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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 Boose, Evans and Lancaster)

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

DATE: July 27, 2018

SUBJECT: Policy Committee Special Meeting – Thursday, August 2, 2018

The regular meeting of the Board of Commissioners' committees (Finance, Policy and Facilities Committee) has been **CANCELLED** and rescheduled as a **SPECIAL MEETING** on Thursday, August 2, 2018 beginning at 8:30 a.m. at the **Department of Social Services, 1225 Ramsey Street, conference rooms C and D**. All committee meetings will start as soon as the previous committee adjourns.

AGENDA

1. Approval of Minutes – June 7, 2018 Regular Meeting (Pg. 2)
2. Consideration of Ordinance Regulating Maintenance of Vegetation in Residential Subdivisions (Pg. 47)
3. Consideration of Amendment to the Purchasing Policy to Reflect Updates in the Federal Uniform Procurement Standards (Pg. 50)
4. Update from Public Information and Governmental Affairs: Collaborative Community Branding Project (Pg. 64)
5. Other Items of Business (NO MATERIALS)

June 7, 2018 Policy Committee

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CUMBERLAND COUNTY POLICY COMMITTEE
JUDGE E. MAURICE BRASWELL, CUMBERLAND COUNTY COURTHOUSE
117 DICK STREET, 5TH FLOOR, ROOM 564
JUNE 7, 2018
MINUTES

MEMBERS PRESENT: Commissioner Michael Boose
Commissioner Charles Evans
Commissioner Larry Lancaster, Policy Committee Chair

OTHER COMMISSIONERS
PRESENT: Commissioner Glenn Adams
Commissioner Jeannette Council
Commissioner Marshall Faircloth
Commissioner Jimmy Keefe

OTHERS PRESENT: Amy Cannon, County Manager
Sally Shutt, Assistant County Manager
Duane Holder, Assistant County Manager
Melissa Cardinali, Assistant County Manager
Rick Moorefield, County Attorney
Deborah Shaw, Budget Analyst
Heather Harris, Budget Analyst
Vicki Evans, Finance Director
Geneve Mankel, Communications & Outreach Coordinator
Darsweil Rogers, PWC Commissioner
Brenda Jackson, Department of Social Services Director
AJ Riddle, Assistant County Engineer
Ivonne Mendez, Accounting Supervisor
Julean Self, Human Resources Director
Amanda Bullard, Purchasing Manager
Candice White, Clerk to the Board
Press

Policy Committee Chair Lancaster called the meeting to order.

1. APPROVAL OF MINUTES – MAY 3, 2018 REGULAR MEETING

MOTION: Commissioner Boose moved to approve the May 3, 2018 meeting minutes as presented.

SECOND: Commissioner Lancaster

VOTE: UNANIMOUS (2-0)

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2. PRESENTATION ON LOCAL PURCHASING COMMITTEE ESTABLISHED BY PUBLIC WORKS COMMISSION (PWC)

BACKGROUND:

Commissioner Jimmy Keefe requested that Mr. Darsweil Rogers present an update to the Policy Committee about the Local Purchasing committee assembled by PWC in 2017 to research and establish guidelines and policies for governmental agencies to shop local and stay in compliance with state law.

Mr. Rogers will provide an overview of the committee's origins and goals; report on the activities to date, including the Building Business Rally held on May 22, 2018, in which Cumberland County participated; and discuss the group's plans for next steps.

RECOMMENDATION/PROPOSED ACTION:

For information purposes only.

Darsweil Rogers, PWC Commissioner and Chair of the Local Building Business Rally, reviewed the background information and recommendation as recorded above.

Mr. Rogers discussed the following information in a PowerPoint Presentation:

Genesis of the Building Business Rally (BBR)

- 2015 City Council asks PWC to accelerate Phase V Sewer Installations
- PWC solicits bids to accelerate work
 - NO TAKERS
- Commission defines building local supplier capacity a strategic priority

Definition of Local

- Have office within the Metropolitan Statistical Area
- Impacts local employment
- Include local subcontractors
- Local provider is bidding for business
- 2017 – 45% of dollars in FY 2017 remained local
- \$20.5 million of \$45.4 million

Initial Rallies 2016

- City, County and PWC hosted two rallies'
- Educational
 - Provided general information
 - How to be a subcontractor
 - How to get bonding
- Modest Success

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Steps to the BBR

- Sept. 2017: Chair Evelyn Shaw asked me to head up initiative
- Oct. 2017: BBR Initial Meeting
- Nov. 2017: Defined Local to be the MSA
 - Decided on a BBR for 2018
 - Stayed under the radar in planning
- Jan. 2018: Selected venue & date
- Feb. 2018: Broaden invite list
- Apr. 2018: Proclamations from across the community
 - Launched faybids.com
- May 2018: Successful Rally

Rally Recap

- 13 Purchasing Managers
- 14 Support Organizations
- 150 Companies
- 300+ Attendees
- 6 Breakout Sessions

Survey Results

- 94% Ranked BBR as Excellent/Very Good
- 91% said BBR was beneficial to their business
- 96% made potential business connections

Next Steps

- BBR Committee Self-Assessment & Lessons Learned on June 19, 2018
- Opportunities and Constraints
 - Faybids.com website
 - Tracking results
 - Define goals and establish measurements
 - Policymaker commitment

Personal Observation

- Community Entrepreneurship not core to our DNA
 - Bids offered with no takers
 - Lots of information/support but disjointed and siloed (14 support organizations)
- Coordinated & Committed Municipal Outreach
 - Education & Incentives
 - Too easy to continue using the same suppliers
 - Accountability
 - Incentives

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○ Broaden Corporate Involvement

Commissioner Keefe asked if the goal is for all agencies to incorporate the same idea of local business and asked if Mr. Rogers could share what he would like to see the County do. Mr. Rogers responded he would like a firm commitment from the County as far as ongoing participation. Mr. Rogers further stated a County decision maker and someone comfortable representing the County attending the meetings would be very helpful.

No action taken.

3. CONSIDERATION OF POLICY REVISION AND RESOLUTION TO ENGAGE IN ELECTRONIC PAYMENTS

BACKGROUND:

North Carolina General Statute 159-28 requires the finance officer to *pre-audit* financial obligations of the County. The pre-audit simply means that the finance officer has determined the County has money available to pay the obligation and affix a certification to the obligation.

Recently, NCGS 159-28 was modified to address the use of electronic transactions. Examples of electronic transactions include:

- A contract or agreement that has been approved by the Local Government Commission (LGC);
- A payroll expenditure, including one related to employee benefits
- A purchase made with a purchasing card, credit card, or fuel card transaction

In March 2018 the Local Government Commission issued guidance on implementing the updated pre-audit rules. While the rules do not exempt the finance officer from performing a preaudit on electronic payments, it does exempt affixing the pre-audit certification on electronic transactions.

In order to be in compliance with the rules, two things should occur. One (1), a modification of the County's Financial Policies is required. Two (2), consider adopting a resolution authorizing the County to engage in electronic transactions without affixing a pre-audit certificate.

RECOMMENDED/PROPOSED ACTION:

Management recommends the Policy Committee approve and forward to the Board of Commissioners:

1. The revised financial policies; and
2. The resolution authorizing the County to engage in electronic payments as defined by G.S. 159-28.

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**County of Cumberland
Resolution authorizing County of Cumberland
to engage in electronic payments as defined by G.S. 159-28**

WHEREAS, it is the desire of the Board of County Commissioners that the County of Cumberland is authorized to engage in electronic payments as defined by G.S. 159-28;

WHEREAS, the Board of County Commissioners has adopted a written policy for pre-auditing obligations that will be incurred by electronic payments as required by NC Administrative Code 20 NCAC 03.0409;

WHEREAS, the Board of County Commissioners has adopted a written policy for disbursing public funds by electronic transaction as required by NC Administrative Code 20 NCAC 03.0410;

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

Section 1. Authorizes the County of Cumberland to engage in electronic payments as defined by G.S. 159-28;

Section 2. Authorizes the County of Cumberland to disburse public funds by electronic transaction as required by NC Administrative Code 20 NCAC 03.0410; and

Section 3. This resolution shall take effect immediately upon its passage.

**Cumberland County
Section I – Board Approved Policies
Subsection 3: Cumberland County Financial / Audit
Policy No. 3-1: Financial Policies**

The original submission of the Cumberland County Financial Policies was approved by the Board of Commissioners on September 2, 2008. The Financial Policies were brought back for revision and approved by the Finance Committee on March 3, 2011 and approved at the March 21, 2011 Board of Commissioners Meeting. The Financial Policies were brought back for revision and approved by the Policy

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Committee on June 7, 2018 and approved at the June 18, 2018 Board of Commissioners Meeting.

1.0 PURPOSE

The County of Cumberland has established comprehensive financial policies supporting management of our financial resources by providing effective control, prudent decision making and compliance with legal requirements.

2.0 SCOPE

The essential goals to be accomplished through consistent application of these policies include:

- To align long-term financial planning with short-term daily operations and decision-making.
- To maintain and improve the County's financial position.
- To maintain the County's credit ratings by meeting or exceeding the requirements of rating agencies through sound, conservative financial decision making.
- To comply with the North Carolina Budget and Fiscal Control Act and the policies of the North Carolina Local Government Commission (the "LGC").
- To ensure cost effective, efficient and timely procurement of necessary goods and services to enable County departments in achieving their mission of effective service delivery to all citizens.
- To provide credibility to the citizens of the County regarding financial operations through active investment, debt and procurement management as well as financial planning and monitoring.

3.0 STATEMENT OF POLICIES

The financial policies are broken into three separate categories: Operating Budget / Fund Balance Policies, Asset Liability Management Policies and Accounting, Auditing and Financing Reporting Policies.

The Cumberland County Board of Commissioners (the "Board") is a seven-member board, with each member serving a four-year term. To enhance communication and effective decision making, four subcommittees of the Board have been in existence for many years. These three-member subcommittees have been structured to focus on the following areas; Finance, Policy, Personnel, and Facilities issues. Each committee meets monthly as needed, in a published, open meeting. The Finance Committee serves as the Audit Committee of the County and makes recommendations to the full Board upon review of issues that have a fiscal impact upon the County. Periodically, the Finance Director updates the Committee on the financial condition of the County as a part of their monthly

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agenda. The annual audit is presented in detail to the Board annually at a night meeting which is televised on a local channel for the citizens of Cumberland County.

