
AGENDA
CUMBERLAND COUNTY BOARD OF COMMISSIONERS
JUDGE E. MAURICE BRASWELL
CUMBERLAND COUNTY COURTHOUSE- ROOM 118
AUGUST 21, 2023
6:45 PM

INVOCATION - Commissioner Glenn Adams

PLEDGE OF ALLEGIANCE -

RECOGNITIONS

Cooperative Extension 4-H Volunteers

Cumberland County NCACC YouthVoice Delegate

NC Association of Agricultural Fairs Scholarship Winners and County Fair Information

PUBLIC COMMENT PERIOD

1. APPROVAL OF AGENDA

2. PRESENTATIONS

A. COVID-19 Update by Dr. Jennifer Green, Public Health Director

B. Crown Event Center Schematic Design

3. CONSENT AGENDA

A. Approval of Proclamation for Gun Violence Awareness and Prevention

B. Approval of Proclamation Declaring September 15, 2023 as POW/MIA Day in Cumberland County

C. Approval of Sole Source Upgrade of Pneumatic Controls at Detention Center

D. Approval of Sole Source Upgrade of Pneumatic Controls at Hope Mills Library

E. Approval of Sole Source Upgrade of Pneumatic Controls at North Regional Library

F. Approval of Sole Source for Annual Maintenance for Security System at the Detention Center

G. Approval of Sole Source for Annual Maintenance for Cornerstone Hardware for the Detention Center

H. Approval of Sole Source for SafeGuard Warranty and Protection Plan for Integrated Ballistics Identification System Equipment for Sheriff's Office

I. Approval of Budget Ordinance Amendments for the August 21, 2023 Board of Commissioners' Agenda

J. Approval of Cumberland County Board of Commissioners Agenda Session Items

1. Reallocation of FY24 SNAP ARPA Funds And Associated Budget Revision #B240652
2. Animal Medical Fund Ordinance Revision
3. Piedmont Natural Gas Request for Land to Expand Regulator Station
4. NCDOT Request for Entry Agreement to Commence Work at Camden Road Convenience Center

4. PUBLIC HEARINGS

- A. Public Hearing on Proposed Economic Development Incentives for "Project Wave"

Rezoning Cases

- B. Case ZON-23-0014
- C. Case ZON-23-0016
- D. Case ZON-23-0019

5. ITEMS OF BUSINESS

- A. Consideration of Crown Event Center Pre-Opening Consulting Agreement with Oak View Group and related Exception to Policy and Budget Amendment #B240323 to Pay Prior Year Expense
- B. Salary Classification Schedules for County Attorneys
- C. Consideration of Agreement for Utility Services

6. NOMINATIONS

- A. Fayetteville Technical Community College Board of Trustees (1 Vacancy)

7. APPOINTMENTS

- A. ABC Board (2 Vacancies)
- B. Local Emergency Planning Committee (1 Vacancy)

RECESS THE BOARD OF COMMISSIONERS' MEETING

CONVENE THE NORCRESS WATER AND SEWER DISTRICT GOVERNING BOARD MEETING

8. NORCRESS WATER AND SEWER DISTRICT ITEMS OF BUSINESS

- A. Consideration of Agreement for Utility Services

ADJOURN THE NORCRESS WATER AND SEWER DISTRICT GOVERNING BOARD MEETING

RECONVENE THE BOARD OF COMMISSIONERS MEETING

9. CLOSED SESSION

- A. Personnel Matter(s) Pursuant to NCGS 143-318.11(a)(6)

ADJOURN

REGULAR BOARD MEETINGS:

September 5, 2023 (Tuesday) 9:00 AM
September 18, 2023 (Monday) 6:45 PM
October 2, 2023 (Monday) 9:00 AM



**ASSISTANT COUNTY MANAGER STRATEGIC MANAGEMENT/ GOVERNMENTAL
AFFAIRS**

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: SALLY SHUTT, ASSISTANT COUNTY MANAGER

DATE: 6/30/2023

SUBJECT: COOPERATIVE EXTENSION 4-H VOLUNTEERS

BACKGROUND

Two Cumberland County 4-H volunteers have recently taken on leadership positions at the district and state levels. County Extension Director Lisa Childers and the 4-H team wish to recognize **Ms. Alfreda Williams** and **Mrs. Lillian Hughes** for their service to youth and volunteers in Cumberland County and across North Carolina.

Ms. Williams has been a Cumberland County 4-H volunteer since 2007 when her children were youth and she has served in leadership positions including president of the 4-H County Council. She most recently served as the president-elect for the State Volunteer Leaders Association and will become the president for the NC 4-H Volunteer Leaders Association in February 2024.

Mrs. Hughes began volunteering with Cumberland County 4-H in 2015. With her two teenagers, she chartered Teens In Action after identifying the need for teenagers to have a positive area for connection during COVID. Teens in Action transitioned from strictly virtual to a thriving group of teens that are engaged in learning and community service. She currently serves as the secretary for the South Central District 4-H Volunteer Leaders Association.

RECOMMENDATION / PROPOSED ACTION

Recognize and congratulate Ms. Williams and Mrs. Hughes for the contributions to 4-H youth and volunteers.

ATTACHMENTS:

Description

4-H Volunteer Recognition

Type

Backup Material



N.C. Cooperative Extension
Cumberland County Center
cumberland.ces.ncsu.edu

301 East Mountain Drive
Fayetteville, North Carolina 28306
Phone: 910-321-6860
Fax: 910-321-6863

August 16, 2023

To: Sally Shutt
Assistant County Manager

From: Lisa Childers
County Extension Director

A handwritten signature in black ink, appearing to read 'Lisa B Childers'.

Re: 4-H Volunteer Recognition - Alfreda Williams and Lillian Hughes

Cumberland County 4-H is pleased to celebrate two of our most tenured volunteers who have recently taken on district and state leadership positions to provide guidance and training to additional volunteers as they work with 4-H youth.

Ms. Alfreda Williams has been a volunteer since 2007. She became involved with our program when her children were 4-H age. She continues her service to the youth in Cumberland County and has taken on several leadership positions including president of our 4-H County Council, representing the adult leadership team. Most recently, Ms. Williams has filled the position of President-Elect for the State Volunteer Leaders Association. She will assume the office of President for NC 4-H Volunteer Leaders Association in February 2024.

Mrs. Lillian Hughes began volunteering with Cumberland County 4-H in 2015. After identifying the need for teenagers to have a positive area for connection during COVID, Mrs. Hughes, with her two teenagers, chartered Teens In Action. They have since transitioned from strictly virtual to a thriving group of teens that are engaged in learning and community service. Lillian currently serves as the Secretary for the South Central District 4-H Volunteer Leaders Association.





ASSISTANT COUNTY MANAGER STRATEGIC MANAGEMENT/ GOVERNMENTAL AFFAIRS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: SALLY SHUTT, ASSISTANT COUNTY MANAGER

DATE: 8/16/2023

SUBJECT: CUMBERLAND COUNTY NCACC YOUTHVOICE DELEGATE

BACKGROUND

Hector Hughes is Cumberland County's 2023 YouthVoice delegate. The North Carolina Association of County Commissioners (NCACC) and its partners, 4-H Youth Development and Boys & Girls Clubs of North Carolina, will sponsor YouthVoice in Wake County on August 25-26, 2023.

The intensive two-day citizenship and leadership seminar is held in conjunction with the NCACC's Annual Conference. Delegates will attend several events with elected and appointed officials and learn about the role of county commissioners and develop strategies to further their leadership and communication skills.

Hector, a recent high school graduate, has been a part of Cumberland County 4-H since 2015. He has participated in local, district, and state competitions, played an integral role in chartering a new club, and held several leadership positions. As a recent high school graduate, he is moving forward to his next endeavors, while serving as a mentor and teen volunteer.

RECOMMENDATION / PROPOSED ACTION

Congratulate Hector Hughes on representing Cumberland County on the state level at the 2023 YouthVoice seminar.



**ASSISTANT COUNTY MANAGER STRATEGIC MANAGEMENT/ GOVERNMENTAL
AFFAIRS**

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: SALLY SHUTT, ASSISTANT COUNTY MANAGER

DATE: 8/16/2023

**SUBJECT: NC ASSOCIATION OF AGRICULTURAL FAIRS SCHOLARSHIP
WINNERS AND COUNTY FAIR INFORMATION**

BACKGROUND

The N.C. Association of Agricultural Fairs awards scholarships to individuals who have gone above and beyond the call of duty. This year, two of the six statewide winners were from Cumberland County.

Ms. Alexandra Garcia will be attending Fayetteville Technical Community College with aspirations of completing a degree in Plant Nursery Management. She is a recent graduate from Gray's Creek High School where she was an active member of the FFA.

Sara Uharriet is attending the University of North Carolina at Chapel Hill where she will study environmental science. Sara is a recent graduate of Terry Sanford High School and is a long-time member of Cumberland County 4-H.

Combined, their scholarship awards totaled nearly \$9,000, which is going directly to continuing their education. These young ladies spent hundreds of hours preparing and working at the Cumberland County fair over the course of their high school careers. Both have started classes and are very appreciative of the Board's acknowledgement of their shared successes.

Cumberland County Fair - September 1-10

County Extension Director Lisa Childers will provide an overview of the Cumberland County Fair, which will be held at the Crown Complex on September 1 through September 10. Cooperative Extension will sponsor an agriculture exhibit which will focus on children's literacy as well as assist with exhibit take-in and judging.

RECOMMENDATION / PROPOSED ACTION

Congratulate the scholarship winners.



DEPARTMENT OF PUBLIC HEALTH

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: JENNIFER GREEN, HEALTH DIRECTOR

DATE: 8/21/2023

**SUBJECT: COVID-19 UPDATE BY DR. JENNIFER GREEN, PUBLIC HEALTH
DIRECTOR**

BACKGROUND

To receive a presentation on increases seen in COVID-19 trends and actions individuals can take to prepare for the fall respiratory virus season.

RECOMMENDATION / PROPOSED ACTION

For information purposes only

ATTACHMENTS:

Description

COVID-19 Update

Type

Presentation

Board of County Commissioners: COVID-19 Update

Jennifer Green

Health Director

8/21/2023

COVID-19 Trends

Statewide and regional increases in wastewater metrics, hospital admissions, and emergency department visits

Updated Every Wednesday by approximately 12:00 p.m.
Last updated August 9, 2023

COVID-19 Wastewater Monitoring

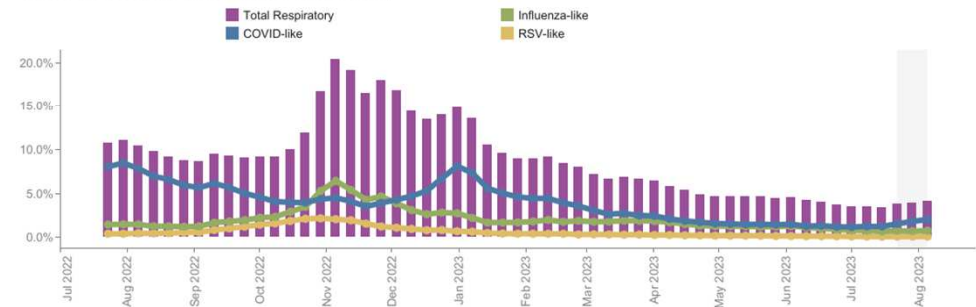
Latest Week: An average of **20.6 Million COVID-19 virus particles** per person were found in wastewater samples statewide, **an increase** from the week before. (The week before was 17.3 Million.)



Average COVID-19 virus copies found per person per week from participating North Carolina wastewater treatment plants. COVID-19 virus particles appearing in wastewater can signal how quickly the virus is spreading, even if people don't get tested or have symptoms. Levels of influenza and RSV can also be measured in wastewater and may be included in the future. [More info](#)

Emergency Department Visits for Respiratory Viruses

Latest Week: **4.1% of emergency room visits** had symptoms of a respiratory virus, **an increase** from the week before. (The week before was 3.9%.)



Percentage of North Carolina emergency department visits with symptoms or a diagnosis of a particular respiratory virus. [More info](#)

Preparing for Fall Respiratory Virus Season

- Get [up-to-date with COVID-19 vaccines](#) now
- Free COVID-19 vaccines remain available at the Health Department
- An updated booster is expected to be available by the end of September
- Get your seasonal flu vaccine, preferably in September or early October
- Everyone 6 months+ should get a flu vaccine every year, especially people at [higher risk](#) for more severe illness
- People 60+ should talk to their doctors an RSV vaccine

Preparing for Fall Respiratory Virus Season

- Be prepared to test and seek treatment:
 - Pick up free at home COVID-19 tests from the Health Department
 - If positive, seek treatment for COVID and flu
 - <https://covid19.ncdhhs.gov/FindTreatment>
- Practice [basic protective measures](#) washing your hands, covering your nose and mouth when you cough or sneeze, cleaning surfaces often and staying home when sick
- Parents of infants should talk to their child's doctor about the new medication to prevent RSV infection



ASSISTANT COUNTY MANAGER GENERAL GOVERNMENT AND STEWARDSHIP

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

**FROM: BRIAN HANEY, ASSISTANT COUNTY MANAGER FOR GENERAL
GOVERNMENT & STEWARDSHIP**

DATE: 8/21/2023

SUBJECT: CROWN EVENT CENTER SCHEMATIC DESIGN

BACKGROUND

The Cumberland County Board of Commissioners Crown Event Center Committee met on August 15 at 1 p.m. and during that meeting, approved the Schematic Design for the new Crown Event Center under the authority levels established by the Board of Commissioners for the project.

The Committee directed project architect EwingCole to provide an update on the Schematic Design to the Board of Commissioners during the Aug. 21, 2023 regular meeting. Bill Koonz, Regional Director with EwingCole will give the presentation.

RECOMMENDATION / PROPOSED ACTION

No action needed. This presentation is for informational purposes only.



CLERK TO THE BOARD OF COMMISSIONERS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: ANDREA TEBBE, CLERK TO THE BOARD

DATE: 8/21/2023

**SUBJECT: APPROVAL OF PROCLAMATION FOR GUN VIOLENCE AWARENESS
AND PREVENTION**

BACKGROUND

A request was received from Girl Scout Troop 1804 for a proclamation for Gun Violence Awareness and Prevention and for a representative to present the proclamation at the ribbon cutting ceremony for the memorial garden scheduled for August 26, 2023 at Lewis Chapel Missionary Baptist Church, located at 5422 Raeford Road.

RECOMMENDATION / PROPOSED ACTION

The Board of Commissioners is respectfully requested to consider approval of the proclamation.

ATTACHMENTS:

Description

Gun Violence Prevention Proclamation

Type

Backup Material

COUNTY OF CUMBERLAND

NORTH CAROLINA

roclamation

WHEREAS, every day, more than 100 Americans are killed by gun violence and there are more than 13,000-gun homicides in the United States every year; AND

WHEREAS, firearms are the leading cause of death of children and teens in the United States. North Carolina averages more than 1,300-gun deaths each year and has the 23rd highest rate of gun deaths in the nation.

WHEREAS, protecting public is safety important to Cumberland County, and many residents are committed to reducing gun violence, limiting access to those who are unqualified to carry firearms and encouraging responsible gun ownership to keep our community safe; AND

WHEREAS, gun violence prevention is more important than ever as many lives are cut short or altered due to gun violence in Cumberland County; and

WHEREAS, Girl Scout Troop 1804 has experienced the effects of gun violence and has centered their Girl Scout Silver Award project on a public awareness campaign focusing on Teen Gun Violence Prevention. The campaign includes brochures, posters, and a video PSA proclaiming: Enough is Enough! Let's stop teen gun violence". The troop members are seeking to reduce gun incidents of gun violence involving the youth of today and to ease the stress of families who have been impacted by gun violence; AND

WHEREAS, Girl Scout Troop 1804 has designed and planted a memorial garden at Lewis Chapel Missionary Baptist Church, The Girl Scouts wish to establish the garden as a place to remember the lives of local youth who were victims of gun violence. The Silver Award Team has chosen to dedicate this memorial garden to the memory of a former Girl Scout in their troop, Coryonna Young, who was killed by gun violence in October 2022.

NOW THEREFORE, We, the Board of County Commissioners of Cumberland County, North Carolina, do hereby proclaim the 26th day of August in the year 2023 as Gun Violence Prevention Day in honor of those who have lost their lives to gun violence and those whose lives have been affected by gun violence.

Presented this 26th day of August 2023

*Dr. Toni Stewart, Chairwoman
Cumberland County Board of Commissioners*



CLERK TO THE BOARD OF COMMISSIONERS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: ANDREA TEBBE, CLERK TO THE BOARD

DATE: 8/21/2023

**SUBJECT: APPROVAL OF PROCLAMATION DECLARING SEPTEMBER 15, 2023
AS POW/MIA DAY IN CUMBERLAND COUNTY**

BACKGROUND

A request was received for a proclamation for POW MIA Recognition and for a representative to present the proclamation at the POW MIA Recognition event scheduled for Saturday, September 9, 2023 at the Crown Coliseum.

RECOMMENDATION / PROPOSED ACTION

The Board of Commissioners is respectfully requested to consider approval of the proclamation.

ATTACHMENTS:

Description

POW MIA Proclamation

Type

Backup Material

Proclamation

WHEREAS, throughout American history, generations of patriots have bravely served in our military and sacrificed much to protect our country and preserve democracy around the world; and

WHEREAS, more than 125,000 American men and women have been held captive by hostile powers during their military service and more than 83,000 Americans remain missing from World War II, the Korean War, the Cold War, the Vietnam War, and the Gulf War; and

WHEREAS, thousands of American prisoners of war have been subjected to harsh and inhumane treatment by their captors which often resulted in death while families suffer with the uncertainty concerning their loved ones; and

WHEREAS, in each of America's wars, our prisoners of war have been called upon to make uncommon sacrifices. Upon them has fallen the arduous responsibility of defending American ideals under absolute control of the enemy; and

WHEREAS, we must always remember the unresolved casualties of war; the soldiers who are still missing. The pain and bitterness of war endures for the families, relatives, and friends of those who have yet to return home; and

WHEREAS, the third Friday of each September is set aside to honor those who remain missing and those who have suffered starvation, isolation, fear, and uncertainty during their captivity; and

WHEREAS, Cumberland County is proud to join others in honoring those brave American Veterans.

NOW, THEREFORE, the Cumberland County Board of Commissioners declare September 15, 2023 as POW/MIA Day in Cumberland County in honor of those who became Prisoners of War and those who remain Missing in Action.

Presented this 9th day of September, 2023.

*Dr. Toni Stewart, Chairwoman
Cumberland County Board of Commissioners*



MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: JESSICA HULLENDER

DATE: 8/9/2023

**SUBJECT: APPROVAL OF SOLE SOURCE UPGRADE OF PNEUMATIC
CONTROLS AT DETENTION CENTER**

BACKGROUND

Funds in the amount of \$100,000.00 were appropriated in the fiscal year 2024 Capital Improvement Plan budget for the upgrade of pneumatic controls at the Detention Center building. The existing controls will be replaced with a direct digital control (DCC) system. This is a multi-year project, and this will be the second phase.

The existing controls are operated using Metasys Software. Metasys software is proprietary to Johnson Controls, Inc. The new controls must be compatible with the existing software. To maintain standardization and compatibility, the new controls need to be procured from and installed by Johnson Controls, Inc. A quote has been submitted in the amount of \$99,767.98.

RECOMMENDATION / PROPOSED ACTION

Finance and Purchasing staff recommend utilizing the sole source bid exception based on North Carolina General Statute 143-129 (e) (6) (iii), as standardization and compatibility is the overriding consideration.

ATTACHMENTS:

Description	Type
Sole Source Request Form	Backup Material
Johnson Controls Quote	Backup Material

Sole Source Request Form (Eff. 6/21/21)

Submit Completed Form to Purchasing

Date: 7/25/23 Department: Internal Services

1. Vendor Name (Legal Name): Johnson Controls Inc.

****Important Note for Item #2:** Confirm all required budgetary processes are complete and the funds are available before submitting "Original Budget" means the funds were approved by the Board in the original adopted budget for the current fiscal year. If a budget revision was completed after the adopted budget please answer N (No), and provide the budget revision number OR if original budget and budget revision both apply answer accordingly**

2. Amount Budgeted for Purchase: \$100,000 Original Budget (Y/N): Y or Budget Revision #: N/A

Budget Codes (The budget the purchase will be made from):

Org. 1074185 Object Code: 577050 Project Code: 24106

Additional Notes Regarding Budget: _____

3. Federal Funding (Y/N): N

4. Detailed Description of Purchase (brand, what is the purchase, why is it being purchased, how is it used):

The existing pneumatic controls at the Detention Center are outdated and need to be replaced. Replacement controls will be direct digital controls which are more energy efficient.

5. Which General Statute Sole Source Standard Does this Request Meet?

☐ (1) Performance or price competition is not available. Explain Below.

☐ (2) Product is available from only one source. Explain Below.

☒ (3) Standardization or compatibility is the overriding consideration. Explain Below.

Explain the Selection Above (Why is this brand required, Why is this vendor required, Why is standardization Required, etc.).

The pneumatic controls that were replaced in FY23 are Johnson Controls direct digital controls and the new digital controls must be compatible with those that have already been replaced and those that will be replaced in a future year.

6. Required Attachments:

a. If applicable, attach a memo, statement or certification from the vendor supporting their sole source claim.

b. Attach the quote submitted by the vendor for the purchase.

Recommended By: _____

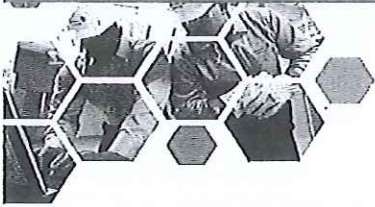
Department Head Signature

FOR FINANCE ONLY BELOW THIS LINE

Reviewed and Confirmed By: _____

Date: 8/19/23

BOCC Meeting Date: 8/21/23 Deadline for Novus Entry: 8/10/23



Controls Upgrade
Quote Prepared by Stanley Thibodeaux
06/30/2023



PROPOSAL

Account Information

Bill To: CUMBERLAND COUNTY ELECTRICAL
PBEM 420 MAYVIEW STREET
FAYETTEVILLE NC
USA 28306

Quote Reference Number: 1-1NMF16SS

Project Name: Controls Upgrade

Site: COUNTY OF CUMBERLAND DETENTION CENTER
204 GILLESPIE ST
FAYETTEVILLE NC 28301-5646

Branch Info: JOHNSON CONTROLS WILMINGTON NC CB - 0N0A

Attn: Jonathan Butler

Customer Information

Name: Jonathan Butler

This proposal is hereby accepted and Johnson Controls is authorized to proceed with the work, subject to credit approval By Johnson Controls, Inc. Milwaukee, WI.
We propose to furnish the materials and/or perform the work below for the net price of: \$99,767.98

This proposal is valid through: 07/30/2023

CUMBERLAND COUNTY ELECTRICAL

Johnson Controls Inc.

Signature: _____
Name: _____
Title: _____
Date: _____
PO: _____

Signature: Bruce Allen Darter
Name: Bruce Allen Darter
Title: Branch Service Manager
Date: 7-3-23

Proposal Overview

Benefits/Scope of Work:

Johnson Controls will replace existing pneumatic controls at Cumberland County Detention Center with new DDC controls, this will include, temp sensors, damper actuators and Ep switches, This will also include mapping of new points to the metasys server and making sure of proper operation

Exclusions:

- 1.Labor or material not specifically described above is excluded from this proposal.
- 2.Unless otherwise stated, any and all overtime labor is excluded from this proposal.
- 3.Applicable taxes or special freight charges are excluded from this proposal

(IMPORTANT): This proposal incorporates by reference the terms and conditions which are attached to this document. All work is to be performed Monday through Friday during normal Johnson Controls, Inc. (JCI) business hours unless otherwise noted. This proposal, or any accepted alternates, are hereby accepted by Customer, and JCI is authorized to proceed with the work; subject, however, to credit approval by JCI, Milwaukee, Wisconsin.

TERMS AND CONDITIONS

By accepting this proposal, Customer agrees to be bound by the following terms and conditions:

1. SCOPE OF WORK. This proposal is based upon the use of straight time labor only. Plastering, patching, and painting are excluded. Disinfecting of chiller condenser and cooling tower water systems and components for biohazards, such as but not limited to Legionella, are excluded unless otherwise specifically stated in this agreement. In-line duct and piping devices, including, but not limited to valves, dampers, humidifiers, wells, taps, flow meters, orifices, etc., if required hereunder to be furnished by JCI, shall be distributed and installed by others under JCI's supervision but at no additional cost to JCI. Customer agrees to provide JCI with required field utilities (electricity, toilets, drinking water, project hoist, elevator service, etc.) without charge. JCI agrees to keep the job site clean of debris arising out of its own operations. Customer shall not back charge JCI for any costs or expenses without JCI's written consent. Unless specifically noted in the statement of the scope of work or services undertaken by JCI under this agreement, JCI's obligations under this agreement expressly exclude any language or provision of the agreement elsewhere contained which may authorize or empower the Customer to change, modify, or alter the scope of work or services to be performed by JCI and shall not operate to compel JCI to perform any work relating to Hazards or Biohazards, such as but not limited to Legionella, without JCI's express written consent.

2. INVOICE AND PAYMENTS. JCI may invoice Customer monthly for all materials delivered to the job site or to an off-site storage facility and for all work performed on-site and off-site. Customer shall pay JCI at the time Customer signs this agreement an advance payment equal to [10%] of the contract price, which advance payment shall be credited against the final payment (but not any progress payment) due hereunder. Unless otherwise agreed to by the parties, payment is due to JCI upon Customer's receipt of JCI's Invoice. Such payment is a condition precedent to JCI's obligation to perform any work under this agreement. Invoices shall be paid by Customer via electronic delivery via EFT/ACH. Invoicing disputes must be identified by Customer in writing within 21 days of the date of the invoice. Payment of any disputed amounts are due and payable upon resolution of such dispute. Customer acknowledges and agrees that timely payments of the full amounts listed on invoices is an essential term of this Agreement and Customer's failure to make payment in full when due is a material breach of this Agreement. Customer further acknowledges that if there is any amount outstanding on an invoice; it is material to JCI and will give JCI, without prejudice to any other right or remedy, the right to, without notice: (i) suspend, discontinue or terminate performing any services and/or withhold further deliveries of equipment and other materials, terminate or suspend any unpaid software licenses, and/or suspend JCI's obligations under or terminate this Agreement; and (ii) charge Customer interest on the amounts unpaid at a rate equal to the lesser of one and one half (1.5) percent per month or the maximum rate permitted under applicable law, until payment is made in full. JCI's election to continue providing future services does not, in any way diminish JCI's right to terminate or suspend services or exercise any or all rights or remedies under this Agreement. JCI shall not be liable for any damages, claims, expenses, or liabilities arising from or relating to suspension of services for non-payment. In the event that there are exigent circumstances requiring services or the JCI otherwise performs services at the premises following suspension, those services shall be governed by the terms of this Agreement unless a separate contract is executed. If Customer disputes any late payment notice or JCI's efforts to collect payment, Customer shall immediately notify JCI in writing and explain the basis of the dispute. ~~Customer will pay all of JCI's reasonable collection costs (including legal fees and expenses).~~ In the event of Customer's default, the balance of any outstanding amounts will be immediately due and payable. Lien waivers will be furnished upon request, as the work progresses, to the extent payments are received.

3. MATERIALS. If the materials or equipment included in this proposal become temporarily or permanently unavailable for reasons beyond the control and without the fault of JCI, then in the case of such temporary unavailability, the time for performance of the work shall be extended to the extent thereof, and in the case of permanent unavailability, JCI shall (a) be excused from furnishing said materials or equipment, and (b) be reimbursed for the difference between the cost of the materials or equipment permanently unavailable and the cost of a reasonably available substitute therefore.

4. EQUIPMENT WARRANTY. JCI warrants that equipment manufactured or labeled by JCI shall be free from defects in material and workmanship arising from normal usage for a period of one year. No warranty is provided for third-party products and equipment installed or furnished by JCI. Such products and equipment are provided with the third party manufacturer's warranty to the extent available, and JCI will transfer the benefits, together with all limitations, of that manufacturer's warranty to Customer. All transportation charges incurred in connection with the warranty for equipment and/or materials not installed by JCI shall be borne by Customer. These warranties shall not extend to any equipment that has been abused, altered, misused or repaired by Customer or third parties without the supervision of and prior written approval of JCI, or if JCI serial numbers or warranty date decals have been removed or altered. Customer must promptly report any failure of the equipment to JCI in writing.

5. LIMITED WARRANTY. JCI warrants its workmanship or that of its agents (Technicians) in relation to installation of equipment for a period of ninety (90) days from date of installation. Customer shall bear all labor costs associated with replacement of failed equipment still under JCI's equipment warranty or the original manufacturer's warranty, but outside the terms of this express labor warranty. All warranty labor shall be executed on normal business days during JCI normal business hours. These warranties do not extend to any equipment which has been repaired by others, abused, altered, or misused in any way, or which has not been properly and reasonably maintained. THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY AND FITNESS FOR A SPECIFIC PURPOSE. UNDER NO CIRCUMSTANCES SHALL JCI BE LIABLE FOR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES ARISING FROM OR RELATING TO ANY DEFECT IN MATERIAL OR WORKMANSHIP OF EQUIPMENT OR THE PERFORMANCE OF SERVICES. JCI makes no and specifically disclaims all representations or warranties that the services, products, software or third party product or software will be secure from cyber threats, hacking or other similar malicious activity, or will detect the presence of, or eliminate, treat, or mitigate the spread, transmission, or outbreak of any pathogen, disease, virus or other contagion, including but not limited to COVID 19.

6. LIABILITY. To the maximum extent permitted by law, in no event shall JCI and its affiliates and their respective personnel, suppliers and vendors ("JCI Parties") be liable to you or any third party under any cause of action or theory of liability even if advised of the possibility of such damages, for any: (a) special, incidental, consequential, punitive, or indirect damages; (b) lost profits, revenues, data, customer opportunities, business, anticipated savings, or goodwill; (c) business interruption; or (d) data loss or other losses arising from viruses, ransomware, cyber-attacks or failures or interruptions to network systems. In any case, the entire aggregate liability of the JCI Parties under this proposal for all damages, losses, and causes of action (whether in contract, tort (including negligence), or otherwise) shall be limited to the amounts payable to JCI hereunder.

7. COVID-19 Vaccination. JCI expressly disclaims any requirement, understanding or agreement, express or implied, included directly or incorporated by reference, in any Customer purchase order, solicitation, notice or otherwise, that any of JCI's personnel be vaccinated against Covid-19 under any federal, state/provincial or local law, regulation or order applicable to government contracts or subcontracts, including, without limitation, Presidential Executive Order

14042 ("Ensuring Adequate COVID Safety Protocols for Federal Contractors") and Federal Acquisition Regulation (FAR) 52.223-99 ("Ensuring Adequate COVID Safety Protocols for Federal Contractors"). Any such requirement shall only apply to JCI's personnel if and only to the extent contained in a written agreement physically signed by an authorized officer of JCI.

8. TAXES. The price of this proposal does not include duties, sales, use, excise, or other taxes, unless required by federal, state, or local law. Customer shall pay, in addition to the stated price, all taxes not legally required to be paid by JCI or, alternatively, shall provide JCI with acceptable tax exemption certificates. JCI shall provide Customer with any tax payment certificate upon request and after completion and acceptance of the work.

9. DELAYS. JCI shall not be liable for any delay in the performance of the work resulting from or attributed to acts of circumstance beyond JCI's control, including but not limited to; acts of God, fire, riots, labor disputes, conditions of the premises, acts or omissions of the Customer, Owner, or other Contractors or delays caused by suppliers or subcontractors of JCI, etc.

10. COMPLIANCE WITH LAWS. JCI shall comply with all applicable federal, state, and local laws and regulations, and shall obtain all temporary licenses and permits required for the prosecution of the work. Licenses and permits a permanent nature shall be procured and paid for by the Customer.

11. PRICING. JCI may increase prices upon notice to the Customer to reflect increases in material and labor costs. Prices for products covered by this Agreement may be adjusted by JCI, upon notice to Customer at any time prior to shipment and regardless of Customer's acceptance of JCI's proposal or quotation, to reflect any increase in JCI's cost of raw materials (e.g., steel, aluminum) inability to secure Products, changes or increases in law, labor, taxes, duties, tariffs or quotas, acts of government, any similar charges, or to cover any extra, unforeseen and unusual cost elements.

12. DISPUTES. All disputes involving more than \$15,000.00 shall be resolved by arbitration in accordance with the rules of the American Arbitration Association. ~~The prevailing party shall recover all legal costs and attorneys' fees incurred as a result. Nothing here shall limit any rights under construction lien laws.~~

13. INSURANCE. Insurance coverage in excess of JCI's standard limits will be furnished when requested and required. No credit will be given or premium paid by JCI for insurance afforded by others.

14. INDEMNITY. ~~The Parties hereto agree to indemnify each other from any and all liabilities, claims, expenses, losses or damages, including attorney's fees which may arise in connection with the execution of the work herein specified and which are caused, by the negligent act or omission of the indemnifying Party.~~

15. CUSTOMER RESPONSIBILITIES. Customer is solely responsible for the establishment, operation, maintenance, access, security and other aspects of its computer network ("Network") and shall supply Johnson Controls secure Network access for providing its services. Products networked, connected to the Internet, or otherwise connected to computers or other devices must be appropriately protected by Customer and/or end user against unauthorized access. Customer is responsible to take appropriate measures, including performing back-ups, to protect information, including without limit data, software, or files (collectively "Data") prior to receiving the service or products.

