. The board of county commissioners shall each year provide funds for earned salary increments. Insofar as practical, each department shall receive a share of the salary increment funds based upon salary levels within salary ranges in the department.~~
- ~~(b) A salary increment given to any employee shall consist of no less than one full step in the salary range established for this class. Salary increments shall be effective upon the recommendation of the supervising department head and approved by the county manager. (Comp. Ords., § 9-3.7)~~

Sec. 10-57. Travel allowances. (Move to Finance)

~~Allowances for travel, meals, and room rates for employees conducting official business shall be paid at the rate established by the board of county commissioners. Tips, not exceeding 15 percent of the meal cost, may be reimbursed.~~

~~(Ord. of 8-20-84; Ord. of 2-12-86)~~

Editor's note-An ordinance of Aug. 20, 1984, amended § 10-57 to read as herein set forth. Prior to such amendment, § 10-57 pertained to an automobile allowance and derived from Comp. Ords. § 9-3.15.

Sec. 10-59. Pay periods. (Move to Finance)

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All employees shall be paid according to the pay schedule approved by the county manager. (Comp. Ords., § 9-3.13; Ord. of 8-20-84)

Sec. 10-62. Transition to New Salary Plan.

The following principles shall govern the transition to a new salary plan:

- (1) No employee shall receive a salary reduction as a result of the transition to a new salary plan.
- (2) All employees, receiving salary at a rate less than the minimum rate established for their respective grade, shall have their salaries raised to that **the minimum rate** of the new grade. (Comp. Ords., § 9-3.3; Ord. of 7-1-85)

Sec. 10-63. Merit awards.

~~A program of merit increases shall be developed whereby all employees are eligible for consideration for merit salary increases based on meritorious work performance subject to board of county commissioners' appropriation of funds.~~

- ~~(1) — Eligibility. All employees having permanent status shall be eligible for consideration for merit salary increases.~~
- ~~(2) — Salary plan. An employee's salary cannot be raised by merit increases to exceed the maximum salary rate of the job classification assigned.~~
- ~~(3) — Performance evaluation. Employees given consideration for meritorious increases shall, at a minimum, be evaluated on meritorious work performance based on quality, quantity, knowledge of work as measured by results, relationships with others, initiative and application of time, and amount of guidance required.~~
(Ord. of 8-20-84)

Sec. 10-64. Longevity pay.

~~Longevity pay shall be granted to all permanent and probationary employees working 30 or more hours per week.~~

- ~~(1) — Completion of service. Employees with three or more years of completed consecutive service by November 30 are eligible for longevity pay.~~
- ~~(2) — Payment for longevity. The amount of longevity payment shall be based on employee's current annual salary and paid on the first pay day in the month of December. This payment shall not be made a part of the employee's base salary. Employees that separate prior to the processing of the longevity payment forfeit their entitlement.~~
- ~~(3) — Completed consecutive service. Employees are eligible for longevity pay under the following plan:~~

<i>Completed Consecutive Service</i>	<i>Percentage of Annual Salary</i>
3 years	0.75
5 years	1.00
7 years	1.25

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10 years	1.50
15 years	2.25
20 years	3.25
25 years	4.50

(Ord. of 8-20-84; Ord. of 10-2-89; Ord. of 8-26-97; Amend. of 11-5-2001) Sees. 10-66-10-75. **Reserved.**

Commissioner Keefe posed questions regarding the elimination of Section 10-49 – Salary of Trainee. Mr. Lawson explained the previous provision was included in the event no one could be found that met the minimum qualifications required to perform the job. Mr. Lawson stated it is really not applicable because the county usually finds candidates to meet the qualifications. Commissioner Keefe asked whether there was a separate job classification for part-time and full-time employees doing the same job. Mr. Lawson responded it is based on job classification.

Mr. Moorefield explained that the language under Section 10-48 – Employee Compensation, “to the extent that longevity, career development, and/or law enforcement step plan are funded in each fiscal year’s budget, the County Manager or designee shall maintain procedures for awarding such payment(s)”, was intended to give the county more flexibility in addressing the county’s overall budget needs. Mr. Moorefield clarified the language was not intended to do away with longevity for existing employees or intended to do away with the law enforcement step plan for existing employees. Mr. Moorefield advised that the language at the end of the first sentence should be revised to add “procedures for awarding such payments to eligible employees” because of the language that employees hired after July 1, 2012 will no longer be eligible.

Mr. Moorefield stated other than the change in wording he suggested, he recommended that the personnel code as proposed be adopted.

Commissioner Evans asked whether county departments that fall under the State Personnel Act (SPA) and use the state job application could be required to use the county job application, or whether the departments even have that option. Mr. Martin stated the issue is not totally clear. Commissioner Keefe asked whether the state job application contained a question regarding felony convictions and whether employees of those departments were considered county employees. Mr. Martin confirmed that the state job application contained the question regarding felony conviction although they are subject to other controls. Commissioner Keefe asked whether the county could mandate that the county job application be used for those departments. Mr. Martin stated the directors of those departments have been encouraged to utilize the county job application; however, he believed it to be their call. A brief discussion followed. Mr. Martin asked that staff be provided the opportunity to research the legal side of the matter and report back to the Policy Committee at its August meeting.

Commissioner Keefe asked if the attempt of the classification and pay plan study was to significantly decrease the number of job titles. Mr. Lawson responded in the affirmative. Commissioner Keefe asked whether any employees of the county received additional benefits that are not available to all employees. Mr. Lawson explained there is a career development plan in place for sworn law enforcement officers so they can receive a step increase each year.

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Mr. Martin explained canine officers receive supplemental pay for maintaining their dog 24-hours a day. In response to a question from Commissioner Keefe, Mr. Lawson stated the mid-point of the salary range was local.

Commissioner Council asked how employees would be made aware of any changes that are affected. Mr. Lawson stated department heads would be made aware of the changes and they in turn would communicate them to their employees who will also be given something that will tell them how their position and pay have been affected.

Commissioner Keefe confirmed that employees who are reclassified to a lower classification would not receive a cut in pay. Commissioner Keefe asked whether some employees could potentially receive a 7% raise when taking into consideration the 2% Cost of Living Adjustment (COLA) and the reclassification to the new minimum or 5%, whichever is more. Mr. Martin responded in the affirmative. Additional questions followed. Mr. Martin stated the proposed personnel code changes needed to be placed on the Board's June 18, 2012 agenda.

MOTION: Commissioner Council moved to approve the proposed personnel code provisions subject to Board approval of the pay schedule.

SECOND: Commissioner Evans

VOTE: PASSED (2-1) (Commissioners Council and Evans voted in favor; Commissioner Keefe voted in opposition)

3. OTHER ITEMS OF BUSINESS

Ms. Cannon provided information related to a preview and analysis of printing on desktop printers versus network copiers. Ms. Cannon reported the Finance Department and Information Services are working on a new print management initiative to find the most cost effective manner to print documents. Ms. Cannon stated studies have shown that it is more effective to print off of a network printer than a desktop printer. Ms. Cannon stated print cartridges for desktop printers do not last long and the inexpensive desktop printers are very expensive in the long term when the cost of print cartridges is taken into consideration. Ms. Cannon stated the Department of Social Services has already gone through this initiative with Systel and they have removed many desktop printers and replaced them with network copies. Ms. Cannon stated this needs to be reviewed and studied county wide. Ms. Cannon stated a proposed print management policy will be drafted and returned to the Policy Committee at its August meeting. Ms. Cannon stated the proposed policy will address electronic storage as much as possible but there are business needs for printing. Ms. Cannon stated although she believes it is prudent to have such a policy; it may be met with some resistance from employees and department heads who are accustomed to having desktop printers. Commissioner Keefe stated he would also like to see a policy that goes out on email communications to the effect that "only print items that are necessary" in order to increase savings. Ms. Cannon stated that could be included in the policy.

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Commissioner Council referenced comments she made during the meeting for the budget public hearing and stated the county's human services agencies need to have hours that are conducive to providing services that are effective for the people the Board of Commissioners represent. Commissioner Council stated she is not talking about spending more county dollars and would be appalled if anyone told her extended hours would cost more money. Commissioner Council stated she wanted the county to look at flexible scheduling and in the case of mental health; she wanted the county to look at program cost versus program services being rendered. Commissioner Council stated if services are not being rendered to citizens, then the services need to be contracted to agencies that can provide them. Commissioner Council suggested that a trial program be put in place so affected employees can be informed and not experience any hardships associated with flexible scheduling.

Commissioner Evans stated he would like to know how many people are utilizing the county's human services facilities.

Commissioner Keefe stated he also had a problem with the lack of extended hours at the courthouse and he would like for staff to consider a pilot program to accommodate extended hours there as well.

A brief discussion followed. Commissioner Council stated the county has to do more with less in order to provide the needed services and be innovative in doing so. Commissioner Council reiterated she is not trying to wreck the budget but operate within available funds.

Commissioner Evans voiced his concerns regarding transportation.

Mr. Martin asked whether the request for flexible scheduling was county wide. Commissioner Council stated she would like to hold Commissioner Keefe's request in order to determine whether it will work with the direct service agencies such as Public Health. Mr. Martin stated he had engaged in discussions with the Public Health Director about providing proposals from the medical side but discussions have not been held with the Mental Health Director or the Department of Social Services Director. Commissioner Council stated her thoughts were regarding public health and mental health services, and she had not really considered social services. Commissioner Council stated if the county is going to do anything about the health of the community, it needs to start with the Public Health Department. Commissioner Council stated there are people in the hospital emergency room that should be seen at the Public Health Department.

Mr. Martin stated the county is up to the challenge and will be prepared to work towards the intent as expressed, although there may be a need for further clarification regarding some of the specifics. Mr. Martin explained some of the logistical issues that may be involved and stated to some extent, it may be more effective and efficient to retool or move the entire workday for employees involved in those areas. Comments followed.

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Commissioner Edge suggested that a request be made of department heads as to how they can more efficiently provide their services to the public at no additional cost. Commissioner Keefe stated it might be easier for the county to lead these agencies if it is also willing to offer extended hours, so he would like to see recommendations for this as well.

MEETING ADJOURNED AT 11:50 AM

SECOND: Commissioner Robert C. Lewis, Jr.
VOTE: UNANIMOUS

14. Consideration of setting minority participation goals for public building contracts.

BACKGROUND: The County is required by N.C.G.S. 143-128 to adopt by December 31, 1989, a verifiable percentage goal for minority participation in public contracts having an estimated value in excess of \$100,000. Additionally the County is required to establish guidelines specifying actions that should be taken to ensure a good faith effort is made in the recruitment and selection of minority businesses for participation in public contracts. A public hearing on this issue was held on December 6, 1989. Public comment identified two key issues:

- A. There was no agreement on a verifiable percentage goal for minority participation. The recommendations ranged from 0 through 35% minority participation in public building contracts.
- B. The setting of percentage goals and the establishment of guidelines are complex issues. The Board of Commissioners should establish an ad hoc committee to study and recommend workable and realistic goals and guidelines.

PROPOSED ACTION: Adopt Resolution and Guidelines and appoint nine members of council

RESOLUTION TO ESTABLISH A VERIFIABLE GOAL AND GUIDELINES FOR PARTICIPATION BY MINORITY BUSINESSES IN COUNTY CONSTRUCTION CONTRACTS.

WHEREAS, the legislature of the State of North Carolina has determined that the Cumberland County Commissioners, after notice and public hearing, shall adopt an appropriate verifiable percentage goal for participation by minority businesses in the total value of work for which a contract or contracts may be awarded pursuant to N.C.G.S. 143-128; and

WHEREAS, it is the intention of the Board of Commissioners of Cumberland County to establish a verifiable percentage goal for participation by minority businesses and to establish guidelines specifying actions that should be taken to insure a good faith effort is made in the recruitment and selection of minority businesses for participation in public contracts; and

WHEREAS, notice of a public hearing and a request for submission of written public comment was duly published in a newspaper of county-wide circulation on November 30, December 2nd, 5th, & 6th, and the public hearing was held on December 6, 1989, and public written comment was received through December 8, 1989; and

WHEREAS, the public recommended:

- A. That the County Commissioners adopt verifiable percentage goals ranging from 0% to 35% minority participation in public building contracts, and
- B. That the Bidder should include in his bid the extent of utilization of Minority Business Enterprises, and
- C. That the Fayetteville Business Minority Development Center be used as a clearinghouse to assist the County in determining qualified and available Minority Business Enterprises and to provide a channel to communicate to Minority Business Enterprises the availability of public contracts, and
- D. That minority participation goals be determined on each project rather than across the board, and that the percentage goal be based on the number of available and capable Minority Business Enterprises in the area, and
- E. That the Board of County Commissioners establish a Minority Participation Advisory Council to recommend workable and realistic goals and guidelines; and

WHEREAS, N.C.G.S. 143-128 requires the County Commissioners to adopt a verifiable percentage goal and guidelines specifying actions that will be taken to ensure that a good faith effort is made in the recruitment and selection of minority businesses for participation in contracts awarded under N.C.G.S. 143-128.

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Cumberland County, North Carolina:

- 1. That it is a policy of the County to stimulate the growth of local minority enterprises by encouraging their participation in and by affording them a full and fair opportunity to compete for all County public building contracts having an estimated value in excess of One Hundred Thousand Dollars.

2. That the County of Cumberland shall have a **temporary** verifiable ten percent goal for participation by minority businesses in the total value of work for which a contract or contracts may be awarded pursuant to N.C.G.S. 143-128.

3. That the County of Cumberland shall adopt and promulgate **temporary** guidelines for recruitment and selection of minority businesses for participation in County public building contracts and these **temporary** guidelines shall be made a part of each and every bid solicitation for public building contracts awarded pursuant to N.C.G.S. 143-128. (A copy of these **temporary** guidelines may be found in the office of the county attorney).

4. That the Board of County Commissioners hereby establishes a Minority Participation Advisory Council which shall study and recommend methods for implementing a fair and reasonable minority goals participation policy, recommend a reasonable and fair verifiable percentage goal for minority participation in public building contracts, recommend those actions the County should take to ensure a good faith effort is made to recruit and select minority businesses for participation in public building contracts, and to recommend steps that the County should take to assist and encourage minority businesses to bid on such contracts.

5. That the Minority Participation Advisory Council shall consist of:

- (a) two representatives of the Fayetteville Contracting Association
- (b) two representatives of Minority Business Enterprises
- (c) one prime contractor
- (d) a representative of the Fayetteville Minority Business Development Center
- (e) a person representing the interest of architects & engineers
- (f) the County Engineer
- (g) a public spirited citizen

The Council shall elect a chairman, vice chairman and secretary. The County Attorney shall be available to provide legal assistance to the Council, upon request.

6. That the Minority Participation Advisory Council shall meet at the call of its Chairman and shall make a final report of its recommendations to the Board of County Commissioners not later than May 7, 1990.

7. This Resolution shall become effective upon its adoption.

MOTION: Commissioner Shaw offered a motion to adopt the above Resolution and nominate persons to fill the specific slots on the proposed Task Force.

SECOND: Commissioner Robert C. Lewis, Jr.

VOTE: UNANIMOUS

NOMINEES AS FOLLOWS:

- (A) two representatives of Fayetteville Contracting Association (non-minority)

- 1. Graham T. Moore
Crowell Constructors
1100 Robeson Street
Fayetteville, NC 28301
- 2. Jean P. Berry
Barnhill Contracting Company
936 Shaw Mill Road
Fayetteville, NC 28303

- (b) Two representatives of Minority Enterprises (Minority)

- 1. James A. Dixon
512 Gillespie Street
Fayetteville, NC 28301
- 2. David Crider
P.O. Box 44133
Fayetteville, NC 28309

- (c) One prime contractor (non-minority)

- 1. Henry Player
Player, Inc.
P.O. Drawer 27
Fayetteville, NC 28302

- (d) One representative: Fayetteville Minority Business Development Center (minority)
1. Andy McCall
114 1/4 Anderson Street
Fayetteville, NC 28301
- (e) One person representing the interest of architects/engineers (non-minority)
1. Walter Vick
LSV Partnership
P.O. Box 53713
Fayetteville, NC 29305
- (f) The county Engineer: Robert Stanger
- (g) A public spirited citizen (minority)
1. Augustus R. Webber
114 1/4 Anderson Street
Fayetteville, NC 28302

15. Consideration of an amendment to the Code of Ethics.

BACKGROUND: On November 6, 1989, a Code of Ethics was approved to govern the conduct of County Employees. A vital definition was inadvertently omitted:

Section 202. Definitions

"Political Activity" shall mean any act aimed at supporting or opposing the election of any candidate for public office or supporting or opposing a particular political party.