4.0 OPERATING BUDGET / FUND BALANCE POLICIES

4.1 Budget Guidelines

- 4.1.1 The County's Annual Budget Ordinance will be balanced in accordance with the Local Government Budget and Fiscal Control Act (G.S. 159-8(a)).
- 4.1.2 The County's operating budget will be prepared in accordance with Generally Accepted Accounting Principles.
- 4.1.3 The County's Annual Budget Ordinance will be adopted by each July 1 (G.S. 159-13(a)).
- 4.1.4 The annual budget shall be developed as a financial plan to achieve long-term and short-term goals adopted by the Governing Board and as an operational guide for provision of programs and services to the community.

4.2 Revenue Policy

- 4.2.1 Ad Valorem Tax – As provided by the North Carolina Budget and Fiscal Control Act, estimated revenue from the Ad Valorem Tax levy will be budgeted as follows:
 - a. Assessed valuation will be estimated based upon historical trends and growth patterns in a conservative manner.
 - b. The estimated percentage of collection will not exceed the actual collection percentage of the preceding fiscal year, in accordance with State law.
 - c. The property tax rate will be set each year based upon the costs of providing general governmental services, meeting debt service obligations and maintaining any reserves or fund balances the Board deems necessary.
- 4.2.2 Economically Sensitive Revenues – The County has certain revenues, specifically occupancy, food and beverage, and sales taxes that can be adversely affected by regional and national

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economic conditions and military deployments. These revenues shall be budgeted in a conservative manner.

- 4.2.3 User Fees – The Board will establish all user fees annually. The user fees will maximize charges for services that can be individually identified and where costs are directly related to the provision of or to the level of service provided.

Emphasis on user fees results in the following benefits:

- The burden on the Ad Valorem tax is reduced.
- User fees are paid by all users, including that exempt from property taxes.
- User fees help minimize subsidization in any instance where there are requirements in order to qualify for the use of the service and the service is not provided to the general public.
- User fees produce information on the demand level for services and help to make a connection between the amount paid and the services rendered.

- 4.2.4 Interest Income – Interest income is subject to variability based upon changes in prevailing interest rates, which cannot be predicted with certainty. Such revenue shall therefore be budgeted in a conservative manner within the Annual Budget Ordinance and shall comply with Section III of this policy regarding Asset – Liability Management.

- 4.2.5 Grant Funding – Staff will pursue opportunities for grant funding. Application for grant funding will be made after a grant has been evaluated for consistency with the Board's goals and compatibility with County programs and objectives. Staff must have prior approval from the County Manager to apply for a grant. All awarded grants can only be accepted by Board action at which time the related budget shall be established.

- a. Grants that have been awarded in prior years and are recurring in nature will be included and addressed through the annual budget process.

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- b. Grants that fund operating expenditures but have a funding termination date must fully disclose that fact to the Board prior to acceptance.
 - c. The grant manager for each grant shall be the related department head. The grant manager is responsible for all grant monitoring, compliance and reporting. The grant manager will provide copies of all documents to the Finance Department. The Finance Department will maintain a grant file by fiscal year for each active grant.
 - d. Existing exceptions that relate to annual allocation amounts must be approved by County Finance
- 4.3 Expenditure Policy – Expenditures will be processed in accordance with the requirements of G.S. 159-28, Budgetary Accounting for Appropriations.
- 4.3.1 Expenditure budgets shall be monitored throughout the fiscal year by department heads, the Finance Department and the County Manager. Budget compliance is the responsibility of the department head and the Finance Director.
 - 4.3.2 Budgeted funds will only be spent for categorical purposes for which they are intended. The annual operating budget ordinance defines staff authorization for operating budget adjustments. Appropriations of debt proceeds will be made only for the purpose for which such debt instrument was issued or for the payment of debt principal and interest. Donations will be spent only toward the intent for which they were given.
 - 4.3.3 For continuing contracts, funds will be appropriated in the annual budget ordinance to meet current year obligations arising under the contract, in accordance with G.S. 160A-17.
 - 4.3.4 Payroll will be processed in accordance with the requirements of the Fair Labor Standards Act. Overtime and benefit payments will be made in accordance with the County's Personnel Ordinance.
 - 4.3.5 The County will fund current expenditures with current resources and will strive to avoid balancing budgets utilizing one-time revenues, in accordance with the Fund Balance Policy below.

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4.3.6 The County will employ the use of the carryover method for re-appropriating outstanding purchase orders and contracts as of the end of each fiscal year into the new fiscal year. The process shall be explained in detail in each year's budget ordinance. Cumberland County has a revenue spending policy that provides guidance for programs with multiple revenue sources. The Finance Officer will use resources in the following hierarchy: bond proceeds, federal funds, state funds, local fees, and then county funds. For purposes of fund balance classification expenditures are to be spent from restricted fund balance first, followed in-order by committed fund balance, assigned fund balance and lastly unassigned fund balance. The Finance Officer has the authority to deviate from this policy if it is in the best interest of the County.

4.4 Reserve / Fund Balance Policy

4.4.1 In accordance with State statute, appropriated fund balance in any fund will not exceed the sum of cash and investments less the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts.

4.4.2 The County will maintain a General Fund unassigned fund balance of no less than 10% which exceeds the minimum eight percent (8%) recommended by the LGC. Additionally, the target goal for total spendable fund balance will be at least 15% of total expenditures for the fiscal year. The annual appropriation for subsequent years' expenditures should not exceed 3% of budgeted recurring general fund expenditures.

- a. Purpose of Reserve: These funds will be utilized to avoid cash flow interruptions, generate interest income, eliminate the need for short-term borrowing, and maintain the County's credit ratings.
- b. Reserve Draw Downs: The fund balance may be purposefully drawn down below the target percentage for emergencies, nonrecurring expenditures, or major capital projects.

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- c. Reserve Replenishment: If the fund balance falls below the target percentage for two consecutive fiscal years, the County will replenish funds by direct appropriation beginning in the following fiscal year. In that instance, the County will annually appropriate 20% of the difference between the target percentage level and the actual balance until the target level is met.
- 4.4.3 Any General Fund unassigned fund balance that exceeds the 10% target goal may be reserved for onetime future projects.
 - 4.4.4 The County will appropriate within the annual budget a General Fund Contingency appropriation each fiscal year of at least \$500,000.
 - 4.4.5 The County shall maintain a School Capital Reserve account and all funds accumulated shall be used for debt service on school related debt and other school capital needs.
 - a. Based on the North Carolina Association of County Commissioner's methodology for calculating statutory Article 40 and 42 set asides for school construction, the Board has committed these sales tax funds to the purposes listed immediately above.
 - b. All Public-School Building Capital Fund ("ADM money") and Lottery proceeds shall be budgeted within the School Capital Reserve account and shall be used for debt service for school related debt and for school construction needs as appropriate.
 - 4.4.6 Assigned for subsequent years' expenditures is the portion of fund balance that has been approved by formal action of the Board of County Commissioners for appropriation into the next fiscal year. A modification of this amount requires action by the Board. The Board may at its discretion, make other assignments of fund balance. The Board authorizes the County Manager to amend these assigned amounts to comply with the County's fund balance percentage policies.

5.0 ASSET LIABILITY MANAGEMENT POLICIES

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5.1 Capital Investment and Debt Policy

5.1.1 Capital Improvements Plan

- a. The County will update a five-year capital improvement plan (CIP) which projects capital needs and details the estimated costs, description and anticipated funding sources for capital projects.
- b. The annual update of the CIP will be presented at the Board's Budget Planning retreat and included in the annual operating budget process.
- c. The first year of the five-year CIP will be the basis of formal fiscal year appropriations during the annual budget process.
- d. The CIP will generally address those capital assets with a value of \$100,000 or more and a useful life of five years or more.
- e. The County includes equipment and furnishings as well as projected annual operating costs in the appropriate year in the CIP.
- f. The County acknowledges pay-as-you-go financing as a significant capital financing source but will ultimately determine the most appropriate financing structure for each capital project on an individual basis after examining all relevant factors of the project.

5.1.2 Ten Year School Facilities Plan

The County requires an annual update from the Cumberland County Board of Education of its Ten-Year School Facilities Plan. The County fully expects to see all new capital projects first appear in the ninth or tenth year of the school facilities plan unless dictated otherwise by State or Federal mandates of new sources of funds, such as a State bond issue for local consideration.

5.1.3 Fixed Assets

The capitalization threshold for fixed assets shall be \$5,000 and \$7,500 for capital improvements. The threshold will be applied to

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individual fixed assets and not to groups of fixed assets. Fixed assets will be capitalized if they have a useful life of one year or more following the date of acquisition.

5.1.4 Debt Policy

- a. Debt will only be incurred for financing capital assets that, because of their long-term nature or because of budgetary restraints, cannot be acquired from current or budgeted resources. Debt will not be used for operational needs. Debt financing can include general obligation bonds, revenue bonds, certificates of participation, lease/purchase agreements, special obligation bonds, or any other financing instrument allowed under North Carolina law.
- b. The County will seek to structure debt and to determine the best type of financing for each financing need based on the flexibility needed to meet project needs, the timing of the project, taxpayer or rate payer equity, and the structure that will provide the lowest interest cost in the circumstances. The following guidelines will be used when structuring debt:
 - 1) Debt will be amortized on a level principal or level principal and interest basis, depending upon the specific nature of the financing.
 - 2) Maximum term of amortization of principal will be twenty-five years, twenty years for general obligation debt. Average life of outstanding debt will not exceed fifteen years.
 - 3) For general obligation debt, fifty percent of the total outstanding debt will be amortized in the first ten years of total debt outstanding.
 - 4) Fixed rate will be the predominant interest rate for County issuance. Variable rate debt will be considered on a case-by-case basis and will not exceed fifteen percent of total outstanding debt of the County. Issuance of variable rate debt will be undertaken after considering interest rate risk, ability

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to hedge risk in the annual budget, internal levels of fund balance, and other elements of interest rate risk management.

- c. Debt financing will be considered in conjunction with the County's CIP. Debt financing will also be considered in the Board's review of facility plans presented by the Board of Education.
- d. Upon Board approval of a capital project and a determination that the project will be financed through issuance of debt, The Board will increase the property tax rate in an amount equivalent to the additional annual operating costs and principal and interest payments in the upcoming fiscal year, if deemed necessary.
- e. The County will strive to maintain a high level of pay-as-you-go financing for its capital improvements.
- f. Debt Affordability
 - 1) The net debt of the County, as defined in G.S. 159-55, is statutorily limited to eight percent of the assessed valuation of the taxable property within the County. The County will utilize a self-imposed ceiling of 4%.
 - 2) Total General Fund debt service will not exceed the limits imposed by the LGC. As a guide, formulas established by the LGC and rating agencies will be monitored and appropriately applied by the County. Debt service as a percentage of the general fund budget will be targeted not to exceed 15%.
- g. The County will seek to structure debt in the best and most appropriate manner to be consistent with Asset – Liability Management policies.
- h. The County will seek to employ the best and most appropriate strategy to respond to a declining interest rate environment. That strategy may include, but does not have

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to be limited to, delaying the planned issuance of fixed rate debt, examining the potential for refunding of outstanding fixed rate debt, and the issuance of variable rate debt. The County will seek to employ the best and most appropriate strategy to respond to an increasing interest rate environment. That strategy may include, but does not have to be limited to, the issuance of variable rate debt (a historically lower interest cost), or any other methodology deemed appropriate.