16. FORCE MAJEURE. JCI shall not be liable, nor in breach or default of its obligations under this proposal, for delays, interruption, failure to render services, or any other failure by JCI to perform an obligation under this proposal, where such delay, interruption or failure is caused, in whole or in part, directly or indirectly, by a Force Majeure Event. A "Force Majeure Event" is a condition or event that is beyond the reasonable control of JCI, whether foreseeable or unforeseeable, including, without limitation, acts of God, severe weather (including but not limited to hurricanes, tornados, severe snowstorms or severe rainstorms), wildfires, floods, earthquakes, seismic disturbances, or other natural disasters, acts or omissions of any governmental authority (including change of any applicable law or regulation), epidemics, pandemics, disease, viruses, quarantines, or other public health risks and/or responses thereto, condemnation, strikes, lock-outs, labor disputes, an increase of 5% or more in tariffs or other excise taxes for materials to be used on the project, fires, explosions or other casualties, thefts, vandalism, civil disturbances, Insurrection, mob violence, riots, war or other armed conflict (or the serious threat of same), acts of terrorism, electrical power outages, interruptions or degradations in telecommunications, computer, network, or electronic communications systems, data breach, cyber-attacks, ransomware, unavailability or shortage of parts, materials, supplies, or transportation, or any other cause or casualty beyond the reasonable control of JCI. If JCI's performance of the work is delayed, impacted, or prevented by a Force Majeure Event or its continued effects, JCI shall be excused from performance under this proposal. Without limiting the generality of the foregoing, if JCI is delayed in achieving one or more of the scheduled milestones set forth in this proposal due to a Force Majeure Event, JCI will be entitled to extend the relevant completion date by the amount of time that JCI was delayed as a result of the Force Majeure Event, plus such additional time as may be reasonably necessary to overcome the effect of the delay. ~~To the extent that the Force Majeure Event directly or indirectly increases JCI's cost to perform the services, Customer is obligated to reimburse JCI for such increased costs, including, without limitation, costs incurred by JCI for additional labor, inventory storage, expedited shipping fees, trailer and equipment rental fees, subcontractor fees or other costs and expenses incurred by JCI in connection with the Force Majeure Event.~~

17. SAFETY, HEALTH AND HAZARDOUS MATERIALS. The Parties hereto agree to notify each other immediately upon becoming aware of an inspection under, or any alleged violation of the, Occupational Safety and Health Act relating in any way to the project or project site. ACM /Hazardous Materials: Customer shall supply Johnson Controls with any information in its possession relating to the presence of asbestos-containing materials ("ACM") or hazardous materials at any of its facilities where JCI's undertakes any Work or Services that may result in the disturbance of ACM or hazardous materials. JCI shall not be responsible for abatement and/or removal and disposal of hazardous materials or ACM. If either Customer or JCI becomes aware of or suspects the presence of ACM or hazardous materials that may be disturbed by JCI's Work or Services, JCI shall immediately stop all work until such ACM or hazardous or unsafe condition is rectified by Owner and Owner so notifies JCI in writing that work can safely be resumed, based on test conducted by a licensed testing organization. Timetables for delivery of JCI's products or services and the contract price shall be adjusted appropriately for any associated delay.

18. ONE-YEAR CLAIMS LIMITATION. No claim or cause of action, whether known or unknown, shall be brought against JCI more than one year after the claim first arose. Except as provided for herein, JCI's claims must also be brought within one year. Claims for unpaid contract amounts are not subject to the one-year limitation.

19. DIGITAL ENABLED SERVICES. If JCI provides Digital Enabled Services under this Agreement, these Digital Enabled Services require the installation and deployment of site assessment tools and the collection, transfer and ingestion of building, equipment, system time series, and other data to JCI's cloud-hosted software applications. **DIGITAL ENABLED SERVICES** mean services provided hereunder that employ JCI software and cloud-hosted software offerings and tools to improve and enable such services. Digital Enabled Service may include, but are not limited to, (a) remote inspection, (b) advanced equipment fault detection and diagnostics, and (c) data dashboarding and health reporting. Customer owns all the right, title and interest in and to the Customer data. Customer consents to the installation and deployment of site assessment tools and the collection, transfer and ingestion and use of such data by JCI to enable JCI to provide, maintain, protect and improve the Digital Enabled Services and JCI's products and services. Customer acknowledges that, while Digital Enabled Services generally improve equipment performance and services, Digital Enabled Services do not prevent all potential malfunction, insure against all loss, or guarantee a certain level of performance and that JCI shall not be responsible for any injury, loss, or damage caused by any act or omission of JCI related to or arising from the monitoring of the equipment under Digital Enabled Services. Certain equipment sold hereunder includes by default JCI's Connected Equipment Services. Digital Enabled Services may be on by default and the remote connection will continue to connect to Customer's Equipment through the full equipment lifecycle, unless Customer specifically requests in writing that JCI disable the remote connection or

JCI discontinues or removes such remote connection. If Customer's equipment includes Digital Enabled Services, JCI will provide a cellular modem or other gateway device ("Gateway Device") owned by JCI or Customer will supply a network connection suitable to establish a remote connection with Customer's applicable equipment to permit JCI to perform Digital Enabled Services. For certain subscriptions, Customer will be able to access equipment information from a mobile or smart device using Digital Enabled Service's mobile or web application. Any Gateway Devices provided hereunder shall remain JCI's property, and JCI may upon reasonable notice access and remove such Gateway Device and discontinue services in accordance with the Software Terms. If Customer does not permit JCI to connect via a connection validated by JCI for the equipment or the connection is disconnected by Customer, and a service representative must therefore be dispatched to the Customer site, then the Customer shall pay JCI at JCI's then-current standard applicable contract regular time and/or overtime rate for services performed by the service representative.

20. JCI DIGITAL SOLUTIONS. Use, implementation, and deployment of the software and cloud-hosted software products ("Software") offered under these terms shall be subject to, and governed by, JCI's standard terms for such Software and Software related professional services in effect from time to time at <https://www.johnsoncontrols.com/techterms> (collectively, the "Software Terms"). Applicable Software Terms are incorporated herein by this reference. Other than the right to use the Software as set forth in the Software Terms, JCI and its licensors reserve all right, title, and interest (including all intellectual property rights) in and to the Software and Improvements to the Software. The Software that is licensed hereunder is licensed subject to the Software Terms and not sold. If there is a conflict between the other terms herein and the Software Terms, the Software Terms shall take precedence and govern with respect to rights and responsibilities relating to the Software, its implementation and deployment and any Improvements thereto. Notwithstanding any other provisions of this Agreement, unless otherwise set forth in the applicable order, quote, proposal or purchase documentation, the following terms apply to Software that is provided to Customer on a subscription basis (i.e., a time limited license or use right), (each a "Software Subscription"):

Each Software Subscription provided hereunder will commence on the date the initial credentials for the Software are made available (the "Subscription Start Date") and will continue in effect until the expiration of the subscription term noted in the applicable order, quote, proposal or purchase documentation. At the expiration of the Software Subscription, such Software Subscription will automatically renew for consecutive one (1) year terms (each a "Renewal Subscription Term"), unless either party provides the other party with a notice of non-renewal at least ninety (90) days prior to the expiration of the then-current term. To the extent permitted by applicable law, Software Subscriptions purchases are non-cancelable and the sums paid nonrefundable. Fees for Software Subscriptions shall be paid annually in advance, invoiced on the Subscription Start Date and each subsequent anniversary thereof. Customer shall pay all invoiced amounts within thirty calendar days after the date of invoice. Payments not made within such time period shall be subject to late charges as set forth in the Software Terms. Unless otherwise agreed by the parties in writing, the subscription fee for each Renewal Subscription Term will be priced at Johnson Controls' then-applicable list price for that Software offering. Any use of Software that exceeds the scope, metrics or volume set forth in this Agreement and applicable SOW will be subject to additional fees based on the date such excess use began.

21. Privacy. *Company as Processor:* Where JCI factually acts as Processor of Personal Data on behalf of Customer (as such terms are defined in the DPA) the terms at www.johnsoncontrols.com/dpa ("DPA") shall apply. *Company as Controller:* JCI will collect, process and transfer certain personal data of Customer and its personnel related to the business relationship between it and Customer (for example names, email addresses, telephone numbers) as controller and in accordance with JCI's Privacy Notice at <https://www.johnsoncontrols.com/privacy>. Customer acknowledges JCI's Privacy Notice and strictly to the extent consent is mandatorily required under applicable law, Customer consents to such collection, processing and transfer. To the extent consent to such collection, processing and transfer by JCI is mandatorily required from Customer's personnel under applicable law, Customer warrants and represents that it has obtained such consent.

22. ENTIRE AGREEMENT. This proposal, upon acceptance, shall constitute the entire agreement between the parties and supersedes any prior representations or understandings. Customer acknowledges and agrees that any purchase order issued by Customer in connection with this Agreement is intended only to establish payment authority for Customer's internal accounting purposes and shall not be considered to be a counteroffer, amendment, modification, or other revision to the terms of this Agreement. No term or condition included or referenced in Customer's purchase order will have any force or effect and these terms and conditions shall control. Customer's acceptance of any Services shall constitute an acceptance of these terms and conditions. Any proposal for additional or different terms, whether in Customer's purchase order or any other document, unless expressly accepted in writing by JCI, is hereby objected to and rejected.

23. CHANGES. No change or modification of any of the terms and conditions stated herein shall be binding upon JCI unless accepted by JCI in writing.

CUSTOMER ACCEPTANCE

In accepting this Agreement, Customer agrees to the terms and conditions contained herein including those on the following page(s) of this Agreement and any attachments or items attached hereto that contain additional terms and conditions. It is understood that these terms and conditions shall prevail over any variation in terms and conditions on any purchase order or other document that Customer may issue. Any changes requested by Customer after the execution of this Agreement shall be paid for by the Customer and such changes shall be authorized in writing. **ATTENTION IS DIRECTED TO THE LIMITATION OF LIABILITY, WARRANTY, INDEMNITY AND OTHER CONDITIONS CONTAINED IN THIS AGREEMENT.**

Pricing is based upon the following billing and payment terms: Invoices will be delivered via email, payment due upon receipt, and invoices are to be paid via ACH bank transfer. Johnson Controls ACH/EFT bank transfer details will be forth coming upon contractual agreement.

This offer shall be void if not accepted in writing within thirty (30) days from the date first set forth above.

To ensure that JCI is compliant with your company's billing requirements, please provide the following information:

PO is required to facilitate billing: ☐ NO: This signed contract satisfies requirement

☐ YES: Please reference this PO Number: _____

AR Invoices are accepted via email: ☐ YES: Email address to be used: _____

☐ NO: Please submit Invoices via mail ☐ NO: Please submit via _____



MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: JESSICA HULLENDER, FINANCE ACCOUNTANT II

DATE: 8/9/2023

**SUBJECT: APPROVAL OF SOLE SOURCE UPGRADE OF PNEUMATIC
CONTROLS AT HOPE MILLS LIBRARY**

BACKGROUND

Funds in the amount of \$70,000.00 were appropriated in the fiscal year 2024 Capital Improvement Plan budget for the upgrade of pneumatic controls at the Hope Mills Library. The existing controls will be replaced with a direct digital control (DCC) system.

The existing controls are operated using Metasys Software. Metasys software is proprietary to Johnson Controls, Inc. The new controls must be compatible with the existing software. To maintain standardization and compatibility, the new controls need to be procured from and installed by Johnson Controls, Inc. A quote has been submitted in the amount of \$67,494.52.

RECOMMENDATION / PROPOSED ACTION

Finance and Purchasing staff recommend utilizing the sole source bid exception based on North Carolina General Statute 143-129 (e) (6) (iii), as standardization and compatibility is the overriding consideration.

ATTACHMENTS:

Description	Type
Sole Source Request Form	Backup Material
Johnson Controls Quote	Backup Material



Sole Source Request Form (Eff. 6/21/21)

Submit Completed Form to Purchasing

Date: 7/25/23 Department: Internal Services

1. Vendor Name (Legal Name): Johnson Controls Inc.

****Important Note for Item #2:** Confirm all required budgetary processes are complete and the funds are available before submitting "Original Budget" means the funds were approved by the Board in the original adopted budget for the current fiscal year. If a budget revision was completed after the adopted budget please answer N (No), and provide the budget revision number OR if original budget and budget revision both apply answer accordingly**

2. Amount Budgeted for Purchase: \$70,000 Original Budget (Y/N): Y or Budget Revision #: N/A

Budget Codes (The budget the purchase will be made from):

Org. 1074185 Object Code: 577050 Project Code: 24113

Additional Notes Regarding Budget: _____

3. Federal Funding (Y/N): N

4. Detailed Description of Purchase (brand, what is the purchase, why is it being purchased, how is it used):

The existing pneumatic controls at Hope Mills Public Library are outdated and need to be replaced. The new controls will be direct digital controls which are more efficient.

5. Which General Statute Sole Source Standard Does this Request Meet?

☐ (1) Performance or price competition is not available. Explain Below.

☐ (2) Product is available from only one source. Explain Below.

☒ (3) Standardization or compatibility is the overriding consideration. Explain Below.

Explain the Selection Above (Why is this brand required, Why is this vendor required, Why is standardization Required, etc.).

The existing pneumatic controls are Johnson Controls Inc. and the new digital controls must be compatible with the remaining Johnson Controls equipment that will be operated by the controls.

6. Required Attachments:

a. If applicable, attach a memo, statement or certification from the vendor supporting their sole source claim.

b. Attach the quote submitted by the vendor for the purchase.

Recommended By: [Signature]

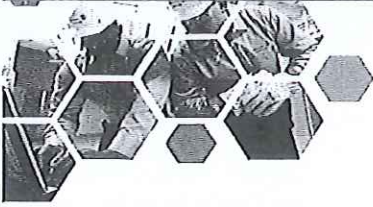
Department Head Signature

FOR FINANCE ONLY BELOW THIS LINE

Reviewed and Confirmed By:

Jessica Hullender Date: 8/19/23

BOCC Meeting Date: 8/21/23 Deadline for Novus Entry: 8/10/23



Controls Upgrade
Quote Prepared by Stanley Thibodeaux
06/30/2023



PROPOSAL

Account Information

Bill To: CUMBERLAND COUNTY ELECTRICAL
PBEM 420 MAYVIEW STREET
FAYETTEVILLE NC
USA 28306

Quote Reference Number: 1-1NMF16ZN

Project Name: Controls Upgrade

Site: COUNTY OF CUMBERLAND HOPE MILLS LIBRARY
3411 GOLFVIEW RD
HOPE MILLS NC 28348-2266

Branch Info: JOHNSON CONTROLS WILMINGTON NC CB - 0N0A

Attn: Jonathan Butler

Customer Information

Name: Jonathan Butler

This proposal is hereby accepted and Johnson Controls is authorized to proceed with the work, subject to credit approval By Johnson Controls, Inc. Milwaukee, WI.
We propose to furnish the materials and/or perform the work below for the net price of: \$67,494.52

This proposal is valid through: 07/30/2023

CUMBERLAND COUNTY ELECTRICAL

Johnson Controls Inc.

Signature: _____
Name: _____
Title: _____
Date: _____
PO: _____

Signature: Bruce Allen Darden
Name: Bruce Allen Darden
Title: BRANCH SERVICE MANAGER
Date: 7-3-23

Proposal Overview

Benefits/Scope of Work:

Johnson Controls will replace existing pneumatic controls at Hope Mills Library with new DDC controls, this will include Air Handling units, VAV boxes and Thermostat for multi purpose room. This will also include adding all Points to the metasys server and checking for proper operation,

Exclusions:

- 1.Labor or material not specifically described above is excluded from this proposal.
- 2.Unless otherwise stated, any and all overtime labor is excluded from this proposal.
- 3.Applicable taxes or special freight charges are excluded from this proposal

(IMPORTANT): This proposal incorporates by reference the terms and conditions which are attached to this document. All work is to be performed Monday through Friday during normal Johnson Controls, Inc. (JCI) business hours unless otherwise noted. This proposal, or any accepted alternates, are hereby accepted by Customer, and JCI is authorized to proceed with the work; subject, however, to credit approval by JCI, Milwaukee, Wisconsin.

TERMS AND CONDITIONS

By accepting this proposal, Customer agrees to be bound by the following terms and conditions:

1. SCOPE OF WORK. This proposal is based upon the use of straight time labor only. Plastering, patching, and painting are excluded. Disinfecting of chiller condenser and cooling tower water systems and components for biohazards, such as but not limited to Legionella, are excluded unless otherwise specifically stated in this agreement. In-line duct and piping devices, including, but not limited to valves, dampers, humidifiers, wells, taps, flow meters, orifices, etc., if required hereunder to be furnished by JCI, shall be distributed and installed by others under JCI's supervision but at no additional cost to JCI. Customer agrees to provide JCI with required field utilities (electricity, toilets, drinking water, project hoist, elevator service, etc.) without charge. JCI agrees to keep the job site clean of debris arising out of its own operations. Customer shall not back charge JCI for any costs or expenses without JCI's written consent. Unless specifically noted in the statement of the scope of work or services undertaken by JCI under this agreement, JCI's obligations under this agreement expressly exclude any language or provision of the agreement elsewhere contained which may authorize or empower the Customer to change, modify, or alter the scope of work or services to be performed by JCI and shall not operate to compel JCI to perform any work relating to Hazards or Biohazards, such as but not limited to Legionella, without JCI's express written consent.

2. INVOICE AND PAYMENTS. JCI may invoice Customer monthly for all materials delivered to the job site or to an off-site storage facility and for all work performed on-site and off-site. Customer shall pay JCI at the time Customer signs this agreement an advance payment equal to [10%] of the contract price, which advance payment shall be credited against the final payment (but not any progress payment) due hereunder. Unless otherwise agreed to by the parties, payment is due to JCI upon Customer's receipt of JCI's invoice. Such payment is a condition precedent to JCI's obligation to perform any work under this agreement. Invoices shall be paid by Customer via electronic delivery via EFT/ACH. Invoicing disputes must be identified by Customer in writing within 21 days of the date of the invoice. Payment of any disputed amounts are due and payable upon resolution of such dispute. Customer acknowledges and agrees that timely payments of the full amounts listed on invoices is an essential term of this Agreement and Customer's failure to make payment in full when due is a material breach of this Agreement. Customer further acknowledges that if there is any amount outstanding on an invoice; it is material to JCI and will give JCI, without prejudice to any other right or remedy, the right to, without notice: (i) suspend, discontinue or terminate performing any services and/or withhold further deliveries of equipment and other materials, terminate or suspend any unpaid software licenses, and/or suspend JCI's obligations under or terminate this Agreement; and (ii) charge Customer interest on the amounts unpaid at a rate equal to the lesser of one and one half (1.5) percent per month or the maximum rate permitted under applicable law, until payment is made in full. JCI's election to continue providing future services does not, in any way diminish JCI's right to terminate or suspend services or exercise any or all rights or remedies under this Agreement. JCI shall not be liable for any damages, claims, expenses, or liabilities arising from or relating to suspension of services for non-payment. In the event that there are exigent circumstances requiring services or the JCI otherwise performs services at the premises following suspension, those services shall be governed by the terms of this Agreement unless a separate contract is executed. If Customer disputes any late payment notice or JCI's efforts to collect payment. Customer shall immediately notify JCI in writing and explain the basis of the dispute. ~~Customer will pay all of JCI's reasonable collection costs (including legal fees and expenses).~~ In the event of Customer's default, the balance of any outstanding amounts will be immediately due and payable. Lien waivers will be furnished upon request, as the work progresses, to the extent payments are received.

3. MATERIALS. If the materials or equipment included in this proposal become temporarily or permanently unavailable for reasons beyond the control and without the fault of JCI, then in the case of such temporary unavailability, the time for performance of the work shall be extended to the extent thereof, and in the case of permanent unavailability, JCI shall (a) be excused from furnishing said materials or equipment, and (b) be reimbursed for the difference between the cost of the materials or equipment permanently unavailable and the cost of a reasonably available substitute therefore.

4. EQUIPMENT WARRANTY. JCI warrants that equipment manufactured or labeled by JCI shall be free from defects in material and workmanship arising from normal usage for a period of one year. No warranty is provided for third-party products and equipment installed or furnished by JCI. Such products and equipment are provided with the third party manufacturer's warranty to the extent available, and JCI will transfer the benefits, together with all limitations, of that manufacturer's warranty to Customer. All transportation charges incurred in connection with the warranty for equipment and/or materials not installed by JCI shall be borne by Customer. These warranties shall not extend to any equipment that has been abused, altered, misused or repaired by Customer or third parties without the supervision of and prior written approval of JCI, or if JCI serial numbers or warranty date decals have been removed or altered. Customer must promptly report any failure of the equipment to JCI in writing.

5. LIMITED WARRANTY. JCI warrants its workmanship or that of its agents (Technicians) in relation to installation of equipment for a period of ninety (90) days from date of installation. Customer shall bear all labor costs associated with replacement of failed equipment still under JCI's equipment warranty or the original manufacturer's warranty, but outside the terms of this express labor warranty. All warranty labor shall be executed on normal business days during JCI normal business hours. These warranties do not extend to any equipment which has been repaired by others, abused, altered, or misused in any way, or which has not been properly and reasonably maintained. **THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY AND FITNESS FOR A SPECIFIC PURPOSE. UNDER NO CIRCUMSTANCES SHALL JCI BE LIABLE FOR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES ARISING FROM OR RELATING TO ANY DEFECT IN MATERIAL OR WORKMANSHIP OF EQUIPMENT OR THE PERFORMANCE OF SERVICES.** JCI makes no and specifically disclaims all representations or warranties that the services, products, software or third party product or software will be secure from cyber threats, hacking or other similar malicious activity, or will detect the presence of, or eliminate, treat, or mitigate the spread, transmission, or outbreak of any pathogen, disease, virus or other contagion, including but not limited to COVID 19.

6. LIABILITY. To the maximum extent permitted by law, in no event shall JCI and its affiliates and their respective personnel, suppliers and vendors ("JCI Parties") be liable to you or any third party under any cause of action or theory of liability even if advised of the possibility of such damages, for any: (a) special, incidental, consequential, punitive, or indirect damages; (b) lost profits, revenues, data, customer opportunities, business, anticipated savings, or goodwill; (c) business interruption; or (d) data loss or other losses arising from viruses, ransomware, cyber-attacks or failures or interruptions to network systems. In any case, the entire aggregate liability of the JCI Parties under this proposal for all damages, losses, and causes of action (whether in contract, tort (including negligence), or otherwise) shall be limited to the amounts payable to JCI hereunder.

7. COVID-19 Vaccination. JCI expressly disclaims any requirement, understanding or agreement, express or implied, included directly or incorporated by reference, in any Customer purchase order, solicitation, notice or otherwise, that any of JCI's personnel be vaccinated against Covid-19 under any federal, state/provincial or local law, regulation or order applicable to government contracts or subcontracts, including, without limitation, Presidential Executive Order

14042 ("Ensuring Adequate COVID Safety Protocols for Federal Contractors") and Federal Acquisition Regulation (FAR) 52.223-99 ("Ensuring Adequate COVID Safety Protocols for Federal Contractors"). Any such requirement shall only apply to JCI's personnel if and only to the extent contained in a written agreement physically signed by an authorized officer of JCI.

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9. DELAYS. JCI shall not be liable for any delay in the performance of the work resulting from or attributed to acts of circumstance beyond JCI's control, including but not limited to; acts of God, fire, riots, labor disputes, conditions of the premises, acts or omissions of the Customer, Owner, or other Contractors or delays caused by suppliers or subcontractors of JCI, etc.

10. COMPLIANCE WITH LAWS. JCI shall comply with all applicable federal, state, and local laws and regulations, and shall obtain all temporary licenses and permits required for the prosecution of the work. Licenses and permits a permanent nature shall be procured and paid for by the Customer.

11. PRICING. JCI may increase prices upon notice to the Customer to reflect increases in material and labor costs. Prices for products covered by this Agreement may be adjusted by JCI, upon notice to Customer at any time prior to shipment and regardless of Customer's acceptance of JCI's proposal or quotation, to reflect any increase in JCI's cost of raw materials (e.g., steel, aluminum) inability to secure Products, changes or increases in law, labor, taxes, duties, tariffs or quotas, acts of government, any similar charges, or to cover any extra, unforeseen and unusual cost elements.

12. DISPUTES. All disputes involving more than \$15,000.00 shall be resolved by arbitration in accordance with the rules of the American Arbitration Association. ~~The prevailing party shall recover all legal costs and attorneys' fees incurred as a result. Nothing here shall limit any rights under construction lien laws.~~

13. INSURANCE. Insurance coverage in excess of JCI's standard limits will be furnished when requested and required. No credit will be given or premium paid by JCI for insurance afforded by others.

14. INDEMNITY. ~~The Parties hereto agree to indemnify each other from any and all liabilities, claims, expenses, losses or damages, including attorney's fees which may arise in connection with the execution of the work herein specified and which are caused, by the negligent act or omission of the indemnifying Party.~~

15. CUSTOMER RESPONSIBILITIES. Customer is solely responsible for the establishment, operation, maintenance, access, security and other aspects of its computer network ("Network") and shall supply Johnson Controls secure Network access for providing its services. Products networked, connected to the internet, or otherwise connected to computers or other devices must be appropriately protected by Customer and/or end user against unauthorized access. Customer is responsible to take appropriate measures, including performing back-ups, to protect information, including without limit data, software, or files (collectively "Data") prior to receiving the service or products.

16. FORCE MAJEURE. JCI shall not be liable, nor in breach or default of its obligations under this proposal, for delays, interruption, failure to render services, or any other failure by JCI to perform an obligation under this proposal, where such delay, interruption or failure is caused, in whole or in part, directly or indirectly, by a Force Majeure Event. A "Force Majeure Event" is a condition or event that is beyond the reasonable control of JCI, whether foreseeable or unforeseeable, including, without limitation, acts of God, severe weather (including but not limited to hurricanes, tornados, severe snowstorms or severe rainstorms), wildfires, floods, earthquakes, seismic disturbances, or other natural disasters, acts or omissions of any governmental authority (including change of any applicable law or regulation), epidemics, pandemics, disease, viruses, quarantines, or other public health risks and/or responses thereto, condemnation, strikes, lock-outs, labor disputes, an increase of 5% or more in tariffs or other excise taxes for materials to be used on the project, fires, explosions or other casualties, thefts, vandalism, civil disturbances, insurrection, mob violence, riots, war or other armed conflict (or the serious threat of same), acts of terrorism, electrical power outages, interruptions or degradations in telecommunications, computer, network, or electronic communications systems, data breach, cyber-attacks, ransomware, unavailability or shortage of parts, materials, supplies, or transportation, or any other cause or casualty beyond the reasonable control of JCI. If JCI's performance of the work is delayed, impacted, or prevented by a Force Majeure Event or its continued effects, JCI shall be excused from performance under this proposal. Without limiting the generality of the foregoing, if JCI is delayed in achieving one or more of the scheduled milestones set forth in this proposal due to a Force Majeure Event, JCI will be entitled to extend the relevant completion date by the amount of time that JCI was delayed as a result of the Force Majeure Event, plus such additional time as may be reasonably necessary to overcome the effect of the delay. ~~To the extent that the Force Majeure Event directly or indirectly increases JCI's cost to perform the services, Customer is obligated to reimburse JCI for such increased costs, including, without limitation, costs incurred by JCI for additional labor, inventory storage, expedited shipping fees, trailer and equipment rental fees, subcontractor fees or other costs and expenses incurred by JCI in connection with the Force Majeure Event.~~

17. SAFETY, HEALTH AND HAZARDOUS MATERIALS. The Parties hereto agree to notify each other immediately upon becoming aware of an inspection under, or any alleged violation of the, Occupational Safety and Health Act relating in any way to the project or project site. ACM /Hazardous Materials: Customer shall supply Johnson Controls with any information in its possession relating to the presence of asbestos-containing materials ("ACM") or hazardous materials at any of its facilities where JCI's undertakes any Work or Services that may result in the disturbance of ACM or hazardous materials. JCI shall not be responsible for abatement and/or removal and disposal of hazardous materials or ACM. If either Customer or JCI becomes aware of or suspects the presence of ACM or hazardous materials that may be disturbed by JCI's Work or Services, JCI shall immediately stop all work until such ACM or hazardous or unsafe condition is rectified by Owner and Owner so notifies JCI in writing that work can safely be resumed, based on test conducted by a licensed testing organization. Timetables for delivery of JCI's products or services and the contract price shall be adjusted appropriately for any associated delay.

18. ONE-YEAR CLAIMS LIMITATION. No claim or cause of action, whether known or unknown, shall be brought against JCI more than one year after the claim first arose. Except as provided for herein, JCI's claims must also be brought within one year. Claims for unpaid contract amounts are not subject to the one-year limitation.

19. DIGITAL ENABLED SERVICES. If JCI provides Digital Enabled Services under this Agreement, these Digital Enabled Services require the installation and deployment of site assessment tools and the collection, transfer and ingestion of building, equipment, system time series, and other data to JCI's cloud-hosted software applications. **DIGITAL ENABLED SERVICES** mean services provided hereunder that employ JCI software and cloud-hosted software offerings and tools to improve and enable such services. Digital Enabled Service may include, but are not limited to, (a) remote inspection, (b) advanced equipment fault detection and diagnostics, and (c) data dashboarding and health reporting. Customer owns all the right, title and interest in and to the Customer data. Customer consents to the installation and deployment of site assessment tools and the collection, transfer and ingestion and use of such data by JCI to enable JCI to provide, maintain, protect and improve the Digital Enabled Services and JCI's products and services. Customer acknowledges that, while Digital Enabled Services generally improve equipment performance and services, Digital Enabled Services do not prevent all potential malfunction, insure against all loss, or guarantee a certain level of performance and that JCI shall not be responsible for any injury, loss, or damage caused by any act or omission of JCI related to or arising from the monitoring of the equipment under Digital Enabled Services. Certain equipment sold hereunder includes by default JCI's Connected Equipment Services. Digital Enabled Services may be on by default and the remote connection will continue to connect to Customer's Equipment through the full equipment lifecycle, unless Customer specifically requests in writing that JCI disable the remote connection or

JCI discontinues or removes such remote connection. If Customer's equipment includes Digital Enabled Services, JCI will provide a cellular modem or other gateway device ("Gateway Device") owned by JCI or Customer will supply a network connection suitable to establish a remote connection with Customer's applicable equipment to permit JCI to perform Digital Enabled Services. For certain subscriptions, Customer will be able to access equipment information from a mobile or smart device using Digital Enabled Service's mobile or web application. Any Gateway Devices provided hereunder shall remain JCI's property, and JCI may upon reasonable notice access and remove such Gateway Device and discontinue services in accordance with the Software Terms. If Customer does not permit JCI to connect via a connection validated by JCI for the equipment or the connection is disconnected by Customer, and a service representative must therefore be dispatched to the Customer site, then the Customer shall pay JCI at JCI's then-current standard applicable contract regular time and/or overtime rate for services performed by the service representative.

20. JCI DIGITAL SOLUTIONS. Use, implementation, and deployment of the software and cloud-hosted software products ("Software") offered under these terms shall be subject to, and governed by, JCI's standard terms for such Software and Software related professional services in effect from time to time at <https://www.johnsoncontrols.com/techterms> (collectively, the "Software Terms"). Applicable Software Terms are incorporated herein by this reference. Other than the right to use the Software as set forth in the Software Terms, JCI and its licensors reserve all right, title, and interest (including all intellectual property rights) in and to the Software and Improvements to the Software. The Software that is licensed hereunder is licensed subject to the Software Terms and not sold. If there is a conflict between the other terms herein and the Software Terms, the Software Terms shall take precedence and govern with respect to rights and responsibilities relating to the Software, its implementation and deployment and any improvements thereto. Notwithstanding any other provisions of this Agreement, unless otherwise set forth in the applicable order, quote, proposal or purchase documentation, the following terms apply to Software that is provided to Customer on a subscription basis (i.e., a time limited license or use right), (each a "Software Subscription"):

Each Software Subscription provided hereunder will commence on the date the initial credentials for the Software are made available (the "Subscription Start Date") and will continue in effect until the expiration of the subscription term noted in the applicable order, quote, proposal or purchase documentation. At the expiration of the Software Subscription, such Software Subscription will automatically renew for consecutive one (1) year terms (each a "Renewal Subscription Term"), unless either party provides the other party with a notice of non-renewal at least ninety (90) days prior to the expiration of the then-current term. To the extent permitted by applicable law, Software Subscriptions purchases are non-cancelable and the sums paid nonrefundable. Fees for Software Subscriptions shall be paid annually in advance, invoiced on the Subscription Start Date and each subsequent anniversary thereof. Customer shall pay all invoiced amounts within thirty calendar days after the date of invoice. Payments not made within such time period shall be subject to late charges as set forth in the Software Terms. Unless otherwise agreed by the parties in writing, the subscription fee for each Renewal Subscription Term will be priced at Johnson Controls' then-applicable list price for that Software offering. Any use of Software that exceeds the scope, metrics or volume set forth in this Agreement and applicable SOW will be subject to additional fees based on the date such excess use began.

21. Privacy. **Company as Processor:** Where JCI factually acts as Processor of Personal Data on behalf of Customer (as such terms are defined in the DPA) the terms at www.johnsoncontrols.com/dpa ("DPA") shall apply. **Company as Controller:** JCI will collect, process and transfer certain personal data of Customer and its personnel related to the business relationship between it and Customer (for example names, email addresses, telephone numbers) as controller and in accordance with JCI's Privacy Notice at <https://www.johnsoncontrols.com/privacy>. Customer acknowledges JCI's Privacy Notice and strictly to the extent consent is mandatorily required under applicable law, Customer consents to such collection, processing and transfer. To the extent consent to such collection, processing and transfer by JCI is mandatorily required from Customer's personnel under applicable law, Customer warrants and represents that it has obtained such consent.

22. ENTIRE AGREEMENT. This proposal, upon acceptance, shall constitute the entire agreement between the parties and supersedes any prior representations or understandings. Customer acknowledges and agrees that any purchase order issued by Customer in connection with this Agreement is intended only to establish payment authority for Customer's internal accounting purposes and shall not be considered to be a counteroffer, amendment, modification, or other revision to the terms of this Agreement. No term or condition included or referenced in Customer's purchase order will have any force or effect and these terms and conditions shall control. Customer's acceptance of any Services shall constitute an acceptance of these terms and conditions. Any proposal for additional or different terms, whether in Customer's purchase order or any other document, unless expressly accepted in writing by JCI, is hereby objected to and rejected.

23. CHANGES. No change or modification of any of the terms and conditions stated herein shall be binding upon JCI unless accepted by JCI in writing.