This definition had previously been included in all drafts that had been submitted to you. A definition of political activity is necessary so that employees will know that conduct which is prohibited on County Time.

PROPOSED ACTION: Amend Code by adding Section 202 as written above.

MOTION: Commissioner Barber offered a motion to approve the amendment.
SECOND: Commissioner Robert C. Lewis, Jr.
VOTE: UNANIMOUS

MEETING ADJOURNED: 10:00 PM


Clerk to the Board

PROPOSED ACTION: Award the bid to low bidder, Blanton & Company in the amount of \$40,000.

MOTION: Commissioner Barber offered a motion to award the bid as recommended.
SECOND: Commissioner Shaw
VOTE: UNANIMOUS

C. Reject bids for Civic Center forklift.

BACKGROUND: On May 7, 1990, the Board rejected the bid for a forklift for the Civic Center because only one legitimate bid was received. Bids were again solicited and opened on May 30, 1990. Two bids were received but only one bid met the requested specifications; however, it did not include an acceptable bid deposit (company check, not a certified check). In addition, letters were received from two vendors stating they could not meet specifications.

PROPOSED ACTION: Reject bids received and rebid equipment after specifications are reviewed to determine how they can be amended to enable additional vendors to respond to the proposal.

MOTION: Commissioner Barber offered a motion to reject bids, revise specifications and rebid project as recommended.
SECOND: Commissioner Lewis
VOTE: UNANIMOUS

9. Consideration of an Agreement for Architectural Services for the Civic Center Horse Stalls Project.

BACKGROUND: Qualification statements were solicited from local architectural firms to provide design services for the horse stalls to be constructed behind the Charlie Rose Agri/Expo Center. The stalls will provide space to stable horses in conjunction with horse shows at the Center. The project team selected the firm of Shuller-Hicks Architects.

PROPOSED ACTION: Approve the selection of Shuller-Hicks Architects as designers for the Civic Center horse stalls and approve the Agreement for Architectural Services providing for Phase I work on an hourly rate with the total not to exceed \$2,500. Upon completion of Phase I the negotiated fee for Phase II will be subject to Board approval.

Commissioner Barber suggested that perhaps we delay this project until after the budget workshops. He noted that the public may not be so supportive of "horse stalls" when the County is in a tight money crunch.

It was pointed out the monies for this project was already in the budget and could not be transferred to any other county department or to capital projects outside of the Civic Center Complex. Mr. Barber stated he was not opposed to the project but sensitive to how the public may feel when funding is short for other needed projects.

Commissioner Lewis stated his concern about not having enough monies for education, but enough to build horse stalls.

Chairman Evans said that the completion of this project would certainly bring more revenues into the County.

MOTION: Commissioner Lewis offered a motion to approve the contract in an amount not to exceed \$2,500.
SECOND: Commissioner Shaw
VOTE: UNANIMOUS

10. Consideration of Guidelines for Minority Contractor Participation in County Construction Projects.

BACKGROUND: The special advisory committee appointed by the Commissioners to study and recommend methods for implementing a fair and reasonable minority goals participation policy has prepared guidelines for consideration by the Board of Commissioners. The Advisory Committee is recommending a county goal of fifteen percent for participation by minority businesses in county building construction projects in excess of \$100,000.

PROPOSED ACTION: Adopt the guidelines as presented.

MOTION: Commissioner Barber offered a motion to adopt the guidelines.
SECOND: Commissioner Lewis
VOTE: UNANIMOUS

GUIDELINES FOR RECRUITMENT AND SELECTION OF MINORITY BUSINESSES FOR PARTICIPATION IN COUNTY CONSTRUCTION CONTRACTS

In accordance with N.C.G.S. 143-128, these guidelines establish goals for minority participation in single-prime and separate-prime County building construction contracts. The Board of County Commissioners has determined that the County shall have a verifiable fifteen percent (15%) goal for participation by minority business enterprises (MBEs) in the total value of each building construction project in excess of \$100,000 for which a contract or contracts are awarded. These guidelines are published to accomplish this end.

SECTION 1. INTENT.

It is the intent of these guidelines that the County of Cumberland, as awarding authority for building construction projects, and the contractors and subcontractors performing the building construction contracts awarded shall cooperate and in good faith do all things legal, proper and reasonable to achieve the County goal of fifteen percent (15%) for participation by minority businesses in each construction project. Nothing contained in these guidelines shall be considered to require the County to award contracts or to make purchases of materials or equipment from minority-business contractors who do not submit the lowest responsible bid or bids. Work contracted in an emergency and which could not have been anticipated is excluded as a part of this program.

SECTION 2. DEFINITIONS.

1. Minority - a person who is a citizen or lawful permanent resident of the United States and who is:
 - a. Black, that is, a person having origins in any of the black racial groups in Africa;
 - b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
 - c. Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, the Pacific Islands;
 - d. American Indian or Alaskan Native, that is, a person having origins in any of the original peoples of North America; or
 - e. Female.
2. Minority Business Enterprise (MBE) - means a business:
 - a. In which at least fifty-one percent (51%) is owned by one or more minority persons, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons; and
 - b. Of which the management and daily business operations are controlled by one or more of the minority persons who own it.
3. Bidder - Any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.
4. Contract - A mutually binding legal relationship or any modification thereof obligating the seller to furnish equipment, materials or services, including construction, and obligating the buyer to pay for them.
5. Contractor - Any person, firm, partnership, corporation, association, or joint venture which has contracted with the County to perform construction work or repair.
6. Subcontractor - A firm under contract with the prime contractor for supplying labor. The subcontractor may or may not provide materials in his subcontract.
7. Vendor - A supplier of materials or equipment.
8. Professional Services - A provider of surveying, engineering, material testing services, etc.
9. Verifiable Goals means:
 - a. For purposes of separate-prime contract system, these County adopted written guidelines specifying the actions that will be taken to ensure a good faith effort in the recruitment and selection of minority businesses for participation in contracts awarded; and
 - b. For purposes of single-prime contract system, these County adopted written guidelines specifying the actions that the prime contractor must take to ensure a good faith effort in the recruitment and selection of minority businesses for participation in contracts awarded; the required actions must be documented in writing by the contractor to the County.

SECTION 3. RESPONSIBILITIES:

1. County of Cumberland - The County of Cumberland will be

responsible for the following:

- a. To obtain, maintain, and publish to bidders a current list of available MBEs. The list shall include the areas of work in which each MBE is qualified and shall be bound in the specifications for each applicable county construction project.
 - b. To publicize through the Fayetteville Minority Business Development Center (FMBDC) and similar organizations the contracting opportunities available for each County construction project.
 - c. To work with the North Carolina Minority Business Development Agency and local Minority Business Enterprises to assist potential Minority Business Enterprises in obtaining certification as an MBE.
 - d. To determine the apparent low bidders' compliance with the MBE compliance provisions in the proposal. Compliance with these provisions is required if the bid is to be considered responsive. The County reserves the right to reject any or all bids and to waive informalities.
 - e. To notify MBEs of potential contracting opportunities listed in invitations for bids. The notification shall include the following:
 - (1) A description of the work for which the bid is being solicited.
 - (2) The date, time and location where bids are to be submitted.
 - (3) The name of the individual who will be available to answer questions about the project.
 - (4) Where bid documents may be reviewed.
 - (5) Any special requirements that may exist, such as insurance, licenses, bonds and financial arrangements.
 - g. To maintain documentation of any contacts, correspondence or conversation with MBE firms made in an attempt to meet the goals.
2. Prime Contractor(s) - Under the single-prime contract system and the separate prime contract system, the prime contractor(s) will:
- a. Make reasonable effort to award fifteen percent (15%) of the total value of the contract to MBEs.
 - b. Identify or determine those work areas of a subcontract where MBEs may have an interest in performing subcontractor work.
 - c. At least ten (10) days prior to the scheduled day of bid opening for lump sum bids or three (3) days for unit price bids, notify MBEs of potential subcontracting opportunities listed in the proposal. The notification will include the following:
 - (1) A description of the work for which the subbid is being solicited.
 - (2) The date, time and location where subbids are to be submitted.
 - (3) The name of the individual within the company who will be available to answer questions about the project.
 - (4) Where bid documents may be reviewed.
 - (5) Any special requirements that may exist.

If there are more than three (3) MBEs in the area of the project, the contractor(s) shall notify at least three (3), in the proposed project area, but may contact more, if the contractor(s) so desires.

- d. During the bidding process, comply with the requirements listed in the proposal for minority participation and the MBE compliance provisions, Appendices A through D, attached.
- e. Submit with the bid a description of that portion of the work to be executed by MBEs expressed as a percentage of the total contract price.

- f. Upon being named the apparent low bidder, the Bidder shall provide the necessary documentation as listed in the contract documents showing efforts to comply with these guidelines and MBE compliance provisions. Failure to comply with procedural requirements as defined in contract documents may render that bid as nonresponsive and may result in rejection of the bid and award to the next lowest responsible and responsive bidder.
- g. During the construction of a project, if it becomes necessary to replace an MBE subcontractor, advise the County of the circumstances involved.
- h. If during the construction of a project additional subcontracting opportunities become available, make a good faith effort to solicit subbids from MBEs.

3. Minority Business Enterprises

- a. MBEs must be certified in order to participate in this program. MBEs should take advantage of the appropriate technical assistance that is made available through such organizations as the Minority Business Development Agency of the Small Business Development Division, North Carolina Department of Economic and Community Development, 300 N. Salisbury Street, Raleigh, North Carolina 27603-1360, phone (919) 733-7962 and FMBDC, phone (919) 483-7513.
- b. Request placement on the County's MBE list by submitting the following information to the County of Cumberland, Attention: County Engineer, P. O. Drawer 1829, Fayetteville, North Carolina 28302, phone (919) 483-8131.
 - (1) Name, address, and telephone number of Company.
 - (2) Type of business, products sold or services rendered; include catalogs and/or descriptive literature.
 - (3) Person to be contacted within the company.
 - (4) Brief company history and/or profile. Include the dollar volume of work that the firm is capable of undertaking.
 - (5) Local customer list (if available).
 - (6) Documentation showing that company is an MBE.
 - (7) License number and/or limitations. All construction bidders must be properly licensed as required by Chapter 87 of the North Carolina General Statutes.
 - (8) The area(s) of construction that the MBE has an interest in performing contract work, i.e., general construction, plumbing, electrical, or heating, ventilation, air conditioning.

SECTION 4. In addition to these guidelines, there will be issued with each construction bid invitation MBE compliance provisions for MBE participation, attached as Appendices A through D.

MBE COMPLIANCE PROVISIONS

Appendix A

MBE CONTRACT PROVISIONS (CONSTRUCTION)

APPLICATION:

The requirements of the Guidelines for Recruitment and Selection of Minority Businesses for Participation in County Construction Contracts are hereby made a part of these contract documents. These requirements shall apply to all contractors regardless of ownership. Copies of the Guidelines may be obtained from the County of Cumberland, Attention: County Engineer, P. O. Drawer 1829, Fayetteville, North Carolina 28302, phone (919) 483-8131.

MBE COMPLIANCE REQUIREMENTS:

The Bidder shall provide, with the bid, documented proof in the form of Appendix B, MBE UTILIZATION COMMITMENT, that these goals have been met or exceeded; or

Provide with the bid, Appendix B, MBE UTILIZATION COMMITMENT, identifying the amount of MBE participation; and prior to award, upon request, show evidence of good faith effort made prior to the bid opening to meet these goals; or

Provide with the bid, Appendix D, CERTIFICATION REGARDING SUBCONTRACTOR, VENDOR AND PROFESSIONAL SERVICES PRACTICES, and upon request, information sufficient for the County to determine that the Bidder does not customarily subcontract labor on this type project and was unable to secure MBE participation for the reasons indicated on the form.

Upon being named apparent low Bidder, the Bidder shall provide a Letter of Intent (Appendix C), complete with a description of the scope of services and dollar value from each MBE firm proposed for use in this contract.

Failure to provide the documentation as listed in these provisions may result in rejection of the bid and award to the next lowest responsible and responsive bidder. The county reserves the right to waive any irregularities in MBE documentation if they can be resolved prior to award of the contract, and the County finds it to be in the best interest to do so.

All written statements, certifications or intentions made by the Bidder shall become a part of the agreement between the Contractor and the County for performance of this contract. Failure to comply with any of these statements, certifications or intentions, or with the MBE Guidelines or MBE compliance provisions shall constitute a breach of the contract. A finding by the County that any information submitted either prior to award of the contract or during the performance of the contract is inaccurate, false or incomplete, shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of the County whether to terminate the contract for breach. SUBCONTRACTOR PAYMENT REQUIREMENTS:

North Carolina General Statutes 143-134.1 (N.C.G.S.) states that the percentage of retainage on payments made by the prime contractor to the subcontractor shall not exceed the percentage of retainage on payments made by the County to the prime contractor. Failure to comply with this provision shall be considered a breach of the contract, and the contract may be terminated in accordance with the termination provisions of the contract.

The Contractor shall provide an itemized statement of payments to each MBE subcontractor before final payment is processed.

MBE COMPLIANCE PROVISIONS

Appendix B

MBE UTILIZATION COMMITMENT

We, _____, do certify that on the
(Bidder)

(Project Name)

(Project Number)

(Dollar Amount of Bid)

will expend a minimum of ____% of the total dollar amount of the contract with minority business enterprises. MBEs will be employed as subcontractors, vendors, or providers of professional services. Such work will be subcontracted to the following firms listed below. If the bidder intends to utilize MBE participation, this form must be completed regardless of the amount.

Name and Phone Number of MBE Firm	Description of Work	Dollar Value	Percent of Contract
--------------------------------------	------------------------	--------------	------------------------

The undersigned will enter into a formal agreement with qualified minority firms for work listed in this schedule conditional upon execution of a contract with the County of Cumberland. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____
(Name of Authorized Officer)

Signature: _____

Attest: _____

Title: _____

APPENDIX B OR D MUST BE SUBMITTED WITH BID

MBE COMPLIANCE PROVISIONS

Appendix C

LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR
OR
PROVIDE MATERIALS OR SERVICESSUBJECT: _____
(Project Name)TO: _____
(Name of Prime Bidder)

The undersigned intends to perform work in connection with the above project as a Minority Business Enterprise.

The MBE status of the undersigned has been determined by the County of Cumberland.

The undersigned is prepared to perform the following described work or provide materials or services in connection with the above project (specify in detail particular work items, materials or services to be performed or provided):

at the following price: _____.

You have projected the following commencement date for such work, and the undersigned is projecting completion of such work as follows:

Items	Projected Commencement Date	Projected Completion Date

Subcontracting at any tier must be reported and is subject to all MBE compliance requirements. This form shall be used for MBE subcontracting at any level.

Date: _____
(Name of Minority Contractor)

BY: _____

MBE COMPLIANCE PROVISIONS

Appendix D

CERTIFICATION REGARDING SUBCONTRACTOR, VENDOR AND
PROFESSIONAL SERVICES PRACTICES

We, _____, hereby certify that
(Name of Bidder)

for the _____ contract:
(Name of Project)

(check appropriate blocks)

A[] it is our intent to perform 100% of the labor required.

B[] no MBE participation has been secured.

In making this certification, the Bidder states the following:

1. The Bidder does not customarily subcontract elements of this type project, and will perform all labor on this project with his/her own work forces; (if block A is checked)
2. That the Bidder agrees to submit the following information after bid and before the award of the contract:

*List of the scope of services involved in this project.

*List of previous projects of this type that Bidder has performed with his/her forces.

3. That the Bidder may be required to submit the following information at the request of the County Engineer.
 - * Payrolls from the above-mentioned jobs which illustrate Bidder's employees' job classifications needed to perform the elements of the work on the Project or a breakdown of Bidder's entire work force which illustrates the number of employees in each job classification.
 - * Name and phone numbers of the Field Supervisors for these jobs.
 - * List of equipment Bidder's firm own that has been used on previous projects.
 - * Copies of lease agreement for equipment that was leased.
4. That the bidder was unable to secure MBE participation on this project as subcontractors or vendors or providers of professional services for the following reason(s): (check appropriate block)
 - ☐ Absence of MBEs that could supply required labor or materials/equipment or professional services for this project.
 - ☐ Unable to secure competitive bids from MBEs.
5. Upon being named the low bidder, provide a telephone log of the MBEs contacted and a list of their price quotes.
6. That the Bidder agrees to provide any additional information requested by the County to document their efforts in attempting to secure MBE participation on the project.

The undersigned hereby certifies that he or she has read the certification and is authorized to bind the Bidder to the commitments herein contained.