- i. The County will monitor the municipal bond market for opportunities to obtain interest rate savings by refunding on a current or advance basis for outstanding debt. The estimation of net present value savings for a traditional fixed rate refunding should be, at a minimum, in the range of 2.5% to 3% of the refunded maturities before a refunding process begins.
- j. The County will strive for the highest possible bond ratings in order to minimize the County's interest costs.
- k. The County will normally obtain at least two ratings (Moody's and Standard & Poor's) for all publicly sold debt issues.
- l. While some form of outstanding debt exists, the County will strive to have a portion of that debt in the form of general obligation debt.
- m. The County will provide annual information updates to each of the debt rating agencies.
- n. The County will use the Comprehensive Annual Financial Report (the "CAFR") as the disclosure document for meeting its obligation to provide certain annual financial information to the secondary debt market via various information repositories. The annual disclosure is a condition of certain debt covenants and contracts that are required by SEC Rule 15c2-12.

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5.2 Cash Management and Investment Policy

5.2.1 Receipts

- a. Cash receipts will be collected as expediently as reasonably possible to provide secure handling of incoming cash and to move these monies into interest bearing accounts and investments.
- b. All incoming funds will be deposited daily as required by State law.
- c. The Finance Director is responsible for coordinating at least two random or risk based internal audits of cash receipting locations per fiscal year.

5.2.2 Cash Disbursements – All disbursements will be made in accordance with the Expenditure Policy (Section 4.3). Electronic payment transactions are allowed.

- a. The County's objective is to retain monies for investment for the longest appropriate period of time.
- b. Disbursements will be made timely in advance of or on the agreed-upon contractual date of payment unless earlier payment provides greater economic benefit to the County.
- c. Inventories and supplies will be maintained at minimally appropriate levels for operations in order to increase cash availability for investment purposes.
- d. Dual signatures are required for County checks. Electronic signature of checks is approved.

5.2.3 Investment Policy

a. Policy

It is the policy of the County to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow requirements of the County and conforming to all State statutes governing the investment of idle funds.

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b. Scope

This investment policy applies to all financial assets of the County except authorized petty cash, trust funds administered by the Social Services Director, and debt proceeds, which are accounted for and invested separately from pooled cash. The County pools the cash resources of its various funds and participating component units into a single pool in order to maximize investment opportunities and returns. Each fund's and participating component unit's portion of total cash and investments is tracked by the financial accounting system.

c. Prudence

- 1) The standard of prudence to be used by authorized staff shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence would exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.
- 2) Authorized staff acting in accordance with procedures and this investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this policy.

d. Authorized Staff

- 1) G.S. 159-25(a)6 delegates management responsibility for the investment program to the Finance Director. The Finance Director will establish and maintain procedures for the operation

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of the investment program that are consistent with this policy. Such procedures will include delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Finance Director. The Finance Director will be responsible for all transactions undertaken and will establish and maintain a system of controls to regulate the activities of subordinates.

- 2) In the absence of the Finance Director and those to which he or she has delegated investment authority, the County Manager or his or her designee is authorized to execute investment activities.

e. Objectives

The County's objectives in managing the investment portfolio, in order of priority, are safety, liquidity, and yield.

- 1) Safety

Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To best mitigate against credit risk (the risk of loss due to the failure of the security issuer) diversification is required. To best mitigate against interest rate risk (the risk that changes in interest rates will adversely affect the market value of a security and that the security will have to be liquidated and the loss realized) the second objective, adequate liquidity, must be met.

- 2) Liquidity

The investment portfolio shall remain sufficiently liquid to meet all operating and debt service cash requirements that may be reasonably anticipated. The portfolio will be structured so that securities mature concurrent with cash needs (static liquidity), with securities with an active secondary market

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(dynamic liquidity), and with deposits and investments in highly liquid money market and mutual fund accounts.

3) Yield

The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary, economic and interest rate cycles, taking into account investment risk constraints and liquidity needs.

f. Ethics and Conflicts of Interest

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose to the County Manager any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial or investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individuals with whom business is conducted on behalf of the County.

g. Authorized Financial Dealers and Financial Institutions

The Finance Director will maintain a list of financial institutions that are authorized to provide investment services. Authorized financial institutions will be selected by credit worthiness. These may include "primary" dealers or regional dealers that qualify under SEC Rule 15C3-1 (uniform net capital rule).

h. Any financial institutions and broker dealers that desire to become qualified to conduct investment transactions with the County must supply the Finance Director with the following:

1) Audited financial statements;

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- 2) Proof of National Association of Securities Dealers certification;
- 3) Proof of State registration; and
- 4) Certification of having read the County's Investment Policy.

i. Any previously qualified financial institution that fails to comply or is unable to comply with the above items upon request will be removed from the list of qualified financial institutions.

j. The Finance Director shall have discretion in determining the number of authorized financial institutions and may limit that number based upon the practicality of efficiently conducting the investment program. The Finance Director shall also have the discretion to add or remove authorized financial institutions based upon potential or past performance.

- 1) Internal Control

The Finance Director is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the entity are protected from loss, theft, or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that the cost of a control should not exceed the benefits likely to be derived and that the valuation of costs and benefits requires the use of estimates and judgments by management.

- 2) Collateralization

Collateralization is required for certificates of deposit. North Carolina General Statutes allow the State Treasurer and the Local Government Commission to prescribe rules to regulate the collateralization of public deposits in North Carolina banks. These rules are codified in the North Carolina

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Administrative Code – Title 20, Chapter 7 (20 NCAC 7). The Pooling Method of collateralization under 20 NCAC 7 allows depositories to use an escrow account established with the State Treasurer to secure the deposits of all units of local government. This method transfers the responsibility for monitoring each bank's collateralization and financial condition from the County to the State Treasurer. The County will only maintain deposits with institutions using the Pooling Method of collateralization.

3) Delivery and Custody

All investment security transactions entered into by the County shall be conducted on a delivery versus payment basis. Securities will be held by a third-party custodian designated by the Finance Director and each transaction will be evidenced by safekeeping receipts and tickets.

4) Authorized Investments

A. The County is empowered by North Carolina G.S. 159-30(c) to invest in certain types of investments. The Board of Commissioners approves the use of the following types, the list of which is more restrictive than G.S. 159-30(c):

- 1) Obligations of the United States or obligations fully guaranteed as to both principal and interest by the United States.
- 2) Obligations of the Federal Financing Bank, the Federal Farm Credit Bank, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Housing

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Administration, and the United States Postal Service.

- 3) Obligations of the State of North Carolina.
- 4) Bonds and notes of any North Carolina local government or public authority that is rated "AA" or better by at least two of the nationally recognized ratings services or that carries any "AAA insured" rating.
- 5) Fully collateralized deposits at interest or certificates of deposit with any bank, savings and loan association or trust company that utilizes the Pooling Method of collateralization.
- 6) Prime quality commercial paper bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligation.
- 7) Bankers' acceptance of a commercial bank or its holding company provided that the bank or its holding company is either (i) incorporated in the State of North Carolina or (ii) has outstanding publicly held obligations bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligations.

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- 8) Participating shares in a mutual fund for local government investment, provided that the investments of the fund are limited to those qualifying for investment under G.S. 150-30(c) and that said fund is certified by the LGC. (The only such certified fund is the North Carolina Capital Management Trust. Prohibited Forms of Investments
- 1) The use of repurchase agreements in the normal investment portfolio (not debt proceeds) is prohibited.
- 2) The use of collateralized mortgage obligations is prohibited.
- 3) The use of any type of securities lending practices is prohibited.
- 5) Diversification
 - A. Investments will be diversified by security type and by institution.
 - B. The total investment in certificates of deposit shall not exceed 25% of the County's total investment portfolio and the investment in certificates of deposit with a single financial institution shall not exceed \$3,000,000.
 - C. The total investment in commercial paper shall not exceed 10% of the County's total investment portfolio and the investment in commercial paper of a single issuer shall not exceed \$4,000,000.
 - D. The total investment in bankers' acceptances shall not exceed 10% of the County's total investment portfolio and the investment in

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bankers' acceptances of a single issuer shall not exceed \$7,000,000.

- E. The Finance Director is responsible for monitoring compliance with the above restrictions. If a violation occurs, the Finance Director shall report such to the County Manager and to the Board along with a plan to address the violation.

6) Maximum Maturities

- A. To the extent possible, the County will attempt to match its investments with anticipated cash flow requirements. Beyond identified cash flow needs, investments will be purchased so that maturities are staggered.
- B. The following maturity limits are set for the County's investment portfolio:
 - 1) No investment will have a maturity of more than two years without authorization from the County Manager.
 - 2) No more than 10% of the total investment portfolio will be invested with a maturity longer than one year but less than two years. Because the total investment portfolio may fluctuate due to cash flow needs, investments with a maturity up to two years may exceed the calculated total. If this should occur, investments should not be liquidated to comply with this policy but future investing with maturities up to two years shall be avoided until the designated level is achieved.

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7) Selection of Securities

The Finance Director or his or her designee will determine which investments shall be purchased and sold and the desired maturity date(s) that are in the best interest of the County. The selection of an investment will involve the evaluation of, but not limited to, the following factors: cash flow projections and requirements; current market conditions; and overall portfolio balance and makeup.

8) Responses to Changes in Short Term Interest Rates

A. The County will seek to employ the best and most appropriate strategy to respond to a declining short-term interest rate environment. The strategy may include, but does not have to be limited to, purchases of callable "cushion" bonds, lengthening of maturities in the portfolio, and increases in the percentage of ownership of treasury notes relative to that of treasury bills.

B. The County will seek to employ the best and most appropriate strategy to respond to an increasing short-term interest rate environment. That strategy may include, but does not have to be limited to, purchases of "step-up" securities, shortening of maturities in the portfolio, the use of floating rate investments, and increases in the percentage of ownership of treasury bills relative to that of treasury notes.

9) Performance Standards

A. The investment portfolio will be managed in accordance with the parameters specified within this policy. The investment portfolio will strive to obtain a market average rate of

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return within the constraints of the county's investment risk profile and cash flow needs.

- B. The performance benchmarks for the performance of the portfolio will be rates of return on 90-day commercial paper and on three-year treasury notes.