<p>CUSTOMER ACCEPTANCE</p> <p>In accepting this Agreement, Customer agrees to the terms and conditions contained herein including those on the following page(s) of this Agreement and any attachments or files attached hereto that contain additional terms and conditions. It is understood that these terms and conditions shall prevail over any variation in terms and conditions on any purchase order or other document that Customer may issue. Any changes requested by Customer after the execution of this Agreement shall be paid for by the Customer and such changes shall be authorized in writing. ATTENTION IS DIRECTED TO THE LIMITATION OF LIABILITY, WARRANTY, INDEMNITY AND OTHER CONDITIONS CONTAINED IN THIS AGREEMENT.</p> <p>Pricing is based upon the following billing and payment terms: Invoices will be delivered via email, payment due upon receipt, and invoices are to be paid via ACH bank transfer. Johnson Controls ACH/EFT bank transfer details will be forth coming upon contractual agreement.</p> <p>This offer shall be void if not accepted in writing within thirty (30) days from the date first set forth above.</p> <p>To ensure that JCI is compliant with your company's billing requirements, please provide the following information:</p> <p>PO is required to facilitate billing: <input type="checkbox"/> NO: This signed contract satisfies requirement</p> <p><input type="checkbox"/> YES: Please reference this PO Number: _____</p> <p>AR Invoices are accepted via e-mail: <input type="checkbox"/> YES: Email address to be used: _____</p> <p><input type="checkbox"/> NO: Please submit invoices via mail <input type="checkbox"/> NO: Please submit via _____</p>
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MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: JESSICA HULLENDER, FINANCE ACCOUNTANT II

DATE: 8/9/2023

**SUBJECT: APPROVAL OF SOLE SOURCE UPGRADE OF PNEUMATIC
CONTROLS AT NORTH REGIONAL LIBRARY**

BACKGROUND

Funds in the amount of \$70,000.00 were appropriated in the fiscal year 2024 Capital Improvement Plan budget for the upgrade of pneumatic controls at the North Regional Library. The existing controls will be replaced with a direct digital control (DCC) system.

The existing controls are operated using Metasys Software. Metasys software is proprietary to Johnson Controls, Inc. The new controls must be compatible with the existing software. To maintain standardization and compatibility, the new controls need to be procured from and installed by Johnson Controls, Inc. A quote has been submitted in the amount of \$68,676.66.

RECOMMENDATION / PROPOSED ACTION

Finance and Purchasing staff recommend utilizing the sole source bid exception based on North Carolina General Statute 143-129 (e) (6) (iii), as standardization and compatibility is the overriding consideration.

ATTACHMENTS:

Description	Type
Sole Source Request Form	Backup Material
Johnson Controls Quote	Backup Material

Sole Source Request Form (Eff. 6/21/21)

Submit Completed Form to Purchasing

Date: 7/13/23 Department: Internal Services

1. Vendor Name (Legal Name): Johnson Controls Inc.

****Important Note for Item #2:** Confirm all required budgetary processes are complete and the funds are available before submitting "Original Budget" means the funds were approved by the Board in the original adopted budget for the current fiscal year. If a budget revision was completed after the adopted budget please answer N (No), and provide the budget revision number OR if original budget and budget revision both apply answer accordingly**

2. Amount Budgeted for Purchase: \$70,000 Original Budget (Y/N): Y or Budget Revision #: N/A

Budget Codes (The budget the purchase will be made from):

Org. 1074185 Object Code: 571050 Project Code: 24112

Additional Notes Regarding Budget: _____

3. Federal Funding (Y/N): N

4. Detailed Description of Purchase (brand, what is the purchase, why is it being purchased, how is it used):

The existing pneumatic controls at North Regional Public Library are outdated and need to be replaced. The new controls will be direct digital controls which are more energy efficient.

5. Which General Statute Sole Source Standard Does this Request Meet?

☐ (1) Performance or price competition is not available. Explain Below.

☐ (2) Product is available from only one source. Explain Below.

☒ (3) Standardization or compatibility is the overriding consideration. Explain Below.

Explain the Selection Above (Why is this brand required, Why is this vendor required, Why is standardization Required, etc.).

The existing pneumatic controls are Johnson Controls Inc. and the new digital controls must be compatible with the remaining Johnson Controls Inc. equipment that is operated by the controls.

6. Required Attachments:

a. If applicable, attach a memo, statement or certification from the vendor supporting their sole source claim.

b. Attach the quote submitted by the vendor for the purchase.

Recommended By: [Signature]

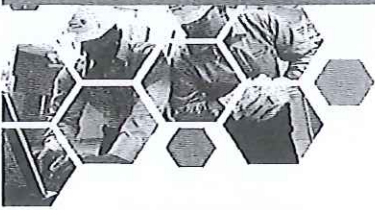
Department Head Signature

FOR FINANCE ONLY BELOW THIS LINE

Reviewed and Confirmed By:

Jessica Hullender Date: 8/9/23

BOCC Meeting Date: 8/21/23 Deadline for Novus Entry: 8/10/23



Controls Upgrade
Quote Prepared by Stanley Thibodeaux
06/30/2023



PROPOSAL

Account Information

Bill To: CUMBERLAND COUNTY
PO BOX 1829
FAYETTEVILLE NC
USA 28302

Quote Reference Number: 1-1NMF173D

Project Name: Controls Upgrade

Site: CUMBERLAND COUNTY NORTH REGIONAL LIBRARY
855 MCARTHUR RD
FAYETTEVILLE NC 28311-2053

Branch Info: JOHNSON CONTROLS WILMINGTON NC CB - 0N0A

Attn: Jonathan Butler

Customer Information

Name: Jonathan Butler

This proposal is hereby accepted and Johnson Controls is authorized to proceed with the work, subject to credit approval By Johnson Controls, Inc. Milwaukee, WI.
We propose to furnish the materials and/or perform the work below for the net price of: \$68,676.66

This proposal is valid through: 07/30/2023

CUMBERLAND COUNTY

Johnson Controls Inc.

Signature: _____
Name: _____
Title: _____
Date: _____
PO: _____

Signature: Bruce Allen Dander
Name: BRUCE ALLEN DANDER
Title: BRANCH SERVICE MANAGER
Date: 7-3-23

Proposal Overview

Benefits/Scope of Work:

Johnson Controls will replace existing pneumatic controls at North Regional Library with new DDC controls, this will include Air Handling units, VAV boxes and Thermostat for multi purpose room. This will also include adding all Points to the metasys server and checking for proper operation,

Exclusions:

- 1.Labor or material not specifically described above is excluded from this proposal.
- 2.Unless otherwise stated, any and all overtime labor is excluded from this proposal.
- 3.Applicable taxes or special freight charges are excluded from this proposal

BAD

(IMPORTANT): This proposal incorporates by reference the terms and conditions which are attached to this document. All work is to be performed Monday through Friday during normal Johnson Controls, Inc. (JCI) business hours unless otherwise noted. This proposal, or any accepted alternates, are hereby accepted by Customer, and JCI is authorized to proceed with the work; subject, however, to credit approval by JCI, Milwaukee, Wisconsin.

TERMS AND CONDITIONS

By accepting this proposal, Customer agrees to be bound by the following terms and conditions:

1. SCOPE OF WORK. This proposal is based upon the use of straight time labor only. Plastering, patching, and painting are excluded. Disinfecting of chiller condenser and cooling tower water systems and components for biohazards, such as but not limited to Legionella, are excluded unless otherwise specifically stated in this agreement. In-line duct and piping devices, including, but not limited to valves, dampers, humidifiers, wells, taps, flow meters, orifices, etc., if required hereunder to be furnished by JCI, shall be distributed and installed by others under JCI's supervision but at no additional cost to JCI. Customer agrees to provide JCI with required field utilities (electricity, toilets, drinking water, project hoist, elevator service, etc.) without charge. JCI agrees to keep the job site clean of debris arising out of its own operations. Customer shall not back charge JCI for any costs or expenses without JCI's written consent. Unless specifically noted in the statement of the scope of work or services undertaken by JCI under this agreement, JCI's obligations under this agreement expressly exclude any language or provision of the agreement elsewhere contained which may authorize or empower the Customer to change, modify, or alter the scope of work or services to be performed by JCI and shall not operate to compel JCI to perform any work relating to Hazards or Biohazards, such as but not limited to Legionella, without JCI's express written consent.

2. INVOICE AND PAYMENTS. JCI may invoice Customer monthly for all materials delivered to the job site or to an off-site storage facility and for all work performed on-site and off-site. Customer shall pay JCI at the time Customer signs this agreement an advance payment equal to [10%] of the contract price, which advance payment shall be credited against the final payment (but not any progress payment) due hereunder. Unless otherwise agreed to by the parties, payment is due to JCI upon Customer's receipt of JCI's invoice. Such payment is a condition precedent to JCI's obligation to perform any work under this agreement. Invoices shall be paid by Customer via electronic delivery via EFT/ACH. Invoicing disputes must be identified by Customer in writing within 21 days of the date of the invoice. Payment of any disputed amounts are due and payable upon resolution of such dispute. Customer acknowledges and agrees that timely payments of the full amounts listed on invoices is an essential term of this Agreement and Customer's failure to make payment in full when due is a material breach of this Agreement. Customer further acknowledges that if there is any amount outstanding on an invoice; it is material to JCI and will give JCI, without prejudice to any other right or remedy, the right to, without notice: (i) suspend, discontinue or terminate performing any services and/or withhold further deliveries of equipment and other materials, terminate or suspend any unpaid software licenses, and/or suspend JCI's obligations under or terminate this Agreement; and (ii) charge Customer interest on the amounts unpaid at a rate equal to the lesser of one and one half (1.5) percent per month or the maximum rate permitted under applicable law, until payment is made in full. JCI's election to continue providing future services does not, in any way diminish JCI's right to terminate or suspend services or exercise any or all rights or remedies under this Agreement. JCI shall not be liable for any damages, claims, expenses, or liabilities arising from or relating to suspension of services for non-payment. In the event that there are exigent circumstances requiring services or the JCI otherwise performs services at the premises following suspension, those services shall be governed by the terms of this Agreement unless a separate contract is executed. If Customer disputes any late payment notice or JCI's efforts to collect payment, Customer shall immediately notify JCI in writing and explain the basis of the dispute. Customer will pay all of JCI's reasonable collection costs (including legal fees and expenses). In the event of Customer's default, the balance of any outstanding amounts will be immediately due and payable. Lien waivers will be furnished upon request, as the work progresses, to the extent payments are received.

3. MATERIALS. If the materials or equipment included in this proposal become temporarily or permanently unavailable for reasons beyond the control and without the fault of JCI, then in the case of such temporary unavailability, the time for performance of the work shall be extended to the extent thereof, and in the case of permanent unavailability, JCI shall (a) be excused from furnishing said materials or equipment, and (b) be reimbursed for the difference between the cost of the materials or equipment permanently unavailable and the cost of a reasonably available substitute therefore.

4. EQUIPMENT WARRANTY. JCI warrants that equipment manufactured or labeled by JCI shall be free from defects in material and workmanship arising from normal usage for a period of one year. No warranty is provided for third-party products and equipment installed or furnished by JCI. Such products and equipment are provided with the third party manufacturer's warranty to the extent available, and JCI will transfer the benefits, together with all limitations, of that manufacturer's warranty to Customer. All transportation charges incurred in connection with the warranty for equipment and/or materials not installed by JCI shall be borne by Customer. These warranties shall not extend to any equipment that has been abused, altered, misused or repaired by Customer or third parties without the supervision of and prior written approval of JCI, or if JCI serial numbers or warranty date decals have been removed or altered. Customer must promptly report any failure of the equipment to JCI in writing.

5. LIMITED WARRANTY. JCI warrants its workmanship or that of its agents (Technicians) in relation to installation of equipment for a period of ninety (90) days from date of installation. Customer shall bear all labor costs associated with replacement of failed equipment still under JCI's equipment warranty or the original manufacturer's warranty, but outside the terms of this express labor warranty. All warranty labor shall be executed on normal business days during JCI normal business hours. These warranties do not extend to any equipment which has been repaired by others, abused, altered, or misused in any way, or which has not been properly and reasonably maintained. THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY AND FITNESS FOR A SPECIFIC PURPOSE. UNDER NO CIRCUMSTANCES SHALL JCI BE LIABLE FOR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES ARISING FROM OR RELATING TO ANY DEFECT IN MATERIAL OR WORKMANSHIP OF EQUIPMENT OR THE PERFORMANCE OF SERVICES. JCI makes no and specifically disclaims all representations or warranties that the services, products, software or third party product or software will be secure from cyber threats, hacking or other similar malicious activity, or will detect the presence of, or eliminate, treat, or mitigate the spread, transmission, or outbreak of any pathogen, disease, virus or other contagion, including but not limited to COVID 19.

6. LIABILITY. To the maximum extent permitted by law, in no event shall JCI and its affiliates and their respective personnel, suppliers and vendors ("JCI Parties") be liable to you or any third party under any cause of action or theory of liability even if advised of the possibility of such damages, for any: (a) special, incidental, consequential, punitive, or indirect damages; (b) lost profits, revenues, data, customer opportunities, business, anticipated savings, or goodwill; (c) business interruption; or (d) data loss or other losses arising from viruses, ransomware, cyber-attacks or failures or interruptions to network systems. In any case, the entire aggregate liability of the JCI Parties under this proposal for all damages, losses, and causes of action (whether in contract, tort (including negligence), or otherwise) shall be limited to the amounts payable to JCI hereunder.

7. COVID-19 Vaccination. JCI expressly disclaims any requirement, understanding or agreement, express or implied, included directly or incorporated by reference, in any Customer purchase order, solicitation, notice or otherwise, that any of JCI's personnel be vaccinated against Covid-19 under any federal, state/provincial or local law, regulation or order applicable to government contracts or subcontracts, including, without limitation, Presidential Executive Order

14042 ("Ensuring Adequate COVID Safety Protocols for Federal Contractors") and Federal Acquisition Regulation (FAR) 52.223-99 ("Ensuring Adequate COVID Safety Protocols for Federal Contractors"). Any such requirement shall only apply to JCI's personnel if and only to the extent contained in a written agreement physically signed by an authorized officer of JCI.

8. TAXES. The price of this proposal does not include duties, sales, use, excise, or other taxes, unless required by federal, state, or local law. Customer shall pay, in addition to the stated price, all taxes not legally required to be paid by JCI or, alternatively, shall provide JCI with acceptable tax exemption certificates. JCI shall provide Customer with any tax payment certificate upon request and after completion and acceptance of the work.

9. DELAYS. JCI shall not be liable for any delay in the performance of the work resulting from or attributed to acts of circumstance beyond JCI's control, including but not limited to: acts of God, fire, riots, labor disputes, conditions of the premises, acts or omissions of the Customer, Owner, or other Contractors or delays caused by suppliers or subcontractors of JCI, etc.

10. COMPLIANCE WITH LAWS. JCI shall comply with all applicable federal, state, and local laws and regulations, and shall obtain all temporary licenses and permits required for the prosecution of the work. Licenses and permits a permanent nature shall be procured and paid for by the Customer.

11. PRICING. JCI may increase prices upon notice to the Customer to reflect increases in material and labor costs. Prices for products covered by this Agreement may be adjusted by JCI, upon notice to Customer at any time prior to shipment and regardless of Customer's acceptance of JCI's proposal or quotation, to reflect any increase in JCI's cost of raw materials (e.g., steel, aluminum) inability to secure Products, changes or increases in law, labor, taxes, duties, tariffs or quotas, acts of government, any similar charges, or to cover any extra, unforeseen and unusual cost elements.

12. DISPUTES. All disputes involving more than \$15,000.00 shall be resolved by arbitration in accordance with the rules of the American Arbitration Association. ~~The prevailing party shall recover all legal costs and attorneys' fees incurred as a result. Nothing here shall limit any rights under construction lien laws.~~

13. INSURANCE. Insurance coverage in excess of JCI's standard limits will be furnished when requested and required. No credit will be given or premium paid by JCI for insurance afforded by others.

14. INDEMNITY. ~~The Parties hereto agree to indemnify each other from any and all liabilities, claims, expenses, losses or damages, including attorney's fees which may arise in connection with the execution of the work herein specified and which are caused, by the negligent act or omission of the indemnifying Party.~~

15. CUSTOMER RESPONSIBILITIES. Customer is solely responsible for the establishment, operation, maintenance, access, security and other aspects of its computer network ("Network") and shall supply Johnson Controls secure Network access for providing its services. Products networked, connected to the Internet, or otherwise connected to computers or other devices must be appropriately protected by Customer and/or end user against unauthorized access. Customer is responsible to take appropriate measures, including performing back-ups, to protect information, including without limit data, software, or files (collectively "Data") prior to receiving the service or products.

16. FORCE MAJEURE. JCI shall not be liable, nor in breach or default of its obligations under this proposal, for delays, interruption, failure to render services, or any other failure by JCI to perform an obligation under this proposal, where such delay, interruption or failure is caused, in whole or in part, directly or indirectly, by a Force Majeure Event. A "Force Majeure Event" is a condition or event that is beyond the reasonable control of JCI, whether foreseeable or unforeseeable, including, without limitation, acts of God, severe weather (including but not limited to hurricanes, tornados, severe snowstorms or severe rainstorms), wildfires, floods, earthquakes, seismic disturbances, or other natural disasters, acts or omissions of any governmental authority (including change of any applicable law or regulation), epidemics, pandemics, disease, viruses, quarantines, or other public health risks and/or responses thereto, condemnation, strikes, lock-outs, labor disputes, an increase of 5% or more in tariffs or other excise taxes for materials to be used on the project, fires, explosions or other casualties, thefts, vandalism, civil disturbances, insurrection, mob violence, riots, war or other armed conflict (or the serious threat of same), acts of terrorism, electrical power outages, interruptions or degradations in telecommunications, computer, network, or electronic communications systems, data breach, cyber-attacks, ransomware, unavailability or shortage of parts, materials, supplies, or transportation, or any other cause or casualty beyond the reasonable control of JCI. If JCI's performance of the work is delayed, impacted, or prevented by a Force Majeure Event or its continued effects, JCI shall be excused from performance under this proposal. Without limiting the generality of the foregoing, if JCI is delayed in achieving one or more of the scheduled milestones set forth in this proposal due to a Force Majeure Event, JCI will be entitled to extend the relevant completion date by the amount of time that JCI was delayed as a result of the Force Majeure Event, plus such additional time as may be reasonably necessary to overcome the effect of the delay. ~~To the extent that the Force Majeure Event directly or indirectly increases JCI's cost to perform the services, Customer is obligated to reimburse JCI for such increased costs, including, without limitation, costs incurred by JCI for additional labor, inventory storage, expedited shipping fees, trailer and equipment rental fees, subcontractor fees or other costs and expenses incurred by JCI in connection with the Force Majeure Event.~~

17. SAFETY, HEALTH AND HAZARDOUS MATERIALS. The Parties hereto agree to notify each other immediately upon becoming aware of an inspection under, or any alleged violation of the, Occupational Safety and Health Act relating in any way to the project or project site. ACM /Hazardous Materials: Customer shall supply Johnson Controls with any information in its possession relating to the presence of asbestos-containing materials ("ACM") or hazardous materials at any of its facilities where JCI's undertakes any Work or Services that may result in the disturbance of ACM or hazardous materials. JCI shall not be responsible for abatement and/or removal and disposal of hazardous materials or ACM. If either Customer or JCI becomes aware of or suspects the presence of ACM or hazardous materials that may be disturbed by JCI's Work or Services, JCI shall immediately stop all work until such ACM or hazardous or unsafe condition is rectified by Owner and Owner so notifies JCI in writing that work can safely be resumed, based on test conducted by a licensed testing organization. Timetables for delivery of JCI's products or services and the contract price shall be adjusted appropriately for any associated delay.

18. ONE-YEAR CLAIMS LIMITATION. No claim or cause of action, whether known or unknown, shall be brought against JCI more than one year after the claim first arose. Except as provided for herein, JCI's claims must also be brought within one year. Claims for unpaid contract amounts are not subject to the one-year limitation.

19. DIGITAL ENABLED SERVICES. If JCI provides Digital Enabled Services under this Agreement, these Digital Enabled Services require the installation and deployment of site assessment tools and the collection, transfer and ingestion of building, equipment, system time series, and other data to JCI's cloud-hosted software applications. **DIGITAL ENABLED SERVICES** mean services provided hereunder that employ JCI software and cloud-hosted software offerings and tools to improve and enable such services. Digital Enabled Service may include, but are not limited to, (a) remote inspection, (b) advanced equipment fault detection and diagnostics, and (c) data dashboarding and health reporting. Customer owns all the right, title and interest in and to the Customer data. Customer consents to the installation and deployment of site assessment tools and the collection, transfer and ingestion and use of such data by JCI to enable JCI to provide, maintain, protect and improve the Digital Enabled Services and JCI's products and services. Customer acknowledges that, while Digital Enabled Services generally improve equipment performance and services, Digital Enabled Services do not prevent all potential malfunction, insure against all loss, or guarantee a certain level of performance and that JCI shall not be responsible for any injury, loss, or damage caused by any act or omission of JCI related to or arising from the monitoring of the equipment under Digital Enabled Services. Certain equipment sold hereunder includes by default JCI's Connected Equipment Services. Digital Enabled Services may be on by default and the remote connection will continue to connect to Customer's Equipment through the full equipment lifecycle, unless Customer specifically requests in writing that JCI disable the remote connection or

JCI discontinues or removes such remote connection. If Customer's equipment includes Digital Enabled Services, JCI will provide a cellular modem or other gateway device ("Gateway Device") owned by JCI or Customer will supply a network connection suitable to establish a remote connection with Customer's applicable equipment to permit JCI to perform Digital Enabled Services. For certain subscriptions, Customer will be able to access equipment information from a mobile or smart device using Digital Enabled Service's mobile or web application. Any Gateway Devices provided hereunder shall remain JCI's property, and JCI may upon reasonable notice access and remove such Gateway Device and discontinue services in accordance with the Software Terms. If Customer does not permit JCI to connect via a connection validated by JCI for the equipment or the connection is disconnected by Customer, and a service representative must therefore be dispatched to the Customer site, then the Customer shall pay JCI at JCI's then-current standard applicable contract regular time and/or overtime rate for services performed by the service representative.

20. JCI DIGITAL SOLUTIONS. Use, implementation, and deployment of the software and cloud-hosted software products ("Software") offered under these terms shall be subject to, and governed by, JCI's standard terms for such Software and Software related professional services in effect from time to time at <https://www.johnsoncontrols.com/techterms> (collectively, the "Software Terms"). Applicable Software Terms are incorporated herein by this reference. Other than the right to use the Software as set forth in the Software Terms, JCI and its licensors reserve all right, title, and interest (including all Intellectual property rights) in and to the Software and improvements to the Software. The Software that is licensed hereunder is licensed subject to the Software Terms and not sold. If there is a conflict between the other terms herein and the Software Terms, the Software Terms shall take precedence and govern with respect to rights and responsibilities relating to the Software, its implementation and deployment and any improvements thereto. Notwithstanding any other provisions of this Agreement, unless otherwise set forth in the applicable order, quote, proposal or purchase documentation, the following terms apply to Software that is provided to Customer on a subscription basis (i.e., a time limited license or use right), (each a "Software Subscription"):

Each Software Subscription provided hereunder will commence on the date the initial credentials for the Software are made available (the "Subscription Start Date") and will continue in effect until the expiration of the subscription term noted in the applicable order, quote, proposal or purchase documentation. At the expiration of the Software Subscription, such Software Subscription will automatically renew for consecutive one (1) year terms (each a "Renewal Subscription Term"), unless either party provides the other party with a notice of non-renewal at least ninety (90) days prior to the expiration of the then-current term. To the extent permitted by applicable law, Software Subscriptions purchases are non-cancelable and the sums paid nonrefundable. Fees for Software Subscriptions shall be paid annually in advance, invoiced on the Subscription Start Date and each subsequent anniversary thereof. Customer shall pay all Invoiced amounts within thirty calendar days after the date of invoice. Payments not made within such time period shall be subject to late charges as set forth in the Software Terms. Unless otherwise agreed by the parties in writing, the subscription fee for each Renewal Subscription Term will be priced at Johnson Controls' then-applicable list price for that Software offering. Any use of Software that exceeds the scope, metrics or volume set forth in this Agreement and applicable SOW will be subject to additional fees based on the date such excess use began.

21. Privacy. **Company as Processor:** Where JCI factually acts as Processor of Personal Data on behalf of Customer (as such terms are defined in the DPA) the terms at www.johnsoncontrols.com/dpa ("DPA") shall apply. **Company as Controller:** JCI will collect, process and transfer certain personal data of Customer and its personnel related to the business relationship between it and Customer (for example names, email addresses, telephone numbers) as controller and in accordance with JCI's Privacy Notice at <https://www.johnsoncontrols.com/privacy>. Customer acknowledges JCI's Privacy Notice and strictly to the extent consent is mandatorily required under applicable law, Customer consents to such collection, processing and transfer. To the extent consent to such collection, processing and transfer by JCI is mandatorily required from Customer's personnel under applicable law, Customer warrants and represents that it has obtained such consent.

22. ENTIRE AGREEMENT. This proposal, upon acceptance, shall constitute the entire agreement between the parties and supersedes any prior representations or understandings. Customer acknowledges and agrees that any purchase order issued by Customer in connection with this Agreement is intended only to establish payment authority for Customer's internal accounting purposes and shall not be considered to be a counteroffer, amendment, modification, or other revision to the terms of this Agreement. No term or condition included or referenced in Customer's purchase order will have any force or effect and these terms and conditions shall control. Customer's acceptance of any Services shall constitute an acceptance of these terms and conditions. Any proposal for additional or different terms, whether in Customer's purchase order or any other document, unless expressly accepted in writing by JCI, is hereby objected to and rejected.

23. CHANGES. No change or modification of any of the terms and conditions stated herein shall be binding upon JCI unless accepted by JCI in writing.

CUSTOMER ACCEPTANCE

In accepting this Agreement, Customer agrees to the terms and conditions contained herein including those on the following page(s) of this Agreement and any attachments or files attached hereto that contain additional terms and conditions. It is understood that these terms and conditions shall prevail over any variation in terms and conditions on any purchase order or other document that Customer may issue. Any changes requested by Customer after the execution of this Agreement shall be paid for by the Customer and such changes shall be authorized in writing. ATTENTION IS DIRECTED TO THE LIMITATION OF LIABILITY, WARRANTY, INDEMNITY AND OTHER CONDITIONS CONTAINED IN THIS AGREEMENT.

Pricing is based upon the following billing and payment terms: Invoices will be delivered via email, payment due upon receipt, and invoices are to be paid via ACH bank transfer. Johnson Controls' ACH/EFT bank transfer details will be forth coming upon contractual agreement.

This offer shall be void if not accepted in writing within thirty (30) days from the date first set forth above.

To ensure that JCI is compliant with your company's billing requirements, please provide the following information:

PO is required to facilitate billing: ☐ NO: This signed contract satisfies requirement

☐ YES: Please reference this PO Number: _____

AR Invoices are accepted via email: ☐ YES: Email address to be used: _____

☐ NO: Please submit invoices via mail ☐ NO: Please submit via _____

BAD



MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: JESSICA HULLENDER, FINANCE ACCOUNTANT II

DATE: 8/14/2023

**SUBJECT: APPROVAL OF SOLE SOURCE FOR ANNUAL MAINTENANCE FOR
SECURITY SYSTEM AT THE DETENTION CENTER**

BACKGROUND

Funds in the amount of \$54,000.00 were appropriated in the fiscal year 2024 Detention Center budget for annual maintenance for the security system at the Detention Center. Accurate Controls provides the security automation system for cameras, intercoms, badge systems, door monitoring, and utilities, such as showers. The annual maintenance plan for the security system includes 24/7 technical assistance, four scheduled annual service visits, and repair or replacement of HMI interface, controls systems, intercom systems, CCTV systems, and card access systems.

Accurate Controls' equipment and software can be purchased from 3rd party vendors, but the use of the equipment and software requires training and certification that Accurate Controls has completed and maintains current. Accurate Controls is the only vendor that can provide maintenance and service to the central operations control unit. Though there are other vendors that can provide services to certain controls in the system, Accurate Controls is the only one that can provide service to all controls. To maintain standardization and compatibility, the annual maintenance will need to be provided by Accurate Controls, Inc. A quote has been submitted in the amount of \$53,032.82.

RECOMMENDATION / PROPOSED ACTION

Finance and Purchasing staff recommend utilizing the sole source bid exception based on North Carolina General Statute 143-129 (e) (6) (iii), as standardization and compatibility is the overriding consideration.

ATTACHMENTS:

Description	Type
Sole Source Request Form	Backup Material

Accurate Controls Quote

Backup Material



Sole Source Request Form (Eff. 6/21/21)

Submit Completed Form to Purchasing

Date: 7/24/23 Department: SHERIFF

1. Vendor Name (Legal Name): ACCURATE CONTROLS, INC

****Important Note for Item #2:** Confirm all required budgetary processes are complete and the funds are available before submitting "Original Budget" means the funds were approved by the Board in the original adopted budget for the current fiscal year. If a budget revision was completed after the adopted budget please answer N (No), and provide the budget revision number OR if original budget and budget revision both apply answer accordingly**

2. Amount Budgeted for Purchase: \$54,000 Original Budget (Y/N): Y or Budget Revision #: _____

Budget Codes (The budget the purchase will be made from):

Org. 4203 Object Code: 533401 Project Code: _____

Additional Notes Regarding Budget: _____

3. Federal Funding (Y/N): N

4. Detailed Description of Purchase (brand, what is the purchase, why is it being purchased, how is it used):

ACCURATE CONTROLS IS AN ANNUAL MAINTENANCE AGREEMENT FOR THE CONTROL SYSTEM AT THE JAIL. THIS AGREEMENT IS CURRENTLY IN PLACE AT THE JAIL. ACCURATE CONTROLS, INC HANDLES ALL ASPECTS OF SECURITY SYSTEM INTEGRATIONS SUITED FOR THE CORRECTIONS MARKET.

5. Which General Statute Sole Source Standard Does this Request Meet?

☐ (1) Performance or price competition is not available. Explain Below.

☐ (2) Product is available from only one source. Explain Below.

☒ (3) Standardization or compatibility is the overriding consideration. Explain Below.

Explain the Selection Above (Why is this brand required, Why is this vendor required, Why is standardization Required, etc.).

ACCURATE CONTROLS IS CCSO CURRENT CURRENT PROVIDER FOR THE JAIL SECURITY SYSTEM (DEVELOP, CONTROL, & MONITOR). TO ENSURE THAT THEIR EQUIPMENT & SOFTWARE ARE FUNCTIONING/SAFE THEY ARE AN UL508A LISTED CONTROL PANEL ASSEMBLER. AS THE SOLE SOURCE INTEGRATOR FOR OUR SYSTEM THEY ARE BEST EQUIPPED TO SERVICE

6. Required Attachments:

a. If applicable, attach a memo, statement or certification from the vendor supporting their sole source claim.

b. Attach the quote submitted by the vendor for the purchase.

Recommended By: [Signature]
Department Head Signature

FOR FINANCE ONLY BELOW THIS LINE

Reviewed and Confirmed By:

[Signature] Date: 8/10/23

BOCC Meeting Date: 8/21/23 Deadline for Novus Entry: 8/10/23



ACCURATE CONTROLS, INC.
SECURITY AUTOMATION SYSTEMS

Cumberland County Jail

Jeromy Dahlke

Director of Service Sales

 920.748.6603 ext.1

 jdahlke@accuratecontrols.com

 420 E. Oshkosh St, Ripon WI 54971

SERVICE AGREEMENT

(Security Automation Systems)

THIS AGREEMENT executed on this the ____ day of _____, 20____, but agreed to be effective from and after the 1st day of July, 2023, by and between Cumberland County Jail (hereinafter "Client"), and **ACCURATE CONTROLS, INC.**, (hereinafter "ACI"). **NOW, THEREFORE, FOR AND IN CONSIDERATION** of the mutual promises and agreements contained herein, Client hires ACI and ACI agrees to work for Client under the terms and conditions hereby agreed upon by the parties.

SECTION 1 – Scope of Services

ACI agrees to perform services for the client's security automation systems, installed by ACI at the Client's facility located at 204 Gillespie St. Fayetteville, NC. ACI agrees to perform the work for the Client on the terms and conditions set forth in this Agreement and as defined under the following Plans. It is recommended that the client provide an internet link for remote access, so we can better support your facility. Schedule A reflects fees for time and material costs. Schedule B will include the following equipment/ systems that are included for support per a service contract. Schedule B will also show equipment that can be eligible for repair/ replacement per a Gold. Schedule C will exclude equipment /systems that ACI does not support per this contract.

GOLD PLAN:

Provide online, 24/7 telephone technical assistance, equipment replacement, and four (4) scheduled annual service visits. Annual service visit will include one qualified technician for a limit of two (2) days, 8:00 am until 4:30 pm (lunch break 1/2 hour) to inspect and adjust any equipment scheduled by the Client or deemed necessary by the inspecting technician. Each visit will include a routine check of all security control systems installed by ACI. The scheduled service dates shall be determined at the beginning of the Agreement.

An unscheduled visit may be arranged at any time deemed necessary by the client. However, one (1) unscheduled visit will remove one (1) scheduled visits from your scheduled visit balance. An Accurate Controls' Service Technician will be sent to the site to service or replace the "critical" item only. No routine service work will be performed during the emergency visit.

During the term of this contract, total equipment replacement costs covered by ACI shall not exceed 40% of the Agreement amount.

	Typical Cost	Contract
ANNUAL FEE (for 1-year Agreement):	\$ 64,703.22	\$ 53,032.82

Agreement includes eight (8) hours of programming time per plan year without additional cost. If programming time exceeds eight (8) hours per year, additional time required will be billed at the (Schedule A) rate. Any additional visits made by an Accurate Controls' Service Technician will be provided and billed by hour, travel and per diem as referenced in (Schedule A). In addition, ACI will service door control hardware installed by others on a time and material basis only. See Attached Time and Material (Schedule A).

SECTION 2 – Term of Agreement

Option #1: Client agrees to hire ACI to perform the services and work as stated in Section 1 of this contract for a period of twelve (12) months from the effective start date of the Agreement.

A Service Agreement may be renewed between Client and ACI thirty (30) days prior to the expiration of subject Agreement. Terms and Conditions of extended Agreement are subject to change and will be presented to the Client in a new Service Agreement offered by ACI at that time. ACI shall also allow annual extensions of an existing Service Agreement via the use of a signed purchase order from the facility. Terms and conditions of the existing Service Agreement will be binding unless agreed changes are specifically outlined on the signed purchase order.

SECTION 3 – Payment Terms

3.1. ACI's payment terms shall be as follows:

- a. All payments to ACI shall be made within a 30-day period from date of invoice.
- b. Agreement billing shall be as follows:
 1. 1 Year Plan: Shall be billed in full at initiation of contract or 12 equal payments. Select Plan.
One Invoice, payment in full
Monthly Invoices

Any additional equipment costs over ACI's maximum coverage levels, any emergency visits and door hardware service work will be invoiced at the time of the service call.