Date: _____

(Name of Authorized Officer)

Signature: _____

Attest: _____

Title: _____

APPENDIX B OR D MUST BE SUBMITTED WITH BID

MBE PROGRAM ADMINISTRATIVE GUIDELINES

In determining whether a contractor has made good faith efforts, the County will evaluate all efforts made by the Contractor and will determine compliance in regard to quantity, intensity, and results of these efforts. The County may take into account any or all of the following:

1. Whether the Bidder advertised in general circulation, trade association, and minority-focus media concerning the subcontracting opportunities;
2. Whether the Bidder provided written notice to a minimum of three MBEs for each portion of the work subcontracted, that their interest in the contract was being solicited in sufficient time to allow the MBEs to participate effectively;
3. Whether the Bidder followed up initial solicitations of interest by contacting MBEs to determine with certainty whether the MBEs were interested;
4. Whether the Bidder selected portions of the work to be performed by MBEs in order to increase the likelihood of meeting MBE goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate MBE participation);
5. Whether the Bidder provided interested MBEs with adequate information about the plans, specifications and requirements of the contract;
6. Whether the Bidder negotiated in good faith with interested MBEs,

not rejecting MBEs as unqualified without sound reasons based on a thorough investigation of their capabilities.

11. Consideration of an addition to the State Secondary Road System:

Smith Park Subdivision - Smith Drive

MOTION: Commissioner Lewis offered a motion to add Smith Drive to the State Secondary Road System.

SECOND: Commissioner Barber

VOTE: UNANIMOUS

12. Budget Matters:

A. MENTAL HEALTH:

1. ABLE: A decrease in state revenues and expenditures in the amount of \$3,529. (B90-457)
2. Periodic Outpatient, MH Other Contracts, Case Management: Reallocation of funds between organizations. (B90-458-1 thru 3)
3. Consultation & Education and High Risk Primary Prevention: Transfer of position in the amount of \$17,369 from Consultation & Education Orgn. 4353 to High Risk Primary Prevention Orgn. 434I. (B90-456-1 & 2)

B. JOB TRAINING SERVICE CENTER:

1. Service to Clients: Reallocation of funds between line items which includes an increase to the salaries appropriation for temporary counselors for summer program. (B90-497)

C. SOCIAL SERVICES:

1. CARE Family Violence Program: Reallocation of funds between line items which includes an increase to the salaries appropriation for overtime needed due to leave for Relief Shelter Coordinators. (B90-434)
2. CBA Safe Landing Group Home/Juvenile Services: A decrease in revenues and expenditures in the amount of \$28,065. (B90-503-1)
3. CBA Juvenile Court Restitution: A decrease in revenues and expenditures in the amount of \$20,144. (B90-503-2)
4. Welfare Other: A decrease in revenues and expenditures in the amount of \$5,454 to reflect decrease in County match for reduced CBA programs. (B90-503-3)
5. NC Psychological Services: Adjustment in the amount of \$2,063 to establish revenue line item for reimbursement from state for purchased psychological services. (B90-504)

D. FIRE DISTRICTS:

1. Cumberland Road: An increase in revenues and expenditures in the amount of \$29,753 due to actual receipts in excess of budgeted amounts. (B90-502)
2. Lafayette Village: An increase in revenues and expenditures in the amount of \$34,900 due to actual receipts in excess of budgeted amounts. (B90-500)
3. Lake Rim: An increase in revenues and expenditures in the amount of \$65,000 due to actual receipts in excess of budgeted amounts. (B90-501)
4. Stoney Point: An increase in revenues and expenditures in the amount of \$19,211 due to actual receipts in excess of budgeted amounts. (B90-499)

E. SHERIFF:

1. Federal Drug Forfeitures: An increase in revenues and expenditures in the amount of \$18,750 due to seizure of funds. (B90-498)

F. PUBLIC SAFETY OTHER:

1. A decrease in revenues and expenditures in the amount of \$12,000 due to the Dispute Resolution Center being funded by the Cumberland County Jail Commissary Fund. (B90-487)

MOTION: Commissioner Lewis offered a motion to approve the above revisions.

SECOND: Commissioner Shaw

VOTE: UNANIMOUS

(NOTE: COMPLETE BUDGET INFORMATION IS AVAILABLE IN THE OFFICE OF THE BUDGET DIRECTOR.)

Candice White

From: Cummings, Drew
Sent: Tuesday, September 25, 2012 1:38 PM
To: Parker-Evans, Michelle
Cc: Whelan-Wuest, Ellen
Subject: RE: Request for Information

We have an MWBE Policy as our version of a HUB policy. Our ordinance is attached.

Best,
Drew

Drew Cummings
Assistant County Manager
200 E. Main St., 2nd Floor
Durham, NC 27701
(919) 560-0065

Durham County's Mission is to enhance the quality of life for its citizens by providing education, safety and security, health and human services, economic development, and cultural and recreational resources. Sign up to receive messages about Durham County's events and happenings at <http://www.durhamcountync.gov/news/>.

This message and any response to this message is being sent on a public e-mail system and may be subject to monitoring and disclosure to third parties, including law enforcement personnel.

Durham County, North Carolina, Code of Ordinances >> - CODE OF ORDINANCES >> **Chapter 8 - BUSINESSES** >> **ARTICLE V. - MINORITY AND WOMEN BUSINESS ENTERPRISES** >>

ARTICLE V. - MINORITY AND WOMEN BUSINESS ENTERPRISES [12]

Sec. 8-131. - Purpose.

Sec. 8-132. - Policy statement.

Sec. 8-133. - Definitions.

Sec. 8-134. - Administration.

Sec. 8-135. - Encouragement of M/WBE contracting.

Sec. 8-136. - Goals.

Sec. 8-137. - Certification of M/WBEs.

Sec. 8-138. - Contractor selection procedures.

Sec. 8-139. - Enforcement and monitoring.

Sec. 8-140. - Contracts awarded by the county manager.

Sec. 8-141. - Federal and state requirements; conflict resolution.

Sec. 8-142. - Effective date.

Sec. 8-131. - Purpose.

- (a) The county has commissioned a disparity study, which determined that there is a strong basis in evidence to conclude that minority and women-owned firms continue to suffer from both discrimination and the present effects of past discrimination in the Durham marketplace, which have a direct affect on the procurement processes of the County of Durham. The study findings conclude that the county should utilize race-neutral remedies to address the identified discriminatory barriers faced by minority and women-owned businesses and further concludes that, where appropriate, the county should take action to ensure that minority and women-owned firms are not discriminated against.
- (b) This article establishes a plan of action to help ensure that the county's purchasing practices provide for participation by, and equal opportunities for businesses owned and controlled by minorities and women.
- (c) This article is enacted pursuant to authority provided by law, including G.S. 143-128, 153A-12, 153A-13, 153A-121, and 153A-134.

(Ord. of 1-14-08(1), § 1)

Sec. 8-132. - Policy statement.

It is the policy of the county to provide minorities and women equal opportunity to participate in all aspects of the county's contracting programs, including, but not limited to, construction projects, and/or materials and service contracts, consistent with law. It is further the policy of the county to prohibit discrimination against any business in pursuit of these opportunities on the basis of race, color, national origin, religion, sex, age, disability, or veteran's status. It is further the policy of the county to conduct its contracting programs so as to prevent such discrimination, correct present discrimination and to resolve claims of such discrimination.

(Ord. of 1-14-08(1), § 1)

Sec. 8-133. - Definitions.

Unless the context requires otherwise, the following words as used in this article have the indicated meanings:

To *bid* means to offer to furnish goods or services. Bids are the means by which the offer is communicated and includes, but is not limited to, formal and informal bids, proposals, and responses to a request for proposals. A bid need not be in writing, unless otherwise required.

Bidder means a business which has bid to provide goods or services to the county.

Business includes businesses regardless of legal status, including persons, corporations, partnerships, joint stock companies, joint ventures and any other private legal entity.

Contractor means a business which has a contract with the county to provide goods or services to the county.

County means County of Durham, North Carolina.

County manager means the Durham County Manager or the county manager's designee.

Department head means the Durham County Department Head or the designee of the department head, such as the project manager.

Director means the Durham County Purchasing Director or the designee of the director.

Goals means M/WBE goals express as a percentage of the total dollar volume for participation of minorities and women on county contracts.

Goods mean apparatus, supplies, materials and equipment.

Historically underutilized business means a business which meets the conditions specified in G.S. 143-128.4(a).

Joint venture means an association of two or more businesses to carry out a single enterprise for profit, for which purpose they combine their property, capital, efforts, skills, or knowledge.

MBE means an M/WBE which is a minority business enterprise, which includes minority or women business enterprise.

M/WBE means a business which holds a current certification as a minority or women business enterprise.

Minority means an individual who is a citizen or lawful permanent resident of the United States and who is:

- (1) *African American*. A person having origins in any of the black racial groups of Africa.
- (2) *Asian American*. A person having origins in any of the original peoples of the Far East, Southeast Asia, Asia, Indian continent, or Pacific Islands.
- (3) *Hispanic American*. A person of Spanish or Portuguese culture having origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race.
- (4)

Native American. A person having origins in any of the original Indian peoples of North America.

Other professional means professional services other than architecture, engineering, or professional services performed for the human services agencies of the county.

Services mean nonconstruction services.

Subcontractor means any business contracting with a contractor to provide goods and/or services in fulfillment of the contractor's obligations arising from a contract with the county.

WBE means an M/WBE which is a woman-owned business enterprise.

(Ord. of 1-14-08(1), § 1)

Sec. 8-134. - Administration.

- (a) The county manager, with the advice of the director, shall implement this article. The county manager is hereby authorized to take all usual and legal administrative actions necessary to implement this article.
- (b) This article applies to all bids and contracts for the purchase of goods or services which the county enters into after the adoption hereof.
- (c) The county manager and the director shall consider and implement special programs to assist local M/WBEs including, but not limited to, bonding assistance and technical assistance.

(Ord. of 1-14-08(1), § 1)

Sec. 8-135. - Encouragement of M/WBE contracting.

- (a) *Race-neutral steps.* The county shall take the following race-neutral steps to attempt to eliminate discrimination which has been shown to exist.
 - (1) *Creation and identification of separate work.* In the preparation of bid request packages and in projects in which the county engages an independent architect or engineer, the director and department head shall make reasonable attempts to divide the work requirements so that there are good opportunities for small companies to perform as subcontractors. This may be accomplished, for example, by the director and department head working together to identify contracting strategies which ensure that opportunities are created for smaller firms.
 - (2) *Advertising for bids.* Whenever the county manager finds it to be reasonably practicable, a period of at least 30 days will be given between advertising and receiving bids so that small companies may have adequate time to obtain bonding, licensing, or any other technical assistance. Further, such advertising shall be made through the majority and minority media as well as through majority and minority trade and professional organizations and publications.
 - (3) *Pre-bid conference.* The director shall be present at each pre-bid conference. The director shall provide potential subcontractors with a list of contractors who attend the pre-bid and pre-proposal meetings.
 - (4) *Bonding, etc.* The county manager shall, where applicable and feasible, make efforts to assist companies in obtaining bonding. Bonding and other technical assistance shall be coordinated with the United States Small Business Administration, other governmental entities and, where feasible, financial institutions.

- (5) *[System development.]* The director shall develop a system to make available information on current informal bids via internet access or electronic mail.
- (6) *Other requirements.* The director shall insert, in contracts to be executed by the county, provisions requiring the other parties to adhere to the requirements of this article.
- (b) *Race-conscious steps.* The county shall take the following race-conscious steps to attempt to eliminate discrimination which has been shown to exist:
 - (1) *Maintaining M/WBE availability data bank.* The county shall utilize the statewide data bank of historically underutilized businesses, established by the North Carolina Department of Administration HUB Office. This information is to be made available to all prospective contractors and shall be used by the county in notifying M/WBEs of opportunities to contract with the county. The director shall utilize electronic technology to the greatest extent practicable to maintain information on certified historically underutilized businesses which seek to do business with the county. The information should include at least the following: name of business, address, telephone number, services or products provided, capabilities of the business, line of work performed by the business, licensing and number of persons employed by ethnicity and gender.
 - (2) *Outreach and assistance to subcontractors.* To ensure that opportunities to participate on county contracts are available to the widest feasible universe of interested, available and qualified businesses, the county shall develop and implement a written comprehensive outreach program aimed at increasing business participation in the county's contracting and procurement process. This program may include, without limitation, any or all of the following:
 - a. The county may disseminate at community events, trade shows, and other appropriate business functions, and publish at regular intervals, in print and in electronic media (including publications or electronic media targeted to M/WBEs and small businesses) information describing the minority business opportunity program and the functions of the county.
 - b. The county may establish a procedure to engage in continuous recruitment and outreach efforts directed at business assistance organizations to increase the pool of businesses available to do business with the county. The county may identify suppliers through business development organizations and participation at various trade shows, supplier diversity groups and work with various national and local supplier development councils and organizations.
 - c. The county may disseminate at community events, trade shows, and other appropriate business functions, and publish at regular intervals, in print and in electronic media, information identifying ongoing contracting opportunities with the county, and providing contact information by which businesses may obtain additional information from the county. The county will provide this information in languages other than English, where appropriate. To the extent feasible, the county may enter into arrangements to share data regarding upcoming county projects, and subcontracting opportunities on the projects, with other businesses and agencies or jurisdictions in the region.
 - d. The county may assist businesses in submitting bids for eligible projects by providing individualized counseling, and/or by conducting seminars regarding the process for submitting a bid on a county project. The county may sponsor

- "How to do business with the County of Durham" seminars and invite a wide array of businesses.
- e. The county may actively encourage businesses to attend the pre-bid conferences, providing face-to-face and one-on-one meeting opportunities with employees of the county within the divisions and departments that are involved with the contracting and procurement process. The county may establish and implement training and awareness programs with the employees of the county's user departments to educate them with regard to increasing utilization of MWBEs.
- (c) *Bidders' responsibilities.* Bidders shall take affirmative steps prior to submission of any bid to encourage participation in projects by M/WBEs where discrimination has been shown to currently exist. Such steps shall include:
- (1) Segmenting total work requirements to permit M/WBE participation.
 - (2) Assuring that M/WBEs are solicited whenever there are possible sources of goods or services. This may include:
 - a. Sending letters or making other personal contacts with M/WBEs (e.g. those whose names appear on the historically underutilized businesses listed in the North Carolina State-Wide Data Bank). M/WBEs are to be contacted within a reasonable time prior to bid submission or the closing date of receipt of initial offers. Those letters or other contacts shall communicate the following:
 1. A specific and accurate description of the work to be subcontracted;
 2. Information on how and where to obtain a copy of this article and specification or other detailed price quotation;
 3. The date the quotation is due to the bidder for preparation of the bid; and
 4. The name, address and phone number of the person in the bidder's business whom the prospective M/WBE subcontractor should contact for additional information.
 - b. Sending letters or making other personal contacts, as referenced in subsection [8-135\(b\)\(2\)a.](#), with local state, federal, and private agencies and M/WBE associations relevant to the project. Such contacts should provide the same information as provided in the direct contact with M/WBEs.
 - c. Where feasible, establishing delivery schedules which will encourage participation by M/WBEs.
 - d. In determining the availability of M/WBEs, the relevant area shall be the same as that used to solicit bidders.
 - (3) Attending the pre-bid conference, if such a conference is held.
 - (4) Advertising in minority/female trade publications and minority/female-owned media no less than 20 days from the date that bids are due. If 20 days are not available, advertising must be sought as soon as the bidder learns of the solicitation of bids. The publication should be one which reasonably covers the area used to solicit the bidder. The advertisement should be for specific subcontracts described in reasonable detail.
 - (5) The advertised subcontracts should equal the M/WBE goal specified in the bid.
 - (6) Assisting M/WBEs in finding sources of bonding and insurance required by the bidder.
 - (7) Not imposing requirements regarding surety bonds that are more onerous for M/WBEs than for non-M/WBEs similarly situated.
 - (8)

Making all reasonable efforts to provide technical assistance to assist in the upgrading of M/WBE capabilities.