10) Active Trading of Securities

It is the County's intent, at the time of purchase, to hold all investments until maturity to ensure the return of all invested principal. However, if economic or market conditions change making it in the County's best interest to sell or to trade a security before maturity, that action may be taken.

11) Pooled Cash and Allocation of Interest Income

All monies earned and collected from investments other than bond proceeds will be allocated monthly to the various participating funds and component units based upon the average cash balance of each fund and component unit as a percentage of the total pooled portfolio. Earnings on bond proceeds will be directly credited to the same proceeds.

12) Market to Market

A report of the market value of the portfolio will be generated annually by the Finance Director. The Finance Director will use the reports to review the investment portfolio in terms of value and price volatility, as well as for compliance with GASB Statement #31.

6.0 ACCOUNTING, AUDITING AND FINANCIAL REPORTING POLICIES

6.1 General Policy

- 6.1.1 The County will maintain accounting systems in compliance with the North Carolina Local Government Budget and Fiscal Control Act. The County will maintain accounting systems that enable the

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preparation of financial statements in conformity with generally accepted accounting principles (GAAP).

- a. The basis of accounting within governmental funds will be modified accrual.
- b. The basis for accounting within all Enterprise and Internal Service Funds will be the accrual basis.

6.1.2 Financial systems will be maintained to enable the continuous monitoring of revenues and expenditures or expenses with monthly reports provided to the County Manager and the Finance Director. Financial summaries will be provided to the Finance Committee at their regularly scheduled meetings. Monthly expenditure/expense reports will be provided to each director and department head for their functional area and online, real time, view only, access to the financial system will be made available to department heads and other staff as much as practical and its use encouraged. On a periodic basis an interim financial update will be provided to the Board of County Commissioners.

6.1.3 The County will place emphasis on maintenance of an accounting system which provides strong internal budgetary and financial controls designed to provide reasonable, but not absolute, assurance regarding both the safeguarding of assets against loss from unauthorized use or disposition and the reliability of financial records for preparing financial statements and reports, as well as the accountability of assets.

6.1.4 An annual audit will be performed by an independent certified public accounting firm that will issue an opinion on the annual financial statements as required by the Local Government Budget and Fiscal Control Act.

6.1.5 The County will solicit proposals from qualified independent certified public accounting firms for audit services. The principal factor in the audit procurement process will be the auditor's ability to perform a quality audit. The County will enter into a multiyear agreement with the selected firm. Firms are not barred from consecutive contract awards.

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- 6.1.6 The Finance Committee of the Board will serve as the standing audit committee. The committee will oversee the independent audit of the county's financial statements, from the selection of the auditor to the resolution of any audit findings. A staff report concerning the annual audit will be presented to the Committee and the Board of County Commissioners.
- 6.1.7 The Finance Department/Internal Auditor will conduct some form of internal audit procedures at least one time per year, specifically focusing upon cash receipts procedures.
- 6.1.8 The County will prepare a CAFR. The CAFR will be prepared in compliance with established criteria to obtain the Government Finance Officers Association's Certificate of Achievement for Excellence in Financial Reporting and will be submitted to that award program each year.
- 6.1.9 Full and complete disclosure will be provided in all regulatory reports, financial statements and debt offering statements.
- 6.1.10 The County will use the CAFR as the disclosure document for meeting its obligation to provide certain annual financial information to the secondary debt market via various information repositories. The annual disclosure is a condition of certain debt covenants and contracts that are required by SEC Rule 15c2-12.
- 6.1.11 The Finance Department will maintain a Financial Procedures Manual as a central reference point and handbook for all financial, accounting and recording procedures.
- 6.1.12 The Information Technology Department will establish, document and maintain a Computer Disaster Recovery Plan and will provide for the daily backup of data and the offsite storage of the same.

7.0 SWAP POLICY

Use of synthetic debt transactions by use of swaps is permitted by Local Government Commission policy for selected counties and cities. Currently the County does not view synthetic debt transactions as consistent with its overall financial policies. The County will continue to review the potential for synthetic debt transactions using swaps and will adopt a formal swap policy to the extent needed in the future.

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Vicki Evans, Finance Director, reviewed the background information, recommendation and information as recorded above.

Ms. Evans stated the County has been engaging in electronic transactions for many years. Ms. Evans further stated the policy change will reflect the County's current practice and in order to be compliant with the rules there needs to be a modification of the County's financial policies and the adoption of a resolution authorizing the County to engage in electronic transactions without affixing a pre-audit certificate.

Commissioner Boose stated he has so many different questions and needs more information so he is going to vote to not approve this item at the committee meeting. Commissioner Boose stated he will meet with staff to answer his questions so he can vote again at the Board of Commissioners meeting.

MOTION: Commissioner Lancaster moved to recommend to the full board approval of the revised financial policies and the resolution authorizing the County to engage in electronic payments as defined by G.S. 159-28.

SECOND: Commissioner Evans

VOTE: PASSED (Voting in favor: Commissioner Lancaster and Commissioner Evans; Voting in opposition: Commissioner Boose)

Commissioner Lancaster, Chairman of the Policy Committee asked that the Committee consider Item 5, next because of residents of Mt. Vernon Estates who were in attendance.

5. CONSIDERATION OF REQUEST FROM RESIDENTS OF MT. VERNON ESTATES TO PROCEED WITH A WATERSHED IMPROVEMENT

BACKGROUND:

The owners of 16 properties fronting on the lake at Mt. Vernon Estates have submitted a petition requesting the County to repair the lake's dam through the special assessment process as a watershed improvement project. The dam was breached by Hurricane Matthew. Based on the county attorney's review of the GIS maps, there appear to be 25 properties fronting on the lake. The petitioners obtained a project cost estimate of the dam repair prepared by C. Douglas Jewell, P.E. His estimate of the cost is \$558,630. The petitioner also obtained an engineering report from Mr. Jewell in which he certifies that the restoration of the lake will be a significant benefit to the community and an enhancement to the surrounding watershed and its environment.

The statutes in Chapter 139 define what constitutes a watershed improvement project and a watershed improvement work. A dam is an impoundment structure that can be used for the statutorily authorized watershed purposes. Although the types of watershed improvement projects authorized by the special assessment statutes are not limited to those authorized by Chapter 139, the county attorney advises to follow the requirements of

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Chapter 139 because this is the only guidance that is available as to how these projects should be undertaken. One of those requirements is that the work plan be submitted to the Soil and Water Conservation Commission for review and approval or disapproval.

The engineering report provided by the petitioners does not fully address the area of the watershed being improved and the parcels of land that are benefiting from this improvement. Additional engineering will be required to obtain that information. Under the newly adopted special assessments policy, the county may contract for that engineering or require the petitioners to obtain it. It is unlikely that the lakefront properties are the only parcels in this watershed that will be benefited. It will also be necessary for the county to acquire permanent rights in the land on which the dam is located to construct the project and maintain it.

RECOMMENDATION/PROPOSED ACTION:

The county attorney advises that before the County undertakes this project, the engineering be done to establish all the properties that will benefit in this watershed and whether the benefits will accrue uniformly to differing classes of property. Also, it must be determined that the County can obtain sufficient rights in the land on which the dam is located to construct the project and maintain it in the future.

Rick Moorefield, County Attorney, reviewed the background information and recommendation as recorded above. Questions and discussion followed.

Commissioner Council stated she does not feel the County is in the position to take on this project as the County is constantly receiving requests.

MOTION: Commissioner Lancaster moved to recommend to the full board approval of the consideration of the request from the residents of the Mt. Vernon Estates to proceed with the watershed improvement project, subject to the Petitioners providing the additional engineering information recommended by the County Attorney and the work plan being submitted to the Soil and Water Conservation Commission for approval.

SECOND: Commissioner Boose

VOTE: PASSED (Voting in favor: Commissioner Lancaster and Commissioner Boose; Voting in opposition: Commissioner Evans)

Commissioner Evans stated he would like to receive further information before he votes for this issue because he still is not clear who would pay for the engineering firm. Mr. Moorefield responded the petitioners would be responsible to provide the additional engineering work, but if this moves forward it would be a County project.

4. CONSIDERATION OF AMENDMENT TO COUNTY PURCHASING POLICY (1) BY INCORPORATING FEDERAL UNIFORM GUIDANCE

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PROCUREMENT STANDARDS (2) EXCEPTING THE SHERIFF'S OFFICE FROM THE PURCHASING POLICY

BACKGROUND:

The Federal Office of Budget and Management (OMB) has updated its Uniform Guidance Procurement Standards. The County must comply with these standards beginning July 1, 2018. The standards apply to the County when expending federal financial assistance funds including United States Department of Agriculture (USDA) loans and grants, Community Development Block Grant (CDBG) funds, Federal Emergency Management Agency (FEMA) Public Assistance disaster relief grants, and other programs, either directly funded or reimbursement driven.

The Local Government Commission (LGC) and the University of North Carolina School of Government (UNC-SOG) have provided guidance to local governments throughout the state in regard to the implementation of the Uniform Guidance. Locally, the County has taken the following steps toward timely implementation:

- Identified impact by determining applicable departments within the County
- Key staff of the applicable departments (and those who are responsible for sub-recipient funding) attended the April 24, 2018 training webinar hosted by legal and financial professionals from the LGC and UNC-SOG
- Reviewed current policies to ensure compliance with the standards of conduct, conflicts of interest, and gift bans in accordance Uniform Guidance
 - The Code of Ethics (Section 501) of the Personnel Ordinance adopted by the Board on June 20, 2016 covers these items per Legal
- Revised (currently in draft form) the County's Purchasing Policy to incorporate Uniform Guidance policy language as provided by the UNC-SOG

RECOMMENDATION/PROPOSED ACTION:

Management recommends the Policy Committee approve and forward to the Board of Commissioners the following action:

Approve the revised Purchasing Policy which now incorporates the Federal Uniform Guidance Procurement Standards.

Cumberland County
Section I – Board Approved Policies
Subsection 3: Cumberland County Financial / Audit
Policy No. 3-3: Purchasing Policy (3.1 Local Preference Policy)

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The following policy was originally adopted on June 21, 1999 by the Board of Commissioners. This policy was amended on February 25, 2002, November 1, 2010, and June 5, 2017, and June 18, 2018 by the Board of Commissioners.

1.0 PURPOSE

This manual has been developed as a resource for Cumberland County employees to follow when procuring goods and services on behalf of the County. The policy and procedures 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, in accordance with North Carolina General Statutes (N.C.G.S.).

2.0 SCOPE

This policy applies to all County employees conducting purchases on behalf of Cumberland County, ~~with the exception of the Office of the Sheriff and its employees, which shall conduct its own program and procedures for purchasing.~~

3.0 POLICY

3.1 Local Preference Policy

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.