SECTION 4 – Services

- 4.1. In case of emergency, ACI will promptly respond to the Client's call for services and an emergency call-out telephone contact number will be provided and manned 24 hours a day throughout the Agreement. On-site services shall be provided within 24 hours as deemed required by ACI.
- 4.2. Except in emergency, services will normally be carried out between the hours of 7:30 am to 4:30 pm on weekdays.
- 4.3. Major services will be undertaken during hours as agreed in advance between the Client and ACI.
- 4.4. Routine service visits shall be scheduled between Client and ACI Scheduling Supervisor and are subject to change based on ACI technician availability.

SECTION 5 – Standard of Services

- 5.1. All services to be undertaken by ACI shall be executed by competent and properly trained personnel of ACI to the highest standards and to the reasonable satisfaction of the Client. All services, materials, and components shall conform to relevant manufacturers' and equipment suppliers' specifications, and all materials and spare parts shall be obtained from the original equipment manufacturers or from suppliers approved by them.
- 5.2. Accurate Controls, Inc. will not replace or warrant hardware, which is damaged due to negligence, fire, natural disasters or vandalism. ACI assumes no responsibility for any current, or extended, manufacturer's warranties on products, which existed in the Client's facility when this Agreement was entered in to.
- 5.3. ACI's normal working hours are 7:30 am to 4:30 pm Central Time with ½ hour lunch break, Monday through Friday. Any service times other than these hours will be considered premium and will invoice at 1.5 times the maintenance agreement rate listed on Schedule A, with the exception of Sundays or National Holidays, which will be invoiced at 2 times the service agreement rate.
- 5.4. The Client acknowledges that no security system can guarantee prevention of loss, and that human error on the part of ACI or the Client is possible. The security system will not work properly if equipment is tampered with, and, or otherwise damaged.

SECTION 6 – Unacceptable Services or Contractor’s Personnel

- 6.1. Any services which are not performed in accordance with the requirements of the Agreement shall, upon request by Client, promptly be corrected free of charge.
- 6.2. Any personnel of ACI who are, in the Client's reasonable opinion, incompetent or in any other way unacceptable shall promptly be replaced by acceptable personnel at no cost to the Client.

SECTION 7 – Reports

- 7.1. ACI shall submit regular reports to the Client detailing services carried out, repairs and adjustments made, condition of equipment, and other information which the Client may from time to time reasonably require.

SECTION 8 – Spare Parts

- 8.1. Spare parts inventory is limited. ACI does not stock all project specific parts. Upon notification from Client of a product service issue, ACI will contact its manufacturers, suppliers, and distributors to determine supply availability. If parts are available, ACI shall order parts for next day delivery. If parts are not available through standard supply chain processes ACI will notify Client of availability dates. ACI shall not be responsible for manufacturer supply chain availability issues.
- 8.2. Any parts required to be replaced during scheduled service calls by ACI, shall be called in to ACI by Client no later than seven (7) business days prior to the scheduled service call.

SECTION 9 – Liability of the Contractor

- 9.1. ACI shall be liable for and indemnify the Client against all compensation and/or damages payable for injury or damage to third parties, or to any property, which may arise out of or in consequence of the Agreement. The indemnity shall extend to all costs, charges, and expenses which may be incurred in relation to any claim for compensation or damages.
- 9.2. ACI shall at its own expense arrange and maintain insurance to cover its liability under this Agreement.

SECTION 10 – Independent Contractor

- 10.1. ACI shall, in the performance of all obligations under this Agreement, act in the capacity of an independent Contractor and not as agent for the Client.

SECTION 11 – Termination

- 11.1. This Agreement may be terminated at any time by the Client giving not less than three months written notice to ACI, to expire on the last day of the month after a three-month period.
- 11.2. This Agreement may, notwithstanding any other provisions, be terminated by the Client forthwith at any time in the event of ACI's default, breach of contract, bankruptcy, receivership, or liquidation.
- 11.3. This Agreement may also be terminated by ACI at any time in the event of the Client being more than 60 days overdue with payment or in the event of the Client's bankruptcy, receivership, or liquidation.
- 11.4. Upon such termination, ACI shall be entitled to receive payment for all outstanding service fees due through the date of termination.

SECTION 12 – Force Majeure

- 12.1. In the event that any obligation contained herein is not fulfilled within the time period required hereby, and such failure is beyond ACI's reasonable control, including but not limited to compliance with any regulations, order or instruction of any federal, state or municipal government or any department or agency thereof, acts or omissions of any other party hereto, acts of civil or military authority, war, terrorism, riots, embargoes, strikes, fires, epidemics, accidents, natural disasters and the ability (due to causes beyond ACI's reasonable control) to obtain necessary labor or materials due to supply chain issues (all of the foregoing, without limitation, being herein referred to as force majeure), ACI shall give Client prompt notice of the occurrence of any such force majeure delay or expected delay, specifying the cause thereof and the expected duration. In the event of any such delay, the date required for fulfillment of such obligation shall be automatically extended for a period equal to the time lost by reason of delay. In no event, however, shall this provision apply to an obligation requiring solely the payment of money.

SECTION 13 – Assignment & Subletting

13.1. ACI shall not assign or sublet this Agreement or any part of it to any third party without the prior written consent of the Client.

- a.** The terms of this Agreement extend to the Client’s successors, assignees, and legal representatives.
- b.** It is understood and agreed between the parties hereto that time is of the essence to this Agreement, and this applies to all terms and conditions contained herein.
- c.** This Agreement has been executed and delivered in and shall be governed and constructed in accordance with the laws of the State of North Carolina.
- d.** The undersigned client has read completely the terms of this Agreement, understands, and agrees to follow terms and obligations as specified herein.

Client

Signed by: _____

Printed name and title: _____

For and on behalf of: _____

ACI

Signed by: _____

Printed name and title: _____

For and on behalf of: _____

SCHEDULE A

Fees and Expenses for Time and Material

1. Online technical assistance:
 - a. \$216.00 per hour billed in 30-minute increments without an Agreement
 - b. \$141.00 per hour billed in 30-minute increments with an Agreement
2. Telephone technical assistance:
 - a. \$216.00 per hour billed in 30-minute increments without an Agreement
 - b. \$141.00 per hour billed in 30-minute increments with an Agreement
3. Programming assistance:
 - a. \$216.00 per hour billed in 30-minute increments without an Agreement
 - b. \$141.00 per hour billed in 30-minute increments with an Agreement
4. After hours telephone technical assistance (from **4:30 pm** to **7:30 am**)
 - a. \$323.00 per hour billed in 30-minute increments without an Agreement
 - b. \$212.00 per hour billed in 30-minute increments with an Agreement
5. On-site Services:
 - a. \$164.00 per hour per person, including travel time to and from facility without an Agreement
 - b. \$113.00 per hour per person, including travel time to and from facility with an Agreement
6. Additional Training:
 - a. \$168.00 per hour per person, including travel time to and from facility without an Agreement
 - b. \$134.00 per hour per person, including travel time to and from facility with an Agreement
7. Travel per diem expense:
 - a. \$3,724.00 per required round trip to Fayetteville, NC without an Agreement
 - b. \$3,124.00 per required round trip to Fayetteville, NC with an Agreement
8. Per Diem expense: \$205.00 per required overnight stay per person

SCHEDULE B

Inclusions: For the purpose of this agreement, the below listed items would be available for repair or replacement in case of failure for the Gold plan.

1. HMI Interface – control computers and monitors
2. Controls Systems – Schneider Electric PLC components, power supplies, relays, terminal blocks, and fuses
3. Intercom Systems – Headend components, intercoms, paging speakers, and intercom master stations
4. CCTV Systems – Headend components that include switching gear and recording servers, workstations, monitors, and cameras
5. Card Access systems – Control boards, database server, enrollment station, card readers, and scramble keypads

SCHEDULE C

Exclusions: For the purpose of this agreement, the below listed items would be excluded from coverage.

1. Any components with a raceway such as conduit and back boxes
2. Any new or existing wire
3. Any equipment not originally purchased or supplied by Accurate Controls
4. Systems provide by others
5. Software upgrades and license



ACCURATECONTROLS, INC.
SECURITY AUTOMATION SYSTEMS



MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: JESSICA HULLENDER, FINANCE ACCOUNTANT II

DATE: 8/14/2023

**SUBJECT: APPROVAL OF SOLE SOURCE FOR ANNUAL MAINTENANCE FOR
CORNERSTONE HARDWARE FOR THE DETENTION CENTER**

BACKGROUND

Funds in the amount of \$56,010.00 were appropriated in the fiscal year 2024 Detention Center budget for annual maintenance for Cornerstone hardware installed for the Detention Center. The Cornerstone hardware includes Detention Center swing doors, slider devices, detention locks, and compressor system. The annual maintenance of this hardware includes emergency service and support, confidence testing, and preventative maintenance services.

Cornerstone Detention Products, Inc. is the only full-service detention equipment and electronics integration provider in the region. In addition, the detention door hardware is manufactured by Airteq Systems, a division of Cornerstone, and the sole source provider of this hardware. Since performance or price competition are not available, the annual maintenance will need to be provided by Cornerstone Detention Products, Inc. A quote has been submitted in the amount of \$174,813.03 for a total contract of three (3) years: \$56,001.10 for the first year, \$58,241.14 for the second year, and \$60,570.79 for the third year.

RECOMMENDATION / PROPOSED ACTION

Finance and Purchasing staff recommend utilizing the sole source bid exception based on North Carolina General Statute 143-129 (e) (6) (i), as performance or price competition for a product are not available.

ATTACHMENTS:

Description	Type
Sole Source Request Form	Backup Material
Cornerstone Sole Source Letter	Backup Material
Cornerstone Quote	Backup Material



Sole Source Request Form (Eff. 6/21/21)
Submit Completed Form to Purchasing

Date: 8/2/23 Department: SHERIFF'S OFFICE

1. Vendor Name (Legal Name): CORNERSTONE DETENTION PRODUCTS, INC

****Important Note for Item #2:** Confirm all required budgetary processes are complete and the funds are available before submitting "Original Budget" means the funds were approved by the Board in the original adopted budget for the current fiscal year. If a budget revision was completed after the adopted budget please answer N (No), and provide the budget revision number OR if original budget and budget revision both apply answer accordingly**

2. Amount Budgeted for Purchase: \$50,500 Original Budget (Y/N): Y or Budget Revision #: Y 240027
Budget Codes (The budget the purchase will be made from):
Org. 1014203 Object Code: 533410 Project Code: _____
Additional Notes Regarding Budget: \$56,010 after BR

3. Federal Funding (Y/N): N

4. Detailed Description of Purchase (brand, what is the purchase, why is it being purchased, how is it used):
Cornerstone Detention Products- is a maintenance agreement for the detention center swing doors, slider devices, food pass hardware & detention center air compressor center. Cornerstone provides emergency service, confidence testing, & preventative maintenance programs on their electronics systems. Cornerstone is the only full-service detention equipment & electronics integration provider in the region.

5. Which General Statute Sole Source Standard Does this Request Meet?

- ☒ (1) Performance or price competition is not available. Explain Below.
☐ (2) Product is available from only one source. Explain Below.
☐ (3) Standardization or compatibility is the overriding consideration. Explain Below.

Explain the Selection Above (Why is this brand required, Why is this vendor required, Why is standardization Required, etc.).

Major components to facilities are the detention door hardware manufactured by Airteq System. Airteq is a division of Cornerstone, Airteq/ Cornerstone is the sole source provider of this detention hardware. Mechanical locking system are critical to the operation of correctional facilities.

6. Required Attachments:

- a. If applicable, attach a memo, statement or certification from the vendor supporting their sole source claim.
b. Attach the quote submitted by the vendor for the purchase.

Recommended By: E Wright
Department Head Signature

FOR FINANCE ONLY BELOW THIS LINE

Reviewed and Confirmed By: Jessica Hullendy Date: 8/10/23

BOCC Meeting Date: 8/21/23 Deadline for Novus Entry: 8/10/23



Cornerstone Detention Products, Inc.
East Coast Regional Office
621 Poole Drive, Garner, NC 27529
Phone (919) 779-0006, Fax (919) 325-4326
www.cornerstonedetention.com
NC-ASLB – #2543-CSA, VA DCJS #11-9615
SC ASLB #BAC-13857, MD #107-2037

08/02/23

To: Cumberland County NC Jail and Detention Center
Re: Hardware Service Contract

Mr. Demario Lofton,

As you are aware, Cornerstone Detention Products, Inc. (Cornerstone) provides Detention Equipment, Security Electronics Systems, and Detention hardware. Cornerstone technicians are Airteq certified as well as trained in other Detention hardware brands. We have Southern Folger certified technicians on staff and can provide direct drop-in replacements.

Cornerstone provides emergency service, confidence testing, and preventative maintenance programs on security electronic systems and the Detention door locking hardware throughout the East Coast out of our Garner office. To the best of our knowledge, Cornerstone is the only full-service Detention equipment and electronics integration provider in the region. The Cornerstone East Coast division holds a very solid presence in proximity to your facility.

Major components to facilities are the detention door hardware manufactured by Airteq Systems. Please understand that Airteq is a division of Cornerstone, therefore Airteq/ Cornerstone is the sole source provider of this detention hardware. Mechanical locking systems are critical to the operation of correctional facilities.

Should you have any additional questions please feel free to contact me.

Best Regards,

Denise Dillander

Denise Dillander

East Coast Regional Service Manager, Cornerstone Detention Products, Inc.



Proposal # S2037561

TO:	Cumberland County	From:	Cornerstone Detention Products, Inc.
(Customer)	204 Gillespie Street Fayetteville, NC 28301	(Contractor)	621 Poole Drive Garner, NC 27529
Facility Location:	Cumberland County Jail 204 Gillespie Street Fayetteville, NC 28301	Proposal Date:	03/20/2023

Cornerstone Service Agreement Terms and Conditions

SCOPE AND DEFINITION OF SERVICES: The services provided shall be those indicated on the face hereof or as set forth in Attachment “A” and will be performed during Cornerstone’s normal working hours (M-F 8am-5pm), unless otherwise agreed. Cornerstone Detention Products, Inc. herein is referred to as “Contractor”.

Cornerstone Detention Products, Inc. (The Contractor) will furnish its services as an independent contractor and not as an employee of Customer. It is agreed that the Contractor will take reasonable care and precautions in the performance of its work, and that Customer will maintain all necessary and required insurance coverage to protect itself against damage or injury to persons or property.

COVERAGE:

1. Base Contract as described in Attachment “A”
 - 24/7/365 Telephone technical support of all covered systems.
 - Response time as appropriate for critical outages.
 - Priority service over noncontract Customers.
 - Discounted pricing for purchases.
 - Reduced labor rates from non-contract customers.
2. Preventive Maintenance Service Options as per Attachment “A” of this agreement

EXCLUSIONS:

1. Replacement parts are not included as part of this Agreement. If parts are required, they will be charged at a discount from the Manufacturer’s list price.
2. The Contractor will not warrant materials provided by others under this Agreement.
3. Lift. If a lift is necessary for access to the exterior cameras and cameras that cannot be reached with a 10’ ladder, the cost will be invoiced back with a 25% mark-up.



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TERM: The commencement date of this Agreement shall be on the first day of July and shall be for an initial term of 3 Years. The Agreement shall be automatically renewed for the next Contract Year Period of the Agreement at the end of each Year Period unless terminated by either party by giving written notice to the other at least ninety (90) days prior to the end of the current Contract Year Period.

PAYMENT: The Institution shall pay to the Contractor the total base price as illustrated in the payment table below. As part of this Agreement, for labor and material required outside of the scope of services in Attachment "A", Customer agrees to make payment of invoices for the base price services as well as for any invoices representing work outside the base scope outline in Attachment "A" within thirty (30) days of the date of the invoice. The Contractor reserves its right to refuse service or cancel this Agreement at any time that payments become delinquent.

Service Rates: Portal-to-portal maintenance service hours can be pre-purchased at rate of \$105.00 per hour (see "Emergency Presold Hours" below). If presold hours have been expended, additional labor hours will be billed at a Maintenance Contract rate of \$150.00 per hour for Contract Customers.

Non-contract Customers shall be billed at the Contractor's standard service rate of \$195 per hour. Weekends, holidays, and after hour service call rates shall be calculated at 1.5 times the billed rate (pre-purchased hours are exempt from this calculation).

* If an Applications Engineer is required, these services are invoiced at \$280.00 per hour portal-to-portal plus associated travel expenses from the local service office.

Contract Year	Annual Cost	Quarterly Payment	Contract Period Begin	Contract Period End
Year 1	\$ 56,001.10	\$ 14,000.27	7/1/2023	6/30/2024
Year 2	\$ 58,241.14	\$ 14,560.29	7/1/2024	6/30/2025
Year 3	\$ 60,570.79	\$ 15,142.70	7/1/2025	6/30/2026

- Base Contract includes a package of Forty (40) pre-sold service hours. Presold hours are used for service. These hours can be used anytime (day, night, weekend, holiday). Presold hours do not roll over and unused presold hours expire at the end of each contract year. Presold hours are sold at a \$105 per hour rate and are used portal-to-portal. Pre-sold packages start at 40-hours.



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Option No. 1 - Additional Pre-Sold Hours package (40 Pre-sold Service Hours). These additional packages must be purchased at the beginning of the contract year period. (These hours do not roll over)

Option 1 - ADD \$4,200.00

Option No. 2 – Service Material Allowance, Allowance that can be added to the Base Contract for material purchases to service the systems. (This allowance does not roll over)

Option 2 – ADD \$5,000.00

CLARIFICATIONS:

1. When systems reach end-of-life, or parts to support the systems are no longer available from the manufacturer or unavailable through normal distribution, the Contractor will provide a proposal for an update path/plan that will be supportable with manufacturer's current product. PLC control materials will be COTS (Commercially off the Shelf) products used in industrial manufacturing.

SERVICES OUTSIDE THIS CONTRACT: As part of this Agreement, for labor and material required outside of the scope of services in Attachment "A", Customer will be billed at a standard contract hourly straight time rate of \$150.00 per hour plus materials and related travel costs. If the Customer requires work to be done on weekends, holidays, or after normal working hours rates shall be calculated at 1.5 times the billed rate unless otherwise negotiated and agreed to by both parties. If an Applications Engineer is required, these services are invoiced at \$280 per hour portal-to-portal plus associated travel expenses from the local service office. In the event an outside sub-contractor is required, the Customer will be invoiced cost plus 30%.

In any case, all extra work, material, or labor required or requested beyond base price scope shall require specific authorization from the Customer prior to any work being done by the Contractor.

A late charge in the amount of 1.5 % per month or the highest legal rate, may be assessed against any balance past due for more than thirty (30) days together with all costs incurred in collection of overdue amounts. Failure to pay any amount due within sixty (60) days shall be a material breach and the Contractor shall be discharged from any further obligations under this Agreement.

TAXES: Customer shall bear the cost of any sales, consumer use, excise, or other tax applicable to the services provided hereunder.

ACCESS: Customer agrees to provide free access to the systems and equipment to be maintained, and to provide the necessary equipment to reach inaccessible equipment and peripheral devices (e.g. scaffolding, man lifts etc.). The Contractor shall be provided a safe workplace for its personnel.



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FORCE MAJEURE: The Contractor shall not be responsible for failure to render service due to causes beyond its control including but not limited to lack of payment, work stoppages, fires, civil disobedience, riots, rebellions, acts of God and other similar occurrences where the safety of personnel cannot be maintained.

DEFAULT: If the Customer fails to perform any of the terms of this Agreement and the failure continues for more than thirty (30) days after written notice; or if Customer's occupational business license shall terminate for any reason ; the Customer shall become insolvent or file bankruptcy; or make any assignment of this Agreement without the Contractor's consent, then the Contractor shall have the right to terminate the Agreement for default which shall be effective thirty (30) days after written notice of such termination.

LIMITATION OF LIABILITY: In no event shall the Contractor be liable for any special, indirect, incidental, or consequential damages whatsoever.

TERMINATION: Either party shall have the right to terminate their obligations under this Agreement at the end of the term or at the end of any subsequent year period provided that the party terminating the Agreement shall provide ninety (90) days written notice prior to the end of the then current year period. The Contractor shall be paid in full for all work performed and costs incurred prior to the date of termination.

GOVERNING LAW: This Agreement shall be construed and enforced in accordance with the laws of the State of (North Carolina).

ENTIRETY OF AGREEMENT: This Agreement is the entire and exclusive agreement for the services to be provided herein. This Agreement supersedes and otherwise renders null and void any prior written or oral agreements entered with respect to the services provided herein. This Agreement shall only be modified in writing and signed by both parties.



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ATTACHMENT "A"

Base Contract

COVERAGE:

- 1. Base Maintenance included in this Agreement.**
 - a. Telephone technical support
 - i. Critical services/outages – 1-hour return call response time.
 - ii. Non-critical services – next business day return call response time.
 - iii. Remote technical system access. Minimum 2-hours initial connection then assessed in one-hour increments after that. Billed at the standard contract straight time hourly service rate.
 - b. On-site service support (Base includes Forty (40) pre-sold service hours. After the pre-sold hours are expired any additional hours are billed at the standard contract straight time hourly rate of \$150/hour)
 - i. Critical services/outages – 48-hour on-site response time.
 - ii. Non-critical services – response time as mutually agreed to by Contractor and Customer based on issue.
 - c. Priority service over noncontract Customers.
 - d. Discounted pricing for purchases when available.
 - e. Reduced labor rates from non-contract customers. Rate sheet attached for reference.
 - f. Specific software/license support for current SSA/SMA where applicable.
- 2. Systems covered under this Maintenance Agreement are:**
 - a. Detention swing doors and slider devices, detention locks
 - b. Compressor system



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Additional Services

Detention Equipment Preventive Maintenance Service:

- a. **Detention PMS (Four visits per year):**
 - i. Detention Swing Door Devices
 - 1. Visual inspection of doors and locks for wear and tear
 - 2. Test functionality of locking device, (internal lock parts replacement shall not be performed on site, factory refurbishment shall be necessary, this is at a cost to the customer).
 - 3. Test/adjust lock and DPS/LPS
 - 4. Clean and lubricate as necessary, (Per manufacturers specifications).
 - 5. Test/adjust all door closures as necessary
 - ii. Detention Sliding Door Devices
 - 1. Check and lubricate locking mechanism
 - 2. Check bottom guide wear pads
 - 3. Clean roller track
 - 4. Adjust lock bars, door drive brackets, & rollers as necessary
 - 5. Check and adjust DPS/LPS, and limit switches as necessary
 - 6. Check and adjust drive pressure and speed as necessary
 - iii. Detention Air Distribution System (**Once per year**)
 - 1. Adjust air pressure
 - 2. Check dryer filter and replace from Customer spare parts inventory
 - 3. Drain the system and check the auto drain system
 - 4. Check and / or fill compressor pump with oil from customers spare parts
 - 5. Check the cross over redundancy of the back-up system
 - 6. Check for oil leaks
 - 7. Inspect and replace drive belts, if necessary, replace from Customer spare parts inventory

Contractor will provide the phone number to the off hours answering service. Access to the on-call emergency number is available 24 hours per day, 7 days per week.

In the event of an emergency during normal business hours (Mon-Fri, 8am-5pm), the Customer will call Contractor's main office number and report a service request. For after-hours support, the Customer will contact Contractor's on-call service via the telephone.

Contractor will identify and recommend critical spare components for the Customer to purchase and keep on site. In the event of system failure, Contractor will use the Customer's spare parts for system



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restoral. If adequate parts are not available, Contractor will arrange for delivery of materials by the fastest means possible to affect timely repairs.

Signature Page

Customer

Approved by Authorized Representative

Date: _____

Signature: _____

Print Name: _____

Title: _____

Proposal No.: S2037561 _____

Option No. 1 Acceptance _____

Option No. 2 Acceptance _____

Cornerstone Detention Products, Inc.

Approved by Authorized Representative

Date: 08/09/23 _____

Signature: Denise Dillander

Print Name: Denise Dillander _____

Title: Regional Service Manager _____

Date: 08/09/23 _____



MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: JESSICA HULLENDER, FINANCE ACCOUNTANT II

DATE: 8/14/2023

SUBJECT: APPROVAL OF SOLE SOURCE FOR SAFEGUARD WARRANTY AND PROTECTION PLAN FOR INTEGRATED BALLISTICS IDENTIFICATION SYSTEM EQUIPMENT FOR SHERIFF'S OFFICE

BACKGROUND

Funds in the amount of \$34,000.00 were appropriated in the fiscal year 2024 Sheriff's Office budget for a warranty and protection plan for Integrated Ballistics Identification System (IBIS) equipment. The IBIS equipment included in this SafeGuard warranty and protection plan are an IBIS BRASSTRAX Acquisition Station and an IBIS MATCHPOINT Analysis Station for Cartridge Cases. This equipment is used to acquire cartridge case evidence and analyze it for potential links with other crimes involving the same firearm. The warranty and protection plan includes support services, technical support, proactive warning service, replacement of defective hardware, hardware replacement in special circumstances, workstation refresh program, preventative maintenance visit, ongoing user training and skill development, customer care program, correction of IBIS application errors, software upgrades, annual status report, and advanced security.

Manufacturing and servicing IBIS equipment requires access to proprietary and commercially sensitive information that is only accessible to employees of Forensic Technology Inc. In addition, IBIS is the only technology that has undergone extensive testing and complies with the security standards needed for integration into the National Integrated Ballistic Information Network (NIBIN), which must meet U.S. Department of Justice (DOJ) security requirements. Forensic Technology Inc. is the exclusive manufacturer of IBIS and only they can provide their proprietary products, as well as maintenance, upgrades, and services. To maintain standardization and compatibility, the SafeGuard warranty and protection plan will need to be provided by Forensic Technology Inc. A quote has been submitted in the amount of \$31,569.00.

RECOMMENDATION / PROPOSED ACTION

Finance and Purchasing staff recommend utilizing the sole source bid exception based on North Carolina

General Statute 143-129 (e) (6) (iii), as standardization and compatibility are the overriding consideration.

ATTACHMENTS:

Description	Type
Sole Source Request Form	Backup Material
Forensic Technology Sole Source Letter	Backup Material
Forensic Technology Quote	Backup Material



Sole Source Request Form (Eff. 6/21/21)

Submit Completed Form to Purchasing

Date: 7/14/23 Department: SHERIFF

1. Vendor Name (Legal Name): FORENSIC TECHNOLOGY, INC

****Important Note for Item #2:** Confirm all required budgetary processes are complete and the funds are available before submitting "Original Budget" means the funds were approved by the Board in the original adopted budget for the current fiscal year. If a budget revision was completed after the adopted budget please answer N (No), and provide the budget revision number OR if original budget and budget revision both apply answer accordingly**

2. Amount Budgeted for Purchase: \$34,000 Original Budget (Y/N): Y or Budget Revision #: _____

Budget Codes (The budget the purchase will be made from):

Org. 1014200 Object Code: 533308 Project Code: _____

Additional Notes Regarding Budget: _____

3. Federal Funding (Y/N): N

4. Detailed Description of Purchase (brand, what is the purchase, why is it being purchased, how is it used):

Safeguard Warranty and Protection Plan Annual Agreement. Forensic Technology is The Sole Source Vendor & Manufacture of the Integrated Ballistic System. Servicing the System Would Require Access to Sensitive Information That is Only Accessible to Employees of Forensic Technology. This Warranty and Protection Plan Will Cover any Software and Maintenance for the Designated Year.

5. Which General Statute Sole Source Standard Does this Request Meet?

☐ (1) Performance or price competition is not available. Explain Below.

☐ (2) Product is available from only one source. Explain Below.

☒ (3) Standardization or compatibility is the overriding consideration. Explain Below.

Explain the Selection Above (Why is this brand required, Why is this vendor required, Why is standardization Required, etc.).

At the Sheriff's Office we Currently Have an Integrated Ballistic System Acquisition Station and Analysis Station for Cartridges.

6. Required Attachments:

a. If applicable, attach a memo, statement or certification from the vendor supporting their sole source claim.

b. Attach the quote submitted by the vendor for the purchase.

Recommended By: E Wright
Department Head Signature

FOR FINANCE ONLY BELOW THIS LINE

Reviewed and Confirmed By:

Jessica Hullender Date: 8/10/23

BOCC Meeting Date: 8/21/23 Deadline for Novus Entry: 8/10/23



Sole Source Justification

The Integrated Ballistic Identification System (IBIS®) uses technology that encompasses several patents protected in the United States and throughout the world. As such, manufacturing and servicing these products require access to proprietary and commercially sensitive information that is only accessible to employees of **Ultra Electronics Forensic Technology Inc.** and its affiliate company **Forensic Technology Inc.** (hereinafter collectively referred to as **Forensic Technology**).

Consequently only Forensic Technology, the exclusive manufacturer of IBIS and Quantum 3D Microscope™ (Q3M), can provide their proprietary products IBIS BRASSTRAX, IBIS BULLETTRAX, IBIS MATCHPOINT, IBIS Data Concentrator, IBIS Correlation Engine, and Q3M, as well as maintenance, upgrades and services, including data migration, moving and training services pertaining thereto.

Furthermore IBIS, currently in use in the United States under the ATF NIBIN program, is the only technology that has undergone extensive testing and complies with the security standards needed for integration into NIBIN. Other ballistic identification technologies are not compatible with NIBIN.

Sincerely,

A handwritten signature in cursive script that reads "Stacy Stern".

Stacy Stern
Vice President Sales and Marketing

ULTRA.

January 5, 2023

Lieutenant Samuel Goshorn
Cumberland County Sheriff's Office
131 Dick Street
Fayetteville, NC 28301

Forensic Technology Inc.

A member of the Ultra Group of companies
7975 114th Ave. North, Suite 2500
Largo, FL 33773-5028
TollFree +1 888 984 4247
www.ultra-forensict technology.com

Subject: **Proposal for our SafeGuard Warranty and Protection Plan**
(Our reference S-09599 Rev. 01)

Lieutenant Goshorn:

Forensic Technology Inc., a member of the **Ultra Group of companies** (hereinafter referred to as **Forensic Technology**) is pleased to provide the **Cumberland County Sheriff's Office** (hereinafter referred to as the **Customer**) with this proposal for our SafeGuard Warranty and Protection Plan for the equipment listed below. Please refer to the attached document IBIS: SafeGuard Warranty & Protection Plan for the description of our services.

All IBIS systems deployed on NIBIN must meet the U.S. Department of Justice (DOJ) security requirements. Forensic Technology's SafeGuard Warranty includes key services that ensure all IBIS systems continue to be compliant with the DOJ requirements.

System Component	Serial Number	Installation Date
IBIS® BRASSTRAX Acquisition Station	BRTX00000679	December 2015
IBIS® MATCHPOINT Analysis Station for Cartridge Cases	MPP2404	

1. Pricing Options

The prices below are conditional upon receipt of full payment at the beginning of the contract period.

Coverage Period	Price	Sales Tax (7.0%)	Total Price (USD)
Twelve (12) Months from July 1, 2023 to June 30, 2024	\$31,569	\$2,209.83	\$33,778.83

NOTES:

- Pricing includes 7.0% sales tax. In the event a different rate applies, the Customer should inform Forensic Technology. If the Customer is exempt from sales tax, the Customer should provide Forensic Technology with a valid exemption certificate. In either scenario, Forensic Technology will revise its pricing accordingly.
- Software upgrades, repairs and/or reactivation fees might apply in case of interruption of SafeGuard services. Please see the Exclusion and Discontinuation of SafeGuard Clauses in the Terms & Conditions section.

Should you have any questions about this proposal, please do not hesitate to contact the undersigned at number +1 (602) 826-8802 or via e-mail at brandon.huntley@ultra-ft.com. We look forward to your reply.

Sincerely,

A handwritten signature in black ink, appearing to be 'BH' with a stylized flourish underneath.

Brandon Huntley
Manager, Forensic Intelligence Strategy - North America

Attachments:

- Terms and Conditions
- SafeGuard Warranty and Protection plan for the IBIS components located in Fayetteville, NC USA
- Sole Source Justification

Terms and Conditions

1. Proposal/Offer Validity Period

In accordance with the current scope of the project and requirements, this proposal is designed to provide up to date information on our products and/or services and related prices. As such, all information contained within is valid as at the date of issuance of this proposal and is subject to change, without notice, after **June 30, 2023**.

2. Currency

All prices are quoted in **United States Dollars**.

3. Payment Terms

SafeGuard fees are due at the beginning of the service period, net thirty (30) days from the date of our invoice. In the event payments are not received in due time, Forensic Technology reserves the right to apply a late payment fee.

The Customer will be entitled to a 1% prompt payment discount if the following conditions are met:

1. The Customer must issue its purchase order for the full value of the selected option at any time prior to the start of the service period;
and
2. Payment is to be received within twenty (20) days from the date of our invoice, which will be issued upon receipt of purchase order.

The Customer is responsible for issuing its payment using the discounted amount, when appropriate. Forensic Technology will not reimburse the Customer if the discount is not taken at the time of payment.

4. Exclusions

The Customer is responsible for the cost of any repairs required due to the abuse or misuse of the system's software and/or hardware by the Customer. This includes:

- Any damage caused by failure of the Customer to reasonably maintain the hardware and software including, but not limited to, insufficient cooling and inadequate or intermittent power source.
- Any damage caused by the addition of unauthorized hardware components and/or software applications to the system.

In such cases, Forensic Technology reserves the right to void any outstanding warranty or SafeGuard agreement. Furthermore, Forensic Technology does not guarantee that any corrective action taken following system abuse or misuse will assure the integrity of the user data.

5. Discontinuation of SafeGuard

In the event that the Customer opts out of SafeGuard by early termination or does not renew the Plan at the end of the term and if, in the future, the Customer then wishes to reinstate SafeGuard, a reactivation fee will apply. In such cases, in addition to the reactivation fee, the Customer will be responsible for the following:

- All costs related to performing a site assessment (including labor and travel charges).
- All costs for parts that require replacement under the Exclusions clause above, or as a result of failure, lack of maintenance, or non-use.
- All costs related to upgrading the installed technology to the then-current supported hardware and software baseline.

6. Availability Commitment

Forensic Technology commits to the supply of spare parts for a period of seven (7) years from installation of the equipment. If a defective component cannot be replaced due to discontinuation by its manufacturer, Forensic Technology will make the utmost effort to propose an alternate solution.

7. Customer-Supplied Communication Lines

The maintenance and furnishing of necessary communication lines, whether within varied network topologies (inter-site communication lines) or other, will be the responsibility and duty of the ATF in the case of IBIS systems connected to NIBIN.