- (9) Making bulk purchases whenever reasonably practicable in order to reduce the capital requirements of M/WBE subcontractors.
 - (10) Reporting all businesses which it has reasonable grounds to believe have fraudulently claimed M/WBE status in order to unjustly benefit from the requirements of this article.
 - (11) To demonstrate compliance with the responsibilities as set forth herein, bidders shall keep detailed records of all correspondence with M/WBEs and the responses thereto, logs of all telephone calls made and received regarding the project and copies of advertisements in minority and women-owned publications and media.
- (d) *Responsibilities of bidders and contractors.* Bidders and contractors shall:
- (1) Furnish regular reports and information, in a form determined by the director (Appendix E, M/WBE Documentation for Contract Payments) sufficient to allow the county and the director to determine that the bidders and contractors are meeting the requirements of this article. This information must be submitted by the contractor to the county department head or designee, with each pay request.
 - (2) Cooperate in good faith with the county to attempt to resolve any complaints of discrimination made against bidders and contractors.
 - (3) After the county manager has identified a bidder as the apparent lowest responsible bidder, whether as a result of a sealed bid process or otherwise, and that bidder proposes to replace a subcontractor, to increase the quantity of subcontracted work, or to change the allocation of work among subcontractors, the bidder must provide M/WBEs an equal opportunity for such work. Substitutions of subcontractors in these circumstances, both prior to and after the awarding of a contract, are subject to the written approval by the county manager.
 - (4) When a contractor proposes to replace subcontractors, to increase the quantity of subcontracted work, or to change the allocation of work among subcontractors, the contractor must provide M/WBEs an equal opportunity for such work. Substitutions of subcontractors in these circumstances are subject to the written approval of the county manager.
- (e) *Obligations of M/WBEs.* M/WBEs and businesses that qualify to be certified as M/WBEs are responsible for promoting themselves and taking the initiative to obtain contracts and subcontracts, and for encouraging joint venture arrangements. M/WBE's interested in special assistance shall take the following steps:
- (1) Submit information to the contract recipients to identify status as an MBE or WBE.
 - (2) Become certified as an MBE or WBE under the North Carolina Department of Administration, Historically Underutilized Business (HUB) certification program.
 - (3) Contact federal, state, and local M/WBE liaison offices to obtain information on potential jobs.
 - (4) Provide capability statements to state agencies, the director, county engineer, and prospective bidders stating types of work performed by the business, size of job that the business could handle, bonding information and any special skills.
 - (5) Make every effort to establish contacts and relationships with prospective bidders for potential future business, including attending pre-bid conferences and subscribing to industry and trade journals.
 - (6) Contact the county's engineering department to obtain information on planned projects. Visit the Durham County website periodically for posting of bid opportunities.

- (7) Respond promptly to solicitation requests.
- (8) Attend seminars, classes, and workshops designed to enhance business skills and the ability to build capacity.

(Ord. of 1-14-08(1), § 1)

Sec. 8-136. - Goals.

- (a) In determining the value of contracts awarded to MBEs and WBEs as required by this section, contracts and subcontracts are deemed awarded if the bidder lists them in the paperwork required by the director as part of the county's bid process. Durham County hereby establishes the following goals for the expenditure of funds with M/WBEs:

Ethnicity/Race/Gender Industry	African American	Asian American	Hispanic American	Native American	Women-Owned
Construction	2.61%	N/A	N/A	N/A	3.98%
Construction subcontracting	14.67%	N/A	2.14%	N/A	10.76%
Professional services (including architecture and engineering)	N/A	N/A	N/A	N/A	N/A
Other professional services	7.20%	N/A	N/A	N/A	3.55%
Goods/supplies	N/A	N/A	N/A	N/A	12.05%

- (b) The county manager may waive the required goals subject to the availability of qualified firms. The county reserves the right to set goals on a project-by-project basis depending on the availability of qualified firms.

(Ord. of 1-14-08(1), § 1)

Sec. 8-137. - Certification of M/WBEs.

- (a) Minority businesses seeking to be counted toward Durham County's minority business participation goals shall be certified or designated as minority business by the North Carolina Department of Administration HUB Office, or by another certifying agency of the State of North Carolina or local unit of government.
- (b) As a result of North Carolina's Legislative Session Law 2007, Senate Bill 320, a new requirement has been created for the state department of administration to develop and administer a state-wide uniform program for certification of Historically Underutilized Businesses (HUBs) for use by state and local agencies, and to create and maintain a state-wide database of certified HUBs. This requirement for all state and local agencies to use HUB's listed in the database created in accordance with the new law becomes effective July 1, 2009.
- (c) Pursuant to the provisions of G.S. Article 3, § 143-128.4 shall read as follows:
 - (1) G.S. 143-128.4. Historically underutilized business defined; state-wide uniform certification. As used in this chapter, the term "historically underutilized business" means a business that meets all of the following conditions:
 - a. At least 51 percent of the business is owned by one or more persons who are members of at least one of the groups set forth in subsection (d) of this section, or in the case of a corporation, at least 51 percent of the stock is owned by one or more persons who are members of at least one of the groups set forth in subsection (d) of this section.
 - b.

The management and daily business operations are controlled by one or more owners of the business who are members of at least one of the groups set forth in subsection (d) of this section.

- (2) As used in this chapter, the term "minority business" means a historically underutilized business.
- (d) To qualify as a historically underutilized business under this section, a business must be owned and controlled as set forth in subsection (c) of this section by one or more citizens or lawful permanent residents of the United States who are members of one or more of the following groups:
 - (1) *Black*. A person having origins in any of the black racial groups of Africa.
 - (2) *Hispanic*. A person of Spanish or Portuguese culture having origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race.
 - (3) *Asian American*. A person having origins in any of the original peoples of the Far East, Southeast Asia, Asia, Indian continent, or Pacific Islands.
 - (4) *American Indian*. A person having origins in any of the original Indian peoples of North America.
 - (5) *Female*.
 - (6) *Disabled*. A person with a disability as defined in G.S. 168-1 or G.S. 168A-3.
 - (7) *Disadvantaged*. A person who is socially and economically disadvantaged as defined in 15 U.S.C. § 637.

(Ord. of 1-14-08(1), § 1)

Sec. 8-138. - Contractor selection procedures.

- (a) *Contractor and subcontractor selection*. The county may award the contract and/or reject bids in accordance with law, taking into consideration M/WBE requirements. In writing specifications and requirements for bidding, the county manger may specify what M/WBE and employment information and documents must be submitted with the bid, what M/WBE and employment information must be submitted afterwards and on what schedule. The employment information may include ethnicity, gender, and occupation of employees. If the county manager determines that a bid was made with good faith efforts to comply with this article, the county commissioners and the county manager shall consider that bid to have complied with this chapter in the absence of a bid which has met the M/WBE requirements, including having obtained the goals set forth pursuant to [section 8-136](#)
- (b) *Number of bids*. To the extent allowed by law, for purposes of counting the minimum number of bids required under G.S. 143-132, bids made with good faith efforts to comply with this article shall not be considered to be nonresponsive for failing to meet the M/WBE requirements.
- (c) *Calculation of MWBE participation*. The degree of participation by minority-majority joint ventures, M/WBE contractors and subcontractors in contracts awarded shall be calculated as follows:
 - (1) The total dollar value of the contract awarded to the M/WBE is counted as participation.
 - (2) The total dollar value of a contract awarded to an M/WBE owned and controlled by both minority males and nonminority females is counted as participation for minorities and women respectively, in proportion to the percentage of ownership and control of each group in the business. The total dollar value of an M/WBE owned and controlled

by minority women is counted as either the minorities' or women's participation, but not both. The M/WBE may choose which category the credit will apply.

- (3) The county may count as its M/WBE participation a portion of the total dollar value of a contract with a joint venture eligible under the standards of this article equal to the percentage of the ownership and control of the M/WBE partner in the joint venture.
 - (4) The county may count as M/WBE participation only expenditures to an M/WBE that performs a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and for carrying out its responsibilities by actually performing, managing, and/or supervising the work involved. The qualified owners themselves must be actively involved in carrying out those responsibilities. To determine whether an M/WBE is performing a commercially useful function, the county shall take into account the amount of work subcontracted, industry practices, the adequacy of the resources of the business for the work, the qualification of the owners.
 - (5) Consistent with normal industry practices, an M/WBE may enter into subcontracts. If an M/WBE bidder or contractor subcontracts a significantly greater portion of the work of the contract than would be expected based on normal industry practices, the M/WBE shall be presumed not to be performing a commercially useful function. The M/WBE may present evidence to rebut this presumption to the county.
- (d) *Documenting M/WBE participation.* Bidders shall be required to submit, at a time and in a form specified by the director, the following information on each M/WBE related subcontract:
- (1) A description of the subcontractors for significant goods and services to be used to perform the prime contract, and the name, address, contact person and telephone number of each of those subcontracts;
 - (2) The dollar amount of participation of each M/WBE;
 - (3) A statement of intent from each prospective M/WBE subcontractor identified in subsection (d)(1) above, to the effect that it intends to subcontract as described;
 - (4) If the bid does not indicate that the bidder will achieve the applicable M/WBE goals, the bidder shall submit sworn statements, with appropriate documentation, showing that it made good faith efforts to engage M/WBEs; and
 - (5) M/WBE's must be certified by the North Carolina Department of Administration HUB Office, or by another certifying agency of the State of North Carolina or local unit of government prior to submittal of a bid in order to receive credit towards the achievement of the M/WBE goals.
- (e) *Good faith efforts.* It is the responsibility of bidders and contractors to make good faith efforts. Any act or omission by the county shall not relieve them of this responsibility. The county manager shall apply the following criteria, with due consideration of the quality, quantity, intensity and timeliness of efforts of bidders and contractors, in determining good faith efforts to engage M/WBEs, along with criteria that the county manager deems proper:
- (1) Attendance at the pre-bid conference, if held;
 - (2) Whether and when the bidder or contractor provided written notice to all M/WBEs listed in the North Carolina Department of Administration HUB Office databank that performs the type of work to subcontract and advising the M/WBEs:
 - a. Of the specific work the bidder or contractor intends to subcontract;
 - b. That their interest in the contract is being solicited; and
 - c. How to obtain and inspect the applicable plans, specifications and descriptions of the item to be purchased.

- (3) Whether the bidder or contractor selected feasible portions of work to be performed by M/WBEs, including, where appropriate, breaking contracts or combining elements of work into feasible units, and considering the ability of the bidder or contractor to perform the work with its work force;
- (4) Whether the bidder or contractor considered all bids received from M/WBEs and for those bids not accepted, the bidder or contractor shall provide an explanation of why the M/WBE will not be used during the course of the contract;
- (5) Whether the bidder or contractor provided interested M/WBEs assistance in reviewing applicable plans and specification and descriptions of items to be purchased;
- (6) Whether the bidder or contractor advertised in general circulation, trade association and minority/women focus media concerning the subcontracting opportunities;
- (7) Whether the bidder or contractor provided written notice to a reasonable number of specific M/WBEs that their interest in the contract was being solicited, in sufficient time to allow them to participate effectively;
- (8) Whether the bidder or contractor followed up initial solicitation of interest by contacting M/WBEs to determine with certainty whether the M/WBEs were interested;
- (9) Whether the bidder or contractor provided interested M/WBEs with adequate information about the plans and specification and requirements of the contract;
- (10) Whether the bidder or contractor negotiated in good faith with interested M/WBEs, not rejecting M/WBEs as unqualified without sound reason based on a thorough investigation of their capabilities;
- (11) Whether the bidder or contractor made efforts to assist interested M/WBEs in obtaining bonding, lines of credit or insurance if such assistance was necessary;
- (12) Whether the bidder or contractor effectively used the services of available minority/women community organizations; minority/women contractor groups; local, state and federal minority/women business assistance offices; and other organizations which provided assistance in recruitment and placement of M/WBEs;
- (13) Whether the bidder or contractor has utilized M/WBE subcontractors on other county contractors; and
- (14) Whether the bidder or contractor's efforts were merely pro forma, and given all relevant circumstances, could not reasonably be expected to provide sufficient M/WBE participation to meet the goals.

(Ord. of 1-14-08(1), § 1)

Sec. 8-139. - Enforcement and monitoring.

(a) *Contract compliance.*

- (1) The county manager and the director shall be responsible for monitoring all contracts for compliance with M/WBE requirements. They may take the following steps to determine such compliance:
 - a. Conducting site visits;
 - b. Reviewing all documents submitted for payment by the contractor to determine whether payments are being made to M/WBEs as indicated in the contract and bid;
 - c. Reviewing certification.
- (2)

The contractor shall submit such information to the director, which the director designates as reasonably necessary to determine whether the contractor complies with the M/WBE requirements of the contract.

- (3) If the county manager, with the advice of the director, notifies the contractor of the county manager's finding that there are deficiencies in the performance of the contractor insofar as compliance with this article, the contractor shall have 15 days, or if 15 days do not remain in the contract, a reasonable lesser amount of time to cure the deficiencies. If a contractor materially breaches the M/WBE requirements of the contract, and has not cured the breach within the time allowed for the purpose, the county commissioners shall have the right to take all lawful action in response thereto, including, but not limited to, terminating the contract, imposing liquated damages, and/or considering the contractor to be nonresponsible when awarding future county contractors.
- (b) *Sanctions.* All contractors, after being awarded a contract, are legally bound to observe their terms of the contract, including all M/WBE provisions. The county commissioners have the authority to impose penalties for noncompliance with the provisions of this article including, suspension of contract eligibility, liquated damages, and termination of the contract.
- (c) *Maintaining M/WBE participation.* Contractors must maintain the M/WBE percentages indicated at the time of contract award throughout the term of the contract. This includes any increase of the contract by amendment of change order. For contracts in the amount provided by G.S. 143-129, or any local act pertaining thereto where there are certified minority/women business enterprise firms available for subcontracting, failure by the contractor to comply with pre-bid requirements under [section 8-138](#), or to adequately document good faith efforts to subcontract with M/WBE firms, or to purchase significant material supplies from M/WBE firms, shall subject the bid to rejection as being nonresponsive.
- (d) *Monitoring the program.* The county manager, with input of the director, shall be responsible for monitoring the implementation of this article and reporting to the county commissioners annually on the efficiency of this article. To the greatest extent possible the county shall utilize computerized electronic systems for monitoring compliance and providing reports as required under this article. Toward that end, the county manger shall have compiled:
- (1) Reports from the information submitted by successful bidders outlining the total dollars spent and the amount spent for minority contractors;
 - (2) A fiscal report on all contracts awarded;
 - (3) A comparison of the percentage of M/WBEs and major contractors doing business with the county;
 - (4) A report on the percentage of M/WBEs located in the county;
 - (5) Reports describing the general categories of contracts awarded M/WBEs;
 - (6) Reports showing the percentage of dollar values of all contracts awarded during the quarter which were awarded to M/WBEs;
 - (7) Separate records relating to MBEs and WBEs; and
 - (8) Other documentation necessary to substantiate disparity.

(Ord. of 1-14-08(1), § 1)

Sec. 8-140. - Contracts awarded by the county manager.

- (a) The county manager may determine that all or specified portions of the following parts of this article shall not apply to contracts that are to be awarded by the county manager:

Section:

8-135(a)(2)	Advertising for bids
8-135(c)	Bidders' responsibilities
8-138(d)	Documenting M/WBE participation
8-138(e)	Good faith efforts

- (b) The determination may be made for classes of contracts or for individual contracts. The determination shall be in writing.

(Ord. of 1-14-08(1), § 1)

Sec. 8-141. - Federal and state requirements; conflict resolution.

Where a federal or state grant agreement, or any federal or state law or regulations prevent the full application of this article, this article shall apply to the extent permitted by the applicable agreement, laws, and regulations.

(Ord. of 1-14-08(1), § 1)

Sec. 8-142. - Effective date.

This article shall continue in effect until 11:59 p.m. on December 31, 2012, at which time it shall be deemed repealed without further action by the county commissioners. Unless otherwise provided by an ordinance enacted by the county commissioners or by a contract between the county and the other party of the contract, if a legal action is commenced before the repeal of this article to enforce any contractual provision which incorporates by reference any of this article, the rights of parties with respect to such contractual provision shall, for purposes of the legal action, continue in effect notwithstanding the repeal. This article shall be effective on ratification.

(Ord. of 1-14-08(1), § 1)

FOOTNOTE(S):

⁽¹²⁾ **Editor's note**— Ord. of Jan. 14, 2008(1), § 1, amended Art. V, §§ 8-131—8-142, in its entirety to read as set out herein. The former Art. V pertained to similar subject matter, and derived from Ord. of Jan. 22, 2001, § 1; Ord. of Dec. 12, 2005, §§ 1, 2; and Ord. of Aug. 28, 2006, §1. ([Back](#))

Lands Protection Plan for Cumberland County will be housed at the N.C. Cooperative Extension Service in Cumberland County.)

RECOMMENDATION/PROPOSED ACTION: The recommendation of the County Extension Director and the Working Lands Protection Planning Team is to consider approving the proposed Working Lands Protection Plan for Cumberland County.