3.2 Purchase Orders

All services and purchases in amounts of \$1,000 and more must have a purchase order prior to the purchase being made or the services being rendered. All purchases of goods in an amount greater than \$500 requires a document (invoice, quote, proposal, etc.) with sale details.

3.3 Purchases & Services

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Less than 1,000

Department heads shall authorize services or purchases of apparatus, supplies, materials or equipment up to \$999.99 without a purchase order if sufficient funds are budgeted and available within the department budget. Prior to the purchase departments must ensure there is an appropriation authorizing the obligation and that sufficient funds will remain in the appropriation to pay the amounts that are expected to come due in the fiscal year in which the obligation is incurred.

\$1,000 – \$29,999.99

Department heads shall solicit proposals for services or purchases of apparatus, supplies, materials or equipment when the estimated cost is between \$1,000 - \$29,999.99. County Purchasing will review the purchase upon receipt of requisition to ensure compliance with County policies. County Purchasing may elect to solicit additional proposals on a random basis or if experience has revealed that a more favorable price is available.

3.4 Purchases of apparatus, supplies, materials, or equipment

\$30,000 – \$89,999.99

Informal bids are required for any purchase of apparatus, supplies, materials, or equipment that requires an expenditure of \$30,000 - \$89,999.99, except for purchases that qualify under the Competitive Bidding Exceptions as per N.C.G.S 143-129(e). Departments shall submit specifications to County Purchasing for purchases in this category.

\$90,000 and Above

Formal bids are required for any purchase of apparatus, supplies, materials, or equipment in amounts of \$90,000 or more, with exception of purchases that qualify under the Competitive Bidding Exceptions as per N.C.G.S 143-129(e). Departments shall submit specifications to County Purchasing for purchases in this category. The County Manager will must approve bid awards in amounts between \$90,000 - \$99,999.99. The Board of County Commissioners must approve bid awards in amounts of \$100,000 or greater.

3.5 Purchase of Services

\$30,000 and Above

An Informal RFP process is required for services estimated to cost \$30,000 or more. County Purchasing will review the proposal upon receipt of requisition to ensure compliance with county policies. County Purchasing may elect to solicit additional proposals on a random basis or if experience has revealed that a more favorable price is available.

3.6 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. Procurement cardholders may initiate transactions in person, or by

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telephone, within the established limits of these procedures. Department heads may designate individuals to receive procurement cards. Procurement cardholders must attend a class in County Purchasing addressing the guidelines involved in the responsibility associated with the card. To ensure pre-audit requirement compliance, funds for each department's estimated procurement card charges shall be encumbered at the beginning of each fiscal year.

3.7 Contracts

All contracts for expenditures, in amounts of \$50,000 or more require County Manager signature. Contracts resulting from a formal bid process for expenditures in amounts of \$100,000 or more require Chairman to the Board of Commissioners signature, after Board approval. Contracts with a total amount less than \$50,000 may be signed by the Department head.

These signature requirements pertain to all contracts in which the county is obligated to expend funds, even if the funds have been approved by the Board of Commissioners in the original budget.

Contracts funded with federal grant or loan funds must be procured in a manner that conforms with all applicable Federal laws, policies, and standards, including those under the Uniform Guidance (2 C.F.R. Part 200). See the Addendum following section 4.0 of this policy for the Uniform Guidance Procurement Policy.

3.8 ~~General Statute~~Federal and State Law Compliance

Federal law and North Carolina general statutes allow local policy to be more restrictive ~~than general statute~~. When comparing federal, state, and local procurement requirements to implement federal programs or grants, the most restrictive requirement shall be applied. This policy is more restrictive regarding bid requirements of services and dollar thresholds for contractual signatures in comparison to state statute requirements. Periodically, legislation results in changes to law and/or general statutes. This policy shall be automatically updated upon changes in general statutes referenced within this policy, except for bid requirements of services and dollar thresholds for contractual signatures.

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4.0 IMPLEMENTATION

The Finance Director is responsible for implementing and enforcing this Policy, except as it pertains to the Office of the Sheriff and its employees, and to interpret it consistent with its spirit and intent, fiscal prudence and accountability. The Finance Director is authorized to prescribe additional administrative instructions for implementing the above policy. The Finance Officer shall not be responsible for implementing any programs or procedures for purchasing implemented by the Sheriff's Office.

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ADDENDUM

Uniform Guidance Procurement Policy for North Carolina Local Governments

I. Purpose

The purpose of this Policy is to establish guidelines that meet or exceed the procurement requirements for purchases of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects when federal funds are being used in whole or in part to pay for the cost of the contract.

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II. Policy

A. Application of Policy. This policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). The requirements of this Policy also apply to any subrecipient of the funds.

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All federally funded projects, loans, grants, and sub-grants, whether funded in part or wholly, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at 2 C.F.R. Part 200 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds.

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B. Compliance with Federal Law. All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200.326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. Cumberland County will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the County have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.

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C. Contract Award. All contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract.

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D. No Evasion. No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or state and federal law.

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E. Contract Requirements. All contracts paid for in whole or in part with federal funds shall be in writing. The written contract must include or incorporate by reference the provisions required under 2 C.F.R § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.

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F. Contractors' Conflict of Interest. Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, invitation for bids or requests for proposals shall be excluded from competing for such requirements.

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G. Approval and Modification. The administrative procedures contained in this Policy are administrative and may be changed as necessary at the staff level to comply with state and federal law.

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III. General Procurement Standards and Procedures:

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Either the Purchasing Department or the Requesting Department shall procure all contracts in accordance with the requirements of this Section of the Policy.

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A. Necessity. Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. The Purchasing Department and/or the Requesting Department should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.

B. Clear Specifications. All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.

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C. Notice of Federal Funding. All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.

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D. Compliance by Contractors. All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.

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E. Fixed Price. Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will not be used unless no other form of contract is suitable and the contract includes a "Not to Exceed" amount. A time and materials contract shall not be awarded without express written permission of the federal agency or state pass-through agency that awarded the funds.

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F. Use of Brand Names. When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how the reach the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and "or equal" must be included in the description.

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G. Lease versus Purchase. Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach.

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H. Dividing Contract for Minority/Women Business Enterprises (M/WBE) Participation. If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.

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I. Documentation. Documentation must be maintained by the Purchasing Department and/or the Requesting Department detailing the history of all procurements. The documentation should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor's responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.

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J. Cost Estimate. For all procurements costing \$150,000 or more, the Purchasing Department and/or Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates

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may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.

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K. Contract Requirements. The Requesting Department must prepare a written contract incorporating the provisions referenced in Section II.C of this Policy.

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L. Debarment. No contract shall be awarded to a contractor included on the federally debarred bidder's list.

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M. Contractor Oversight. The Requesting Department receiving the federal funding must maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.

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N. Open Competition. Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to unnecessary supplier experience, excessive or unnecessary bonding, specifying a brand name without allowing for "or equal" products, or other unnecessary requirements that have the effect of restricting competition.

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O. Geographic Preference. No contract shall be awarded on the basis of a geographic preference.

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IV. Specific Procurement Procedures

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Either the Purchasing Department or the Requesting Department shall solicit bids in accordance with the requirements under this Section of the Policy based on the type and cost of the contract.

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A. Service Contracts except for Architectural/Engineering (A/E) professional services and Purchase Contracts costing less than \$3,500 shall be procured using the Uniform Guidance "micro-purchase" procedure (2 C.F.R. § 200.320(a)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
2. To the extent practicable, purchases must be distributed among qualified suppliers.

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B. Service Contracts (except for A/E professional services) and Purchase Contracts costing \$3,500 up to \$90,000 shall be procured using the Uniform Guidance "small purchase" procedure (2 C.F.R. § 200.320(b)) as follows:

1. Obtain price or rate quotes from an "adequate number" of qualified sources (a federal grantor agency might issue guidance interpreting "adequate number," so the Requesting Department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids.
4. Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
5. Award the contract to the lowest responsive, responsible bidder.

C. Service Contracts (except for A/E professional services) and Purchase Contracts costing \$90,000 and above shall be procured using a combination of the most restrictive requirements of the Uniform Guidance "sealed bid" procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids.
2. Complete specifications or purchase description must be made available to all bidders.
3. The bid must be formally advertised in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for "sound documented reasons."
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
5. Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Governing board approval is required for purchase contracts unless the governing board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for "sound documented reasons."

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D. Service Contracts (except for A/E professional services) costing \$150,000 and above may be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)) when the “sealed bid” procedure is not appropriate for the particular type of service being sought. The procedures are as follows:

1. A Request for Proposals (RFP) must be publicly advertised. Formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an “adequate number” of qualified firms.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
4. Consider all responses to the publicized RFP to the maximum extent practical.
5. Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
6. Award the contract to the responsible firm with most advantageous proposal taking into account price and other factors identified in the RFP. Governing board approval is not required.
7. Award the contract on a fixed-price or cost-reimbursement basis.

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E. Construction and repair contracts costing less than \$3,500 shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
2. To the extent practicable, contracts must be distributed among qualified suppliers.

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F. Construction and repair contracts costing \$3,500 up to \$150,000 shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. § 200.320(b)) as follows:

1. Obtain price or rate quotes from an “adequate number” of qualified sources (a federal grantor agency might issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.

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3. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
4. Award the contract on a fixed-price or not-to-exceed basis.
5. Award the contract to the lowest responsive, responsible bidder.
Governing board approval is not required.

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G. Construction and repair contracts costing \$150,000 up to \$500,000 shall be procured using the Uniform Guidance "sealed bid" procedure (2 C.F.R. § 200.320(c)) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Publicly advertise the bid solicitation for a period of time sufficient to give bidders notice of opportunity to submit bids (formal advertisement in a newspaper is not required so long as other means of advertising will provide sufficient notice of the opportunity to bid). The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders. Performance and payment bonds of 100% of the contract price is required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required. Any and all bids may be rejected only for "sound documented reasons."

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H. Construction and repair contracts costing \$500,000 and above shall be procured using a combination of the most restrictive requirements of the Uniform Guidance "sealed bid" procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate should be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Formally advertise the bid in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the

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governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for "sound documented reasons."

4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of 3 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders (a bid that does not include a bid bond cannot be counted toward the 3-bid minimum requirement). Performance and payment bonds of 100% of the contract price is required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is required and cannot be delegated. The governing board may reject and all bids only for "sound documented reasons."

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I. Construction or repair contracts involving a building costing \$300,000 and above must comply with the following additional requirements under state law:

1. Formal HUB (historically underutilized business) participation required under G.S. 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.
2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under G.S. 143-128(a).
3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under G.S. 143-129(a1).