The time for service rendered is directly proportional to the existence and quality of the service communication line installed on-site. Forensic Technology can only provide timely and diligent service (diagnostics, repairs, software upgrades, software patches, etc.) with the presence of recommended and functional service communication lines. Without an optimal service communication line, Forensic Technology will not be able to deliver services effectively.

Forensic Technology is not responsible for non-functional communication lines due to any reason other than a system-related problem. Forensic Technology may have to charge the Customer for any service calls caused by non-compliant communication lines.

8. Duties, Taxes and Fees

With the exception of State Sales Tax, any taxes, duties, levies, contributions, dues, value added tax (VAT), fees, charges, or assessments of any nature levied by any governmental authority (other than of Canada, Ireland or Switzerland) or any Customer-appointed intermediate as a result of this proposal relating to service or in connection with any work performed hereunder whether levied against Customer, Forensic Technology or employees of Forensic Technology, shall be for Customer's account and shall be paid directly by Customer to the governmental authority concerned. In the event that Forensic Technology or employees of Forensic Technology are required by law to make payment of any such charges in the first instance, the amount thereof shall be reimbursed by Customer upon presentation of invoices from Forensic Technology.

9. Limitation of Liability

Except as may be prohibited by applicable local law, in no event shall Forensic Technology be liable for any special, incidental, indirect, or consequential damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or any other pecuniary loss) arising out of the use of or inability to use the software or the delivery or failure to deliver support services, even if Forensic Technology has been advised of the possibility of such damages and the Customer agrees to indemnify and hold Forensic Technology harmless in such events.

10. Termination for Convenience

Upon notice to that effect from the Customer, should any contract resulting from this proposal be terminated for the convenience of the Customer, Forensic Technology shall be entitled to compensation from the Customer. Such compensation shall be the greater of:

- any amount due to Forensic Technology based on elapsed time since the start of the contract period; or
- monies paid to Forensic Technology as advance payment against the contract.

Any amount payable to Forensic Technology further to termination shall not exceed the original contract price.

11. Force Majeure

Forensic Technology shall not be liable for any delay or failure to perform any of its obligations hereunder due to causes beyond its control and without its fault or negligence, whether foreseeable or not. Such causes shall be deemed to include, but not be limited to: acts of God or the public enemy; national emergencies, war, civil disturbances, insurrection or riot; strikes, lockouts, or any other industrial disputes; fire, explosion, flood, earthquake or other catastrophes; energy shortages; serious accident, epidemic or quarantine restriction; embargoes, allocations necessitated by material shortages, delays in deliveries by Forensic Technology's suppliers or subcontractors, or failure of transportation; or any law, order, regulation, direction or request of any government which have effect on this contract.

12. Arbitration

In the event of any dispute, claim, question, or disagreement arising from or relating to the contract resulting from this proposal or the breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If they do not reach such solution within a period of sixty (60) days, then, upon notice by either party to the other, all disputes, claims, questions, or differences shall be finally settled by arbitration under UNCITRAL rules, at a neutral venue and under applicable law to both parties.

13. Privacy of Personal Data

When dealing with personal data, as it is defined in the General Data Protection Regulation (GDPR), Forensic Technology is committed to protecting the privacy of any such personal data it may hold, and will do so using appropriate security controls and procedures. We are also committed to ensuring compliance in all our services and underlying processes where we are processing personal data on behalf of our partners and Customers.

Unless required by law to do so, Forensic Technology does not, and does not intend to, share with partners, other Customers or third parties, the personal data it may hold and collect through its many business operations. We use personal data solely for contacting individuals in the course of normal business and in our marketing activities. At any time, individuals may request that their contact information be removed from our database or they may opt out from receiving future marketing campaign emails.

For additional information, please refer to the following: <https://www.ultra-electronics.com/corporate-responsibility/data-privacy-notice>.

14. Anti-Bribery

It is Forensic Technology's policy to conduct all of our business in an honest and ethical manner. We take a zero-tolerance approach to bribery and corruption and are committed to:

- Acting professionally, fairly and with integrity in all our business dealings and relationships wherever we operate; and
- Implementing and enforcing effective systems to counter bribery.

We will uphold all laws relevant to countering bribery and corruption in all the jurisdictions in which we operate. Among other laws and regulations, we are bound by the laws of the UK, including the Bribery Act 2010, in respect of our conduct at all times and everywhere around the world.

As such, Forensic Technology will:

- not, whether directly or indirectly, authorize, offer, promise or give a financial or other advantage (including without limitation any money, contribution, gift, bribe, rebate, payoff, influence payment, kickback, loan, reward, advantage or anything of value, including any benefit of any kind):

- to another person with the intention to induce a person to perform improperly a relevant function or activity (including any function of a public nature, any activity connected with business, any activity performed in the course of a person's employment or any activity performed by or on behalf of a body of persons (whether corporate or unincorporated));
- to another person with the intention to reward a person for the improper performance of such a function or activity;
- to another person with the knowledge or belief that the acceptance of the advantage would itself constitute the improper performance of such a function or activity;
- to a Public Official (or his representative), any political party or party official, any candidate for political office:
 - with the intention of influencing such official, party, or candidate in its or his official capacity to do or omit to do an act in violation of the lawful duty of such party, official, or candidate and with the intention of obtaining or retaining business, or to secure any improper advantage;
 - as consideration for an act or omission by the official in connection with the performance of the official's duties or functions; or to induce the official to use his or her position to influence any acts or decisions of the state or public international organization for which the official performs duties or functions; or
 - to influence such official in his capacity as such with the intention of obtaining or retaining business or an advantage in the conduct of business;
- to another person, while knowing or suspecting that all or a portion of such financial or other advantage will be offered, given, or promised, directly or indirectly, under the circumstances listed in the items above.

For the purposes of this clause, 'Public Official' means (i) a person who holds a legislative, administrative or judicial position of a state; (ii) a person who performs public duties or functions for a state, including a person employed by a board, commission, corporation, public enterprise or other body or authority that is established to perform a duty or function on behalf of the state, or is performing such a duty or function; and (iii) an official or agent of a public international organization that is formed by two or more states, governments, or public international organizations.

SafeGuard

IBIS Warranty and Protection Plan

This document describes the scope of after-sales support and services offered by Forensic Technology for the **IBIS®** components located in Fayetteville, NC USA (site 039US), as detailed on page one.

Forensic Technology's SafeGuard plan ensures that a Customer's investment yields exceptional results on a consistent basis by maintaining the IBIS components at an optimal performance standard. The intrinsic value of SafeGuard is its time-resilient protection of the Customer's investment that, in turn, results in the benefits provided by an effective and sustainable crime-fighting solution.

Forensic Technology strives to achieve excellence in delivering Customer Service. Our mission is to provide Customers with first class services that exceed industry standards for quality, security, and Customer satisfaction. To reach this goal, Forensic Technology has become ISO certified, models its support services on Information Technology Infrastructure Library (ITIL) best practices and utilizes customer care activities to allow direct access to the Forensic Technology Support Management Team. Additionally, Forensic Technology sends a Customer Satisfaction survey to users that have contacted the Support Center. This survey is an important tool for assessment of a Customer's experience and helps to establish priorities in Forensic Technology's continuous improvement process.

Services Covered by SafeGuard

The SafeGuard Warranty and Protection Plan related to IBIS equipment includes all of the Services as covered in the following sections.

1. Support Services

Forensic Technology has several support centers around the globe to serve Customers that subscribe to SafeGuard. The support centers provide:

- Customer and technical support via telephone and/or e-mail
- 24/7 telephone hot line with call-back within one (1) hour
- Dedicated toll-free telephone number (if available)
- Internet e-mail address: fti.support@ultra-ft.com
- Support resources at Forensic Technology's Web site: www.ultra-forensictechnology.com

Calls can be placed twenty-four (24) hours a day, seven (7) days a week. If support personnel cannot answer the call immediately, the Customer can leave a voice message and can expect a return call within one hour.

Our first line support personnel are an excellent resource for assistance to operators with system-related questions.

2. Technical Support

Forensic Technology provides technical support to diagnose and resolve problems. Each call or email generates an incident record with a unique number to track all support requests and activities

These support tasks are performed using communication channels provided by both Forensic Technology and the Customer in the following sequence:

1. **Telephone and emails:** These communication channels work for simple incidents where Forensic Technology can guide the user through the solution that does not require a Support Specialist to connect to the site.
2. **Remote support:** This method is used in the vast majority of cases to ensure a quick incident resolution by using a connection to the Customer site using the Customer provided support communication lines. Remote support has the added benefit that incident resolution can be pursued 24/7 by Forensic Technology support personnel, assisted by product experts and developers if required.
3. **On-site diagnosis visit:** If telephone, email or remote support (please refer to SafeGuard Specific Terms section 7) methods are insufficient to complete the diagnosis and solve the incident, Forensic Technology may dispatch the appropriate resource to the Customer site.
4. **On-site repair visit:** If an on-site repair visit is deemed necessary following the diagnosis, Forensic Technology will send spare parts and dispatch a certified Field Technician to the Customer site. In certain cases, a follow-up visit with spare parts may be required to complete full incident resolution. After the site visit, a Work Order Summary Report, outlining the activities performed by the Field Technician while on-site, will be sent to the Customer.

The time for service rendered is directly proportional to the existence and quality of the support communication line installed on-site. Forensic Technology can only provide timely and diligent service of its products (diagnostics, repairs, software upgrades, software patches, etc.) with the presence of recommended and functional support communication lines.

For each incident, Forensic Technology will provide the Customer with the estimated time required to resolve the incident and keep the Customer apprised of the progress. Whenever possible, a temporary solution will be provided. Forensic Technology is committed to sending replacement parts and/or dispatching a Field Technician in a timely manner.

1.1 Assistance with Custom Report Templates

IBIS includes a set of standard report templates. It also includes the functionality for users to generate their own customized report templates based on a variety of parameters. Should users require guidance beyond their basic training our support specialists will provide expert technical assistance over the phone to help create customized report templates.

1. Proactive Warning Service (PWS)

With the objective of maximizing system availability, Forensic Technology provides a PWS to its Customers by monitoring in real-time critical system properties and collecting configuration data from IBIS components. These services enable the system to provide our support personnel with information on the following system properties and functions:

- Computer:
 - CPU usage
 - Percentage of free disk space
 - Percentage of free memory
 - Uptime
- Database uptime
- Backup success

When one or more of the above items deviates from the normal specification, the PWS will automatically send a message to Forensic Technology's Global Customer Solutions (GCS) team, who will then initiate

corrective action. PWS provides Forensic Technology with the opportunity to swiftly identify and address computer issues and sometimes even before any impact is perceived by the user.

The use of PWS has no impact on the normal operation of IBIS components.

In all cases, whether to perform software upgrades, troubleshooting, system configuration and/or PWS, Forensic Technology will always first communicate with the Customer to request permission prior to performing any activity on their IBIS components.

NOTE: PWS is not yet available on NIBIN. Once approved by ATF, this service will be enabled on all IBIS systems connected to NIBIN.

3. Replacement of Defective Hardware

Forensic Technology will be responsible for the replacement of defective hardware and any shipping costs. This replacement will be installed by a certified Field Technician. All charges related to the replacement hardware will be paid for by Forensic Technology. Any products or components replaced or repaired will be warranted by Forensic Technology for the balance of the Warranty or SafeGuard period.

NOTES:

1. Any and all such replacements or repairs necessitated by the fault of the use of power sources supplied by others, or by attack and deterioration under unsuitable environmental conditions, or Customer inappropriate use or negligence, shall be for the account of the Customer. Forensic Technology shall not be obliged to pay any costs or charges including "back charges" incurred by the Customer or any other party except as may be agreed upon in writing in advance by Forensic Technology. The cost of demonstrating the need to diagnose such defects at the Customer site, if required, shall be for the account of the Customer.
2. This proposal assumes the Customer will provide one (1) able-bodied person to assist the Forensic Technology field technician with equipment lifting during the replacement of defective hardware. The Customer must assign and provide the person's name to Forensic Technology prior to the planned installation date. The Customer will be responsible for ensuring this person has adequate bodily injury insurance coverage. If the Customer cannot provide this person, Forensic Technology will be required to send two (2) field technicians and charge the cost to the Customer.

4. Hardware Replacement – Special Circumstances

Forensic Technology strives to minimize down time experienced by Customers. As such, under special circumstances, Forensic Technology's GCS Support Manager may authorize the Customer to replace certain defective hardware/peripheral replacements themselves. These repairs will be coordinated with the Customer's resources and managed by GCS' Support Specialists, requiring the Customer's representative to follow explicit instructions.

5. Workstation Refresh Program

The Workstation Refresh Program allows all IBIS BRASSTRAX, IBIS BULLETTRAX, IBIS MATCHPOINT, and Quantum 3D Microscope workstations (computer and monitor) covered by a SafeGuard Warranty and Protection Plan for at least seven (7) consecutive years to be refreshed at no additional charge to the Customer. This ensures that the Customer's IBIS and Quantum systems maintain compatibility with new software versions and operating systems, and keep performing optimally.

If eligible, the Customer will be contacted by Forensic Technology's GCS team to plan and schedule workstation refresh activities. Forensic Technology commits to the supply of spare parts for a period of seven (7) years from the initial installation of the equipment. For IBIS BRASSTRAX, IBIS BULLETTRAX, IBIS MATCHPOINT, and Quantum 3D Microscope products installed for more than seven (7) years, Forensic Technology cannot guarantee its ability to refresh workstations, due to product End of Life or Obsolescence constraints.

6. Preventive Maintenance Visit

Forensic Technology will perform a preventive maintenance visit every twenty-four (24) months to ensure the Forensic Technology products continue to run at optimal performance. During this visit, the Field Technician will inspect, clean, lubricate, adjust the system, as well as perform visual and functional verifications. The Field Technician will also take note of any worn parts that require replacement, either immediately or for a subsequent site visit.

7. Ongoing User Training and Skill Development

Forensic Technology has developed a blended learning approach which enables users to become proficient in the IBIS and Quantum systems by leveraging a suite of online resources, training and events that offer continuous support and assistance.

7.1 e-Learning

Forensic Technology offers a variety of resources on the e-Learning platform to inform users of the most recent developments, best practices, and new products.

All trained users with a SafeGuard agreement have access to a web-based e-Learning platform that hosts training content addressing all aspects of system. This content includes:

- Interactive training modules on individual IBIS acquisition and analysis stations
- How-To videos on specific acquisition and analysis tasks
- User documentation
- Protocol and Best Practice documents
- Recordings of webinars
- Tutorials and Release Notes on new software releases

Additionally, the e-Learning platform gives users the opportunity to contact and engage with Forensic Technology's trainers in the Virtual Classrooms. Prior to Basic User Training, participants will receive an email with their login credentials and a link to the e-Learning platform.

7.2 Virtual Coaching Sessions

As a complement to training, Forensic Technology supports ongoing professional development for users via Virtual Classrooms. These remote coaching sessions with a trainer enable refinement of user skills, guidance on leveraging new functions and features, and exposure to new acquisition and analysis

techniques. Virtual coaching sessions are delivered using the Customer's existing IBIS infrastructure having remote connectivity with Forensic Technology.

The responsive, dynamic sessions led by Forensic Technology's certified, multilingual trainers either one-to-one or in small groups offer an efficient way to maintain and up level skills to ensure that the Customer continues to achieve optimal performance from their IBIS and Quantum systems.

Virtual coaching sessions are provided for users that have completed Basic User Training and are working regularly with IBIS and Quantum components. This service is available to all users with a SafeGuard agreement, and there is no limit to the number of virtual coaching sessions a Customer can benefit from each year.

Examples of topics covered include:

- Assessment of user's acquisition and analysis technique
- Review of existing data entries
- Explanation of acquisition protocols
- Introduction of new functionalities
- Guidance on available training material

To request a virtual coaching session please contact Forensic Technology's support center.

8. Customer Care Program

To support Customers in achieving optimal system performance, Forensic Technology assigns a dedicated GCS representative who will act as the point of contact for the Customer. This dedicated representative will serve as the liaison between the Customer and the GCS team for all SafeGuard services.

Assistance can be provided with generating system reports, reviewing the Annual Status Report, and addressing questions and concerns. The Customer Care Program focuses on a forward-looking approach to IBIS and Quantum system management, and Customers benefit from proactive recommendations targeted at improving utilization of the IBIS and Quantum systems and identifying opportunities for user skill development.

9. Correction of IBIS Application Errors (Software Bugs)

If the Customer detects and reports an application error (software bug) to our support center, an incident will be created with our Software Development department for evaluation and resolution. The committed turnaround time for a resolution is dependent upon the impact that the application error has on the Customer's operations. Regardless of the turnaround time, the Customer will be provided with a temporary workaround solution to return to normal operation as fast as possible, while a permanent solution is being developed.

For a major problem (one that seriously reduces the performance and normal operation of the system), a hotfix will be implemented on the system as soon as Forensic Technology engineers devise a solution to the problem. For a minor problem (one that does not severely affect the normal operation of the system), the issue will be addressed and a solution will be implemented in a future software release.

10. Software Upgrades

While supported by SafeGuard, the IBIS application software will be upgraded to reflect the new features and functionalities introduced by Forensic Technology. Software upgrades also address the life cycle management of third-party software including database management, and backup software. However, Forensic Technology will upgrade the third-party software supplied with the system only if it is deemed essential.

Upgrades of workstation and server operating systems are excluded from the scope of our SafeGuard offering. If the Customer wishes to upgrade their operating systems, Forensic Technology can provide a proposal containing the cost and detailed information about this service.

10.1 Deployment of Software Upgrades

Software upgrades may be released as a service pack update or as part of a major software version release. After receiving approval from the Customer, Forensic Technology will deploy the software upgrades either using a manual remote method or the Automated Software Deployment System. The latter will accelerate deployments and reduce system downtime by:

- Verifying computer hardware requirements
- Uploading software packages in the background and during off-work hours
- Performing automated software upgrades on multiple IBIS workstations simultaneously
- Executing automated software upgrades during off-work hours

Regardless of the deployment method used, software upgrades are deployed using the system's support communication lines. Only sites with the recommended support communication lines and required quality of service can have their software upgraded.

NOTE: For IBIS Systems connected to NIBIN, all software upgrades, service packs and patches must be approved by ATF prior to their deployment and will be deployed according to the NIBIN approved schedule.

10.2 Minor Hardware Upgrades

Prior to the deployment of a software upgrade, Forensic Technology will evaluate the capacity of each system computer and, if necessary, will upgrade the random-access memory (RAM) and/or hard disk drive. These upgrades will ensure that the new IBIS application software continues to run optimally on the computer. The decision to perform a minor hardware upgrade on a given computer is at the sole discretion of Forensic Technology.

NOTE: For IBIS Systems connected to NIBIN, all hardware upgrades required as a result of a mandatory software upgrade by ATF will be for the Customer's account.

10.3 Backward Compatibility

Software upgrades and corrections will provide for backward compatibility with existing data acquired with previous IBIS software versions. Backward compatibility does not apply to the introduction of new products, significantly different technology or between systems operating with different software versions.

10.4 User Documentation

Should a software upgrade require modifications to the documentation, Forensic Technology will amend the user documentation at no extra cost. The documentation is available both on the IBIS workstations and on the e-Learning platform. Additional copies can be made available in PDF format at no extra cost or in printed format at a nominal cost.

11. Annual Status Report

During the year, Forensic Technology carries out many activities with users and on their system. Forensic Technology tracks all of these activities with its incident management database, which enables Forensic Technology to generate and submit the Annual Status Report to the Customer.

This report documents all activities within the last twelve (12) months and is made available to the Customer in PDF format. The report documents activities related to the Customer's IBIS components: incident management, replacements parts, on-site visits, remote (PWS) and on-site preventive maintenance activities, software upgrades, coaching and new user training, and other events.

12. Travel and Living Expenses

Travel and living expenses of Forensic Technology personnel are for the account of Forensic Technology when they are related to the delivery of services included with the SafeGuard plan.

13. Advanced Security

When a system or network of systems is equipped with the IBIS Advanced Security Package, Forensic Technology performs a series of regularly scheduled services to ensure the system or systems are fully compliant and up-to-date with the security requirements. The IBIS Advanced Security Package may include:

- Centralized User management (IBIS Domain)
- User account management as users are added and/or removed
- Domain controller security policies
- Update of OS security patches (Operating system upgrades are excluded from the Advanced Security Package*)
- Centralized antivirus management
- Vulnerability management, including running scans, reviewing results and writing reports
- Collection and archive of security audit logs

* Please contact your sales representative if an operating system upgrade of the IBIS systems is required. When requested, Forensic Technology can perform an analysis of the needs and existing infrastructure and provide a proposal containing the costs and detailed migration plan.

NOTE: For IBIS Systems connected to NIBIN, account management is centralized and controlled by ATF. All requests for account changes must be approved by ATF prior to implementation.

Optional Services

A quotation can be provided for the following, which are not included in the standard services offered with SafeGuard:

- Training for New Users
- Change to Customer-Supplied Communication Lines
- Customer Requested Data Transfer
- Equipment Relocation
- Replenishment of Consumables
- Hardware Upgrades
- Project Management

Please contact your Sales Representative for additional information.

NOTE: Under special circumstances, relocation of equipment within the same building may be performed by the Customer under the guidance of Forensic Technology's GCS staff, after authorization by the GCS Manager. This service is offered upon certain conditions, which may include: timing and GCS Field Technician availability, proper communication ability, presence and approval of a technical Customer representative, assurance of new location meeting specifications, and agreement to strictly follow Forensic Technology's procedures and guidance. All related activities are managed by the GCS team involving remote Support Specialists, technicians and others, and must be scheduled and approved at least ten (10) business days in advance by all parties.



BUDGET DIVISION

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: DEBORAH W. SHAW, BUDGET AND PERFORMANCE DIRECTOR

DATE: 8/15/2023

**SUBJECT: APPROVAL OF BUDGET ORDINANCE AMENDMENTS FOR THE
AUGUST 21, 2023 BOARD OF COMMISSIONERS' AGENDA**

BACKGROUND

General Fund

1) Animal Services – Budget Ordinance Amendment B240251 to recognize the Petco Grant in the amount of \$25,000

The Board is requested to approve Budget Ordinance Amendment B240251 to recognize funds from the Petco Grant in the amount of \$25,000. This funding will be used to purchase heartworm medication for the animals.

Please note this amendment requires no additional county funds.

2) Library Grants – Budget Ordinance Amendment B240068 to recognize funds from the Two Great Stories Club in the amount of \$1,000

The Board is requested to accept and approve Budget Ordinance Amendment B240068 to recognize funds from the Two Great Stories Club in the amount of \$1,000. These funds will be used to hold teen book discussions and to purchase additional formats and/or copies of the books, refreshments for the participants, or supplemental programming costs.

Please note this amendment requires no additional county funds.

3) Library Grants – Budget Ordinance Amendment B240115 to recognize funds from the Public Library Association (PLA) Digital Literacy Grant in the amount of \$1,500

The Board is requested to accept and approve Budget Ordinance Amendment B240115 to recognize funds from the Public Library Association (PLA) Digital Literacy Grant in the amount of \$1,500. These funds will be used for digital literacy training workshop handouts, certificates, project supplies, a projector, and incentive prizes for the participants.

Please note this amendment requires no additional county funds.

4) Library Grants – Budget Ordinance Amendment B240155 to recognize funds from the Library Services and Technology Act in the amount of \$86,600

The Board is requested to accept and approve Budget Ordinance Amendment B240155 to recognize grant funds from the Library Services and Technology Act in the amount of \$86,600. There is a 33% match in the amount of \$46,300 and the funding sources have been identified within the budget. These funds will be used to expand programs, purchase technology, multi-sensory elements, and create teen spaces to continue to innovate in library services to expand access to our community.

Please note this amendment requires no additional county funds.

5) Library Grants – Budget Ordinance Amendment B240237 to recognize funds from the Arts Council of Fayetteville/Cumberland County Grant Program in the amount of \$7,000

The Board is requested to accept and approve Budget Ordinance Amendment B240237 to recognize funds from the Arts Council of Fayetteville/Cumberland County Grant Program in the amount of \$7,000. These funds will be used to pay for the performers for the Storytelling Festival “Jungle Jamboree”.

Please note this amendment requires no additional county funds.

Federal Drug Forfeiture Fund 204

6) Federal Drug Forfeiture – Budget Ordinance Amendment B240235 to appropriate federal drug forfeiture fund balance in the amount of \$48,149

The Board is requested to approve Budget Ordinance Amendment B240235 to appropriate federal drug forfeiture fund balance in the amount of \$48,149. These funds will be used to purchase laptops for the training section to keep in compliance with the upcoming changes initiated by the NC Criminal Justice training standards division. Please note this amendment requires appropriation of the federal drug forfeiture fund balance.

Juvenile Crime Prevention Fund 245

7) Juvenile Crime Prevention – Budget Ordinance Amendment B240238 to recognize funding from the North Carolina Division of Juvenile Justice in the amount of \$120,000

The Board is requested to approve Budget Ordinance Amendment B240238 to recognize funding in the amount of \$120,000 from the North Carolina Division of Juvenile Justice for the Intensive Services Network program. This funding will be used to provide treatment services to at-risk youth who have been referred by the court system.

Please note this amendment requires no additional county funds.

NC Elderly -Handicap Transportation Fund 277

8) NC Elderly Transportation/Non-Medical Transportation Grant - Budget Ordinance Amendment

B240772 to recognize revenue from the North Carolina Department of Transportation in the amount of \$100,000

The Board is requested to accept and approve Budget Ordinance Amendment B240772 in the amount of \$100,000 from the North Carolina Department of Transportation. These funds are to be used for operating costs related to the rural community transportation services. The grant period is July 1, 2023, thru June 30, 2024.

Please note this amendment requires no additional county funds.

REGARDING THE FOLLOWING ITEMS #9-#17 PLEASE NOTE:

Each fiscal year County departments may have projects that have been approved and initiated but were not complete by the fiscal year end (6/30/23) or items ordered that had not been received by fiscal year end. These projects or items were approved in the Fiscal Year 2023 budget; however, the money was not spent by June 30, 2023.

The following amendments seek to bring those funds forward from FY 2023 into the current fiscal year, allowing departments to complete and pay for these projects and items. These revisions are not using 'new' funds but are recognizing the use of FY23 funds in FY24.

General Fund 101

9) General Government Other – Budget Ordinance Amendment B240135 to re-appropriate funds in the amount of \$2,269,469

The Board is requested to approve Budget Ordinance Amendment B240135 to re-appropriate funds in the amount of \$2,269,469. These funds came from the American Rescue Plan expenditure category 3.2 and will be used as follows: Fayetteville State University: \$250,000 to reimburse costs specific to the Historically Underutilized Business Program. Unallocated: \$2,019,469 remaining available amount to be allocated to a specific purpose as approved by the BOCC in the future.

10) Sheriff's Office Grants – Budget Ordinance Amendment B240106 to re-appropriate FY23 grant funds from the United States Department of Justice in the amount of \$213,720

The Board is requested to approve Budget Ordinance Amendment B240106 to re-appropriate FY23 grant funds from the United States Department of Justice in the total amount of \$213,720. These funds will be used for retention and recruitment efforts, ballistic shields, database subscriptions, and air card technology for the North Carolina State Bureau of Investigation database. Funds were originally approved at the Cumberland County Board of Commissioners' meeting on June 19, 2023.

11) Public Health Department – Budget Ordinance Amendment B240051 to re-appropriate FY23 funds in the amount of \$47,268 and to re-allocate FY24 funds in the amount of \$4,220

The Board is requested to approve Budget Ordinance Amendment B240051 to re-appropriate FY23 funds in the amount of \$47,268 and to re-allocate FY24 funds in the amount of \$4,220. These funds are for a vehicle that was to be purchased in FY23 but will not be available until FY24. The price of the vehicle has increased and therefore the department needed to re-allocate FY24 funding to cover the increase.

12) Department of Social Services – Budget Ordinance Amendment B240932 to re-appropriate FY23 funds from the Department of Health and Human Services Adoption Promotion Program in the amount of \$697,478

The Board is requested to approve Budget Ordinance Amendment B240932 to re-appropriate FY23 funds from the Department of Health and Human Services Adoption Promotion Program in the total amount of \$697,478. These funds will be used for the adoption promotion program.

13) Social Services Other – Budget Ordinance Amendment B240762 to re-appropriate FY23 grant funds from the Duke Endowment Grant in the amount of \$161,920

The Board is requested to approve Budget Ordinance Amendment B240762 to re-appropriate FY23 grant funds from the Duke Endowment Grant in the amount of \$161,920. These funds will be used to pay Chapin Hall Center for Children for contracted social work services.

14) Library Grants – Budget Ordinance Amendment B240033 to re-appropriate FY23 funds in the amount of \$177,277 for the E-Rate program

The Board is requested to approve Budget Ordinance Amendment B240033 to re-appropriate FY23 funds in the amount of \$177,277. These funds are from the Microelectronics Center of North Carolina and are used to support library services such as equipment and computer software.

15) Soil Conservation District – Budget Ordinance Amendment B240271 to re-appropriate grant funds from the Streamflow Rehabilitation Assistance Program Grant and the Emergency Watershed Protection Program in the amount of \$1,000,785

The Board is requested to approve Budget Ordinance Amendment B240271 to re-appropriate grant funds from the Streamflow Rehabilitation Assistance Program Grant and the Emergency Watershed Protection Program in the amount of \$1,000,785. These projects are in the process of being completed in FY24.

Capital Investment Fund 107

16) Capital Investment - Technology – Budget Ordinance Amendment B240127 to re-appropriate FY23 funds in the amount of \$125,000

The Board is requested to approve Budget Ordinance Amendment B240127 to re-appropriate FY23 funds in the amount of \$125,000. These funds are needed to complete the mobile application and the application portfolio management projects that were started in FY23 and will be completed in FY24.

Cumberland Industrial Center Sewer Fund 252

17) Cumberland Industrial Center Sewer – Budget Ordinance Amendment 240240 to re-appropriate FY23 funds in the amount of \$1,450,000

The Board is requested to approve Budget Ordinance Amendment B240240 to re-appropriate FY23 funds in the amount of \$1,450,000. These funds were approved at the June 20,2022 Board of Commissioners' meeting for the Liberty Point sewer project.

RECOMMENDATION / PROPOSED ACTION

Approve Budget Ordinance Amendments



DEPARTMENT OF SOCIAL SERVICES

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: BRENDA REID JACKSON, SOCIAL SERVICES DIRECTOR

DATE: 8/21/2023

**SUBJECT: REALLOCATION OF FY24 SNAP ARPA FUNDS AND ASSOCIATED
BUDGET REVISION #B240652**

BACKGROUND

Cumberland County DSS received \$604,646.00 in Supplemental Nutrition Assistance Program (SNAP) American Rescue Plan Act (ARPA) Revenue Replacement funds from NC Department of Health & Human Services (NC DHHS) in the FY23 budget year. We utilized \$288,200.73 of the funding to pay incentives for staff performing economic services duties. The remaining balance of the \$316,445.37 was intended for other administrative expenses including computer equipment and marketing.

NC DHHS did not finalize the exact funding amount until late FY23. Therefore, we were unable to utilize all the funding in FY23. In consultation with NC DHHS, we have determined staff working in support of economic services programs such as mailroom, central records, switchboard, finance staff and rehire-retirees would meet the policy criteria to use these funds to invest in our employees who impact service delivery to citizens.

The reappropriation of \$316,446 was approved at the August 7, 2023 Board of Commissioners meeting. We are seeking to pay incentives in the amount of \$39,400.79. \$31,127 will need to be reallocated from operating to the salary appropriations to give a \$1300 incentive bonus to each full-time employee and \$650.00 to each rehire-retiree identified as supporting economic services programs. See the attached SNAP ARPA FY 23 budget and proposed FY24 budget revision for the requested reallocation. This item was heard at the Board of Commissioners Agenda Session on August 10, 2023 and unanimously voted to move to the next regular scheduled Board of Commissioners meeting as a consent item scheduled for August 21, 2023.

RECOMMENDATION / PROPOSED ACTION

Staff are requesting approval of the reallocation which transfers \$31,127 from the operating to the salary

appropriations.

ATTACHMENTS:

Description

SNAP ARPA FY 23 Budget & FY 24 Proposed Budget

Type

Backup Material

SNAP ARPA Budget FY23

	DESCRIPTION	UNIT PRICE	QTY	EST PRICE
EQUIPMENT-522510	MONITORS (2)	\$560.00	229	\$128,240.00
	KEYBOARD/MOUSE	\$50.00	229	\$11,450.00
	LAPTOP	\$1,900.00	85	\$161,500.00
	MISC.	\$1,981.00	1	\$1,981.00
	TOTAL EQUIPMENT	\$2,510.00		\$303,171.00
MARKETING-533501				
	TBD	\$5,000.00	1	\$5,000.00
	TOTAL MARKETING	\$5,000.00	1	\$5,000.00
RECRUITMENT & RETENTION*				
	INCENTIVE PER EMPLOYEE	\$1,300.00	178	\$231,400.00
	FICA, Retire, WC, 401k	\$320.02	178	\$56,964.31
	TOTAL DSS BONUS	\$1,620.09	183	\$288,364.31
TOTAL AVAILABLE FUNDS - REVENUE CODE 433303-PROJ CODE DS508				\$604,646.00
TOTAL PROJECTED EXPENDITURES				\$596,535.31
BALANCE				\$8,110.69

Proposed SNAP ARPA Budget Revision FY 24

	DESCRIPTION	UNIT PRICE	QTY	EST PRICE
*EQUIPMENT-522510	MONITORS (2)	\$560.00	177	\$99,120.00
	KEYBOARD/MOUSE	\$50.00	177	\$8,850.00
	LAPTOP	\$1,900.00	85	\$161,500.00
	MISC.	\$2,410.90	1	\$2,410.90
	TOTAL EQUIPMENT	\$2,510.00		\$271,880.90
MARKETING-533501				
	TBD	\$5,000.00	1	\$5,000.00
	TOTAL MARKETING	\$5,000.00	1	\$5,000.00
RECRUITMENT & RETENTION				
	INCENTIVE PER EMPLOYEE	\$1,300.00	178	\$231,400.00
	*Request to Pay in FY24	\$1,300.00	22	\$28,600.00
	*Request to Pay in FY 24	\$650.00	6	\$3,900.00
	FICA, RETIREMENT, WC, 401k	\$320.02	178	\$56,964.31
	*Request to Pay in FY 24	\$295.62	22	\$6,503.64
	*Request to Pay in FY 24	\$66.19	6	\$397.15
	TOTAL DSS BONUS	\$1,620.09	183	\$327,765.10
TOTAL AVAILABLE FUNDS - REVENUE CODE 433303-PROJ CODE DS508				\$604,646.00
TOTAL PROJECTED EXPENDITURES				\$604,646.00
BALANCE				\$0.00

*Adjusted to allow for additional Incentive Payments below under Recruitment & Retention

*Additional Incentive Payments totaling \$39,400.79 for Business Operations & Economic Services Rehire-Retirees



ASSISTANT COUNTY MANAGER COMMUNITY SUPPORT SERVICES

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: HEATHER SKEENS, ASSISTANT COUNTY MANAGER

DATE: 8/21/2023

SUBJECT: ANIMAL MEDICAL FUND ORDINANCE REVISION

BACKGROUND

Animal Services operates under the Board of Commissioners approved ordinances. Animal Services is requesting to update Ordinance Section 3-60(c). Control of Injured animals: animal medical fund to provide further guidance and clarification regarding authorization to utilize the funds for sick and/or injured animals. The proposed changes provide additional details on the established committee roles and responsibilities. Attached is a copy of the marked up changes and a clean copy of the Ordinance for approval. This item was heard at the August 10, 2023 Board of Commissioners meeting and was unanimously approved to move to the consent agenda for the next regular scheduled Board of Commissioners meeting on August 21, 2023.