2) Cumberland County Community Development Loan Program

BACKGROUND: Community Development has a loan portfolio of 256 loans for a total outstanding balance of \$11,068,465.00 (principal and interest).

- Affordable Housing Development;
- Housing Rehabilitation (owner-occupied);
- Rental Rehabilitation (rental);
- Homebuyer Assistance; and
- Economic Development

Whereas, the overall collection rate is good for the size of our loan portfolio, the department has found that loan repayments lag from time to time. A review of the department's current servicing policy revealed that although it makes reference to payments being "past due" if not received by the 15th of each month; it does not address what punitive measures may be taken if a payment is received after that date.

As an additional servicing tool to address late payments, the department proposes to implement late fees to its current servicing policy. Late fees will be structured as follows:

An account is considered past due if the scheduled payment has not been received by the 15th of each month, after which time the account is assessed a late fee of 5% of the principal and interest payment.

RECOMMENDATION/PROPOSED ACTION: Approve the Community Development department's proposal to incorporate the above suggested late fees structure into its policy effective November 1, 2010. (This policy is housed with the Community Development department.)

3) Cumberland County Purchasing Policy Amendments

BACKGROUND: At the request of Commissioner Keefe, the Policy Committee considered a policy to establish a local preference for purchasing to the extent it is allowed under state statutes. A draft proposal prepared by the County Attorney was discussed by the Committee. After discussion the Committee recommended that the existing purchasing policy be modified by adding the following language:

It is the policy of Cumberland County that all contracts for the provision of services in any amount and all contracts for the purchase of apparatus, materials, supplies and equipment in which the aggregate purchase price in any single contract is less than \$30,000 shall be awarded to local vendors or suppliers, to the greatest extent possible, in accordance with the further conditions set out herein.

For the purpose of implementing this policy, local vendors or suppliers shall be those who demonstrate that they pay business personal or real property taxes to Cumberland County and are either self-employed residents of Cumberland County or employ at least one resident of Cumberland County as an employee or officer of the contracting business entity.

RECOMMENDATION/PROPOSED ACTION: Approve recommendation of Policy Committee to modify existing purchasing policy by including the

language referenced above. (This policy is housed in the Purchasing Department.)

C. Approval of Transfer of Surplus Health Department Medical Equipment and Furniture to Stedman-Wade Health Services.

BACKGROUND: Margaret Covington, CEO of Stedman-Wade Health Services, Inc., has requested surplus medical equipment and furniture. Stedman-Wade Health Services, Inc. is a 501(c) (3) organization operating in Cumberland County. Their mission is to provide quality, accessible, affordable primary and preventive medical and dental care in a compassionate and cost effective manner to all populations.

Stedman-Wade Health Services will be opening a satellite site in downtown Fayetteville and needs assistance to furnish/equip the site. They have requested the following items:

17 Blue Waiting Room Chairs \$170.00	4 Children Waiting Room Chairs \$12.00
3 Wall Cabinets \$150.00	1 Privacy Screen \$10.00
3 Bulletin Boards \$6.00	3 Exam Tables \$1,500.00
2 Wooden Desks \$100.00	2 4-Drawer File Cabinets \$50.00
1 Small Metal Desk \$15.00	1 Blue Side Chair \$15.00
2 Bookshelves \$40.00	5 Office Chairs \$125.00
3 Small Metal Tables \$45.00	TOTAL VALUE \$ 2,238.00

RECOMMENDATION/PROPOSED ACTION: Staff and Management recommend that said furniture and medical equipment be declared surplus to the needs of Cumberland County Health Department and that the same be transferred to Wade-Stedman Health Services, Inc.

D. Approval of Swap of Land by Board of Education.

BACKGROUND: NCGS 115C-518 requires school boards to offer any real property deemed unnecessary for education purposes to the Board of County Commissioners at a fair market or negotiated price before selling the property to another party. The Cumberland County Board of Education wishes to swap Parcel 3 shown on the subdivision survey for K & G Developers, LLC, and consisting of 0.80 acres for Parcel 2, owned by K & G Developers, LLC, shown on the same plat and also containing 0.80 acres. Parcel 3 lies on the south side of E. E. Miller Elementary School and Parcel 2 lies on the north side of the school. Such exchanges of real property are authorized by Article 12 of Chapter 160A, applicable to school boards.

RECOMMENDATION/PROPOSED ACTION: Decline the offer by adopting the following resolution:

COUNTY OF CUMBERLAND

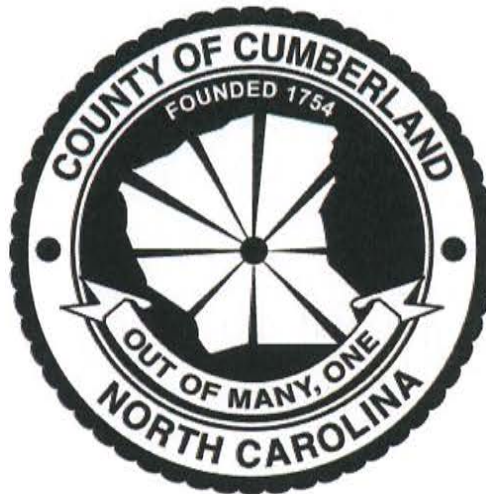
NORTH CAROLINA

RESOLUTION

Be it resolved that the Board of Commissioners declines the offer of the Board of Education for the acquisition of a 50' wide strip of land at the south end of the property of E. E. Miller Elementary School which the Board of Education proposes to swap for another strip of land adjoining this school property to the north.

CUMBERLAND COUNTY

PURCHASING PROCEDURES MANUAL



Thelma S. Matthews
Purchasing/Accounts Manager
Phone: 678-7743 Fax: 323-6120
E-mail: tmatthews@co.cumberland.nc.us

Debbie H. Miller
Buyer
Phone: 678-7746 Fax: 323-6120
E-mail: dmiller@co.cumberland.nc.us

PURPOSE

This manual was developed as a source for Cumberland County employees to become familiar with the policies and procedures for procuring goods and services. The policies provided in this manual were established to ensure the fair and equitable treatment of all persons involved in public purchasing, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

DEFINITIONS

1. Addenda/Addendum – Additional requirements, specifications, or instructions to the originally issued Invitation To Bid or Request For Proposals. All contents for the addendum are incorporated into the original document.
2. Appropriation – An authorization granted by the Board of County Commissioners to make expenditures and to incur obligations for specific purposes.
3. Bidder – Any person, firm, partnership, corporation, association, or joint venture seeking award of a public contract with the County of Cumberland, or their agents.
4. Contract – A legally binding document, which specifies and defines the performance requirements and expectations for a purchase or project administered by the County or their agents.
5. Contractor – The person, firm, partnership, joint venture, corporation, or association, who performs a trade or service agreement at any level with the County or for their agents.
6. Discrimination – An action or series of activities which sets apart or causes separate and unequal treatment of a person or group of persons solely on the basis of their age, gender, ethnic background, national origin, and/or disability. Acts of discrimination are illegal in the performance of projects for the County.
7. Documentation – A written or audiotape record of all efforts and activity related to creation and performance of a contract.
8. Encumbrance – Expenditure commitments created by purchase orders or contracts that have been issued, but for which no goods or services have been received.

9. Formal Bid – Procedure required for awarding contracts pursuant to N.C.G.S 143-120 over \$90,000 by sealed competitive bid. They must be advertised, opened in public, and recorded on the minutes of the governing body. Award will be made to the lowest responsible bidder(s) taking into consideration quality, performance, and the time specified for the performance of the contract. County manager makes final award on bids up to \$99,999. Board of County Commissioners make final award on bids \$100,000 and over.
10. Informal Bid – Procedure used for expenditures greater than \$5,000 and less than \$90,000. Department will submit specifications to purchasing division for purchases in the category.
11. Purchase Order – A legal document issued by the purchasing department to a vendor for goods or services.
12. Request for Proposals (RFP) – A request written as a performance specification, outlining the desired result and asking the responders to propose a method for reaching that result.
13. Requisition – A written request from a using department to purchasing to obtain specific goods and services.
14. Specifications – The parameters, requirements, and instructions that define the exact item or service that is desired and provide the basis for comparing bids. Specifications are generally incorporated into a contract, by reference, to become the successful bidder's legal obligations under the contract.

RESPONSIBILITIES

It is the Purchasing Departments responsibility to ensure that all purchases are made in accordance with the standard procedures of Cumberland County and North Carolina General Statutes. Successful purchasing requires active cooperation between purchasing and the County departments.

OBJECTIVES

1. To conduct business with integrity and fairness so as to maintain public trust and reduce the County's exposure to criticism and legal action.
2. To secure the right materials, equipment and services at the right quality and quantity, on a timely basis, as efficiently as possible, and at the lowest overall cost.
3. To conserve public funds by obtaining the best products and services for the dollars spent.

4. To provide all customers with quality service in a manner that is courteous, responsive and accessible.
5. To furnish timely information to management and appropriate departments covering market conditions and trends, and probable effect on supply and price.
6. To assure vendors that impartial and equal treatment is afforded to all that wish to do business with the County.
7. To secure, whenever possible, competitive prices on purchases.
8. To be receptive to changes in material and requirements and new products and procedures.

DEPARTMENTAL RESPONSIBILITIES

- Accept the purchasing authorities delegated to County Purchasing.
- Put forth an effort in good faith to comply with the policies and established purchasing procedures without reservation or evasion.
- Prepare acceptable specifications that define the quantity and quality of goods and services needed to perform a specific function without undue influence or personal preference.
- Allow the time necessary for Purchasing to select a vendor and for the vendor to deliver.
- Receive and inspect items delivered and report vendor performance good or bad.
- Cooperate with Purchasing in the process of fulfilling departmental requisitions.
- Work with Purchasing to promote good will between the County and its vendors.

COUNTY DEPARTMENTS PURCHASING FUNCTION

1. Initiate a purchase requisition to purchase specified supplies, materials and equipment.
2. Determine needed quantity and general type of character of supplies, materials, equipment and date by which the delivery is required.
3. Anticipate the needs in advance and initiate requisitions allowing adequate time for the process.
4. Refuse to accept any shipment or delivery that fails to meet the terms of the purchase.
5. Report any failure to deliver by the designated time to appropriate Purchasing personnel.
6. Make all emergency purchases through Purchasing during normal business hours whenever possible.
7. Advise the Purchasing Officer of any change in plans or programs that may affect the purchase or use of supplies, materials, or equipment.

8. Advise the Purchasing Director of the appropriateness and suitability of commodities, equipment, and services furnished.

METHODS OF PROCUREMENT

FORMAL BIDS

The purchase of apparatus, supplies, materials, or equipment for expenditures of \$90,000 or more are secured through the competitive sealed bid process governed by the North Carolina statutes.

The formal bid process may take eight (8) to twelve (12) weeks to complete once a request has been received by Purchasing, therefore, planning and scheduling is very important

-Written specifications must be prepared. Good, clear specifications are an essential aspect of competitive bidding. Quality and service can be as important as price; therefore, specifications are needed that will fulfill, but not exceed the requirements for which the items and/or services are intended. Specifications are prepared by the ordering department. Brand names or equal should only be used when no other description would be equally satisfactory.

-A pre-bid conference may be scheduled to review specifications, pertinent terms and conditions, and to answer vendor questions pertaining to the bid process. Pre-bid conferences can be mandatory.

-Addenda are prepared, if necessary due to a change in the bid specifications, or for additional clarification and sent via regular, priority or certified mail (according to time and importance of addendum) to all vendors on the original bid list. If the pre-bid conference is mandatory, any addenda are sent only to the vendors who attended the meeting.

-All bids are opened and the total dollar amount with the corresponding name of the company submitting the bid is read aloud. All bids are manually recorded. A tabulation of all bids received is made and retained in the Purchasing department's files for public inspection upon request. No statement about the apparent successful bidder is required at the bid opening.

-Bids shall be evaluated based on the requirements set forth in the invitation for bid, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. No criteria may be used in bid evaluations that are not set forth in the invitation for bid. Cumberland County

reserves the right to waive formalities, technicalities and inequalities and to make awards according to the best interest of the County.

-A recommendation for award is submitted in the required standard format to the Board of County Commissioners. The governing body may accept or reject any or all bids.

INFORMAL BIDS

Informal bids are required for any purchase of apparatus, supplies, materials, or equipment that requires an expenditure of \$5,000 but less than \$90,000.

-Informal bids can be met by sealed bids, opened at a set time, date and place or accomplished by written quotations, by fax or e-mail.

-While the law does not specify a minimum number of informal quotes, the general policy of the County has been to obtain at least three (3) informal quotes.

-N.C.G.S. does require that contracts in the informal bidding category be awarded to the "lowest responsible bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract."

-Written specifications must be prepared. Good, clear specifications are an essential aspect of competitive bidding. Quality and service can be as important as price; therefore, specifications are needed that will fulfill, but not exceed the requirements for which the items and/or services are intended. The ordering department prepares specifications. Brand names or equal should only be used when no other description would be equally satisfactory.

-A pre-bid conference may be scheduled to review specifications, pertinent terms and conditions, and to answer vendor questions pertaining to the bid process. Pre-bid conferences can be mandatory.

-Bids are received and opened, but are not read aloud. Bids are not released until a contract is awarded or purchase order is issued.

LESS THAN \$30,000

Contracts for the provision of services in any amount and all contracts for the purchase of apparatus, materials, supplies and equipment in which the aggregate purchase price in any single contract is less than \$30,000 shall be awarded to local vendors or suppliers, to the greatest extent possible, in accordance with the further conditions set out herein.

Local vendors or suppliers shall be those who demonstrate that they pay business personal or real property taxes and are either self-employed residents of Cumberland

County or employ at least one resident of Cumberland County as an employee or officer of the contracting business entity.

PROCUREMENT CARDS

The procurement card program was established to provide a more rapid turnaround of requisitions for low dollar value goods, and to reduce paperwork and handling costs. Those who have been issued procurement cards may initiate transactions in person, or by telephone, within the established limits of these procedures. Department heads can designate individuals to have procurement cards after they attend a class in purchasing addressing the guidelines involved in the responsibility associated with the card.



COUNTY of CUMBERLAND
P.O. BOX 1829
FAYETTEVILLE NC 28301

VENDOR INFORMATION FORM

PLEASE PRINT OR TYPE

Company Name _____

Representative _____ Title: _____

Address _____

Phone #: _____ Fax #: _____

Date Established: _____

Enterprise Classification:

☐ Individual/Sole Proprietor ☐ Corporation ☐ Partnership ☐ Other _____

Taxpayer Identification Number (TIN):

Social Security Number: _____ OR Employer I. D. # _____

Please give the goods/services code (from attached sheet) for those items you wish to bid:

REFERENCES:

Company Name	Name of Contact	Telephone Number
--------------	-----------------	------------------

_____	_____	_____
_____	_____	_____
_____	_____	_____

MINORITY OWNED VENDORS PLEASE NOTE THE FOLLOWING:

All minority owned businesses are requested to complete the following in the manner that best describes their business. Please check all that apply.

<input type="checkbox"/> MINORITY OWNED	<input type="checkbox"/> WOMEN OWNED	<input type="checkbox"/> BLACK AMERICAN	<input type="checkbox"/> AMERICAN INDIAN
<input type="checkbox"/> HISPANIC AMERICAN	<input type="checkbox"/> AMERICAN ESKIMO	<input type="checkbox"/> ASIAN AMERICAN	<input type="checkbox"/> AMERICAN ALEUT

THIS BUSINESS IS BEST DESCRIBED AS:

<input type="checkbox"/> CONSTRUCTION TYPE BUSINESS	<input type="checkbox"/> PROVIDER OF SERVICES
<input type="checkbox"/> PROVIDER OF GOODS/PRODUCTS	<input type="checkbox"/> OTHER; PLEASE EXPLAIN _____

A WORD TO THE VENDOR: - The County of Cumberland requires all purchases of apparatus, supplies, materials or equipment of \$1,000.00 or more to be authorized through the issuance of a Purchase Order. Purchases less than \$1,000.00 **DO NOT REQUIRE A PURCHASE ORDER.** The County of Cumberland is not tax exempt. Invoices should include all applicable taxes.

I certify that the information provided here is true and accurate to the best of my knowledge:

Submitted By: _____ Title: _____ Date: _____

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 50

ENHANCED PURCHASING OPPORTUNITIES FOR NORTH CAROLINA BUSINESSES

WHEREAS, North Carolina is currently experiencing an unprecedented rate of unemployment; and

WHEREAS, North Carolina citizens continue to manufacture and produce some of the world's best and most economical products; and

WHEREAS, pursuant to N.C. Gen. Stat. § 143-59, the General Assembly has empowered the Secretary of Administration and appropriate state agencies to give preference as far as may be practicable to North Carolina products provided there is no sacrifice or loss in price or quality; and

WHEREAS, with the exception of furniture, the State of North Carolina does not currently employ any strategic efforts to purchase goods or equipment from North Carolina companies; and

WHEREAS, leveraging the buying power of the State of North Carolina could provide an immediate economic benefit to North Carolina citizens and companies during these difficult economic times and should be regarded as a business objective that is advantageous to the State in its procurement efforts.