J. Contracts for Architectural and Engineering Services costing under \$150,000 shall be procured using the state "Mini-Brooks Act" requirements (G.S. 143-64.31) as follows:

1. Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.

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3. Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department.
4. Rank respondents based on qualifications and select the best qualified firm. Price cannot be a factor in the evaluation. Preference may be given to in-state (but not local) firms.
5. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
6. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

K. Contracts for Architectural and Engineering Services costing \$150,000 or more shall be procured using the Uniform Guidance "competitive proposal" procedure (2 C.F.R. § 200.320(d)(5)) as follows:

1. Publicly advertise a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ.
4. Proposals must be solicited from an "adequate number of qualified sources" (an individual federal grantor agency may issue guidance interpreting "adequate number").
5. Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
6. Consider all responses to the publicized RFQ to the maximum extent practical.
7. Evaluate qualifications of respondents to rank respondents and select the most qualified firm. Preference may be given to in-state (but not local) firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
8. Price cannot be a factor in the initial selection of the most qualified firm.
9. Once the most qualified firm is selected, negotiate fair and reasonable compensation. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.

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10. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

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V. Exceptions

Non-competitive contracts are allowed *only* under the following conditions and with the written approval of the federal agency or state pass-through agency that awarded the federal funds:

A. **Sole Source.** A contract may be awarded without competitive bidding when the item is available from only one source. The Purchasing Department and/or Requesting Department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the governing board.

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B. **Public Exigency.** A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.

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C. **Inadequate Competition.** A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.

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D. **Federal Contract.** A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.

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E. **Awarding Agency Approval.** A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law.

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Vicki Evans, Finance Director, reviewed the background information and recommendation and information as recorded above.

MOTION: Commissioner Evans moved to recommend to the full board approval of the proposed amendments to the County's Purchasing Policy by incorporating federal uniform guidance procurement standards.

SECOND: Commissioner Boose

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VOTE: UNANIMOUS (3-0)

Ms. Evans stated what lead to the Sheriff's Office electing not to participate in the County's Purchasing Policy was a difference in opinion of whether to issue a formal bid for uniforms for the Sheriff's Office. Ms. Evans stated she is concerned about this concept because it crosses over to G.S. 159 compliance and also statutory low bid requirements. Ms. Evans stated in discussion with the County's audit engagement partner, she was informed that if an exception is allowed, there must be another policy in place because an exception from policy is not an exception from compliance with state and federal regulations, whichever may apply.

Commissioner Boose asked Ms. Evans whether she had seen a copy of Sheriff's Office policy that must be in place for them to have an exception to the County's policy. Ms. Evans responded in the negative. Commissioner Boose asked whether the Sheriff's Office had a policy. Ms. Evans stated it is her understanding that the Sheriff's Office does not have a written policy in regard to purchasing.

Mr. Moorefield stated this puts Ms. Evans as the Finance Officer in a difficult situation because the only control she has over the Sheriff's Office is not to write checks, but the Board and auditors expect her to comply with all state laws and County policies. Mr. Moorefield stated there is basically a difference in opinion between the attorney for the Sheriff's Office and himself as to application of the State's purchasing law as they relate to the Sheriff's Office.

MOTION: Commissioner Boose moved to recommend to the full board denial of the proposed amendment to the County's Purchasing Policy by excepting the Sheriff's Office from the Purchasing Policy.

SECOND: Commissioner Evans

VOTE: UNANIMOUS (3-0)

6.OTHER ITEMS OF BUSINESS

There were no other items of business.

MEETING ADJOURNED AT 10:30 AM

RICKEY L. MOOREFIELD
County Attorney



ITEM NO. 2

PHYLLIS P. JONES
Assistant County Attorney

ROBERT A. HASTY, JR.
Assistant County Attorney

OFFICE OF THE COUNTY ATTORNEY

5th Floor, New Courthouse • P.O. Box 1829 • Suite 551 • Fayetteville, North Carolina 28302-1829
(910) 678-7762

**MEMO FOR THE AUGUST 2, 2018,
MEETING OF THE POLICY COMMITTEE**

TO: Asst. Manager Sally Shutt
FROM: Co. Atty. *R. Moorefield*
DATE: July 25, 2018
SUBJECT: Consideration of Ordinance Regulating Maintenance of Vegetation in Residential Subdivisions

Requested by Commissioner Evans
Estimated Committee Time: 15 minutes
Attachment: Draft of Requested Ordinance

BACKGROUND:

Commissioner Evans requested the county attorney to draft an ordinance to address the issue of overgrown lots in residential neighborhoods. The proposed ordinance would make it unlawful to allow any weeds, grass, or other vegetation on a lot in a residential subdivision to grow to a height of eight inches, other than bushes, trees, or similar plants intended to be used for landscaping. It would apply to both vacant lots and lots with dwellings located thereon which are located within a residential subdivision for which a plat has been recorded in the Register of Deeds. It would only apply to lots which are adjacent to at least one lot in the same subdivision with an occupied dwelling located thereon.

Enforcement would be the responsibility of the Minimum Housing Inspectors in the Planning and Inspections Department. The county does not have the authority to cut the vegetation except through a court action to abate a nuisance. For that reason, enforcement actions will usually take several months. In the past, complaints about overgrown lots have been directed at lots with dwellings that had been abandoned by the owner. We have encountered owners in bankruptcy court in other states, active duty soldiers who are deployed or relocated and protected by the Soldiers and Sailors Relief Act, and lots owned by unknown heirs due to estates not being administered. All of these create serious problems in pursuing legal remedies. For someone in bankruptcy court in another state, we will have to hire an attorney licensed in that state to petition the court for a release of the bankruptcy stay. That would have to be approved by the Board of Commissioners.

For those violations occurring on a lot which contains an occupied dwelling, the occupant would be responsible to maintain the lot in accordance with the ordinance. If the dwelling is vacant but the owner is a resident of the county, the owner would be the responsible party. Violation of the

ordinance would be a misdemeanor with a maximum fine of \$50 or up to 30 days in jail. For those violations where there is an occupied dwelling on the lot, enforcement would be by criminal prosecution in Environmental Court. Enforcement of the ordinance would be in the same manner as other code violations taken to Environmental Court. The judge usually orders the defendant to correct the code violation.

For those lots which are unoccupied and the owner is out of state or cannot be identified, the only option is to pursue injunctive relief in court. The county would end up with responsibility for correction of the violation but we could attach a lien on the property for the costs incurred. The county attorney recommends that we should issue an RFP to establish a list of contractors that would accept this work on an as-needed basis. This is how most of these cases would be handled.

RECOMMENDATION/PROPOSED ACTION:

The county attorney does not have a recommendation on adoption of this ordinance.

ARTICLE XIII. REGULATION OF VEGETATION WITHIN RESIDENTIAL SUBDIVISIONS

Section 9.5-155. Purpose.

The Board of Commissioners finds that overgrown lots in residential subdivisions provide cover for harboring insects, rodents, vermin, and other pests, enables the growth and spreading of noxious weeds and plants, and invites the dumping of garbage and trash. The Board further finds that these conditions are detrimental to the health, safety, or welfare of the citizens and enacts this ordinance for the purpose of regulating the maintenance of vegetation within residential subdivisions.

Sec. 9.5-156. Maintenance of vegetation required in residential subdivisions.

It shall be unlawful for the owner or occupant of any lot or parcel of land located in a residential subdivision within the county's jurisdiction and outside the corporate limits of any city or town to permit to exist on any such lot or parcel of land any growth of weeds, grass, or other vegetation to a height of eight inches, except such bushes, trees, or like vegetation which is used for landscaping purposes and is intended to be maintained at a height greater than eight inches, any rank vegetable growth that exhales unpleasant and noxious odors, or that may conceal filthy deposits, or harbor insects, rodents, vermin, or any offensive matter or thing, whether the same be upon occupied or vacant premises. For the purpose of enforcement of this section, a residential subdivision is defined as an area which has been subdivided into lots for the location of dwellings, for which a subdivision plat has been recorded in the Office of the Register of Deeds, and within which at least one occupied dwelling is located on a lot or parcel of land that is adjacent to the premises which is deemed to be in violation of this section.

Section 9.5-157. Enforcement.

It shall be the responsibility of the Minimum Housing Inspections Section of the Planning and Inspections Department to enforce this ordinance.

Section 9.5-158. Penalties.

The penalty for violations of this ordinance shall be as set forth in Sections 1-11 and 1-12, Chapter 1, of the County Code.

VICKI EVANS
Finance Director

ITEM NO. 3



ROBERT TUCKER
Accounting Supervisor

IVONNE MENDEZ
Accounting Supervisor

FINANCE OFFICE

4th Floor, Room No. 451, Courthouse • PO Box 1829 • Fayetteville, North Carolina 28302-1829

**MEMO FOR THE AGENDA OF THE AUGUST 2, 2018
MEETING OF THE POLICY COMMITTEE**

TO: POLICY COMMITTEE

FROM: VICKI EVANS, FINANCE DIRECTOR

THRU: AMY CANNON, COUNTY MANAGER

DATE: JULY 23, 2018

**SUBJECT: CONSIDERATION OF AMENDMENT TO THE PURCHASING POLICY
TO REFLECT UPDATES IN THE FEDERAL UNIFORM
PROCUREMENT STANDARDS**

Requested by: Amy Cannon, County Manager

Presenter(s): Vicki Evans, Finance Director

Estimate of Committee Time Needed: 5 Minutes

BACKGROUND

The last update to the County Purchasing Policy occurred on June 18, 2018. That update incorporated the Federal Uniform Guidance Procurement Standards within an addendum to the Policy. On June 20, 2018, the Office of Management and Budget (OMB) released a statement that the micro-purchase threshold has increased from \$3,500 to \$10,000. The statement also revealed that the simplified acquisition threshold was increased from \$150,000 to \$250,000.

The policy addendum has been updated to reflect the recent dollar threshold changes. All changes are shown via track changes, beginning on page five of the attached document.

RECOMMENDATION/PROPOSED ACTION

Management recommends the Policy Committee approve and forward to the Board of Commissioners the revised Purchasing Policy.

Attachments: Revised Purchasing Policy
OMB Memorandum M-18-18

Cumberland County

Section I – Board Approved Policies

Subsection 3: Cumberland County Financial / Audit

Policy No. 3-3: Purchasing Policy

The following policy was originally adopted on June 21, 1999 by the Board of Commissioners. This policy was amended on February 25, 2002, November 1, 2010, June 5, 2017, and June 18, 2018 by the Board of Commissioners.

1.0 PURPOSE

This manual has been developed as a resource for Cumberland County employees to follow when procuring goods and services on behalf of the County. The policy and procedures 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, in accordance with North Carolina General Statutes (N.C.G.S).