RECOMMENDATION / PROPOSED ACTION

Requesting approval of the Animal Medical Fund Ordinance Revision.

ATTACHMENTS:

Description	Type
Clean Copy of Ordinance	Backup Material
Track changes copy of Ordinance	Backup Material

Clean copy with revisions incorporated.

There is hereby established the county animal medical fund, to which contributions, grants, donations, or restitution may be made for the purpose of providing veterinary care for animals in the possession of animal services. The director may solicit or raise funds for the fund. Monies from the fund shall be spent by the committee established to oversee usage of these funds. The committee will consist of the veterinarian employed by Animal Services, the Director of Animal Services, and the assigned Assistant County Manager. The concurring vote of two-thirds of the committee members is necessary for approval to use these funds. Should one member be absent, confirmation of usage of funds should be conveyed to the absent member. The committee shall meet annually to determine the criteria for usage of the funds and to review the previous year's expenditures.

Sec. 3-60. Control of injured animals; animal medical fund.

- (a) Any animal services officer or law enforcement officer is authorized to take possession of any seriously injured animal which is found in any location open or accessible to the public, any public or private vehicular right of way, or apparently off the property of its owner.
- (b) Any animal services officer or law enforcement officer finding any such animal shall make reasonable efforts to locate the owner of any such animal. If the owner cannot be promptly located or contacted, the animal services officer or law enforcement officer is authorized, in his or her discretion, to humanely euthanize such animal in an emergency situation where safe, humane transport of the animal is not possible, or promptly transport such animal to a veterinarian for stabilization of such animal's injuries. Every owner of any animal so found shall conclusively be presumed to have irrevocably appointed any such officer, or veterinarian his or her authorized agent for any purposes under this article. Every such owner also shall be deemed to have released any officer, or veterinarian from any cause of action or claim arising out of or related to any action such officer or veterinarian may take under this article, except for actions which constitute gross negligence.
- (c) There is hereby established the county animal medical fund, to which contributions, grants, donations, or restitution may be made for the purpose of providing outside veterinary care for animals in the possession of animal services. The director may solicit or raise funds for the fund. Monies from the fund shall be spent by the committee established to oversee usage of these funds. The committee will consist of the veterinarian employed by Animal Services, the Director of Animal Services, and the assigned Assistant County Manager. The concurring vote of two-thirds of the committee members is necessary for approval to use these funds. Should one member be absent, confirmation of usage of funds should be conveyed to the absent member. The committee shall meet annually to determine the criteria for usage of the funds and to review the previous year's expenditures. ~~The fund shall be administered by a committee which shall include the county finance officer or his or her designee and a veterinarian designated by the county animal services board. Funds shall be disbursed from the fund by the finance officer under guidelines established by the committee.~~
- (d) The animal services department shall maintain a record of the nature and extent of each such animal's injuries and of the disposition thereof.

(Ord. of 6-7-2021)



OFFICE OF THE COUNTY ATTORNEY

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: COUNTY ATTORNEY

DATE: 8/14/2023

**SUBJECT: PIEDMONT NATURAL GAS REQUEST FOR LAND TO EXPAND
REGULATOR STATION**

BACKGROUND

In the fall of 2022, Piedmont Natural Gas (PNG) presented a proposal to purchase a small parcel and acquire an access easement for the expansion of its above-ground regulator station located on the county's 159-acre Sandhill Road Property adjacent to the county's 33-acre tract in the Cumberland Industrial Center. The parcel was for an area of 100' x 100' and the access easement was for a 30' wide access road adjacent to the existing utility easements crossing the county's 33-acre tract in the Cumberland Industrial Center and running from Technology Drive to the new regulator station. PNG has an existing dirt access road located mostly on the existing utility easements which it acknowledged it could continue to use. At its meeting on December 19, 2022, the board approved the county attorney's recommendation to offer PNG the portion of the land lying west of the city's 1.6-acre lot and PNG's existing station lot with a strip parallel to the city's lot to the existing utilities easements for access, subject to PNG only taking what land was needed for the expansion of the regulator station, and an access easement running with the line of the city's lot to avoid the expansion of the existing access road which crossed the property. A GIS map of the **existing regulator station** is attached.

PNG agreed to move the regulator station to the area that did not extend beyond the city's lot, not seek the additional 30' access easement across the county's property, and only use the existing gas line easement for access to maintain the gas line and not as access to the regulator station if it could acquire access from Walmart through Walmart Drive. PNG obtained access from Walmart through Walmart Drive. The **recorded access easement** is attached. Using this access to the regulator station eliminates the need for improvements to the existing dirt access road or acquiring another access easement and eliminates the PNG traffic crossing the lot in the industrial park to access the regulator station. This will enhance the potential use of the industrial park tract. The county attorney will use the GIS system to show these parcels in the industrial park.

PNG proposes purchasing the entire area between the city's lot and the boundary line with Walmart and

moving the existing regulator station to this area such that no above-ground infrastructure is in the gas line easements crossing the tract in industrial park. A **plat of the proposed purchase** is attached. PNG has offered \$10,000 for this parcel, which contains 1.931 acres. PNG calculated the price by determining the cost per acre as the tax value per acre by dividing the tax value of the tract on which this is located by its acreage, The tax value is \$803,745 and the tract contains 159.03 acres, for a price per acre of \$5,054. PNG is providing further consideration by acquiring the new access easement to the regulator station and moving the existing regulator station. With this parcel's access being through an access easement located within a gas line easement, and the benefit to the industrial park tract by eliminating the access to the regulator station from the industrial tract parcel, the county attorney believes this is a reasonable price.

At the August 10, 2023, Agenda Session the board unanimously approved the recommendation of the county attorney to adopt the resolution selling the described real property to PNG subject to conditions as set out below.

RECOMMENDATION / PROPOSED ACTION

The county attorney recommends the board approve PNG's proposed purchase of this property for this use for \$10,000 by adopting the following resolution:

Whereas, Piedmont Natural Gas (PNG) has proposed to purchase a parcel containing 1.93 acres of the county's 159.03-acre tract known as the Sand Hill Road Property for the purpose of expanding its regulator station for \$10,000, subject to certain conditions, and as shown on the **attached plat** prepared by SGC Surveying North Carolina PLLC, dated 05-02-23 ; and

Whereas, the board of commissioners finds that PNG's proposal, subject to the conditions stated herein, will enhance the value and prospective use of the Sand Hill Road Property and the adjoining parcel in the Cumberland County Industrial Center fronting Technology Drive and containing 33 acres.

Whereas, the board of commissioners further finds the enhancement of the value and prospective use of the Sand Hill Road Property and the adjoining county property promotes the industrial development of these properties to increase the tax base, employment, and business prospects for the county.

BE IT THEREFORE RESOLVED, the board of commissioners accepts the offer of Piedmont Natural Gas to purchase the property containing 1.93 acres as shown on the **attached plat** for \$10,000, subject to the following conditions:

- (1) The existing regulator station shall be moved to the new parcel such that no above-ground infrastructure will be located in the gas line easements crossing the county parcels in which these easements lie and as shown on the **attached plat**;
- (2) PNG shall quitclaim any of the property it may have acquired with the deed to the existing regulator station which may lie in the city's lot to the city, and which may lie in the county's property other than the new parcel PNG is acquiring to the county; and
- (3) PNG shall cease use of the gas line easements crossing the county's lands as access to the regulator station with these gas line easements to be used only for access to repair, replace, or maintain the gas lines and the gas line easements.

BE IT FURTHER RESOLVED, the county attorney shall take such action as is necessary to complete the sale of this property subject to these conditions, and the county manager is delegated full

authority to sign the deed and any other documents necessary to conduct this sale on behalf of the board of commissioners.

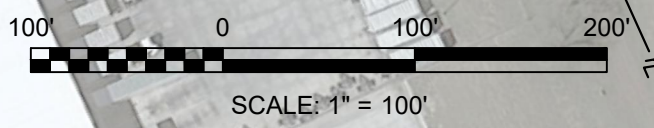
Approved this 21st day of August, 2023.

ATTACHMENTS:

Description	Type
Map of Existing Regulator Station	Backup Material
Recorded Access Easement to New Station Lot	Backup Material
PARCEL TO BE ACQUIRED BY PNG	Backup Material



- LEGEND:
- PROPOSED PERMANENT ACCESS EASEMENT
 - EXISTING ACCESS ROAD CL
 - PROPERTY LINE
 - EASEMENT
 - GRAVEL
 - TREE LINE
 - GAS LINE
 - SANITARY LINE
 - FENCE
 - EDGE OF PAVEMENT



CALL 48 HOURS BEFORE YOU DIG

PROFESSIONAL ENGINEER/ARCHITECT STAMP

NO.

DATE

REVISION(S) DESCRIPTION

DRAFTING/DESIGN

CHECKER/REVIEWER

APPROVING ENGINEER

A

09/21/2022

ISSUED FOR INFORMATION

JAM

BLO

AREA CODE

ACCOUNT NUMBER

PROJECT NUMBER

DWG TYPE

STATION ID

FO234353

82-T-90-FAY-0829

DUKE ENERGY

Piedmont Natural Gas

COPYRIGHT 2018

REG 0829 - CUMBERLAND CO

INDUSTRIAL PARK REBUILD

SITE LAYOUT AND ACCESS ROAD OPTIONS

FAYETTEVILLE RESOURCE CENTER

REF. DWG(S)

SHEET(S) 1 OF 1

DWG SCALE NOTED

DWG DATE 09/21/2022

SUPERSEDED -

DRAWING NUMBER

REVISION

PNG -X-XXX-0000000

A

DISCIPLINE / RESOURCE CENTER / LINE NUMBER

03/25/2024 10:58:33 AM C:\Users\jam\OneDrive\Documents\82-T-90-FAY-0829.dwg

FILED	Jun 30, 2023
AT	12:16:33 PM
BOOK	11768
START PAGE	0862
END PAGE	0865
INSTRUMENT #	20432
RECORDING	\$26.00
EXCISE TAX	\$1.00

EASEMENT

Prepared by: /s/ Jeffrey E. James, Attorney, 525 S Tryon St., Mailcode: DEP-12B, Charlotte, NC 28202
Return Recorded Document To:

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

Excise Tax: \$1.00

For Internal Informational Purposes Only

LINE NO. CUMBERLAND RS

PROJECT TRACT NO. 3

PROJECT NO. 0235634

PARCEL ID #: 0423-91-9961

THIS "**EASEMENT**" is made and granted as of this 27th day of June, 2023, from **WAL-MART STORES EAST, INC.** ("**Grantor**", whether one or more), to **PIEDMONT NATURAL GAS COMPANY, INC.**, a North Carolina corporation ("**Piedmont**"), "**Grantee**" whose mailing address is 525 S Tryon St., Charlotte, North Carolina 28202.

WHEREAS, Grantor is the owner of, or has an interest in, that property situated in the County of Cumberland, North Carolina, as more particularly described in the instrument recorded in Book 5834, Page 94, Cumberland County Registry (the "**Property**").

NOW, THEREFORE, Grantor for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, and conveys unto Piedmont, its successors and assigns the following easement(s) and right(s) of way under, upon, over, through, and across the Property, as shown on the survey attached hereto as **Exhibit A** and incorporated herein by reference (the "**Survey**").

Permanent Access Easement. A perpetual access easement upon, over, and across that portion of the Property designated "Permanent Access" on the Survey (the "**Permanent Access Area**") for the purposes of ingress, egress, and regress. Piedmont shall have the right, but not the obligation, to construct, reconstruct, maintain, repair, improve, and/or use roads or driveways within the Permanent Access Area (including, without limitation, grading, graveling, and installing culverts). Either party may install gates within the Permanent Access Area with the prior written approval of the other party, which shall not be unreasonably withheld, provided that both parties have reasonable means of using any locked gates. Grantor assumes all risk in connection with use, maintenance, and/or improvement of any roads, driveways, or gates within the Permanent Access Area by Grantor, its employees, agents, contractors, and invitees.

Grantor reserves the right to relocate the Permanent Access Area at Grantor's expense to such location as Grantor shall reasonably select; provided that Grantor shall at all times continue to provide Piedmont similar and substantially equal access to the easement(s) and/or facilities for which this permanent access easement is given. Prior to any planned relocation of the Permanent Access Area, Grantor must submit a plan for the proposed alternative access to Piedmont for approval, which approval shall not be unreasonably withheld. Upon Piedmont's approval, Piedmont and Grantor will execute such documentation as Piedmont deems necessary to indicate the new location of the Permanent Access Area.

For purposes of this EASEMENT, the term "**Easements**" shall refer collectively to all easements described above and as depicted on the Survey and the term "**Easement Areas**" shall refer collectively to all the easement areas described above and as depicted on the Survey.

Rev. March 2023

submitted electronically by "Diversified Energy Services, Inc."
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Cumberland County Register of Deeds.

Piedmont's Use. Piedmont shall have all rights necessary or convenient for the full use and enjoyment of the Easement(s) herein granted, including, without limitation: (1) reasonable access across the Property to and from the Easement Areas, and (2) the right, but not the obligation, to clear and keep the Easement Areas cleared of vegetation, undergrowth, trees (including overhanging limbs and foliage), buildings, structures, installations, and any other obstructions (collectively, "**Obstructions**") which unreasonably interfere with the rights granted herein. Some or all of the natural gas pipelines and appurtenant facilities (collectively, as described and permitted in the Easements granted herein, the "**Facilities**") may be installed now and/or in the future. All Facilities shall be and remain the property of Piedmont and may be removed by it at any time and from time to time.

Grantor's Reservation of Rights. Grantor reserves the right to use the Property and Easement Areas for all purposes that do not unreasonably interfere with the rights granted herein and that are not inconsistent with any applicable federal, state, or local law, rule, or regulation. Grantor may change the use of the Easement Areas or install certain Obstructions within the Easement Areas if Grantor has obtained prior written approval from Piedmont, which approval shall not be unreasonably withheld, conditioned or delayed. Anything to the contrary herein notwithstanding, Grantor shall not: (1) unreasonably interfere with Piedmont's access to or maintenance or use of the Facilities or Easement Areas; (2) endanger the safety of Grantor, Piedmont, the general public, private or personal property, access roads or driveways, or the Facilities; or (3) install or maintain, or permit to be installed or maintained, any Obstructions within the Easement Areas except as approved in writing by Piedmont.

Damages. Piedmont shall be responsible for actual physical damage to (1) the land within the Property and Easement Areas and (2) improvements and annual crops located on the Property that are not in violation of the terms hereof, to the extent caused by Piedmont in exercising the rights granted herein, provided that a claim is made by Grantor within one hundred and twenty (120) days after such damages are sustained. Piedmont shall restore and level the surface of the Easement Areas to a condition which is reasonably close to the condition existing immediately prior to Piedmont's use of the Easement Area, excepting those permanent alterations which may be permitted in connection with each Easement above, if any, and earthen water bars to prevent erosion. Piedmont shall not be liable for any damage caused to Obstructions installed or maintained in violation of the terms hereof and may remove them at Grantor's expense without Grantor's prior approval or permission.

No Waiver or Additional Representations. The failure by Piedmont to exercise and/or enforce any of the rights, privileges, and Easements herein described shall not be construed as a waiver or abandonment of any such rights, privileges and Easements, and Piedmont thereafter may exercise and/or enforce, at any time and from time to time, any or all of them. It is understood and acknowledged by Grantor that only terms expressly stated herein will be binding on Piedmont.

Ownership of the Property. Grantor represents, warrants and covenants that it (i) is the lawful owner of the Property and has the right to convey the rights set forth herein and that the Property is free from all encumbrances, except for encumbrances of record and (ii) has obtained any necessary approvals from any applicable tenant interests.

To have and to hold said rights, privileges, and Easements unto Piedmont, its affiliates, successors, and assigns. Piedmont and its successors and assigns shall have the right to assign, license, lease, or otherwise transfer, in whole or in part, this EASEMENT, or any rights granted herein, to any person or entity, including but not limited to, any affiliate, parent, or subsidiary of Piedmont, for the uses and purposes expressly stated herein. This EASEMENT shall run with the land and inure to the benefit of and be binding upon Grantor, Piedmont and their respective heirs, successors and assigns.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this EASEMENT has been executed by Grantor, as of the date first above written.

GRANTOR:

WAL-MART STORES EAST, INC.

By: _____ (SEAL)

Name: Jomar Benoit

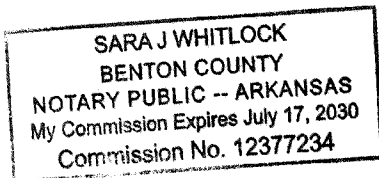
Title: Senior Manager II, Industrial portfolio management

STATE OF Arkansas
COUNTY OF Benton

I, Sara J Whitlock, a Notary Public for Benton County, Arkansas, certify that Jomar Benoit personally came before me this day and acknowledged that he (or she) is Senior Manager II of Wal-Mart Store East, Inc., a corporation, and that he (or she), in such capacity, being authorized to do so, executed the foregoing Easement on behalf of the corporation.

Witness my hand and official seal this the 27th day of June, 2023.

[NOTARY SEAL]



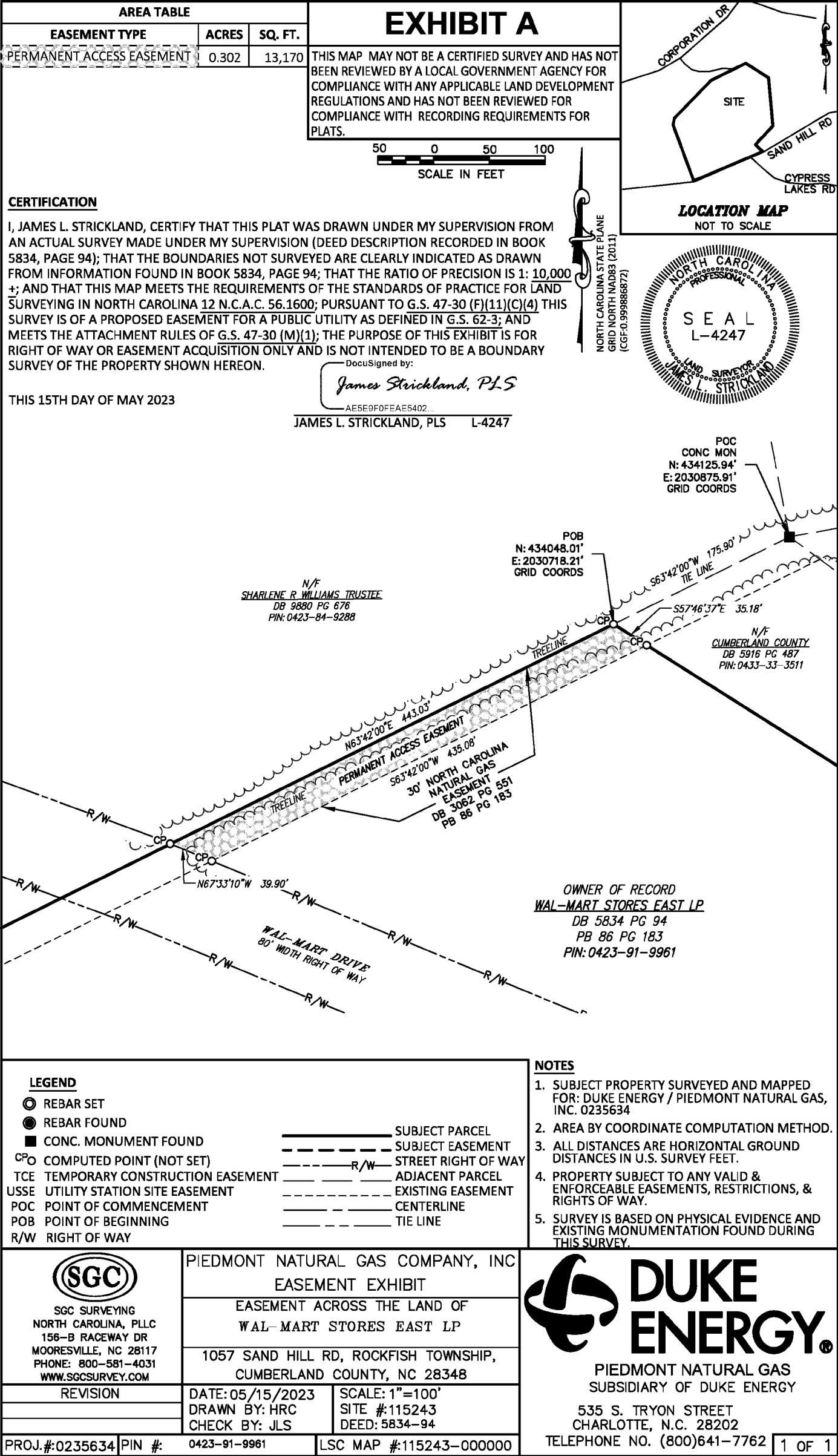
Sara J Whitlock

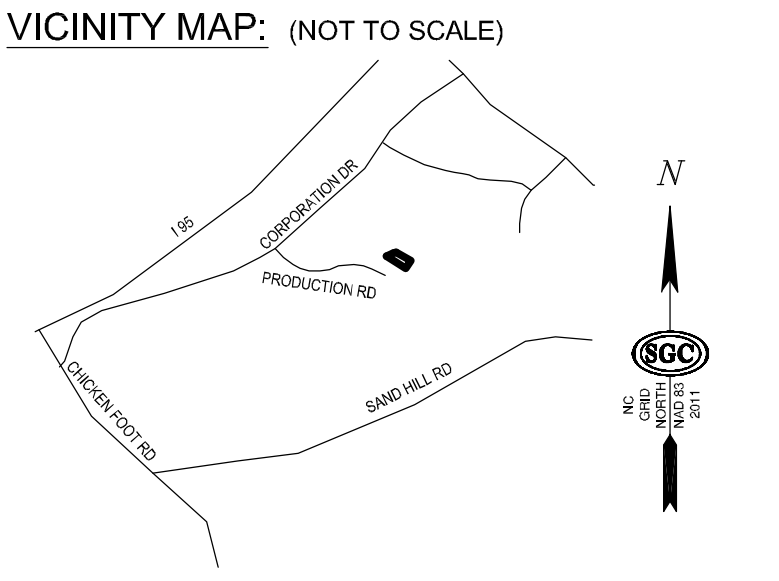
Sign

Sara J Whitlock

Print

My commission expires: 7/17/2030





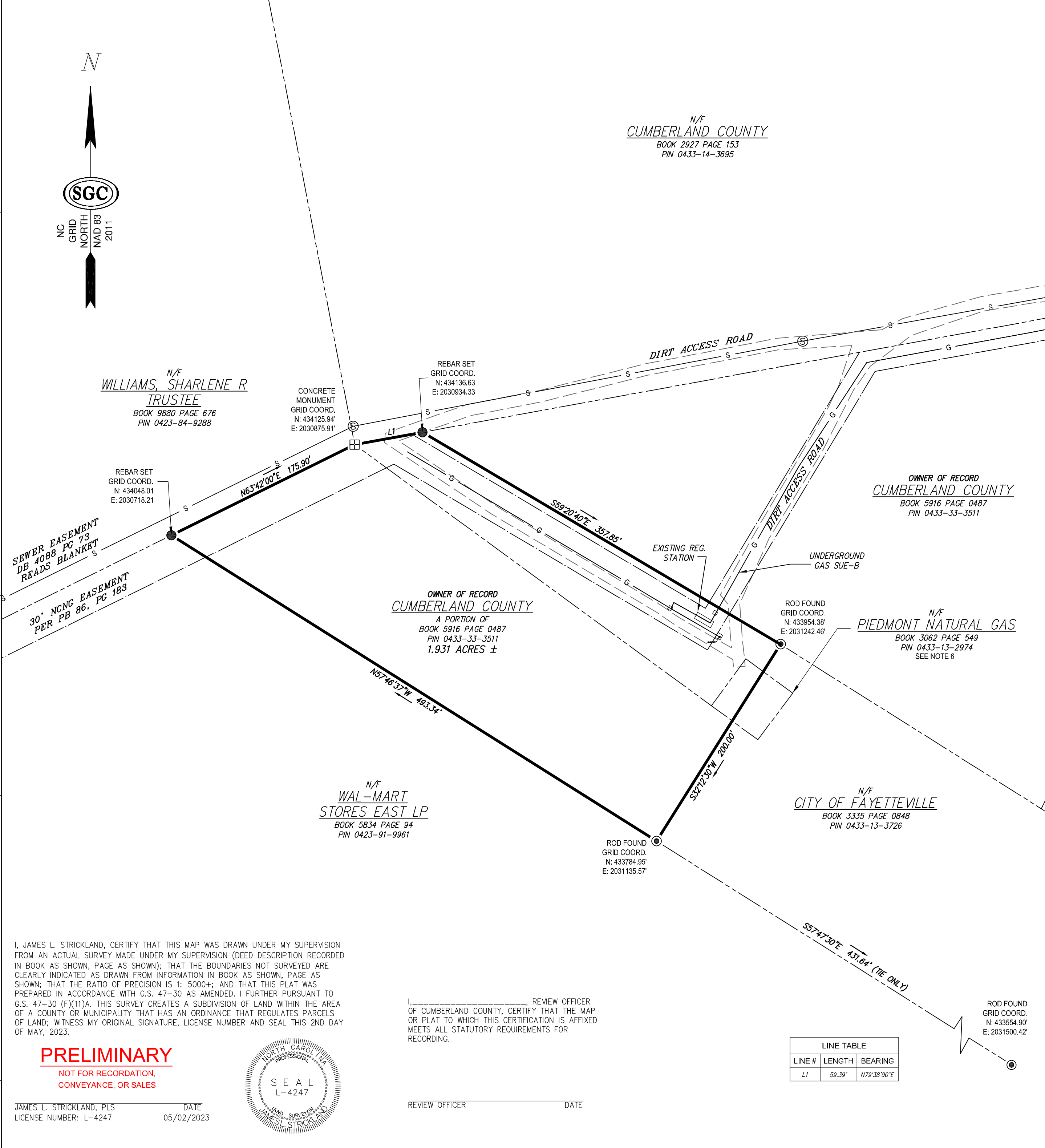
- GENERAL NOTES:**
- 1) SUBJECT PROPERTY SURVEYED AND MAPPED FOR: DUKE ENERGY/PIEDMONT NATURAL GAS.
 - 2) THIS PLAN AND ALL WORK ASSOCIATED WITH IT WAS PERFORMED BY SGC SURVEYING NORTH CAROLINA, PLLC PURSUANT TO A PROFESSIONAL SERVICES CONTRACT BETWEEN HDR AND SGC SURVEYING NORTH CAROLINA, PLLC.
 - 3) REFERENCE DEED FOR THE SUBJECT PARCEL IS RECORDED IN DEED BOOK 5916, PAGE 487 AT THE CUMBERLAND COUNTY REGISTRY OF DEEDS.
 - 4) THE BEARINGS SHOWN HEREON ARE REFERENCED TO NC STATE PLANE 3200 NAD83 (2011).
 - 5) NO SUBSURFACE INVESTIGATION HAS BEEN PERFORMED BY SGC SURVEYING, NORTH CAROLINA, PLLC. DIG-SAFE SHOULD BE CONTACTED PRIOR TO COMMENCING ANY EXCAVATION. (888-344-7233).
 - 6) ALL DISTANCES ARE HORIZONTAL GROUND MEASURED UNLESS OTHERWISE NOTED.
 - 7) NO RECORD MONUMENTS FOUND FOR PNG PROPERTY RECORDED IN BOOK 3062 PAGE 549. PROPERTY IS SHOWN BASED ON THE COURSES IN THE DEED DESCRIPTION.

- MAP REFERENCES:**
- 1) A PLAN ENTITLED "BOUNDARY SURVEY FOR MARY JANE HEALY BEAVERS, TRUSTEE PATRICIA ANN HEALY WALLACE, TRUSTEE CUMBERLAND INDUSTRIAL CENTER" DATED JULY 1994, PREPARED BY MOORMAN, KIZER & REITZEL INC. AND RECORDED AT THE CUMBERLAND COUNTY REGISTRY OF DEEDS IN PLAT BOOK 86 PAGE 183.

LEGEND:

ADJACENT LOT LINE	----
SUBJECT BOUNDARY LINE	=====
EASEMENT LINE	-----
EDGE OF GRAVEL	-----
GAS LINE	----- G -----
SANITARY SEWER LINE	----- S -----
CONCRETE MONUMENT	⊕
REBAR	●
PIPE	⊙
SOLID SMOOTH ROD	⦿
COMPUTED POINT (CP)	△

0 30 60 120
1 INCH = 60 FEET
GRAPHIC SCALE



SGC SURVEYING
NORTH CAROLINA, PLLC
156-B RACEWAY DRIVE
MOORESVILLE, NC 28117
PHONE: 1(800) 581-4031
WWW.SGCSURVEY.COM
FIRM # P-1930

DUKE ENERGY
PIEDMONT NATURAL GAS
SUBSIDIARY OF DUKE ENERGY
535 S. TRYON STREET
CHARLOTTE, NC 28202
TELEPHONE NO. (704) 382-2361

MINOR SUBDIVISION
OF PROPERTY LOCATED ON
860 TECHNOLOGY DRIVE
TOWNSHIP OF ROCKFISH
COUNTY OF CUMBERLAND
STATE OF NORTH CAROLINA

SGC

115243 ALTA ACQUISITION_050923

115243
PROJECT #: 0235634

SITE #: 115243

DATE: 05-02-23
SCALE: 1" = 60'

CALC: XXX
DRAWN: MAI
CHECK: JLS

PROJECT: 2638001
FILE: PURCH IN FEE

SHEET 1 OF 1



OFFICE OF THE COUNTY ATTORNEY

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: COUNTY ATTORNEY AND DIRECTOR OF SOLID WASTE

DATE: 8/14/2023

**SUBJECT: NCDOT REQUEST FOR ENTRY AGREEMENT TO COMMENCE WORK
AT CAMDEN ROAD CONVENIENCE CENTER**

BACKGROUND

NCDOT is widening Camden Road and has requested the county to grant the attached **Entry Agreement** for it to commence work to install new utilities on the site of the Camden Road Convenience Center. The Camden Road Convenience Center contains almost a half-acre, but its triangular shape limits the area which can be used. A **plat of the property** is attached. Use at the Camden Road Convenience Center has significantly increased since the Cliffdale Convenience Center closed, and the numbers of users waiting to turn in often backs up traffic on Camden Road.

The language in the agreement allows NCDOT to undertake any work on the site. Director of Solid Waste Amanda Bader proposed modifications to the agreement that would have made it possible to keep the convenience center safely open with NCDOT doing work on the site, but NCDOT refused to make the change. The county attorney advises that the use of additional equipment by NCDOT or its contractors to relocate or install utilities on the property creates a safety risk for the public users and county employees working at the site. It also presents security issues for the site when it is closed.

NCDOT will take the entire site through purchase or condemnation. With Cliffdale already closed, the Camden Road Convenience Center should be relocated and remain operational.

At the August 10, 2023, Agenda Session, the board unanimously approved the recommendation of the county attorney and director of solid waste set out below.

RECOMMENDATION / PROPOSED ACTION

The county attorney and director of solid waste recommend the board:

- (1) not grant this Entry Agreement to NCDOT; and
- (2) direct the solid waste director to seek a new site for the relocation of the Camden Road Convenience Center in advance of its condemnation by NCDOT.

ATTACHMENTS:

Description	Type
DOT ENTRY AGREEMENT	Backup Material
Plat	Backup Material

AGREEMENT FOR ENTRY

Prepared By: Randy Rogers
RETURN TO: The Right of Way Group c/o Michael N Grimes
4861 Zacks Mill Road
Angier NC 27501

STATE OF NORTH CAROLINA

TIP/PARCEL NO.: U-3422 008

Cumberland COUNTY

WBS ELEMENT 39001.2.1

THIS AGREEMENT made this the _____ day of _____, 2023, by
and between the North Carolina Department of Transportation (hereinafter called the Department) and
County of Cumberland, a body politic and corporate of the State of North Carolina
P.O. Box 1829 Fayetteville NC 28302
(hereinafter called the owners);

WITNESSETH

THAT WHEREAS, the Department desires to enter certain lands of the owners located in
Rockfish Township, Cumberland County, described as follows:

ROW Right

Point of beginning being N 85°29'13.1" E, 191.397 feet from -L- Sta 39+00 thence to a point on a bearing of N 18°2'46.0" W 4.565 feet thence to a point on a bearing of S 71°57'14.0" W 325.850 feet thence to a point on a bearing of S 86°1'10.6" E 26.887 feet thence to a point on a bearing of S 86°1'9.0" E 35.076 feet thence to a point on a bearing of N 50°17'29.5" E 49.902 feet thence to a point on a bearing of N 71°53'19.2" E 153.000 feet thence to a point on a bearing of N 71°53'19.2" E 28.000 feet thence to a point on a bearing of N 71°53'19.2" E 41.032 feet returning to the point and place of beginning. Having an area of 2359.644 Sqr feet being 0.054 acres.