NOW, THEREFORE, by authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

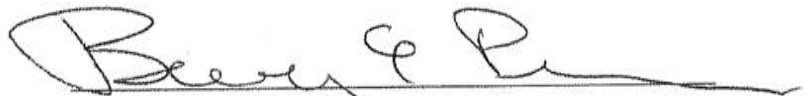
1. I hereby instruct the Secretary of Administration to examine the State's procurement laws and policies and identify and implement lawful and appropriate policies to use the buying

power of the State of North Carolina to encourage North Carolina companies to do the following: (a) do business with the State of North Carolina; (b) stimulate economic development; and (c) most importantly, create jobs in North Carolina.

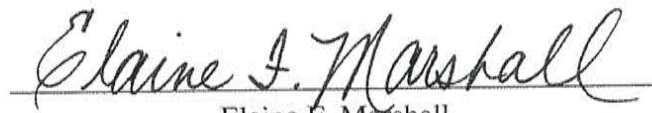
2. I particularly direct the Secretary of Administration, through the authority given to him by the General Assembly pursuant to N.C. Gen. Stat. § 143-59, to develop a price-matching preference for North Carolina resident bidders on contracts for the purchase of goods so that qualified North Carolina companies whose price is within five percent (5%) or \$10,000.00 of the lowest bid, whichever is less, may be awarded contracts with the State of North Carolina.
3. The Secretary of Administration shall take all appropriate steps to implement the terms of this Executive Order, consistent with the terms of N.C. Gen. Stat. § 143-59, and apply them to invitations for bids from the State of North Carolina by no later than March 1, 2010.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this seventeenth day of February in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

Candice White

From: Cummings, Drew
Sent: Tuesday, September 25, 2012 1:38 PM
To: Parker-Evans, Michelle
Cc: Whelan-Wuest, Ellen
Subject: RE: Request for Information

NC General Statutes generally prohibit any local preference or any other preference that diverges from the requirement to award contracts (for amounts requiring informal or formal bidding process) to the lowest responsive, responsible bidder. See Catawba County's policy below:

Sec. 30-6. - Local buying.

According to G.S. 143-129(b) the county has no authority to establish preferences of any kind and is bound by law to award to the "lowest responsible bidder, taking into consideration quality, performance and time specified in the proposals for the performance of the contract."

However, it is the desire of the county to contract with vendors and contractors located within Catawba County whenever possible. The purchasing division shall update departments of new local vendors and contractors and encourage departments to obtain quotes from local vendors when appropriate.

There are also helpful resources in the linked document here, which suggest that there MAY be bit of wiggle room to do local purchasing / contracting below the \$30,000 threshold where there are no bidding requirements - http://www.sog.unc.edu/sites/www.sog.unc.edu/files/Contracting%20and%20Procurement%20-%20Procurement%20Requirements%20Charts_0.pdf

Best,
Drew

Drew Cummings
Assistant County Manager
200 E. Main St., 2nd Floor
Durham, NC 27701
(919) 560-0065

Durham County's Mission is to enhance the quality of life for its citizens by providing education, safety and security, health and human services, economic development, and cultural and recreational resources. Sign up to receive messages about Durham County's events and happenings at <http://www.durhamcountync.gov/news/>.

This message and any response to this message is being sent on a public e-mail system and may be subject to monitoring and disclosure to third parties, including law enforcement personnel.

North Carolina Public Procurement Requirements: Purchase Contracts

Contract amount: \$0		→ \$30,000	→ \$90,000
Requirements:	No Bidding Requirements	Informal Bidding Requirements	Formal Bidding Requirements
Advertisement (G.S. 143-129)	G.S. – no ads required <i>Local policies may require specific method/timing of ad</i>		G.S. – newspaper or electronic ads (electronic only requires board approval) for full 7 days before bid opening <i>Local policies may require extra time / locations for ads</i>
Minimum # of bids (G.S. 143-132)	G.S. – no minimum <i>Local policies may require a minimum</i>		
Form of bids (G.S. 143-129, 143-131)	G.S. – no specific form required (email, phone, fax, mail all acceptable) <i>Local policies may require a specific form</i>		G.S. –bids must be sealed <i>Local policies must comply with G.S.</i>
Record of bids (G.S. 143-131)	G.S. – not required <i>Local policies may require a record</i>	G.S. – must keep a record of all bids received <i>Local policies must comply with G.S.</i>	G.S. – because bids are public, no separate record is required <i>Local policies must comply with G.S.</i>
Bid opening (G.S. 143-129, 143-129.9, 143-131)	G.S. – public bid opening not required <i>Local policies may require public bid opening</i>		G.S. – public bid opening required, but may use reverse auction or electronic bidding instead <i>Local policies must comply with G.S.</i>
Bid bonds (G.S. 143-129)	G.S. – bonds not required <i>Local policies may require bonds</i>		
Performance/payment bonds (G.S. 44A-26, 143-129)	G.S. – bonds not required <i>Local policies may require bonds</i>		
HUB participation goals (G.S. 143-128.2, 143-131)	G.S. – not required <i>Local policies may require good faith efforts/goals – check with your attorney</i>		
Board approval (G.S. 143-129, 143-131)	G.S. – not required <i>Local policies may require board approval</i>		G.S. – governing board approval required; governing board may delegate approval authority to manager or other employee
Standard of award (G.S. 143-129, 143-131)	G.S. – no standard given <i>Local policies may require a specific standard</i>	G.S. – award to lowest responsive, responsible bidder <i>Local policies must comply with G.S.</i>	
Public records (G.S. 132-1, 132-6, 143-131)	G.S. – bids become public record when received <i>Local policies must comply with G.S.</i>	G.S. – record of bids not subject to public inspection until contract award <i>Local policies may permit public inspection before award</i>	G.S. – bids become public record once opened <i>Local policies must comply with G.S.</i>

Contract amount: \$0 \$30,000 \$500,000

*** See next page for additional requirements for construction and repair contract involving buildings ***

Source: Youens, Eileen, *Local Government Purchasing and Contracting Update: Statutory Requirements and Local Policies*, Local Government Law Bulletin #118, UNC School of Government, February 2009. Refer to NC General Statute citation ("G.S.") for specific details and exceptions.

North Carolina Public Procurement Requirements: Building Construction and Repair Contracts

Contract amount: \$0 —————→ \$30,000 —————→ \$300,000 —————→ \$500,000 —————→			
Requirements:	No Bidding Requirements	Informal Bidding Requirements	Formal Bidding Requirements
Advertisement (G.S. 143-129)	G.S. – no ads required <i>Local policies may require specific method/timing of ads</i>		G.S. – newspaper or electronic ads for full 7 days before bid opening (board approval for electronic only) <i>Local policies may require extra time / locations for ads</i>
Minimum # of bids (G.S. 143-132)	G.S. – no minimum <i>Local policies may require a minimum</i>		G.S. – minimum of three bids is required <i>Local policies may require more than three bids</i>
Form of bids (G.S. 143-129, 143-131)	G.S. – no specific form required (email, phone, fax, mail all acceptable) <i>Local policies may require a specific form</i>		G.S. – bids must be sealed <i>Local policies must comply with G.S.</i>
Record of bids (G.S. 143-129, 143-131)	G.S. – not required <i>Local policies may require a record</i>	G.S. – must keep a record of all bids received <i>Local policies must comply with G.S.</i>	G.S. – because bids are public, no separate record is required. <i>Local policies must comply with G.S.</i>
Bid opening (G.S. 143-129, 143-131)	G.S. – public bid opening not required <i>Local policies may require a public bid opening</i>		G.S. – public bid opening required <i>Local policies must comply with G.S.</i>
Bid bonds/deposit (G.S. 143-129)	G.S. – bid bonds not required <i>Local policies may require bid bonds</i>		G.S. – bid bond/deposit (5% of bid amount) required <i>Local policies may require more than 5%</i>
Performance/payment bonds (G.S. 44A-26, 143-129)	G.S. – performance and payment bonds are not required. <i>Local policies may require bonds</i>	G.S. – Performance and payment bonds are required (100% of bid amount) for contracts costing more than \$50,000 that are part of a project costing more than \$300,000. <i>Local policies must comply with G.S.</i>	
HUB participation goals (G.S. 143-128.2, 143-131)	G.S. – not required unless part of State-funded project worth \$100,000 or more <i>Local policies may require good faith efforts/goals for other projects</i>	G.S. – document good faith efforts; report to HUB <i>Local policies must comply with G.S.</i>	G.S. – good faith efforts to reach goals; bidders must submit affidavits so local government can verify bidders' good faith efforts; report to HUB <i>Local policies must comply with G.S.</i>
Separate specifications (G.S. 143-128)	G.S. – separate specs not required <i>Local policies may require separate specs</i>		G.S. – separate specs required for plumbing, electrical, HVAC, and general <i>Local policies may require additional specs</i>
Licensed contractor (G.S. 87-1, 87-1.1, 143-139.1)	G.S. – must use licensed general contractor if part of a project worth more than \$30K <i>Local policies must comply with G.S.</i>		
Construction methods (G.S. 143-128)	G.S. – no specific methods must be used <i>Local policies may require specific methods</i>		G.S. – must use single-prime, separate-prime, dual prime, or construction management at risk; alternate methods may only be used if approved by the State Building Commission or authorized by local act <i>Local policies must comply with G.S.</i>
Board approval (G.S. 143-129, 143-131)	G.S. – not required <i>Local policies may require board approval</i>		G.S. – board approval required; cannot be delegated <i>Local policies must comply with G.S.</i>
Standard of award (G.S. 143-129, 143-131)	G.S. – no standard given <i>Local policies may require a specific standard</i>	G.S. – award to lowest responsive, responsible bidder <i>Local policies must comply with G.S.</i>	
Public records (G.S. 132-1, 132-6, 143-131)	G.S. – bids become public record when received. <i>Local policies must comply with G.S.</i>	G.S. – record of bids not subject to public inspection until contract award <i>Local policies may permit public inspection before award</i>	G.S. – bids become public record once opened <i>Local policies must comply with G.S.</i>

Source: Youens, Eileen, *Local Government Purchasing and Contracting Update: Statutory Requirements and Local Policies*, Local Government Law Bulletin #118, UNC School of Government, February 2009.
Refer to NC General Statute citation ("G.S.") for specific details and exceptions.

Sec. 9.5-29. - Barking dogs.

- (a) It shall be unlawful for anyone to permit **any dog or dogs which he or she owns, possesses or which may be a dog or dogs over which he or she has the authority to exercise** control to bark, bay, cry, howl, or make any other noise continuously and/or excessively for a period of ten minutes or more, or who barks, bays, cries, howls or makes any other noise intermittently for one-half hour or more, to the disturbance of any person at any time.
- (b) It shall not be a violation of this section if, at the time the dog is barking, baying, crying, howling, or making any other noise, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated or for any legitimate cause which teased or provoked the dog.
- (c) Any resident, owner, occupant, or tenant of property upon which the dog is situated shall be deemed a person in charge or otherwise exercising control over such dog.

Sec. 9.5-30. - Noise from radios, tape players, loud speakers, sound amplifiers.

(a) **Notwithstanding any other provision of this Article, and as a separate and alternative provision,** no person shall play, use, or operate, or permit to be played, used, or operated, any radio, tape recorder, cassette player, **CD player, mp-3 player, digital music player, amplifier, speaker,** or other machine or device for reproducing sound, if it is located in or on any of the following:

- (1) Any public property, including any public street, highway, building, sidewalk, park, thoroughfare, or public or private parking lot; or
- (2) Any motor vehicle on a public street, highway, public space or within the motor vehicular area of any public or private parking lot or park;

and if, at the same time, the sound generated is audible at a distance of 30 feet from the radio, tape recorder, cassette player, or other machine or device that is producing the sound.

(b) Possession by a person or persons of any radio, tape recorder, cassette player, **CD player, mp-3 player, digital music player, amplifier, speaker** or other machine or device for reproducing sound, enumerated **or contemplated** under subsection (a) above, shall be *prima facie* evidence that such person operates, or those persons operate, the radio, tape recorder, cassette player, **CD player, mp-3 player, digital music player, amplifier, speaker** or other machine or device for reproducing sound.

Sec. 9.5-30.1. - Loud and disturbing noise.

(a) **Notwithstanding any other provisions of this article, the creation, causing, or allowing of any unreasonably loud or disturbing noise in the county is prohibited and the determination of whether a noise is unreasonably loud or disturbing may be made without regard to measurement by a sound meter or other measurement of the decibel level.**

(b) **For the purposes of this section, the following definitions shall apply:**

(1) Unreasonably Loud. Noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace, order, or calm of the area or which is obnoxious to or unreasonably disturbing to a person whose residence, work or commercial enterprise is within a reasonable proximity to the point, place or person from which such noise is emanating or emanated and the noise is of such a kind, nature, duration or extent that a reasonable person would consider the noise to be unreasonably loud or disturbing.

(2) Disturbing. Noise which is perceived by a person of reasonable and ordinary firmness and sensibilities as interrupting the normal peace, order, and calm of such person or persons or that of the proximal area or tending to annoy, disturb, or frighten such persons in such proximity to the point, place or person from which such noise is emanating or emanated, that a person of reasonable and ordinary firmness and sensibilities would reasonably be or reasonably be expected to be disturbed in his or her use, occupation, or pursuits.

(c) In determining whether a noise is unreasonably loud or disturbing, the following non-exclusive factors incident to such noise are to be considered: time of day; proximity to residential structures; whether the noise is consistent with the nature of the surrounding area (that is, within a reasonable degree of proximity such that the noise could reasonably be expected to affect the person or persons who occupy, live or dwell in such proximity); the range or distance from the point of emanation that the sound may be unreasonably loud or disturbing; whether the noise is recurrent, repetitive, intermittent, or constant; the volume or intensity of the noise; whether the noise has been enhanced in volume or range by any type of mechanical, electronic, or other similar means; the nature and zoning of the area; whether the noise is related to the normal operation of a business or other labor activity, whether the noise is subject to being controlled without unreasonable effort or expense to the creator or person or entity causing or allowing the emanation of such noise; and any other factor which reasonably should be considered in determining whether a noise is unreasonably loud or disturbing.

(d) The following acts, among others, are declared to be loud and disturbing noises in violation of this article, but such enumeration shall not be deemed to be exclusive:

(1) The use of any loud, boisterous or raucous language or shouting so as to annoy or disturb the quiet, comfort or repose of persons in the vicinity or otherwise to be a loud or disturbing noise as defined under this ordinance;

(2) The sounding of any horn or signal device on or from any automobile, motorcycle, bus or other vehicle, except as a danger signal or as required by law, so as to create any unreasonable loud or harsh sound; or the sounding of such device for an unreasonable period of time.

(3) The playing of any radio, television set, record player, musical instrument or sound-producing or sound-amplifying device in such manner or with such volume, particularly, but not limited to, between the hours of 11:00 p.m. and 7:00 a.m., so as to annoy or disturb the quiet, including comfort or repose of persons of reasonable and ordinary firmness and sensibilities or normal capabilities in any dwelling, motel, hotel or other type of residence.

(4) The keeping of any animal, except livestock and poultry maintained and kept consistent

with the zoning applicable to the property where kept, which by causing frequent or long continued noise on a regular basis, shall disturb the comfort and repose of any person of reasonable and ordinary firmness and sensibilities in the vicinity or which may otherwise be a loud or disturbing noise as defined under this ordinance. With respect to this subsection only, if the violation continues or complaints are received from other households, the owner shall be granted ten working days to remedy and rectify the situation before issuance of a citation.

(5) The use of any automobile, motorcycle or other motor vehicle or vehicle of any kind which may be out of repair, so loaded, so equipped or operated in such a manner as to create loud grating, grinding, rattling or other noise caused by or emanating from such vehicle or its operation or which otherwise shall be or create or cause a loud or disturbing noise as defined under this ordinance.

(6) The discharge of a firearm or firearms in such a manner as to create an unreasonably loud or disturbing noise as defined or contemplated under this Article or in this section.

Sec. 9.5-30.2. - Exceptions.