2.0 SCOPE

This policy applies to all County employees conducting purchases on behalf of Cumberland County.

3.0 POLICY

3.1 Local Preference Policy

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.

3.2 Purchase Orders

All services and purchases in amounts of \$1,000 and more must have a purchase order prior to the purchase being made or the services being rendered. All purchases of goods in an amount greater than \$500 requires a document (invoice, quote, proposal, etc.) with sale details.

3.3 Purchases & Services

Less than 1,000

Department heads shall authorize services or purchases of apparatus, supplies, materials or equipment up to \$999.99 without a purchase order if sufficient funds are budgeted and available within the department budget. Prior to the purchase departments must ensure there is an appropriation authorizing the obligation and that sufficient funds will remain in the appropriation to pay the amounts that are expected to come due in the fiscal year in which the obligation is incurred.

\$1,000 – \$29,999.99

Department heads shall solicit proposals for services or purchases of apparatus, supplies, materials or equipment when the estimated cost is between \$1,000 - \$29,999.99. County Purchasing will review the purchase upon receipt of requisition to ensure compliance with County policies. County Purchasing may elect to solicit additional proposals on a random basis or if experience has revealed that a more favorable price is available.

3.4 Purchases of apparatus, supplies, materials, or equipment

\$30,000 – \$89,999.99

Informal bids are required for any purchase of apparatus, supplies, materials, or equipment that requires an expenditure of \$30,000 - \$89,999.99, except for purchases that qualify under the Competitive Bidding Exceptions as per N.C.G.S 143-129(e). Departments shall submit specifications to County Purchasing for purchases in this category.

\$90,000 and Above

Formal bids are required for any purchase of apparatus, supplies, materials, or equipment in amounts of \$90,000 or more, with exception of purchases that qualify under the Competitive Bidding Exceptions as per N.C.G.S 143-129(e). Departments shall submit specifications to County Purchasing for purchases in this category. The County Manager will must approve bid awards in amounts between \$90,000 - \$99,999.99. The Board of County Commissioners must approve bid awards in amounts of \$100,000 or greater.

3.5 Purchase of Services

\$30,000 and Above

An Informal RFP process is required for services estimated to cost \$30,000 or more. County Purchasing will review the proposal upon receipt of requisition to ensure compliance with county policies. County Purchasing may elect to solicit additional proposals on a random basis or if experience has revealed that a more favorable price is available.

3.6 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. Procurement cardholders may initiate transactions in person, or by telephone, within the established limits of these procedures. Department heads may designate individuals to receive procurement cards. Procurement cardholders must attend a class in County Purchasing addressing the guidelines involved in the responsibility associated with the card. To ensure pre-audit requirement compliance, funds for each department's estimated procurement card charges shall be encumbered at the beginning of each fiscal year.

3.7 Contracts

All contracts for expenditures, in amounts of \$50,000 or more require County Manager signature. Contracts resulting from a formal bid process for expenditures in amounts of \$100,000 or more require Chairman to the Board of Commissioners signature, after Board approval. Contracts with a total amount less than \$50,000 may be signed by the Department head.

These signature requirements pertain to all contracts in which the county is obligated to expend funds, even if the funds have been approved by the Board of Commissioners in the original budget.

Contracts funded with federal grant or loan funds must be procured in a manner that conforms with all applicable Federal laws, policies, and standards, including those under the Uniform Guidance (2 C.F.R. Part 200). See the Addendum following section 4.0 of this policy for the Uniform Guidance Procurement Policy.

3.8 Federal and State Law Compliance

Federal law and North Carolina general statutes allow local policy to be more restrictive. When comparing federal, state, and local procurement requirements to implement federal programs or grants, the most restrictive requirement shall be applied. This policy is more restrictive regarding bid requirements of services and dollar thresholds for contractual signatures in comparison to state statute requirements. Periodically, legislation results in changes to law and/or general statutes. This policy shall be automatically updated upon changes in general statutes referenced within this policy, except for bid requirements of services and dollar thresholds for contractual signatures.

4.0 **IMPLEMENTATION**

The Finance Director is responsible for implementing and enforcing this Policy and to interpret it consistent with its spirit and intent, fiscal prudence and accountability. The Finance Director is authorized to prescribe additional administrative instructions for implementing the above policy.

ADDENDUM

Uniform Guidance Procurement Policy for North Carolina Local Governments

I. Purpose

The purpose of this Policy is to establish guidelines that meet or exceed the procurement requirements for purchases of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects when federal funds are being used in whole or in part to pay for the cost of the contract.

II. Policy

- A. **Application of Policy.** This policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). The requirements of this Policy also apply to any subrecipient of the funds.

All federally funded projects, loans, grants, and sub-grants, whether funded in part or wholly, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at 2 C.F.R. Part 200 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds.

- B. **Compliance with Federal Law.** All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200-326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. Cumberland County will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the County have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.
- C. **Contract Award.** All contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract.
- D. **No Evasion.** No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or state and federal law.

- E. **Contract Requirements.** All contracts paid for in whole or in part with federal funds shall be in writing. The written contract must include or incorporate by reference the provisions required under 2 C.F.R. § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.
- F. **Contractors' Conflict of Interest.** Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, invitation for bids or requests for proposals shall be excluded from competing for such requirements.
- G. **Approval and Modification.** The administrative procedures contained in this Policy are administrative and may be changed as necessary at the staff level to comply with state and federal law.

III. General Procurement Standards and Procedures:

Either the Purchasing Department or the Requesting Department shall procure all contracts in accordance with the requirements of this Section of the Policy.

- A. **Necessity.** Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. The Purchasing Department and/or the Requesting Department should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.
- B. **Clear Specifications.** All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.
- C. **Notice of Federal Funding.** All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.
- D. **Compliance by Contractors.** All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.
- E. **Fixed Price.** Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will not be used unless no other form of contract is suitable and the contract includes a "Not to Exceed" amount. A time and materials contract shall not be awarded without express written permission of the federal agency or state pass-through agency that awarded the funds.

- F. Use of Brand Names.** When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how the reach the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and "or equal" must be included in the description.
- G. Lease versus Purchase.** Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach.
- H. Dividing Contract for Minority/Women Business Enterprises (M/WBE) Participation.** If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.
- I. Documentation.** Documentation must be maintained by the Purchasing Department and/or the Requesting Department detailing the history of all procurements. The documentation should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor's responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.
- J. Cost Estimate.** For all procurements costing ~~\$150,000~~\$250,000 or more, the Purchasing Department and/or Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.
- K. Contract Requirements.** The Requesting Department must prepare a written contract incorporating the provisions referenced in Section II.C of this Policy.
- L. Debarment.** No contract shall be awarded to a contractor included on the federally debarred bidder's list.
- M. Contractor Oversight.** The Requesting Department receiving the federal funding must maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.
- N. Open Competition.** Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to unnecessary supplier experience, excessive or unnecessary bonding, specifying a brand name

without allowing for “or equal” products, or other unnecessary requirements that have the effect of restricting competition.

- O. Geographic Preference.** No contract shall be awarded on the basis of a geographic preference.

IV. Specific Procurement Procedures

Either the Purchasing Department or the Requesting Department shall solicit bids in accordance with the requirements under this Section of the Policy based on the type and cost of the contract.

- A. Service Contracts** except for Architectural/Engineering (A/E) professional services and **Purchase Contracts costing less than \$3,500** shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)) as follows:
1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
 2. To the extent practicable, purchases must be distributed among qualified suppliers.
- B. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$3,500 up to \$90,000** shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. § 200.320(b)) as follows:
1. Obtain price or rate quotes from an “adequate number” of qualified sources (a federal grantor agency might issue guidance interpreting “adequate number,” so the Requesting Department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
 2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
 3. Cost or price analysis is not required prior to soliciting bids.
 4. Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
 5. Award the contract to the lowest responsive, responsible bidder.
- C. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$90,000 and above** shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:
1. Cost or price analysis is required prior to soliciting bids.
 2. Complete specifications or purchase description must be made available to all bidders.
 3. The bid must be formally advertised in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
 4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.

5. Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Governing board approval is required for purchase contracts unless the governing board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for "sound documented reasons."

D. Service Contracts (except for A/E professional services) costing \$150,000250,000 and above may be procured using the Uniform Guidance "competitive proposal" procedure (2 C.F.R. § 200.320(d)) when the "sealed bid" procedure is not appropriate for the particular type of service being sought. The procedures are as follows:

1. A Request for Proposals (RFP) must be publicly advertised. Formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an "adequate number" of qualified firms.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
4. Consider all responses to the publicized RFP to the maximum extent practical.
5. Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
6. Award the contract to the responsible firm with most advantageous proposal taking into account price and other factors identified in the RFP. Governing board approval is not required.
7. Award the contract on a fixed-price or cost-reimbursement basis.

E. Construction and repair contracts costing less than \$3,50010,000 shall be procured using the Uniform Guidance "micro-purchase" procedure (2 C.F.R. § 200.320(a)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
2. To the extent practicable, contracts must be distributed among qualified suppliers.

F. Construction and repair contracts costing \$3,50010,000 up to \$150,000250,000 shall be procured using the Uniform Guidance "small purchase" procedure (2 C.F.R. § 200.320(b)) as follows:

1. Obtain price or rate quotes from an "adequate number" of qualified sources (a federal grantor agency might issue guidance interpreting "adequate number," so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
4. Award the contract on a fixed-price or not-to-exceed basis.
5. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required.

G. Construction and repair contracts costing \$150,000250,000 up to \$500,000 shall be procured using the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Publicly advertise the bid solicitation for a period of time sufficient to give bidders notice of opportunity to submit bids (formal advertisement in a newspaper is not required so long as other means of advertising will provide sufficient notice of the opportunity to bid). The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders. Performance and payment bonds of 100% of the contract price is required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required. Any and all bids may be rejected only for “sound documented reasons.”

H. Construction and repair contracts costing \$500,000 and above shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate should be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Formally advertise the bid in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of 3 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders (a bid that does not include a bid bond cannot be counted toward the 3-bid minimum requirement). Performance and payment bonds of 100% of the contract price is required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is required and cannot be delegated. The governing board may reject and all bids only for “sound documented reasons.”