DUE Right

Point of beginning being S 87°4'25.8" E, 125.355 feet from -L- Sta 39+00 thence to a point on a bearing of S 18°6'40.8" E 21.452 feet thence to a point on a bearing of N 72°8'17.7" E 28.000 feet thence to a point on a bearing of N 18°6'40.8" W 21.574 feet thence to a point on a bearing of S 71°53'19.2" W 28.000 feet returning to the point and place of beginning. Having an area of 602.358 Sqr feet being 0.014 acres.

PUE Right

Point of beginning being S 88°22'11.3" E, 197.622 feet from -L- Sta 39+00 thence to a point on a bearing of N 18°2'46.0" W 16.752 feet thence to a point on a bearing of N 18°2'46.0" W 5.000 feet thence to a point on a bearing of S 71°53'19.2" W 41.032 feet thence to a point on a bearing of S 18°6'40.8" E 21.574 feet thence to a point on a bearing of N 72°8'17.7" E 41.008 feet returning to the point and place of beginning. Having an area of 888.612 Sqr feet being 0.020 acres.

TCE Right

Point of beginning being S 30°50'16.5" W, 100.551 feet from -L- Sta 39+00 thence to a point on a bearing of S 86°1'9.0" E 6.582 feet thence to a point on a bearing of N 50°25'45.0" E 6.694 feet thence to a point on a bearing of S 72°0'45.2" W 12.329 feet returning to the point and place of beginning. Having an area of 15.179 Sqr feet being 0.000 acres.

PUE Right

Point of beginning being S 34°19'37.2" W, 103.948 feet from -L- Sta 39+00 thence to a point on a bearing of S 86°1'9.0" E 7.091 feet thence to a point on a bearing of N 72°0'45.2" E 192.829 feet thence to a point on a bearing of N 18°6'40.8" W 21.452 feet thence to a point on a bearing of S 71°53'19.2" W 153.000 feet thence to a point on a bearing of S 50°17'29.5" W 49.902 feet returning to the point and place of beginning. Having an area of 3799.639 Sqr feet being 0.087 acres.

for the construction of State Highway Project # 39001.2.1 .

WHEREAS, the Department is authorized by G.S. 136-118 to enter into this agreement without filing the pleadings as set forth in G.S. 136-103.

NOW THEREFORE, in consideration of the mutual benefits inuring to all parties to this agreement and in further consideration of the mutual covenants contained herein, the parties to this agreement do hereby agree and consent that the Department, its employees, officials, contractors, or agents, or assigns, as well as utility companies and all others deemed necessary by the Department, may enter upon the above described lands for carrying on the work, construction, and utility relocations or utility encroachments for Project # 39001.2.1 in accordance with the plans and specifications on file in its office in Raleigh, North Carolina, and that the Department, its employees, officials, agents, contractors, or assigns, as well as utility companies and all others deemed necessary by the Department, shall have the same rights for carrying on the work, construction, and utility relocations or utility encroachments for the project as would have been accorded by filing the pleadings required in North Carolina General Statute 136-103. It is understood and agreed that this Agreement includes the right to use the Permanent Utility Easement shown on the DEPARTMENT's plans for the installation and maintenance of utilities, and for all purposes for which the DEPARTMENT is authorized by law to subject same. The Department and its agents, assigns, and licensees (including, without limitation, public utility companies) shall have the right to construct and maintain in a proper manner in, upon and through said premises utility line or lines with all necessary pipes, poles and appurtenances, together with the right at all times to enter said premises for the purpose of inspecting said utility lines and making all necessary repairs and alterations thereon; together with the right to cut away and keep clear of said utility lines, all trees and other obstructions that may in any way endanger or interfere with the proper maintenance and operation of the same with the right at all times of ingress, egress and regress.

The right of entry described herein shall be presumed to begin as of the day and year of the entry of this agreement as first above written. The parties hereto agree that the right of entry granted shall not be deemed a trespass on the owners' property. The OWNERS DO HEREBY EXPRESSLY WAIVE any and all claims arising from any entry made pursuant to this agreement and being in the nature of a trespass, taking, or an inverse condemnation. This waiver applies to the Department, its employees, officials, contractors, agents, assigns, and/or licensees, as well as to utility companies and all others deemed necessary by the Department to enter the property for the purposes set forth herein.

IT IS FURTHER AGREED THAT, the right of entry described herein shall extend for the PERIOD BEGINNING WITH THE DATE OF THIS AGREEMENT AND CONTINUING THEREAFTER UNTIL THE DEPARTMENT'S ACCEPTANCE OF THE COMPLETED HIGHWAY PROJECT.

During the aforesaid period, the parties hereto shall continue to negotiate a resolution of the owners' claim for compensation for the property to be acquired for this highway project. In the event the Department determines that such negotiations have reached an impasse, the Department shall give written notice thereof to the Owners and may file appropriate proceedings in the Superior Court to determine just compensation as provided in Article 9, Chapter 136 of the General Statutes of North Carolina. Likewise, the Owners may give written notice to the Department that such negotiations have reached an impasse and request the Department to file appropriate proceedings in the Superior Court to determine just compensation as provided in Article 9, Chapter 136 of the General Statutes of North Carolina.

In the event that, as of the date of the acceptance by the Department of the completed highway project, the Department has not filed proceedings pursuant to Article 9, Chapter 136 of the General Statutes or the Owners' claim for just compensation for the property acquired for the highway project has not been otherwise resolved a settlement agreement, the Owners shall have two (2) years following the completion of the highway project in which to proceed to a determination of just compensation in the Superior Court pursuant to Article 9, Chapter 136 of the North Carolina General Statutes.

The Owners do hereby agree and consent that no interest shall accrue against the Department during the period of entry set forth herein and do hereby waive any claims for interest except as may be allowed upon any award of just compensation as set forth in Section 136-113 of the North Carolina General Statutes, and in such case, such interest shall accrue only from the date of the filing of proceedings in the Superior Court pursuant to Article 9, Chapter 136 of the North Carolina General Statutes.

TIP/PARCEL NO.: U-3422 008 COUNTY: Cumberland

IN WITNESS WEREOF, the parties hereto have set their hands and adopted seals, or if corporate, have caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals (or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors) the day and year first above written.

This instrument does not transfer the herein described interests unless and until this document is accepted by an authorized agent of the Department of Transportation.

ACCEPTED FOR THE DEPARTMENT OF TRANSPORTATION BY: _____

IN WITNESS WHEREOF, GRANROR, pursuant to a resolution dated _____, has caused this instrument to be signed in its corporate name by its **CHAIRWOMAN OF THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS**, its corporate seal hereto affixed, and attested by it **CLERK OF THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS**, by order of the **CUMBERLAND COUNTY COMMISSIONERS**, this the day and year first above written

Signature

CUMBERLAND COUNTY

(CORPORATE SEAL)

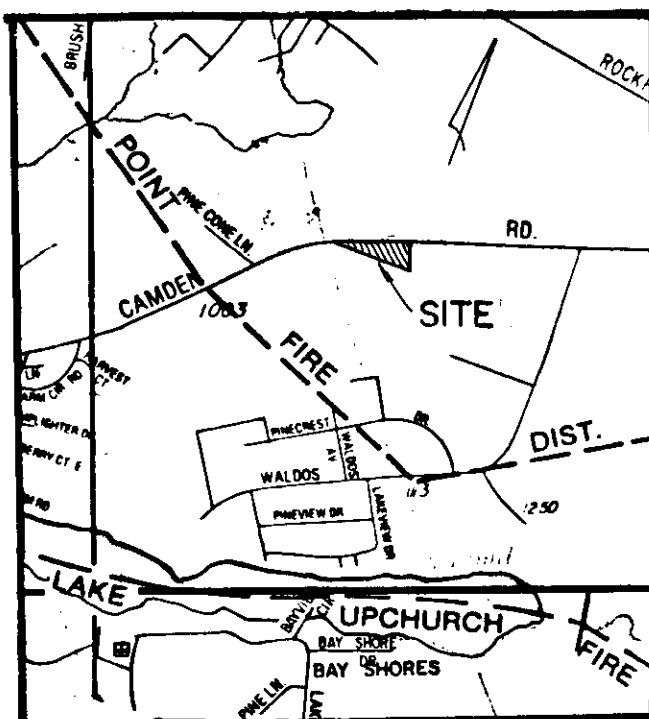
BY: _____

Toni Stewart, Chairwoman of Cumberland
County Board of Commissioners

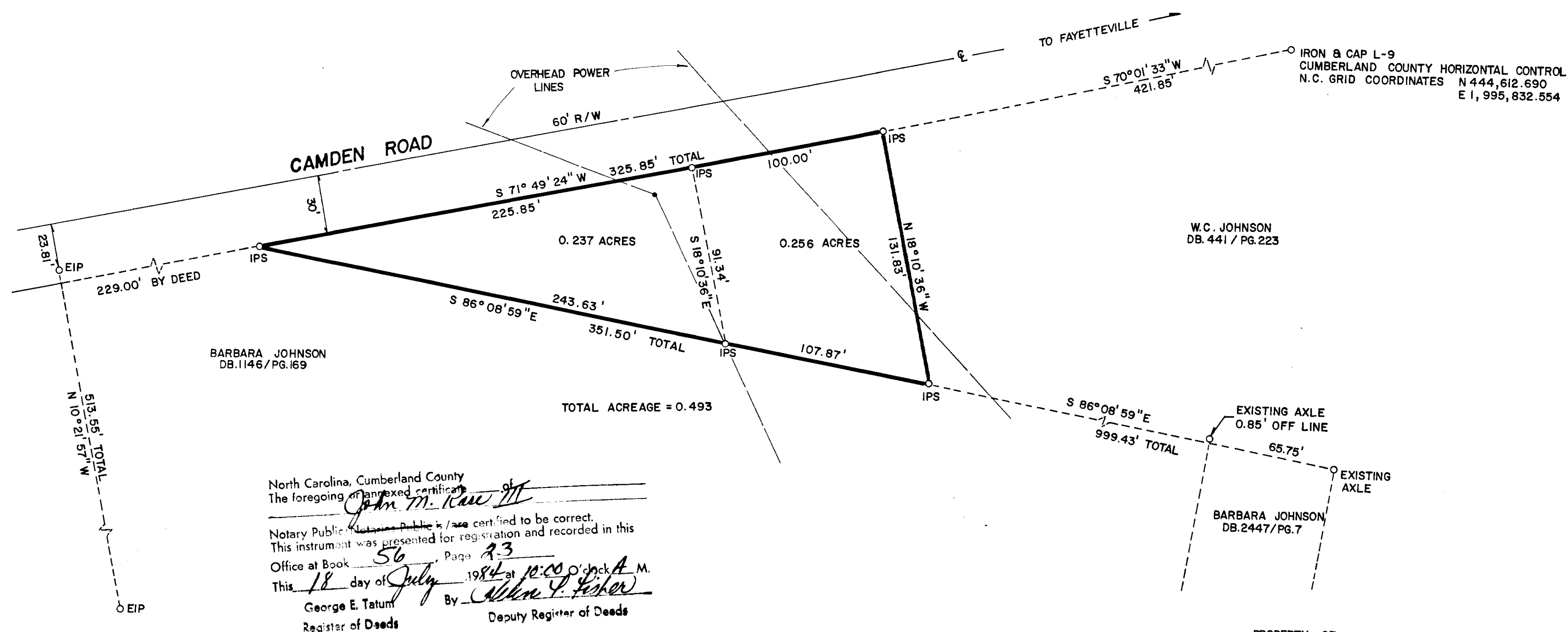
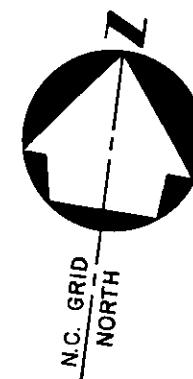
ATTEST: _____

Andrea Tebbe, Clerk of Wake County Board of
Commissioners

(Official Seal)	North Carolina, _____ County
	I, _____, a Notary Public for _____ County, North Carolina, certify that
	<u>Andrea Tebbe</u> personally came before me this day and acknowledged that she is the CLERK of the Cumberland County Board Of Commissioners, and that by authority duly given, the foregoing instrument was signed in its name by <u>Toni Stewart</u> , its CHAIRWOMAN of the CUMBERLAND COUNTY BOARD OF COMMISSIONERS, sealed with its corporate seal, and attested by _____ as its CLERK.
	Witness my hand and official seal this the _____ day of _____, 20 ____ 23 ____.
	_____ Notary Public
	My commission expires: _____



VICINITY MAP
NO SCALE



North Carolina, Cumberland County
The foregoing is a true and correct copy of the original instrument as the same is on file in the office of the Register of Deeds.

Notary Public, Notary Public is/are certified to be correct.
This instrument was presented for registration and recorded in this
Office at Book 56 Page 23
This 18 day of July, 1984 at 10:00 o'clock A. M.
By George E. Tatum Deputy Register of Deeds
George E. Tatum
Register of Deeds

North Carolina, Cumberland County

I, a Notary Public of the County and State aforesaid, certify that George M. Rose, a Registered Land Surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 17 day of July, 1984.

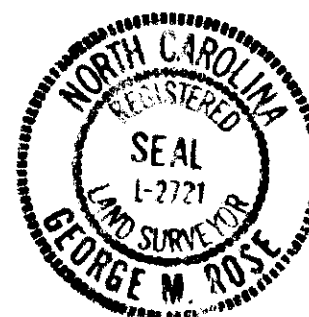
George M. Rose
Notary Public

My commission expires September 13, 1988

I, George M. Rose, certify that this plat was drawn under my supervision from an actual survey made under my supervision; deed description recorded in Book 441, Page 223; that this plat was prepared in accordance with GS 47-30 as amended. Witness my original signature, registration number and seal this 14 day of JULY, A.D., 1984.

George M. Rose
Surveyor

L-2721
Registration Number



REFERENCE

PB. 51 / PG. 66
DB. 2640 / PG. 146
DB. 419 / PG. 582
DB. 913 / PG. 459 POWER LINE ESMT
DB. 942 / PG. 584 POWER LINE ESMT

No Approval Required

Director of Planning
Cumberland County Joint Planning Board

PROPERTY OF COUNTY OF CUMBERLAND

ROCKFISH TOWNSHIP

NEAR HOPE MILLS

SCALE: 1" = 40'

CUMBERLAND COUNTY

NORTH CAROLINA

JULY, 1984

ROSE & PURCELL, INC.
SURVEYORS - ENGINEERS - PLANNERS
FAYETTEVILLE, N. C.





OFFICE OF THE COUNTY MANAGER

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: ROBERT VAN GEONS, FCEDC, PRESIDENT & CEO

DATE: 8/16/2023

**SUBJECT: PUBLIC HEARING ON PROPOSED ECONOMIC DEVELOPMENT
INCENTIVES FOR "PROJECT WAVE"**

BACKGROUND

We appreciate the Board of County Commissioners setting a public hearing for this project. In accordance with North Carolina General Statute §158-7.1(c), Public Notice was advertised on August 11, 2023.

Project Wave is a China-based company engaged in the development, manufacturing, and distribution of advanced energy storage systems and lithium-ion batteries. They are considering a vacant building on Corporation Drive for a new manufacturing facility. If selected, the proposed project would:

- Create 282 new jobs over the next five years.
- Pay an average wage, exceeding the County Average for Private Industry, of \$44,897 per year (\$21.59 per hour)
- Invest \$79 million in real estate improvements and equipment by 2026

The company is considering locations in multiple competing states, as well as other areas of North Carolina. This project would inject more than \$12.6 million of annual payroll into our community. More than 98% of the jobs will be production-related, paying between \$19.50 and

\$31.00 per hour. Provided the company meets the requirements for investment and job creation, we respectfully request that Cumberland County:

- Hold the advertised public hearing
- Approve a local incentive grant, not to exceed \$2,128,000, paid in installments over five years

If successful in securing this project, Cumberland County would benefit from the tax revenue generated by the facility, economic activity stimulated by its construction, and wages paid to the employees. Over a 10-year projection horizon, Cumberland County would receive more than \$6 million of tax revenue, pay approximately \$2.1 million of incentives, and retain nearly

\$4 million of new revenue. Employee wages will contribute more than \$126 million to the local economy, over this same timeframe.

RECOMMENDATION / PROPOSED ACTION

Hold the required public hearing for "Project Wave" and consider approval of an incentive grant not to exceed \$2,128,000 paid in installments over a five year period.

ATTACHMENTS:

Description

Affidavit of Publication

Type

Backup Material

Order Confirmation

Not an Invoice

Account Number:	744383
Customer Name:	Cumb Co Board Of Commissioners
Customer Address:	Cumb Co Board Of Commissioners Po Box 1829 Fayetteville NC 28302-1829
Contact Name:	Andrea Tebbe
Contact Phone:	(910) 678-7721
Contact Email:	atebbe@cumberlandcountync.gov
PO Number:	

Date:	08/08/2023
Order Number:	9151570
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	46.0000
Height in Inches:	0.0000

Print

Product	#Insertions	Start - End	Category
FAY Fayetteville Observer	1	08/11/2023 - 08/11/2023	Public Notices
FAY fayobserver.com	1	08/11/2023 - 08/11/2023	Public Notices

Order Confirmation Amount

\$150.42

Ad Preview

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the Cumberland County Board of Commissioners will hold a public hearing in Room 118 of the County Courthouse at 117 Dick Street, on August 21, 2023, beginning at 6:45 pm, or as soon thereafter as may be heard on the following: In accordance with North Carolina General Statute 158-7.1(c), the purpose of the hearing is to receive public comments on a proposed Economic Development Incentive being considered for "Project Wave," an internationally headquartered company considering a vacant building on Corporation Drive for a new manufacturing facility. The project shall (1) create a significant investment in real estate and equipment in Cumberland County exceeding \$79,000,000 over the next five years, and (2) create 282 full-time jobs in the County by 2027 with an average wage exceeding \$44,897. The County's proposed incentive offer consists of an incentive grant, not to exceed \$2,128,000, paid over five years. All persons interested in this project are invited to attend this public hearing and present their views. This the 7th day of August, 2023. Andrea Tebbe, Clerk to the Board.
8/11/23 9151570



PLANNING AND INSPECTIONS DEPARTMENT

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: CUMBERLAND COUNTY JOINT PLANNING BOARD

DATE: 8/10/2023

SUBJECT: CASE ZON-23-0014

BACKGROUND

ZON-23-0014: Conditional rezoning from C1(P) Planned Local Business District and M(P) Planned Industrial District to M(P)/CZ Planned Industrial District Conditional Zoning or a more restrictive zoning district for 10.58 +/- acres, located at the northwest corner of Middle River Loop Road and River Road, submitted by Garret Fulcher (agent) on behalf of Fulcher Real Estate, LLC (owner).

RECOMMENDATION / PROPOSED ACTION

Planning Board Action: Recommended approval of the rezoning request from C1(P) Planned Local Business District and M(P) Planned Industrial District to M(P)/CZ Planned Industrial District Conditional Zoning as presented by staff, with an amended condition, at their July 18, 2023 meeting for the reasons stated and as fully reflected in the minutes of the Planning Board Meeting which are incorporated herein by reference.

Staff Recommendation: Planning and Inspections staff recommends approval of the rezoning request from C1(P) Planned Local Business District and M(P) Planned Industrial District to M(P)/CZ Planned Industrial District Conditional Zoning. Staff finds the request is consistent with the Eastover Land Use Plan which calls for "Industrial" at this location. Staff also finds that the request is reasonable and in the public interest as it is compatible to and in harmony with the surrounding land use activities and zoning.

If the Board of Commissioners wishes to follow the recommendation of the Planning Board in this case, the following motion is appropriate:

MOTION:

In Case ZON-23-0014, I move to approve the rezoning request from C1(P) Planned Local Business District

and M(P) Planned Industrial District to M(P)/CZ Planned Industrial District Conditional Zoning and find the request is consistent with the Eastover Land Use Plan which calls for “Industrial” at this location. The request is reasonable and in the public interest as it is compatible to and in harmony with the surrounding land use activities and zoning.

If the Board of Commissioners does not wish to follow the recommendation of the Planning Board in this case, the following motion is appropriate:

MOTION:

In Case ZON-23-0014, I move to deny the rezoning request from C1(P) Planned Local Business District and M(P) Planned Industrial District to M(P)/CZ Planned Industrial District Conditional Zoning and find the request is not consistent with the Eastover Land Use Plan which calls for “Industrial” at this location. The request is not reasonable or in the public interest because _____.

ATTACHMENTS:

Description

Case ZON-23-0014

Type

Backup Material

Clarence G. Grier
County Manager

Sally Shutt
Assistant County Manager



Rawls Howard
Director

David Moon
Deputy Director

Planning & Inspections Department

AUGUST 10, 2023

MEMO TO: Cumberland County Board of Commissioners

FROM: Cumberland County Joint Planning Board

SUBJECT: **ZON-23-0014:** Conditional rezoning from C1(P) Planned Local Business District and M(P) Planned Industrial District to M(P)/CZ Planned Industrial District Conditional Zoning or a more restrictive zoning district for 10.58 +/- acres, located at the northwest corner of Middle River Loop Road and River Road, submitted by Garret Fulcher (agent) on behalf of Fulcher Real Estate, LLC (owner).

ACTION: Recommended approval of the rezoning request from C1(P) Planned Local Business District and M(P) Planned Industrial District to M(P)/CZ Planned Industrial District Conditional Zoning as presented by staff, with an amended condition, at their July 18, 2023 meeting for the reasons stated and as fully reflected in the minutes of the Planning Board Meeting which are incorporated herein by reference.

MINUTES OF JULY 18, 2023

Mrs. Garcia and Mr. Moon presented the case information and photos.

In Case ZON-23-0014, Planning and Inspections staff recommends approval of the rezoning request from C1(P) Planned Local Business District and M(P) Planned Industrial District to M(P)/CZ Planned Industrial District Conditional Zoning. Staff finds the request is consistent with the Eastover Land Use Plan which calls for "Industrial" at this location. Staff also finds that the request is reasonable and in the public interest as it is compatible to and in harmony with the surrounding land use activities and zoning.

Mr. Moon presented the conditions of the case that were presented to the applicant. Mr. Moon explained that all conditions of approval were accepted by the applicant except for the sewer connection requirement. Mr. Moon explained that the ordinance requires the applicant to connect the site if certain thresholds are met regarding availability. He explained that it is staff's opinion that the thresholds are met for connection. However, the applicant has concerns about the site and system's current limitations and feasibility and wanted to amend this condition.

Mr. Howard explained that the desire to connect people, businesses, and properties to sewer is there by the Board of Commissioners and staff feel that they should try to connect to sewer being that it is industrially zoned and it's at a major intersection. However, Mr. Howard explained that



Planning & Inspections Department

since the request is conditional, the Board could negotiate or waive the requirement if the Board deemed it appropriate and the applicant agreed.

There was further discussion about the conditions for connecting to sewer and when and how long the applicant had the opportunity to review the conditions he was presented with and any future annexation plans.

Public meeting opened.

Mr. Garret Fulcher spoke in favor. Mr. Fulcher explained that he couldn't tie into sewer because the sewer doesn't serve the adjoining property as it goes to the substation which is located on the adjacent property. He mentioned two properties down does, and they can't tie into it as PWC won't allow tying directly into a substation. Mr. Fulcher asked that the board approve the request with the condition that if the sewer can't be done in time, they could put in a temporary septic system until the right-of-way or easement could be acquired for future connection.

Mr. Kenneth Smith spoke in favor. Mr. Smith stated that the intent was to open discussion about sewer, they are not opposed to it, but the biggest concern is getting the building erected now. If nothing else the conditions could be amended until they could eventually extend the sewer. They are willing to do a temporary septic system and they are trying to follow everything that is being required and offered a condition to be added to the request to that effect.

Mr. Crumpler spoke and felt as though if they are making good faith progress with PWC, then that should be considered.

Mr. Moon advised the Board that there is an existing ordinance standard that states if conditions are not met with a two-year period for a conditional zoning, the Board is authorized to rezone the property back to the original district.

Mr. Crumpler reemphasized that if the applicant does nothing, then the Board can petition to change the district back and that the applicant was willing to place a condition on the request to delay connection as they work with PWC, so they can get started on their project.

Mr. Howard indicated that staff has no issues with a condition being added for a timed connection to sewer.

There was discussion about setbacks and building vesting from the applicant and the Board. Mr. Moon stated that staff was in concurrence with the 45-foot setback for the existing building. He also assured the Board and applicant that the site could be rebuilt as existing if in conformance with the attached site plan that was part of the accepted conditions.

Clarence G. Grier
County Manager

Sally Shutt
Assistant County Manager



Rawls Howard
Director

David Moon
Deputy Director

Planning & Inspections Department

Mrs. Moody made a motion, seconded by Mr. Lloyd to close the public meeting. Unanimous approval.

Chair McLaughlin closed the public meeting.

There was one person who wanted to speak but did not sign up, so Chair McLaughlin reopened the public meeting.

Mr. Albert Nunnery spoke in opposition, Mr. Nunnery stated the applicants are his immediate neighbors, and his concern is the issues he has with flooding due to a ground drain that the applicant put in. Mr. Nunnery feels the rezoning should be denied because he doesn't know how this will affect his property with regards to drainage.

Mr. Swift addressed the concern of the neighbor regarding drainage. He stated that they would be required to follow all State regulations regarding stormwater controls and drainage.

Mr. Crumpler asked about the provision of detention ponds and infrastructure.

Mr. Swift stated that they would be installing all required infrastructure to capture the water.

Chair McLaughlin closed the public meeting.

Mr. Crumpler made a motion, seconded by Mr. Lloyd to approve the rezoning request from C1(P) Planned Local Business District and M(P) Planned Industrial District to M(P)/CZ Planned Industrial District Conditional Zoning as presented by staff with an amended condition 2a on the condition sheet that gives the applicant two years to work with PWC to connect to sewer and in the meantime an on-site septic tank can be used until and if connection to sewer occurs. The Board finds the request is consistent with the Eastover Land Use Plan which calls for "Industrial" at this location. The Board also finds that the request is reasonable and in the public interest as it is compatible to and in harmony with the surrounding land use activities and zoning. Unanimous approval.

First Class and Record Owners' Mailed Notice Certification

A certified copy of the tax record owner(s) of the subject and adjacent properties and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith. The record owners' certified receipt of notice is also included.

REQUEST

Rezoning C1(P) & M(P) to M(P)/CZ

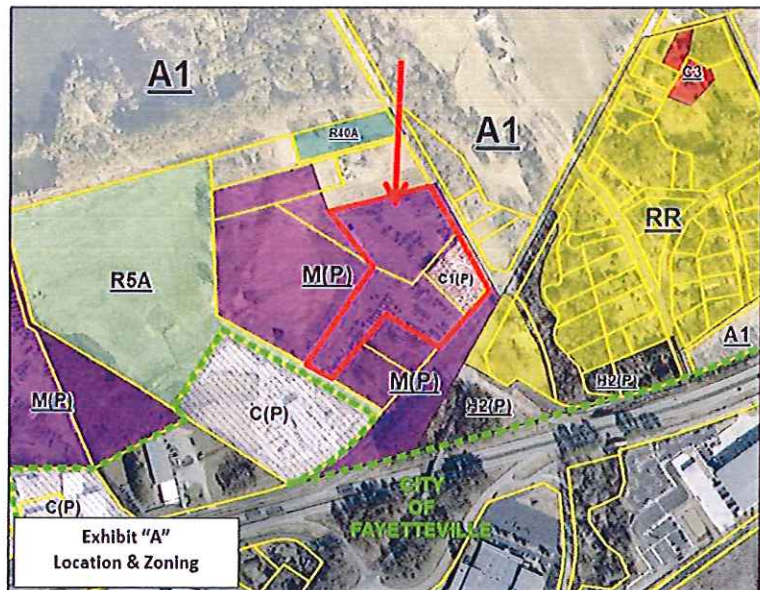
Applicant requests a conditional rezoning from C1(P) Planned Local Business District and M(P) Planned Industrial District to M(P)/CZ Planned Industrial District Conditional Zoning or to a more restrictive zoning district for 10.58 +/- acres, located at the northwest corner of Middle River Loop Road and River Road, as shown in Exhibit "A". Based on a need to expand the existing power transmission line & electrical contractor business, the owner desires to expand the laydown yard to accommodate additional equipment storage, more service vehicle and bucket truck parking, and a new vehicle maintenance building. An existing company office building will also be expanded. Further, the applicant desires to eliminate split zoning on the property by rezoning the C1(P) property to M(P), consolidating the property into a single zoning category. A conditional zoning site plan and condition as of approval are provided in this report.

PROPERTY INFORMATION

OWNER/APPLICANT: Fulcher Real Estate, LLC (Owner); Garret Fulcher, Member Manager.

ADDRESS/LOCATION: Refer to Exhibit "A", Location and Zoning Map. REID number: 0447686172000

SIZE: 10.58 +/- acres previously within three parcels. The parcels have been recombined and recorded with the Register of Deeds. Road frontage along River Road is 590 feet; road frontage along Middle River Loop is 408 feet. The property has a varying depth due to its irregular shape but is approximately 901 feet in length at its deepest point.



EXISTING ZONING: The subject property is currently zoned C1(P) Planned Local Business District and M(P) Planned Industrial District. C1(P) District is designed to cater to the ordinary shopping needs of the immediate neighborhood with emphasis on convenience goods. This district is customarily located adjacent to an arterial street and generally surrounded by residential areas.

The subject property is also currently zoned M(P) Planned Industrial District. This district is designed primarily for basic manufacturing processing industries, all of which normally create a high degree of nuisance and are not generally compatible with surrounding or abutting residential or commercial areas. The general intent of this district is to permit uses confined to service, wholesaling, manufacturing, fabrication, and processing activities that can be carried on in an unobtrusive manner characterized by low concentration and limited external effects with suitable open spaces, landscaping, parking and service areas. This district is customarily located on larger tracts of land with good highway and rail access buffered from residential districts by other more compatible uses. Commercial activities are not permitted except those having only limited contact with the general public and those not involving the sale of

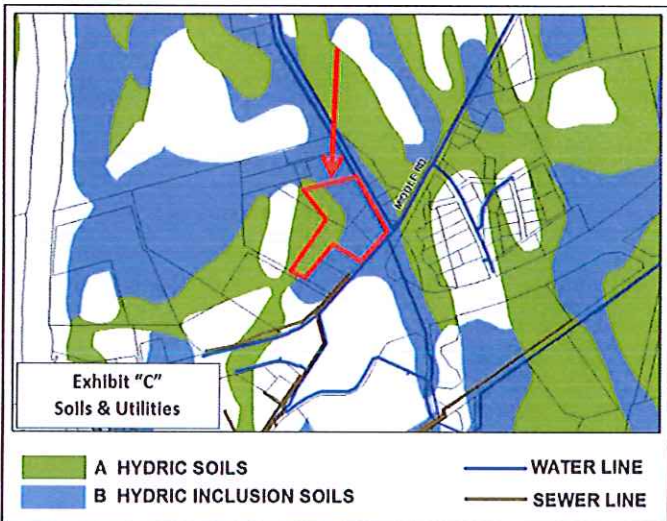
merchandise at retail except for items produced on the premises or for the or for the purpose of serving employees, guests and other persons who are within the district with an industrial activity.

EXISTING LAND USE: The parcel is currently occupied by a power transmission line & electrical contractor that provides service to local power companies. A new vehicle maintenance building is planned, and the existing office building is proposed to be expanded. Exhibit "B" shows the existing use of the subject property.

SURROUNDING LAND USE: Exhibit "B" illustrates the following:

- **North:** Wooded lands and single-family homes
- **East:** Wooded lands, farmland, and single-family homes
- **West:** Vacant land, as well as commercial, industrial and trades contractor activities
- **South:** Kubota of Fayetteville (Construction and farm tractors and equipment).

OTHER SITE CHARACTERISTICS: The site is not located in a Watershed or within a Flood Zone Hazard Area. The subject property, as delineated in Exhibit "C", illustrates presence of hydric or hydric inclusion soils at a small portion of the northeast corner of the property.



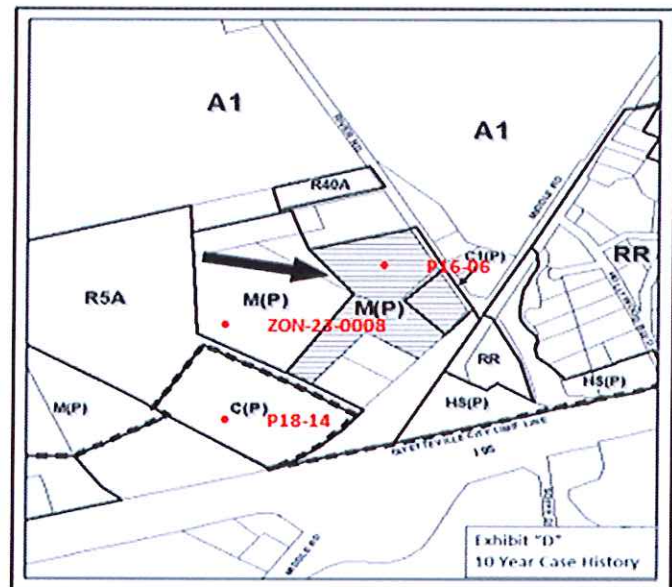
TEN YEAR ZONE CASE HISTORY:

Exhibit "D" denotes the location of the zoning case history described below.

- P16-06: A1 to M(P); APPROVED
- P18-14: R5A to C(P); APPROVED
- ZON-23-0008: A1 to M(P); APPROVED

DEVELOPMENT REVIEW:

If the conditional zoning site plan is approved, a final site plan must be submitted to Planning & Inspections and must be consistent with the conditional zoning site plan and the County Zoning Ordinance.



DIMENSIONAL PROVISIONS FOR REQUESTED DISTRICT:

Minimum Standard	C1(P) (Existing Zoning)	M(P) (Existing Zoning)	M(P) CZ (Proposed Zoning)
Front Yard Setback	45 feet min.	100 feet min.	100 feet min.**
Side Yard Setback	15 feet min.	50 feet min.	50 feet min.
Rear Yard Setback	20 feet min.	50 feet min.	50 feet min.
Lot Area	n/a	n/a	n/a
Lot Width	n/a	n/a	n/a

**The front yard minimum setback from Middle River Loop Road for the existing office building and its expansion is 75 feet as evidenced on the conditional zoning site plan.