The following provisions shall apply to or exempt the following under the circumstances:

(1) Noises generated, made or created during the regular operations of a manufacturing or industrial facility, defined as any premises where goods or wares are made, processed, warehoused or stored or where manufacturing is legally permitted and carried on and the owner of such manufacturing or industrial facility takes or has taken reasonable steps not to cause, create or allow unreasonably loud or disturbing noise not necessarily inherent to such manufacturing or industrial facility.

(2) Noises generated, made or created by fire, law enforcement, ambulance, rescue or other emergency vehicles while such vehicles are engaged in their proper functions.

(3) Parades, fairs, circuses, other similar public entertainment events, sanctioned sporting events, athletic contests, sporting events and sporting activities taking place in areas set aside for such activities, or any activities normally associated with any of the above, when such events and activities take place between the hours of 7:00 a.m. and 11:30 p.m. After 11 :30 p.m., persons engaged in these events and activities who create noise which is prohibited by section 9.5-31.1 shall be in violation of this article or of such ordinance.

(4) Construction operations for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of government; provided all equipment is operated in accordance with manufacturer's specifications and with all standard equipment, manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition.

(5) All noises coming from the normal operations of properly equipped aircraft, not including scale model aircraft.

(6) Lawnmowers and agricultural equipment and landscape maintenance equipment when operated with all the manufacturer's standard mufflers and noise-reducing equipment in use and in reasonable operating condition.

(7) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster, or to restore public utilities, or to protect persons or property from an imminent danger.

(8) Noises resulting from the provision of government services.

(9) Noise from noisemakers and fireworks on holidays or at times allowed under a pyrotechnics permit issued pursuant to N.C.G.S. §14-410 *et seq.*

(10) Noise from trains and associated railroad rolling stock when operated in proper repair and manner.

(11) Noise from the discharge of a firearm or firearms when the firearm is being used to take birds or animals pursuant to N.C. Gen. Stat. Chapter 113, Subchapter IV, or when lawfully used in defense of person or property, or when used pursuant to lawful directions of law-enforcement officers. It is further, provided, however, that a firearm discharged for the purpose of taking birds or animals within a distance of less than 500 hundred feet of a residence, business, or commercial establishment located in an established or dedicated subdivision, regardless of the zoning applicable to such dwelling or residence, or if such dwelling, residence or establishment is located within an area zoned as residential or, in the case of a business or commercial establishment within an area zoned for such purposes, shall not be exempt and any such discharge shall be subject to the provisions of Section 9-5-30.1.

Sec. 9.5-31. - Enforcement responsibility.

(a) The sheriff of the county shall have primary enforcement responsibility for sections 9.5-21 through 9.5-30 as they relate to stationary sources and as they relate to motor vehicle sources.

(b) Powers of arrest or citation. Any sheriff shall issue a citation for any violation under this article, except they may arrest for instances when:

- (1) The alleged violator refuses to provide the ~~sheriff~~ or deputy with such person's name and address and any proof thereof as may be reasonably available to the alleged violator; or
- (2) The alleged violator ~~wilfully fails~~ or refuses to cease ~~the violating~~ activity after being issued a citation or ~~after having been directed b y the Sheriff or a deputy or employee of the Sheriff to desist from the creation, emanation, maintenance, or allowing of such unreasonably loud or disturbing noise or activity in violation of this Article.~~

Sec. 9.5-32. - Penalties for violation.

(a) *Civil penalties and remedies.* Civil penalties may be imposed as provided in this section and

civil remedies may be sought as provided in this section or as may be available at law or in equity, as follows:

(1) Any person, firm or corporation violating any provision of sections 9.5-21 through 9.5-31 of this Code of Ordinances shall be subject to a civil penalty in the amount of one hundred dollars (\$100.00) for each offense, and separate offenses shall be deemed committed on each day during or on which a violation occurs or continues. Any subsequent violation within a 12-month period of a first violation after **the effective date of this ordinance**, shall subject the violator to a civil penalty of one hundred fifty dollars (\$150.00) for each subsequent violation. For purposes of determining subsequent violations within a twelve-month period, the date of the first violation from and after **January 1, 2013**, shall be the anniversary date from which a new 12-month period shall begin.

(2) Any person, firm, or corporation **violating** any provision of sections 9.5-21 through 9.5-31 shall be issued a citation which shall, among other things, state upon its face the amount of the civil penalty and that it shall be paid within 72 hours from and after such violations; notify such offender that failure to pay the penalty within the prescribed time shall subject the offender to a civil action in the nature of a debt for the stated penalty plus the cost of the action to be taxed in the court; and further provide that the penalty may be paid at the **Cumberland County Sheriff's Office, 131 Dick Street, Fayetteville, North Carolina 28301**. If the penalty prescribed in subsection (1) above is not paid within 72 hours, the County may initiate a civil action in the nature of a debt and recover the civil penalty and the cost of the action.

(3) As an additional remedy, this article may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction to restrain **or enjoin** the violation. The action shall be brought in the appropriate division of the general court of justice of the county. **Further, the rights and duties created or permitted under this Article may also be enforced by a civil action brought by the County or the Sheriff of the County or by any citizen of the county, seeking, among other things, abatement and restraint of the creation, causation, or allowing such unreasonably loud or disturbing noise, including injunctive relief under Rule 65 of the Rules of Civil Procedure and the recovery of any damages which a court may award.** The institution of an action for equitable relief shall not relieve any party to such proceeding from any civil **remedy** or civil **or** criminal penalty prescribed **or permitted** for violations of this article.

(b) *Criminal penalties.* A violation of any provision of this article shall be **deemed** a misdemeanor punishable to the extent provided in North Carolina General Statutes, Section **14-4**, **and the fine for such violation shall be in a sum imposed in the discretion of the court but in an amount less than five hundred dollars (\$500.00).** Any person or corporation or other legal entity violating this ordinance shall be guilty of a Class 3 misdemeanor and, as provided, shall be fined not more than five hundred dollars (\$500.00). **The maximum fine, for such violation, therefore, shall be in excess of fifty dollars (\$50.00) in accordance with the provisions of N.C.G.S. § 14-4(a).** Each day's continuing violation shall constitute a separate offense.

(c) *Effective date.* **The provisions of this ordinance and of this part shall be 12:01 a.m January 1, 2013.**

NATIONAL REGISTRY OF HISTORIC PLACES
North Carolina – Cumberland County



Cumberland County Courthouse (added 1979 - - #79001696)
Franklin, Gillespie, and Russell Sts. , Fayetteville

Historic Significance: Event, Architecture/Engineering

Architect, builder, or engineer: Barton, Harry

Architectural Style: Classical Revival

Area of Significance: Politics/Government, Architecture, Social History

Period of Significance: 1925-1949, 1900-1924

Owner: **Local**

Historic Function: Commerce/Trade, Government

Historic Sub-function: Courthouse, Warehouse

Current Function: Government

Current Sub-function: Courthouse

CUMBERLAND COUNTY BOARD OF COMMISSIONERS POLICY ON PUBLIC USE OF COUNTY-OWNED FACILITIES

PURPOSE: The policy of the Cumberland County Board of Commissioners is that County-owned facilities are provided to conduct the business of the County and of its associated governmental agencies. County facilities are not unlimited public fora where anyone or any group can disseminate their messages. Public groups and individuals do not have an unlimited right to use County-owned facilities as a platform for propagation of their messages. Limited public use of County-owned facilities will be permitted, however, when consistent with the governmental use of such County-owned facilities and consistent with the provisions of this Policy

POLICY: Each County department or affiliated agency that has custody of a County-owned facility shall adopt a written policy governing public use of that facility. Each facilities use policy shall be promulgated by the department head or chief executive officer of the affiliated agency. The Assistant County Manager for Operations shall be deemed the custodian of the New County Courthouse. Each official promulgating a facilities use policy shall give consideration to reimbursement for incremental staffing and/or clean-up costs so that significant use is not made of taxpayers funds to subsidize such expenses. Each facilities use policy shall be consistent with the criteria set forth in paragraphs A and B below.

Every facilities use policy for use of County-owned buildings shall be submitted to the Office of the County Attorney for review prior to its promulgation.

- A. A facilities use policy shall not allow use of County-owned facilities for commercial or profit-making purposes. This shall not include, however, a facility such as the Cumberland County Civic Center where the primary purpose of the facility is intended to be for a variety of commercial events for which patrons usually pay.

A facilities use policy shall not allow use of County-owned facilities for religious worship, proselytizing or other activities which actively promote religion.

A facilities use policy shall prohibit use of the facility for personal or group political proselytizing or lobbying.

A facilities use policy shall prohibit use of County-owned facilities for activities which are purely personal in nature.

A facilities use policy shall prohibit the distribution or use of alcoholic beverages or any smoking.

A facilities use policy shall prohibit the presence of weapons of any kind, except for law enforcement officers while on duty.

A facilities use policy shall prohibit obscene, disruptive, abusive or excessively loud conduct.

A facilities use policy shall ban discrimination on the basis of race, creed, sex, age, national origin, handicap or disability.

- B. A facilities use policy shall be consistent with the particular mission and goals of the departments or associated governmental agency at the facility.

A facilities use policy may allow the use of the facility by governmental organizations (including for recognition or award ceremonies for individual government employees) so long as such use does not interfere with the customary and usual business of the facility.

A facilities use policy may, but need not, allow use of the facility by groups closely connected with the mission of the facility and complementary to the mission and goals of the organizations at the facility.

A facilities use policy may, but need not, allow use of the facility for training open to the public at large where no fee is charged (or only a nominal fee to recoup cost of supplies or equipment).

A facilities use policy may allow non-profit, non-partisan groups to use the facility, such as for organizational meetings, seminars, study groups, planning sessions, training programs and similar type activities.

Each facilities use policy shall reserve the right of reasonable inspection by the County Engineer, County Building Inspectors, and the Fire Marshall.

Notwithstanding the above, a facilities use policy for facilities which by there nature are intended for widespread, diverse uses by the public, such as libraries and parks, may be flexible to accommodate uses which traditionally have been associated with such facilities.

- c. Effective Date. This policy shall become effective the __ day of _____, 2002.



**ENGINEERING & INFRASTRUCTURE DEPARTMENT
PUBLIC UTILITIES DIVISION**

MEMORANDUM FOR POLICY COMMITTEE AGENDA OF OCTOBER 4, 2012

TO: POLICY COMMITTEE MEMBERS

FROM: JEFFERY BROWN, ENGINEERING & INFRASTRUCTURE DIRECTOR *JB*

THROUGH: JAMES E. MARTIN, COUNTY MANAGER *J Martin*

DATE: SEPTEMBER 25, 2012

SUBJECT: APPROVAL OF THE RULES AND REGULATIONS OF THE
CUMBERLAND COUNTY PUBLIC UTILITIES DEPARTMENT

BACKGROUND

The purpose of the Rules and Regulations is to set uniform requirements for all Cumberland County Water Districts. The Rules and Regulations establish the rate schedule, billing policy and connections fees for the connected and non-connected users in the District. This document creates needed guidelines and procedures for both the County and customers to adhere to. Construction will begin soon in the Southpoint area and the Public Utilities Division would like the Rules and Regulations to be established prior to construction, in order for customers to project the cost of their future water bills. It is my feeling that having the Rules and Regulations in place prior to construction, will certainly allow the potential customers to make a more informed decision about connecting to the system.

RECOMMENDATION

The Engineering and Infrastructure Director and County Management recommend that the Policy Committee approve the Rules and Regulations and place it on the agenda for the October 15th Commissioner's Meeting for adoption.

Attachment(s):

**RULES AND REGULATIONS
OF THE
CUMBERLAND COUNTY PUBLIC UTILITIES DEPARTMENT
CUMBERLAND COUNTY, NORTH CAROLINA**

I. Classification of Service

All services are classified under one of two categories:

Residential- Includes all ¾" and 1" residential meters.

Commercial- Includes all businesses regardless of meter size, and single-family or multi-family residential properties with meter size greater than 1".

II. Rate Schedule and Tap-On Fees

(A) Rate Schedule

All customers will be billed at the rate currently in effect and approved by the Board of Commissioners of Cumberland County. Said rate schedule is attached hereto as Appendix "A" and is incorporated herein by reference.

(B) Tap-On Fees

All customers will be charged the tap-on fee currently in effect at the time of application for water service. Tap-on fees are approved by the County Commissioners of Cumberland County. Said tap-on fee schedule is attached hereto as Appendix "B" and is incorporated herein by reference.

(C) Commercial and Rental properties do not qualify for the exceptions and exemptions listed in Appendix A and B.

III. Sprinkler Service for Fire Protection

Connection to the system for service to sprinkler systems to provide fire protection may be secured upon application of the customer and upon payment of all charges involved in making the connection. For sprinkler connections to the system the customer shall pay annual charges based on the following schedule:

<u>SIZE</u>	<u>ESTABLISHED FEE</u>
6 inch sprinkler connection	\$250.00
8 inch sprinkler connection	\$400.00
12 inch sprinkler connection	\$700.00

No service other than for fire protection shall be tapped on to or taken from a sprinkler system.

IV. Multiple Unit Connections

General practice dictates one meter per living unit and water is used for that unit only. Specifically,

Single Family Homes (One living unit per structure):

One meter per living unit.

Duplexes/Apartments (Two or more living units per structure):

One meter per living unit. Meters shall be placed closely together and each meter will represent a separate and individual account.

Subdivisions (Two or more residences within a developed project):

One meter per living unit. Plans must be submitted to the county for approval and must be shown to be compatible with the plans for the ultimate development of the County's utility system. (See section XIII-Extensions)

Mobile Home Parks:

Park owners have two options:

- a. Trailers will not be individually metered and billed. County will install a meter (size to be determined by Park Owner and Utilities Director) at street. County will read meter and bill accordingly. Park Owner will be responsible for lines, maintenance, and consumption on owner's side of the meter.
- b. Trailers may be individually metered and must follow the same criteria as subdivisions. See Section XIII-Extensions.

Multiple use of a meter will not be allowed except where a customer shall make a special application for permit for such installation and each such permit shall be subject to review and approval by the Utilities Director and the County Manager. The County reserves the right to size the meter for multiple unit connections.

V. Application for Services

Customers may make application for service in person at the Cumberland County Public Utilities Department.

Service will be supplied only to those who provide proper documentation, pay all applicable fees, execute a Water User Agreement, and make the deposit required.

Cumberland County may reject any application for service when the applicant is delinquent in payment of bills incurred for service previously supplied at any location. (All outstanding balances, including late fees and reconnect fees must be paid in full.)

Cumberland County may reject any application for service not available under a standard rate or which may affect the supply of service to other customers or for other good and sufficient reasons, in such case the tap-on fee will be refunded.

VI. Deposit

All residential water customers will be required to make a minimum deposit of \$100.00.

All commercial water customers will be required to make a deposit equal to the value of three months estimated usage of water, but not less than \$100.00.

The individual, partnership and/or corporation in whose name the deposit is made shall be responsible for all bills incurred in connection with the service furnished.

The deposit shall be held by the County and the customer shall not be entitled to any interest earnings upon refund of the deposit.

A separate deposit is required for each meter installed.

No refunds will be authorized without request for discontinuance of service and all bills are paid for consumption through date of discontinuance.

Relocation to a new property within the Cumberland County Water and Sewer Service District by an existing customer shall not be considered a discontinuation of service. In the event of a re-location, a customer with a good credit history shall have his or her original deposit transferred to the new account. At that point the customer will be billed within the next billing cycle schedule established by the department and the bill will include both the bill representing the ending balance on the original account and the bill representing the balance on the new account. In the event the customer relocates from a property with water service only to a property with water and sewer service the customer shall pay an additional \$50.00 sewer deposit. In the event a customer relocates from a property with water and sewer services to a property with water only, the department shall refund the portion of the deposit designated for sewer. In the event that a customer with a poor credit history and an outstanding overdue balance relocates, the customer will be required to pay the outstanding overdue balance and any additional deposits or fees established herein.

VII. Minimum Charge

The minimum charge, as provided in the rate schedule, shall be made for each meter installed, regardless of location. Each meter requires a separate account, and each account shall cover a separate and individual meter.

Water furnished for a given installation shall be used for that installation only. Each customer's service must be separately metered at a single delivery and metering point. Each commercial unit used for businesses purposes shall have a separate meter.

All commercial use for business purposes, shall be metered separately from any residential use, and vice-versa, whether now in service or to be installed in the future.

VIII. Meter Reading-Billing-Collecting

Meters will be read and bills rendered as follows:

Meters will be read once per month and bills mailed once per month; but the County reserves the right to vary the dates or length of period covered, temporarily or permanently if necessary or desirable.