- I. Construction or repair contracts involving a building costing \$300,000 and above** must comply with the following additional requirements under state law:
1. Formal HUB (historically underutilized business) participation required under G.S. 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.
 2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under G.S. 143-128(a).
 3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under G.S. 143-129(a1).
- J. Contracts for Architectural and Engineering Services costing under \$150,000250,000** shall be procured using the state "Mini-Brooks Act" requirements (G.S. 143-64.31) as follows:
1. Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
 2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.
 3. Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department.
 4. Rank respondents based on qualifications and select the best qualified firm. Price cannot be a factor in the evaluation. Preference may be given to in-state (but not local) firms.
 5. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
 6. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.
- K. Contracts for Architectural and Engineering Services costing \$150,000250,000 or more** shall be procured using the Uniform Guidance "competitive proposal" procedure (2 C.F.R. § 200.320(d)(5)) as follows:
1. Publicly advertise a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
 2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
 3. Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ.
 4. Proposals must be solicited from an "adequate number of qualified sources" (an individual federal grantor agency may issue guidance interpreting "adequate number").
 5. Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
 6. Consider all responses to the publicized RFQ to the maximum extent practical.
 7. Evaluate qualifications of respondents to rank respondents and select the most qualified firm. Preference may be given to in-state (but not local) firms provided

that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.

8. Price cannot be a factor in the initial selection of the most qualified firm.
9. Once the most qualified firm is selected, negotiate fair and reasonable compensation. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
10. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

V. Exceptions

Non-competitive contracts are allowed *only* under the following conditions and with the written approval of the federal agency or state pass-through agency that awarded the federal funds:

- A. **Sole Source.** A contract may be awarded without competitive bidding when the item is available from only one source. The Purchasing Department and/or Requesting Department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the governing board.
- B. **Public Exigency.** A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.
- C. **Inadequate Competition.** A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.
- D. **Federal Contract.** A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.
- E. **Awarding Agency Approval.** A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law.

<END>



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
FINANCIAL MANAGEMENT

June 20, 2018

M-18-18

MEMORANDUM FOR CHIEF FINANCIAL OFFICERS AND HEADS OF SMALL EXECUTIVE AGENCIES

FROM:

Tim Soltis

Deputy Controller, Office of Federal Financial Management

SUBJECT:

Implementing Statutory Changes to the Micro-Purchase and the Simplified Acquisition Thresholds for Financial Assistance

In accordance with recent statutory changes set forth in the National Defense Authorization Acts (NDAA) for Fiscal Years 2017 and 2018, this memorandum raises the threshold for micro-purchases under Federal financial assistance awards to \$10,000, and raises the threshold for simplified acquisitions to \$250,000 for all recipients. Further, it implements an approval process for certain institutions that want to request micro-purchase thresholds higher than \$10,000. Agencies are required to implement these changes in the terms and conditions of their awards, and recipients of existing Federal financial assistance awards may implement them in their internal controls.

Background

This memorandum applies to all Federal agencies, as defined at 5 U.S.C. § 551(1), that award grants or cooperative agreements. It implements changes to the micro-purchase and simplified acquisition thresholds for financial assistance under the NDAA for Fiscal Year (FY) 2017 and FY2018. The micro-purchase threshold refers to purchases of supplies or services using simplified acquisition procedures, not to exceed an established amount pursuant to the Office of Management and Budget (OMB) Governmentwide Guidance for Grants and Agreements ("Uniform Guidance") at 2 C.F.R. § 200.67 (Micro-purchase). The simplified acquisition threshold refers to purchases of property or services using small purchase methods not to exceed an established amount pursuant to 2 C.F.R. § 200.88 (Simplified acquisition threshold). For Federal financial assistance awards, these purchases are acquired for use by a Federal program. The NDAA for FY2017 increased the micro-purchase threshold from \$3,500 to \$10,000 for institutions of higher education, or related or affiliated nonprofit entities, nonprofit research organizations or independent research institutes (41 U.S.C. § 1908). The NDAA for FY2018 increases the micro-purchase threshold to \$10,000 for all recipients and also increases the simplified acquisition threshold from \$100,000 to \$250,000 for all recipients.

Implementing the NDAA for FY2017

Section 217(b) of the NDAA for FY2017 raises the micro-purchase threshold to \$10,000 for procurements under grants and cooperative agreements for institutions of higher education, or related or affiliated nonprofit entities, nonprofit research organizations or independent research institutes.¹

¹ Pub. L. No. 114-328 (codified at 41 U.S.C. § 1902(n)(2)).

The NDAA for FY2017 also establishes an interim uniform process by which these recipients can request and Federal agencies can approve requests to apply a higher micro-purchase threshold. Specifically, the 2017 NDAA allows a threshold above \$10,000 if approved by the head of the relevant executive agency. For purposes of this approval, the institution's cognizant Federal agency for indirect cost rates will be the relevant executive agency as defined in 2 C.F.R. § 200.19 (Cognizant agency for indirect costs). To receive a higher threshold, the institution must either have "clean single audit findings" (i.e., in accordance with 2 C.F.R. § 200.520 - Criteria for a low-risk auditee), have an acceptable internal institutional risk assessment, or the higher threshold must be consistent with State law for public institutions.

Agencies should reflect this change through policy or terms and conditions in awards for those institutions. The effective date for this change was when the NDAA for FY2017 was signed into law on December 23, 2016. OMB intends to revise the Uniform Guidance to conform with the law.²

Process for Requesting a Higher Threshold Under the NDAA for FY2017

Requests for approval should be submitted to the institution's cognizant Federal agency for indirect cost rates; however, institutions should contact the agency before sending the request to determine the correct point of contact. The cognizant Federal agency will assign review of the request to the appropriate office within the agency to determine whether to approve, and will maintain records and justification of all approvals. The request should include the threshold level being requested and the justification(s) for it based on the criteria above per Section 217(b) of the NDAA for FY2017.

Implementing the NDAA for FY2018

This memorandum also implements provisions of the NDAA for FY 2018, Pub. L. No. 115-91, which became law on December 12, 2017. Specifically, section 806 raised the micro-purchase threshold from \$3,500 to \$10,000, and section 805 raised the simplified acquisition threshold from \$100,000 to \$250,000. Pursuant to 2 C.F.R. § 200.67 (Micro-purchase) and 2 C.F.R. § 200.88 (Simplified acquisition threshold), these higher thresholds are not effective until implemented in the Federal Acquisition Regulation (FAR) at 48 C.F.R. Subpart 2.1 (Definitions).³

In order to allow maximum flexibility for grant recipients in light of the changes to the NDAA for FY2018, OMB is granting an exception allowing recipients to use the higher threshold of \$10,000 for micro-purchases and \$250,000 for simplified acquisitions in advance of revisions to the FAR at 48 C.F.R. Subpart 2.1 and the Uniform Guidance. Pursuant to 2 C.F.R. § 200.102 (Exceptions), OMB may allow exceptions to the Uniform Guidance when exceptions are not prohibited by statute. The exception takes effect upon the date of issuance of this memo. Agencies should apply this exception to all recipients. Recipients should document any change based on this exception in accordance with 2 C.F.R. § 200.318 (General procurement standards).

If you have any questions regarding this memorandum, please contact Mary Tutman at Mary.E.Tutman@omb.eop.gov or Gil Tran at Hal_M._Tran@omb.eop.gov.

² The American Innovation and Competitiveness Act, Pub. L. No. 114-329, § 207(b) (2017) states that the Uniform Guidance shall be revised to conform with the requirements concerning the micro-purchase threshold.

³ Codified at 41 U.S.C. § 1902(f).

AMY H. CANNON
County Manager

MELISSA C. CARDINALI
Assistant County Manager



ITEM NO. 4

DUANE T. HOLDER
Assistant County Manager

TRACY JACKSON
Assistant County Manager

SALLY S. SHUTT
Assistant County Manager



OFFICE OF THE COUNTY MANAGER

MEMO FOR THE AGENDA OF THE AUGUST 2, 2018 MEETING OF THE POLICY COMMITTEE

TO: POLICY COMMITTEE

FROM: SALLY SHUTT, ASSISTANT COUNTY MANAGER

THRU: AMY CANNON, COUNTY MANAGER

DATE: JULY 25, 2018

SUBJECT: COLLABORATIVE COMMUNITY BRANDING PROJECT

Requested by: AMY CANNON

Presenter(s): SALLY SHUTT

Estimate of Committee Time Needed: 10 Minutes

BACKGROUND

A working group was formed in 2017 to discuss collaborative marketing among several organizations in the county. By early 2018, the group expanded and became the Fayetteville & Cumberland Collaborative Branding Committee (FCCBC). Participants include the City of Fayetteville, Cumberland County, the Tourism Development Authority, Crown Complex, Greater Fayetteville Chamber of Commerce, Fayetteville Cumberland County Arts Council, Fayetteville Area Convention & Visitors Bureau, Vision 2026, Cool Spring Downtown District and Fayetteville Cumberland County Economic Development Corporation (FCEDC).

The group is pursuing the development of a community-wide branding strategy in order to:

- Establish a clear and common brand, that encapsulates and leverages the community's strengths, assets, diversity, vision, and potential;

- Develop a common branding platform that all partners may incorporate and expand upon in their individual promotion, messaging, and marketing strategies.

The creation of this centralized messaging and brand identity is intended to:

- Aggressively promote Fayetteville and Cumberland County as a superior destination in which to live, work, visit, explore, create, or grow a business;
- Differentiate our community from others, separating ourselves from others with similar names and demographics;
- Demonstrate the unity and collaboration that exists between our public, private and non-profit partners to the local community and external audiences.

Request for Proposals

The committee developed a Request for Proposals for brand development services and sought solicitations this summer from highly-qualified agencies, with relevant experience, to develop a community-wide branding strategy for the City of Fayetteville, Cumberland County, and community branding partners. This collaborative branding platform will establish a clear and common brand that highlights and leverages the community's strengths, assets, diversity, vision, and potential.

The RFP generated nine proposals from agencies across the nation. The FCCBC is in the process of selecting an agency based on 10 criteria. The firm selected will advise FCCBC during all stages of the project and at a minimum will:

- Review /analyze all data and research that has been previously compiled
- Conduct research among community stakeholders and external audiences to identify existing assets, advantages, perceptions, opportunities, and challenges regarding our area's image
- Create a common brand guide and resource/promotional content library
- Facilitate brand implementation, promotion, and stakeholder engagement
- Recommend long-term implementation and evaluation methods

The committee is looking for innovative, creative proposals for a brand that all partners may incorporate and expand upon in their individual branding, promotion, messaging, and marketing strategies.

Robert Van Geons, FCEDC President and CEO, and Jimmy Abbatiello, Marketing and Communications Manager, have facilitated the meetings and the RFP process.

We will bring updated information once the committee completes its review and recommends next steps for this collaborative initiative.

Funding

The proposed budget of the project is \$150,000-\$200,000. Funding for the collaborative community branding project has not been finalized. It is anticipated that the branding partners would participate in the cost-sharing of the project.

RECOMMENDATION/PROPOSED ACTION: For information purposes only.