Bills for water will be figured in accordance with the County's published rate schedule then in effect and will be based on the water consumed for the period by the meter readings.

Charge for service commences when meter is installed and the County's connection made, whether used or not. If not used, the customer will be charged the minimum rate each month.

Readings from different meters will not be combined for billing, even if said meters may be for the same or different premises, or for the same or different customer, or for the same or different services.

Bills are due within 28 days of meter reading and become delinquent thereafter, whereupon the late penalty currently in effect will be added to the account. If bill is not paid within 42 days from date rendered, the County may discontinue service.

Failure to receive bills or notices shall not prevent such bills from becoming delinquent or relieve the consumer from payment.

IX. Access to Premises

Duly authorized agents of the County shall have access at all reasonable hours to the premises of the customer for the purpose of installing or removing County property, inspecting piping, reading or testing meters, or for any other purpose in connection with the County's service and facilities.

Each customer shall grant or convey or shall cause to be granted or conveyed to the County a perpetual easement and right of way across any property owned or controlled by the customer wherever said perpetual easement and right of way is necessary for the County water facilities and lines in order to furnish service to the customer.

X. Change of Occupancy

Not less than three days notice must be given in person or in writing at the Utilities Department to discontinue service for a change of occupancy.

The outgoing party shall be responsible for all water consumed up to the time of departure, or the time specified for departure, whichever period is longer.

XI. Suspension of Service

When services are discontinued and all bills are paid, the deposit will be refunded.

Upon discontinuance for non-payment of bills, the deposit will be applied by the County toward settlement of the account. Any balance will be refunded to the customer; but if the deposit is not sufficient to cover the bill, the County may proceed to collect the balance in the usual way provided by law for the collection of debts.

Service discontinued for non-payment of bills will be restored only after bills are paid in full, redeposit made, and a reconnect charge paid for each meter reconnected.

The County reserves the right to discontinue its service without notice for the following additional reasons:

- (a) To prevent fraud or abuse
- (b) Customer's willful disregard of County's rules
- (c) Emergency repairs
- (d) Insufficiency of supply due to circumstances beyond the County's control.
- (e) Legal procedures
- (f) Direction of public authorities
- (g) Strikes, riot, fire, flood, accident or any unavoidable cause.

The County may, in addition to prosecution by law under N.C.G.S. 14-151.1, permanently refuse service to any customer who tampers with a meter or other measuring device.

The County reserves the right to remove the meter from a discontinued service, requiring a complete reconnection with applicable tap-on fee.

XII. Complaints and Adjustments

If the customer believes his bill to be in error, he shall present his claim, in person, at the Utilities Department, before the bill becomes delinquent.

Such claim if made after the bill has become delinquent shall not be effective in preventing discontinuance of service as heretofore provided. The customer may pay such bill under protest and said payment shall not prejudice his claim.

The customer is entitled to be heard by a designated County employee (at any time prior to termination of service) at a specified time and address if there is any question about the accuracy or legitimacy of the customer's meter readings or billing. **See Appendix "C" for the Adjustment Policy.**

The County will make special meter readings at the request of the customer for a "Special Meter Reading Fee" provided, however, that if such special reading discloses that the meter was over-read, no charge will be made.

Meters will be tested at the written request of the customer upon payment to the County of the actual cost to the County of making the test provided; however, that if the meter is found to over-register beyond five percent (5%) of the correct volume, no charge will be made.

If the seal of a meter is broken by anyone other than the County's representative or if the meter fails to register correctly or is stopped for any cause, the customer shall pay an amount estimated from the record of his previous bills and/or from other proper data.

XIII. Extensions

Extensions to the county water system may be allowed under the following conditions:

- (1) Extensions will be allowed (or undertaken) after they are shown to conform to County standards and after the projected extension(s) are shown to be compatible with the plans for the ultimate development of the County.
- (2) Proposed extensions shall be designed to provide orderly growth of the County.
- (3) Proposed extensions must be determined to be feasible from the standpoint of maintaining a self-supporting water system.
- (4) Extensions may be made by the County only when funds are available and then only upon the approval and direction of the Board of County Commissioners.
- (5) Extensions may be allowed by individuals, firms, partnerships or developers at their expense or under an agreed upon shared cost with the County under the following conditions:
 - (a) County construction standards are met and plans approved by the Board of County Commissioners as set out under sub-articles 1, 2, and 3 above.
 - (b) All installations shall be made according to specifications of County, including line sizes and their location, grade, and materials, etc.
 - (c) All extensions will be designed and constructed in accordance with all applicable North Carolina state laws.
 - (d) All lines constructed and connected with the facilities of the County under these policies shall become the property of the County upon their completion and connection to the County system. The County shall have exclusive control of all such lines and will assume responsibility for maintenance, repair, and operation.

XIV. Cumberland County Responsibility and Liability

Cumberland County shall run a service line from its distribution line to the property line where the distribution line runs immediately adjacent and parallel to the property to be served, and for which a tap-on fee then in effect for each size of meter will be charged.

Cumberland County reserves the right to require payment for any service line extending more than immediately adjacent and parallel to the main at the actual cost of installation of the added line; this in addition to the tap-on fee hereto specified.

The County shall install its meter at the property or in a location mutually agreed upon with the property owner.

When two or more meters are to be installed on the same property for different customers, they shall be closely grouped and each clearly designated to which service it applies.

Cumberland County's responsibility for maintenance ends at the meter.

Cumberland County reserves the right to refuse service unless the customer's lines and/or piping are installed in such a manner that prevents cross-connection or backflow.

The County shall not be liable for damage of any kind whatsoever resulting from water or the use of water on the customer's premises, unless such damage results directly from negligence on the part of the County. The County shall not be responsible for the negligence of third persons or forces beyond the control of the County resulting in any interruption of service, or from interruption of service to make repairs and/or other connections.

When possible, the customer will be notified of any anticipated interruption of service.

XV. Customer's Responsibility

Piping on the customer's premises must be arranged so that the connections are conveniently located with respect to the County's lines or mains.

If the arrangement of the customer's piping requires the County to provide multiple meters to provide service, each meter placed will be considered a separate and individual account.

Where a meter is placed on the premises of a customer by mutual agreement, a suitable place shall be provided and accessible at all times to a meter reader.

The customer shall furnish and maintain a pressure reducing valve on their side of the meter.

The customer shall furnish and maintain a private cutoff valve on their side of the meter; the County will provide likewise on its side of the meter.

The customer's piping and apparatus shall be installed and maintained by the customer at their expense in a safe and efficient manner in accordance with the County's rules and regulations and in full compliance with the sanitary regulations of the state.

The customer shall guarantee proper protection for the County's property placed on the customer's premises and shall permit access to it only by authorized representatives of the County.

In the event that any loss or damage to the property of the County or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the customer, his/her agents or employees, the cost of the necessary repairs or replacements shall be paid by the customer to the County; any liability otherwise resulting shall be assumed by the customer.

The amount of such loss or damage or the cost of repairs shall be added to the customer's bill; and if not paid, services may be discontinued by the County.

XVI. Prohibited Activities:

A customer shall not:

- (1) Supply or sell water from the County's system to other persons or carry water away from any hydrant or other such public outlet;
- (2) Manipulate, tamper with, or harm in any manner whatsoever any water line, main, or appurtenance or any other part of the water system; per G.S. 14-151.1
- (3) Tamper with the water meter so as to alter the true reading for the amount of water consumed; per G.S. 14-151.1
- (4) Attach or cause to be attached any connection to the water line before the water meter; and
- (5) Knowingly make any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained under the Rules and Regulations.

XVII. Abridgement or Modification of Rules

No promise, agreement, or representation of any employee of the County shall be binding upon the County except as it shall have been agreed upon in writing and signed and accepted by the County Board of Commissioners through proper governmental channels.

No modification of rates or any of the rules and regulations shall be made by any agent of the County. This can be done only by the Cumberland County Board of Commissioners.

All prices included in these rules and regulations or their appendices are subject to change at any time, when deemed necessary, by action of the Cumberland County Board of Commissioners.

XVIII. Notification and Connection

Notification:

Cumberland County will notify water users when the lines in their area have been accepted by the County and are available for service.

Connection:

After notification, a connection can be made between the structure and the meter. The Customer will be required to obtain a permit from the Cumberland County Inspections Department. The Cumberland County Inspections Department will then make a physical inspection of the connection and service line. Upon approval, the County will turn on the water connections between the meter and the water user's plumbing system. The user's plumbing system shall meet all applicable requirements of the State Building Code (as it relates to plumbing) including the use of 160-psi service line at a minimum. An approved cut-off valve shall be installed between the meter and the structure. Each user's existing well must be physically disconnected from the County system. State law prohibits the installation of water lines through a septic tank drain field or within ten feet of a septic tank. Water shall not be turned on by anyone other than the County.

XIX. Property Protection

By applying for and receiving water service from Cumberland County, a customer agrees to comply with all applicable county rules, regulations and policies. Each service constitutes a separate service and agreement even if a single customer receives multiple services. The customer agrees to pay for their billing in a timely manner and that the service(s) should have a protective device on it to protect the appliances and property of the customer.

It is the further responsibility of the customer to install a proper water - pressure control device to prevent too much pressure from entering the plumbing lines. (There is a minimum pressure of 30 PSI but no maximum pressure supply.)

XX. Adoption of Rules:

Until further notice of the Board of Commissioners of the County of Cumberland, the rules and regulations hereinabove set out, are hereby adopted as of the date hereof to become effective on and after _____.

COUNTY OF CUMBERLAND
BOARD OF COMMISSIONERS

BY: _____
Marshall Faircloth
Chairman

Attest:

Candace White
Clerk to the Board

APPENDIX "A"

AVAILABILITY FEE

Availability Fee – Non-connected customers	\$12.00
(As referenced in the Cumberland County Water Use Ordinance)	

WATER RATE SCHEDULE

RESIDENTIAL RATE

First 2,000 Gallons
Next 4,000 Gallons
Next 2,000 Gallons
Next 2,000 Gallons
Next 40,000 Gallons
Next 50,000 Gallons
All Over 100,000 Gallons

MONTHLY CHARGE

\$22.00 Minimum
\$11.00 per 1,000 Gallons
\$12.00 per 1,000 Gallons
\$13.00 per 1,000 Gallons
\$14.00 per 1,000 Gallons
\$15.00 per 1,000 Gallons
\$16.00 per 1,000 Gallons

COMMERCIAL RATE

User Fee:
First 50,000 Gallons:
Next 50,000 Gallons:
Next 900,000 Gallons:
All Over 1,000,000 Gallons

MONTHLY CHARGE

\$33.50
\$13.00 per 1,000 Gallons
\$14.00 per 1,000 Gallons
\$15.00 per 1,000 Gallons
\$16.00 per 1,000 Gallons

OTHER FEES

Late Penalty	\$10.00
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Activation/Transfer Fee (One-time fee for creating new account or Transferring service to another location)	\$20.00
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Reconnect Fee- Business hours (Administrative charge to re-establish service after discontinuance for non-payment)	\$25.00
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After-Hours Reconnect Fee (Available until 9:00 pm)	\$75.00
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Special Meter Reading (Performed at request of customer; no charge if initial reading was over-read)	\$10.00
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Meter Verification Fee (Meter removed and taken to testing facility; performed at written request of customer; no charge if meter over-registers by more than 5%)	\$50.00
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Flow Test	\$50.00
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*Returned Check Fee	\$25.00
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+ Amount of check - CASH, MONEY
ORDER OR CERTIFIED CHECK ONLY

APPENDIX "B"

TAP FEE SCHEDULE

TAP-ON FEES (To Include Irrigation)

(1) Construction-Phase Rate:

The tap-on fee during the construction of the water distribution system will be as follows:

<u>Meter Size</u>	<u>Established Fee</u>
¾ inch	\$50.00
1 inch	\$100.00
Larger than 1"	Standard Rate

(2) Future Services:

Customers not wishing an immediate connection to the water system, but who wish to take advantage of the discounted tap-on fees available during the construction phase may sign up for a "future service" tap at the following rates:

<u>Meter Size</u>	<u>Established Fee</u>
¾ inch	\$150.00
1 inch	\$250.00
Larger than 1"	Standard Rate

Future Service rates apply only during the construction phase of the distribution system. With a "Future Service" tap, a meter is not installed until requested by the customer.

(3) Water Laterals

An estimate shall be given to the applicant prior to installation and shall be paid by the applicant prior to any installation of laterals to be connected to the water system. All charges include labor, equipment and materials required for the installation of the specified pipe size or sizes.

(4) Main Extension Charges:

An estimate shall be given to the applicant prior to installation and shall be paid by the applicant prior to extending the main in the water district. All charges include labor, equipment and materials required for the installation of the specified pipe size or sizes.

BILLING POLICY

In order to insure that all customers have a thorough understanding of our policies and procedures for water billing and collections, the Public Utilities Department has prepared the following information. A complete set of the Rules and Regulations for the Public Utilities Department is available upon request.

Meter Reading

Meters are to be read every 28 to 30 days.

Billing

Bills are calculated and mailed as soon as possible after meters are read.

The Public Utilities Department reserves the right to vary billing dates as needed. If you do not receive your bill, please call the Public Utilities Department. We will verify your address and tell you how much you owe. If you desire a duplicate bill, we will mail one to you.

Please make sure that we have your correct address, so that you will receive your bill in a timely manner. *Failure to receive your bill will not prevent such bill from becoming delinquent.*

Payments

Remit payments to the Public Utilities Department, located in the Historic Courthouse at 130 Gillespie Street, Room 215, Fayetteville, NC 28301. You may pay in the office, or you may mail your payment to **Public Utilities Department, P.O. Box 1829, Fayetteville, NC 28302.**

All returned checks are subject to a \$25.00 collection charge.

Late Fees

If payment is not received within **28 days of the billing date**, which is shown on your bill, a \$10.00 late fee will be added to your account.

Cutoffs

Service will be disconnected if payment of your bill is not received in the Public Utilities Department office within **42 days of the billing date**. It is not our policy to call customers prior to disconnection of service. In order to maintain fairness to all our customers, we cannot give extensions on bills.

The cutoff list will be generated at 5:01 pm on the day prior to disconnection. If your account is on the cutoff list you will be charged a \$25.00 reconnect fee in addition to the total amount due shown on your bill. This reconnect fee applies to all accounts shown on the cutoff list. Reconnects after hours are available from 5:00 pm until 9:00 pm for a fee of \$75.00.

Questions

If you have any questions regarding billing or service, please call the Public Utilities Department staff at (910) 678-7682.

APPENDIX "C"

ADJUSTMENT POLICY

Purpose:

Circumstance may arise where high water consumption occurs due to events beyond a customer's control. Upon a customer's request, Cumberland County Public Utilities will review the facts and consider a billing adjustment on a case-by case basis. Adjustments are limited to one occurrence in a twelve month period per customer account or location. Adjustment requests shall be submitted to the Public Utilities staff at 130 Gillespie Street, Room 215, Fayetteville, NC 28301. Adjustments shall be made as follows:

To qualify:

1. The customer must have been out of town at the time of the leak or the leak must not have been readily evident to a reasonable person (ex.: underground [excluding irrigation], inside a wall or concealed location, crawlspace.).
2. Basic facility fees (flat rate, O&M rider, RSF) still apply.
3. Proper documentation that the leak has been repaired or corrected must accompany the adjustment request (receipt for parts, contractors invoice, etc.).
4. Water only customers- The water consumption must be greater than 200% of the customers previous three month average.

Calculation:

If the conditions above are met, the bill will be reduced to 200% of the average consumption plus 1/3 of the overage. Example: When a customer has an average consumption of 5,000gal and because of a qualifying leak has a consumption of 13,000gal, the bill will be calculated at 200% of 5,000gal = 10,000gal + 1,000gal (1/3 of 3000) = 11,000gal adjusted bill. The adjusted amount over 200% will be billed at the lowest tiered rate.

Other adjustments:

The utilities management staff, at their discretion, shall be authorized to adjust late fees and penalties for customers who are in good standing and have no history of late payments or disconnects.

Adjustments to commercial accounts:

Adjustments must be approved by the Engineering and Infrastructure Director.

Exclusions:

Adjustments will not be made for water loss associated with irrigation systems.
Adjustments will apply to no more than 2 consecutive billing cycles.
Premises left abandoned or vacated without reasonable care for the plumbing system.
Homes under construction or renovation.

IMPORTANT NOTE: A large leak may cost a customer thousands of dollars, whereas a smaller leak may be less than a \$100. A leak adjustment may be requested only once within a 12 month period. If you request an adjustment for any size leak, you will be ineligible for another adjustment for the next 12 months regardless of the size of the future leak.