PROPOSED DEVELOPMENT:

- Existing Office Building Expansion
 - Existing office bldg.: 14,194 sq. ft.
 - New Building edition: 8,405 sq. ft.
 - Total: 22,599 sq. ft
 - Two stories
- Maintenance Building (new)
 - Vehicle maintenance: 24,000 sq. ft.
 - One story
- Parking:

	<u>Spaces</u>
Existing:	28
Additional:	20
Total:	48

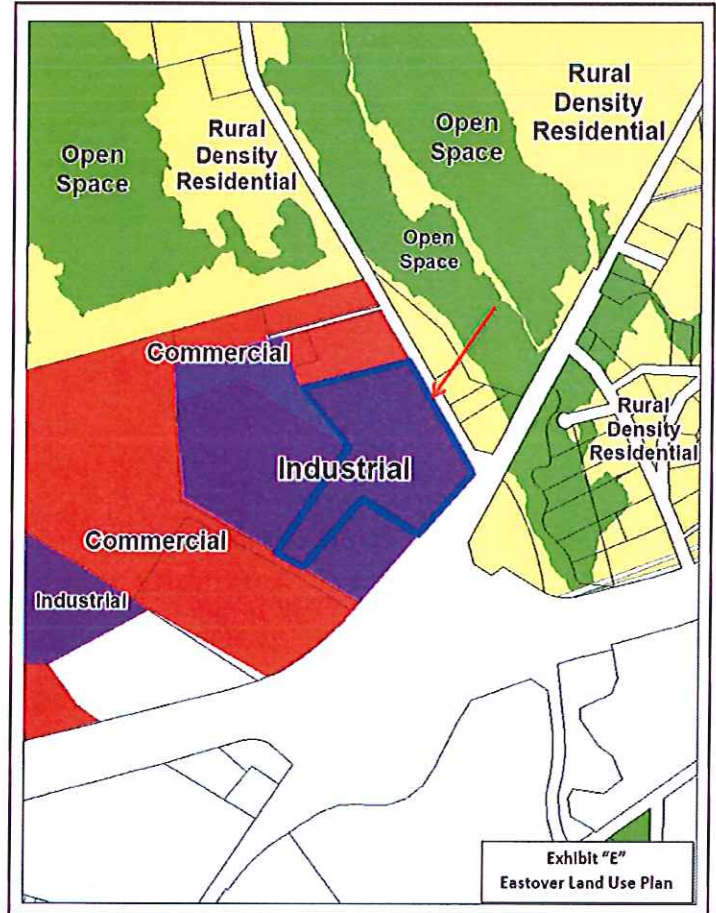
COMPREHENSIVE PLANS:

This property is located within the Eastover Area Land Use Plan (2018). The future land use classification of the property is "Industrial". Associated zoning districts for these classifications are M1(P) and M(P). **The proposed rezoning request is consistent with the adopted Land Use Plan.**

APPLICABLE PLAN GOALS/POLICIES:

Industrial Development Goal:

- "Provide areas for clean industries where infrastructure is adequate and is in harmony with surrounding development" (Eastover Area Land Use Plan, p.52)
- "Require an extensive natural or landscape buffer along roadways to screen industrial operations." (Eastover Area Land Use Plan, p.52)
- "Promote efforts that encourage new industrial development. Provide sufficient zoned industrial areas to accommodate the needs of present and future County residents. Locate industrial development so that it has the least impact on residential and other non-compatible uses." (Land Use Policies Plan, p. 24)



IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITIES

UTILITIES: A water utility line serviced by PWC is available along the frontage of Middle River Loop Road. Sewer lines are less than 300 feet from the southwest corner of the property along Mill River Loop Road. Connection to central sewer lines will be required unless the utility provide declines to provide service. It is the applicant's responsibility to determine if this utility can adequately serve their development. Currently, this site has an active and approved septic permit. Expansion of the business may require the owner to upgrade the septic system if central sewer is not an option.

TRAFFIC: According to the Fayetteville Area Metropolitan Planning Organization (FAMPO), the subject property sits at Middle Loop Road and is identified as a local road in the Metropolitan Transportation Plan. There are no roadway construction improvement projects planned and the subject property will have no significant impact on the Transportation Improvement Program. In addition, Middle Loop Road has no 2021 AADT and no road capacity data available. Due to lack of data and the small scale, the new zoning request does not demand a trip generation evaluation. The new development should not generate enough traffic to significantly impact Middle Loop Road.

SCHOOLS CAPACITY/ENROLLMENT:

School	Capacity	Enrollment
Armstrong Elementary	441	457
Mac Williams Middle	1164	1166
Cape Fear High	1476	1590

ECONOMIC DEVELOPMENT: Fayetteville Cumberland County Economic Development Corporation has reviewed the request and is supportive of the proposed request.

EMERGENCY SERVICES: Cumberland County Fire Marshal's office has reviewed the request and has no objections to the rezoning request.

SPECIAL DISTRICTS: The property is not located within the Fayetteville Regional Airport Overlay District or within five miles of Fort Liberty Military Base.

CONDITIONS OF APPROVAL: Use and development of the subject site must comply with the Conditions of Approval provided in Exhibit "F" and the Conditional Zoning Site Plan also provided in Exhibit "F".

STAFF RECOMMENDATION

In Case ZON-23-0014, Planning and Inspections staff **recommends approval** of the rezoning request from C1(P) Planned Local Business District and M(P) Planned Industrial District to M(P)/CZ Planned Industrial District Conditional Zoning. Staff finds the request is consistent with the Eastover Land Use Plan which calls for "Industrial" at this location. Staff also finds that the request is reasonable and in the public interest as it is compatible to and in harmony with the surrounding land use activities and zoning.

Attachments:
Conditions of Approval
Conditional Site Plan
Notification Mailing List
Application

Exhibit "F"
Conditions of Approval



CONDITIONAL ZONING NO. ZON-23-0014

Conditions of Approval

General Address: 1416 Middle River Loop Rd.	Acres: 10.58 +/-
REID: 0447686172000	Approval Date: August 21, 2023
Effective Date: August 21, 2023	Issued to: Fulcher Real Estate, LLC

M(P) Planned Industrial District / CZ Conditional Zoning District Case ZON-23-0014 Ordinance Related Conditions for Industrial Use of Property

A. **Applicability:** All use and development of the property applicable to this Conditional Zoning (ZON-23-0014) and as delineated in Exhibit "A" shall occur consistent with the standards and requirements of the M(P) Planned Industrial Zoning District unless otherwise stated herein. If any standards herein are inconsistent with the Zoning or Subdivision ordinance, the conditions set forth herein shall supersede and apply to the development of the property delineated in Exhibit "A". If not expressly stated herein the M(P) Planned Industrial standards shall apply. Where conditions herein delay compliance to the final site plan, the condition must be addressed prior to County approval of the final site plan.

B. **Permitted and Prohibited Uses.**

Use of the site is limited to power transmission line and electrical contracting businesses or similar trades contractor activities, with or without outside storage of equipment or supplies, and associated accessory uses, and as shown on the Conditional Zoning Site Plan appearing in Exhibit "A" here attached. Final determination as to whether a use qualifies as a trades contractor activity shall be made by the County Code Enforcement Manager and according to policy of the County Zoning Ordinance. Storage of junked or inoperable motorized vehicles or junked equipment on this site is prohibited.

C. **Development Standards.**

1. Setback Standards. Minimum setback standards for this development shall comply with the M(P) standards set forth in the County Zoning Ordinance except for the below situations:

Front Yard Minimum Setback: 45 feet for the area along River Road and Middle River Loop Road as delineated on the conditional zoning site plan provided in Exhibit "A".

2. Accessory structure: Any accessory structure, as defined by the County Zoning Code, shall comply with the minimum setback standard for the M(P) zoning district.
3. Minimum distance between buildings shall be determined by N.C. building code.



4. Signage for this development shall be in accordance with the applicable sign regulations as set forth in Article XIII of the County Zoning Ordinance and that the property permit(s) be obtained prior to the installation of any permanent signs on the property. Note: This conditional approval is not approval for the size, shape, or location of any signs.
5. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides. Such locations and screening will be demonstrated on the final site plan.

D. Infrastructure and Utilities:

1. Lighting:

- a. All lighting is required to be directed internally within this development and comply with the provisions of Section 1102 M, Outdoor Lighting, County Zoning Ordinance:

The following standards are applicable to all properties:

- i. All lights shall be shielded in such a way as to direct all light toward the Earth's surface and away from reflective surfaces;
 - ii. Light fixtures or lamps shall be shielded/shaded in such a manner as to direct incident rays away from all adjacent property and any light on a pole, stand, or mounted on a building must have a shield, and adjustable reflector and non-protruding diffuser;
 - iii. Any facilities, which may require floodlighting, may not arrange the light in such a way that it will shine toward roadways, on adjacent residential property or residentially zoned property or into the night sky;
 - iv. Any interior lighted signs may not be lit at night when any face of the sign is removed or damaged in such a way that the light may distract pedestrians or drivers or become a nuisance to homeowners;
 - v. Any light fixture must be placed in such a manner that no light-emitting surface is visible from any residential area or public/private roadway, walkway, trail or other public way when viewed at the ground level.
- b. For new development, all utilities, except for 25k or greater electrical lines, must be located underground.

2. Water and Sewer:

- a. Connection to public water is required. The property owner has a two year period to work with PWC to connect to sewer and in the meantime an on-site septic tank system can be used until and if connection to sewer occurs.
- b. Notice: Due to an existing agreement between the PWC and the City of Fayetteville, an annexation petition may be required prior to the PWC's review of any utility plans. Upon submission of the annexation petition, the City most likely will require a sealed certification from an engineer as to the guarantee of improvements. In addition, the City may require a bond or other financial guarantees as assurance that all required improvements will be properly installed.



3. Fire Marshal and Fire Inspections:

Developer must ensure fire protection water supply requirements are met in accordance with Section 507 of the 2018 NC Fire Code. Developer is required to provide advanced coordination and contact with the County Fire Marshal office prior to final site plan submittal as well as during site construction. Developer must submit building plans to the Fire Marshal office, to scale, prior to commencement of any new site construction and/or building renovation. Submit plans for any permits required in Section 105 of the 2018 NC Fire Code. All fire department access requirements shall be met in accordance with Section 503 of the 2018 NC Fire Code and demonstrated at the time of the final site plan and building plan permit applications, as applicable. Construction plans may be required for review by the Fire Marshal and the developer is responsible for contacting same prior to any development activity, including clearing and grading.

4. Stormwater and Drainage:

- a. For any new development where the developer disturbs or intends to disturb more than one acre of land, the developer must provide the Code Enforcement Section with an approved NC Department of Environmental Quality (NCDEQ) sedimentation and erosion control plan(S&E). If any retention/detention bases are required for state approval of this plan, a formal revision application must be filed with Current Planning for review and approval.
- b. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post- Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Division of Water Quality, North Carolina Department of Environmental Quality. If one acre or more of land is to be disturbed, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement prior to the issuance of the Certificate of Occupancy.
- c. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environmental Quality (NCDEQ) *Manual on Best Management Practices* and all drainage ways must be kept clean of free and debris (Section 2306, D., County Subdivision Ordinance).
- d. In the event a stormwater utility structure is required by the NC Department of Environmental Quality (NCDEQ), the owner/developer must demonstrate on the revised plan the placement of a four-foot-high fence with a lockable gate for the security of the stormwater utility structure. The owner/developer is required to maintain the detention/retention basin, keeping it clear of debris and taking measures for the prevention of insect and rodent infestation.
- e. The applicant is advised to consult an expert on wetlands before proceeding with any development.



5. Roads/Access/Parking:

- a. The developer is responsible for providing a final site plan demonstrating compliance with at least 48, 9x20 parking spaces required for the expansion of the office building. Accessible parking shall be provided consistent with the American Disability Act and North Carolina Building Code and shall count toward meeting the required parking requirements.
- b. All parking or temporary storage of vehicles including trucks and trailers must occur at designated parking or vehicle storage areas designated on the final site plan. No vehicles shall be parked or stored on any landscape area or buffer, open space, or street right-of-way.
- c. Driveways accessing abutting public roads shall be limited to the locations identified on the Conditional Zoning Site Plan, as determined by NCDOT. Driveway locations shall only be relocated or revised if approved by NCDOT and do not require a substantial modification to the Conditional Zoning Site Plan.
- d. All NCDOT permits must be obtained and submitted to the Code Enforcement Division prior to any issuance of a building permit or commencement of any development activity or change in property usage. Per NCDOT comments for this rezoning, failure to secure required permits prior to construction or change in property usage may result in the removal of the driveway or street connections at the property owner's expense.
- e. Turn lanes may be required by the NC Department of Transportation (NCDOT) during review of the driveway permit or construction plans. Any NCDOT required improvements shall be completed prior to issuance of a certificate of occupancy unless otherwise indicated by NCDOT.
- f. The developer is to ensure there is fire department access within 150 feet of all points of the building. The access shall be a minimum of 20 feet wide and withstand the weight of a fire apparatus.

6. Landscaping:

The final site plan shall include a detailed landscaping plan addressing the regulatory requirements set forth in section 1102 of the County Zoning Code.

7. Development Review Process:

- a. A final site plan, to include a detailed lighting plan and landscaping plan, shall be provided to Planning staff with a written transmittal with a brief narrative of the plans provided.
- b. In the event the requirements or conditions from a State or Federal Agency or utility provider creates an inconsistency with the conditional zoning site plan in any manner, a revised conditional site plan must be submitted to the Current Planning Division for review. Any change determined by the County to represent a substantial change to



the conditional zoning site plan, Board of County Commission approval may be required, as shall be determined by the Planning Director.

- c. Developer must coordinate with the Current Planning Division prior to making any changes to the conditional zoning site plan. Any changes to the conditional zoning site plan must be reviewed by the Current Planning Division to determine if any change is considered an insubstantial or substantial modification.

8. Other Conditions:

- a. The owner/developer is responsible for maintenance and upkeep of this site, all structures, and appurtenances, to include ensuring that the site is kept free of litter and debris, and that all grass areas mowed, all buffers and shrubbery kept trim and maintained so that the site remains in a constant state of being aesthetically and environmentally pleasing.
- b. The owner/developer(s) of the lot must obtain detailed instructions on provisions of the County Zoning Ordinance and permits required to place any structure within this development from the County Code Enforcement Section, Room 101, in the Historic Courthouse at 130 Gillespie Street. For additional information, the developer should contact a Code Enforcement Officer.
- c. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
- d. The building final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the conditions listed herein.
- e. This conditional approval is not to be construed as all-encompassing of the applicable rules, regulations, etc. which must be complied with for any development. Other regulations, such as building, environmental, health and so forth, may govern the specific development. The developer is responsible party to ensure full compliance with all applicable Federal, State, and local regulations.
- f. Any substantial modification made to this approved conditional zoning site plan or conditions of approval, other than those set forth in the above conditions, must be approved by the Board of Commissioners as set forth by Section 506 of the Zoning Ordinance.
- g. No clearing or grading shall occur until authorized by the Code Enforcement Manager.
- h. Pursuant to Section 507, County Zoning Ordinance, two years after the date of the Board of County Commissioners approves this Conditional Zoning, the Planning Board may examine progress made to determine if active efforts are proceeding. If the Planning Board determines that active efforts to develop are not proceeding, it may institute proceedings to rezone the property to its previous zoning classification.

Clarence G. Grier
County Manager

Sally Shutt
Assistant County Manager



Rawls Howard
Director

David Moon
Deputy Director

- i. All applications and plan submittals shall be submitted via the County online permitting self-service portal at the following website address:
https://selfservice.co.cumberland.nc.us/EnerGov_Prod/SelfService#/home
- j. Any contiguous parcel owned by Fulcher Real Estate, LLC may be recombined with the parcel subject to this conditional zoning ordinance or can be recombined together so long as such parcel re-combination occurs consistent with North Carolina General Statutes and the Cumberland County subdivision ordinance. The property boundaries applicable to this conditional zoning ordinance only apply to the property assigned to this ordinance as delineated in Exhibit "A". This conditional zoning ordinance does not not apply to any parcel or portion of a parcel that is re-combined with the 10.58 acres shown in Exhibit "A".

Property Owner/Agent Acceptance of Conditions

Garrett L. Fulcher
(Print Name)

Garrett L. Fulcher
(Signature)

8-1-23
Date

Issued by:

David B. Moon, AICP, NC-CZO

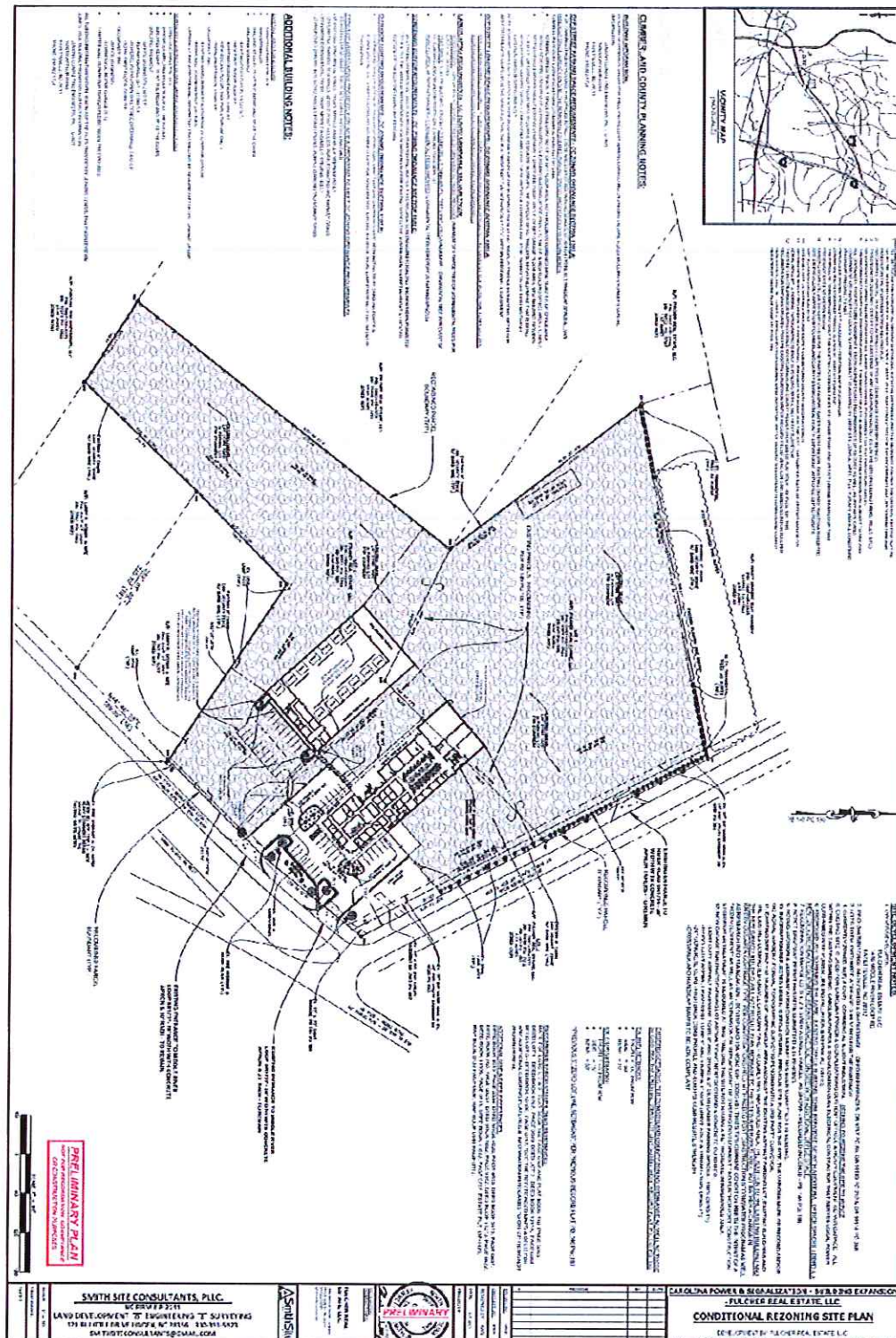
Date

Sally Shutt
Assistant County Manager



CUMBERLAND
COUNTY
NORTH CAROLINA

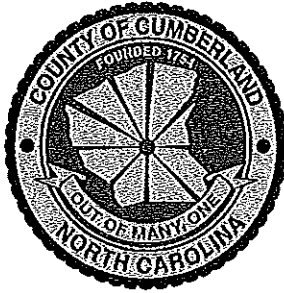
David Moon
Deputy Director



ATTACHMENT – MAILING LIST

CARRINGTON MORTGAGE SERVICES LLC 101 WEST LOUIS HENNA BLVD STE 450 AUSTIN, TX 78728	VORDER BRUEGGE, WILLIAM F;VORDER BRUEGGE, JULIA E LITTLE 1313 RIVER RD EASTOVER, NC 28312	HENRY, BRIAN S;JACKSON, ASHLEY L 834 MIDDLE RD EASTOVER, NC 28312
CAROLINA SUN INVESTMENTS LLC PO BOX 205 FAYETTEVILLE, NC 28302	GODWIN, LARRY R;GODWIN, REBA T PO BOX 4 FAYETTEVILLE, NC 28302	FULCHER REAL ESTATE LLC PO BOX 53650 FAYETTEVILLE, NC 28305
WINGER, BEVERLY O;CHARLES, CONOLY JR 1001 HOLLYWOOD BLV FAYETTEVILLE, NC 28312	FULCHER REAL ESTATE LLC 1416 MIDDLE LOOP FAYETTEVILLE, NC 28312	ROYSTER, JOSEPH L 848 RIVER RD FAYETTEVILLE, NC 28312
COTTON, WINNIE W TRUSTEE;BRENDA, W JOHNSON 871 MIDDLE RD FAYETTEVILLE, NC 28312	NUNNERY, ALBERT ALAN;NUNNERY, NANCY ELLIS 895 RIVER RD FAYETTEVILLE, NC 28312	ELLIS, ROGER ALLEN HEIRS 901 RIVER RD FAYETTEVILLE, NC 28312
NORRIS, FREDERICK 907 RIVER RD FAYETTEVILLE, NC 28312	ROGERS, AMY MCLAURIN 949 HOLLYWOOD BLVD FAYETTEVILLE, NC 28312	MORAN, DANIEL V 953 HOLLYWOOD BLV FAYETTEVILLE, NC 28312
HOBBS, ELZY THOMAS;HOBBS, ANN AVENT 957 HOLLYWOOD BLV FAYETTEVILLE, NC 28312	PITTS, ALEXANDRA;PITTS, EDWARD 961 HOLLYWOOD BLVD FAYETTEVILLE, NC 28312	SIMMONS, LISA LYNN 970 ANGUS ST FAYETTEVILLE, NC 28312
PATEL, VISHALKUM A;PATEL, KIRITKUMAR P 71 TIMBERHILL DR FRANKLIN PARK, NJ 08823	WILLIFORD, VICTORIA ANNETTE OQUINN 108 G CHANDLER DR GREENVILLE, NC 27834	

ATTACHMENT: APPLICATION



County of Cumberland

Planning & Inspections Department

APPLICATION FOR CONDITIONAL ZONING DISTRICT REZONING REQUEST CUMBERLAND COUNTY ZONING ORDINANCE

CASE #: _____

PLANNING BOARD
MEETING DATE: _____

DATE APPLICATION
SUBMITTED: _____

RECEIPT #: _____

RECEIVED BY: _____

Upon receipt of this application (petition), the Planning and Inspections Staff will present to the Planning Board the application at a hearing. In accordance with state law and board's policy, a notice of the hearing will be mailed to the owners of the adjacent and surrounding properties, which may be affected by the proposed Conditional Zoning. In addition, a sign will be posted on the property.

The Planning Board will make a recommendation to the Cumberland County Board of Commissioners concerning the request. The Board of Commissioners will schedule a public hearing and issue a final decision on the matter. Generally, the Commissioners will hold the public hearing four weeks following the Planning Board meeting. The Conditional Zoning District is not effective until the request is heard and approval granted by the Board of Commissioners.

The following items are to be submitted with the completed application:

1. A copy of the recorded deed and/or plat,
2. If a portion of an existing tract is/are being submitted for rezoning, an accurate written legal description of only the area to be considered;
3. A copy of a detailed site plan drawn to an engineering scale, showing the location of all buildings, yard dimensions, driveways, fencing, lighting parking areas, landscaping, and all other pertinent data to the case; and
4. A check made payable to the "Cumberland County" in the amount of \$ _____ (See attached Fee Schedule)

NOTE: Any revisions, inaccuracies or errors to the application or site plan may cause the case to be delayed and will be scheduled for the next available Board meeting according to the Board's meeting schedule. Also, the application fee is *nonrefundable*.

The Planning and Inspections Staff is available for advice on completing this application; however, they are not available for completion of the application or preparation of the site plan. For questions call (910) 678-7603 or (910) 678-7602. Hours of operation are 8:00 a.m. to 5:00 p.m., Monday through Friday.

TO THE CUMBERLAND COUNTY JOINT PLANNING BOARD AND THE BOARD OF COUNTY COMMISSIONERS OF CUMBERLAND COUNTY, NC:

I (We), the undersigned, hereby submit this application, and petition the County Commissioners to amend and to change the zoning map of the County of Cumberland as provided for under the provisions of the County Zoning Ordinance. In support of this petition, as hereinafter requested, the following facts are submitted:

1. Applicant/Agent Fulcher Real Estate, LLC.
2. Address: 1416 Middle River Loop Road Fayetteville, NC Zip Code 28312
3. Telephone: (Home) 910-323-5589 (Work) 910-323-5589
4. Location of Property: parcels located West of the intersection of River Rd & Middle River Loop Rd
0447686172000, 0447683354000
5. Parcel Identification Number (PIN #) of subject property: 0447671961000
(also known as Tax ID Number or Property Tax ID)
6. Acreage: 10.59 acres total Frontage: 1,010 LF Depth: 465 LF
7. Water Provider: FayPWC Septage Provider: on site septic - already permitted
8. Deed Book 9757, 10114, 10189, Page(s) 0069, 0358, 0212, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
9. Existing use of property: Power transmission line & electrical contractor to operate their business in order to serve local power companies like FayPWC, Duke Energy, SREMC & LREMC.
10. Proposed use(s) of the property: The intended use shall be the same as before- for a power transmission line & electrical contractor to operate their business in order to serve local power companies like FayPWC, Duke Energy, SREMC & LREMC. The owner simply wants to expand his existing building and add a new building due to additional personnel.

NOTE: Be specific and list all intended uses.

11. Do you own any property adjacent to, including across the street from, the property being submitted for rezoning? Yes X No _____
12. Has a violation been issued on this property? Yes _____ No NO
13. It is requested that the foregoing property be rezoned FROM: C1(P) & M(P)
TO: (Select one)

X Conditional Zoning District, with an underlying zoning district of M(P) CZ
(Article V)
____ Mixed Use District/Conditional Zoning District (Article VI)
____ Planned Neighborhood District/Conditional Zoning District (Article VII)
____ Density Development/Conditional Zoning District, at the _____ Density
(Article VIII)

APPLICATION FOR
CONDITIONAL ZONING

1. PROPOSED USE(S):

- A. List the use(s) proposed for the Conditional Zoning. (Use of the underlying district will be restricted only to the use(s) specified in this application if approved.)

The intended use shall be the same as before- for a power transmission line & electrical contractor to operate their business in order to serve local power companies like FayPWC, Duke Energy, SREMC & LREMC. The owner simply wants to expand his existing building and add a new building due to additional personnel. The proposed conditional rezoning is to allow the existing & proposed structures not violate any setbacks.

- B. Density: List the amount of acreage that will be residential, commercial, and/or open space, and the number of lots and/or dwelling units proposed, and the square footage of the non-residential units.

Not applicable - conditional use rezoning to M(P) CZ is for the purposes of not violating the setbacks of the desired zoning district/classification.

2. DIMENSIONAL REQUIREMENTS:

- A. Reference either the dimensional requirements of the district, Sec. 1104 or list the proposed setbacks.

Existing setback to be honored per record plat PB: 140 PG: 180 (3 parcels) & the recombined map PB: 149 PG: 186

EX. M(P) SETBACKS

EX. C1(P) SETBACKS:

-FRONT = 100' FROM R/W

-FRONT = 45' FROM R/W

-SIDE = 50'

-SIDE = 15' FROM R/W

-REAR = 50'

-REAR = 20'

*ALSO SEE PREVIOUS ZERO LOT LINE SETBACKS PER PREVIOUS RECORD PLAT PB: 140 PG: 180 & THOSE RECENTLY RECORDED FOR THE RECOMBINATION MAP PB: 149 PG: 186

- B. Off-street parking and loading, Sec.1202 & 1203: List the number of spaces, type of surfacing material and any other pertinent information.

48 PARKING SPACES - ASPHALT

3. SIGN REQUIREMENTS:

Reference the district sign regulations proposed from Article XIII.

No additional signage needed. Existing signage suffices

4. LANDSCAPE AND BUFFER REQUIREMENTS:

- A. For all new non-residential and mixed use development abutting a public street, indicate the number and type of large or small ornamental trees used in the streetscape, yard space, and/or parking areas, plus the number and type of shrubs. (Sec. 1102N). **NOTE: All required landscaping must be included on the site plan.**

-STREETSCAPE: 6 SHADE TREES & 29 ORNAMENTAL TREES (1,005 LF OF RAW)
-YARD SPACE: 223 SHRUBS & 5 ORNAMENTAL TREES (1,341 LF OF BUILDING)
-PARKING AREA: 5 ORNAMENTAL TREES PROVIDED (48 PARKING SPACES)

ADDITIONAL ORNAMENTAL TREES & SHRUBS LANDSCAPING PROVIDED AS WELL TO SURPASS MINIMUM REQUIREMENTS. SEE SITE PLAN FOR ADDITIONAL INFO

- B. Indicate the type of buffering and approximate location, width and setback from the property lines. (Sec. 1102G). **NOTE: All required buffers must be included on the site plan.**

24 EXISTING ORNAMENTAL TREES AS WELL AS AN EXISTING, PLANTED PINE BUFFER ALONG THE NORTHERN PROPERTY LINE TO SERVE FOR SCREENING. SEE SITE PLAN FOR ADDITIONAL INFO

5. MISCELLANEOUS:

List any information not set forth above, such as the days and hours of the operation, number of employees, exterior lighting, noise, odor and smoke, emission controls, etc.

-APPROXIMATELY 30 FULL TIME STAFF MEMBERS ON SITE
-BUSINESS HOURS ARE TYPICALLY 7AM TO 5PM, MONDAY - FRIDAY BUT SUBJECT TO EMERGENCY CONDITIONS
-THE CURRENT SITE HAS EXISTING OUTDOOR LIGHTING BY A NC LICENSED ELECTRICAL CONTRACTOR
-NOISE & ACTIVITIES TYPICAL WITH A TRADE CONTRACTOR THAT HAS OUTDOOR STORAGE

6. SITE PLAN REQUIREMENTS:

The application must include a site plan drawn to the specifications of Sec. 1402. If the proposed uses involve development subject to the County Subdivision Ordinance, the site plan required may be general in nature, showing a generalized street pattern, if applicable, and the location of proposed uses. If the proposed uses include development not subject to the Subdivision Ordinance, the site plan must be of sufficient detail to allow the Planning and Inspections Staff, Planning Board and County Commissioners to analyze the proposed uses and arrangement of uses on the site. It also must include the footprints of all buildings (proposed and existing), the proposed number of stories, location and number of off-street parking and loading spaces, proposed points of access to existing streets and internal circulation patterns. In addition, the location of all proposed buffers and fences and landscaping shall be included on the site plan.

7. STATEMENT OF ACKNOWLEDGMENT:

It is understood by the undersigned that the official zoning map, as originally adopted and subsequently amended, is presumed to be appropriate to the property involved and that the burden of proof for a zoning amendment (rezoning) rest with the petitioner.

It is the responsibility of the petitioner (personally or by agent) to submit to the Planning and Inspections Department a valid request within a complete application.

I further understand I must voluntarily agree to all ordinance related conditions prior to the first hearing on the case or any disagreement may be cause for an unfavorable recommendation. The undersigned hereby acknowledge that the Planning and Inspections Staff has conferred with the petitioner or assigns, and the application as submitted is accurate and correct.

FULCHER REAL ESTATE, LLC. - GARRET FULCHER
NAME OF OWNER(S) (PRINT OR TYPE) MEMBER/MANAGER

1416 MIDDLE RIVER LOOP FAYETTEVILLE, NC 28312
ADDRESS OF OWNER(S)

G.FULCHER@NCPower.NET
E-MAIL

910-323-5589
HOME TELEPHONE

910-323-5589
WORK TELEPHONE

Garret L. Fulcher
SIGNATURE OF OWNER(S)

SIGNATURE OF OWNER(S)

GARRET FULCHER & KENNETH SMITH (ENGINEER)
NAME OF AGENT, ATTORNEY, APPLICANT (by assign) (PRINT OR TYPE)

1416 MIDDLE RIVER LOOP FAYETTEVILLE, NC 28312
ADDRESS OF AGENT, ATTORNEY, APPLICANT

910-391-5923
HOME TELEPHONE

910-323-5589
WORK TELEPHONE

G.FULCHER@NCPower.NET
E-MAIL ADDRESS

SMITHSITECONSULTANTS@GMAIL.COM
FAX NUMBER

Garret L. Fulcher
SIGNATURE OF AGENT, ATTORNEY, OR APPLICANT

SIGNATURE OF AGENT, ATTORNEY, OR APPLICANT

Ad Preview

PUBLIC NOTICE

The Cumberland County Board of Commissioners will meet at 6:45 p.m. on August 21, 2023 in room 118 of the County Courthouse at 117 Dick Street to hear the following:

ZON-23-0014: Conditional rezoning from C1(P) Planned Local Business Dis. and M(P) Planned Industrial Dis. to M(P)/CZ Planned Industrial Dis. Conditional Zoning or a more restrictive zoning dis.; 10.58 +/- acres, located at NW corner of Middle River Loop Rd and River Rd, Garret Fulcher (agent), Fulcher Real Estate, LLC (owner).

ZON-23-0016: Text Amendment to the Cumberland County Zoning Ordinance to update and reflect the name change of Fort Bragg military base to Fort Liberty; Planning & Inspections Staff (applicant).

ZON-23-0019: Text Amendment to the Cumberland County Subdivision Ordinance to update and reflect the name change of Fort Bragg military base to Fort Liberty; Planning & Inspections Staff (applicant).

8/7/23, 8/14/23 9094226



PLANNING AND INSPECTIONS DEPARTMENT

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: CUMBERLAND COUNTY JOINT PLANNING BOARD

DATE: 8/10/2023

SUBJECT: CASE ZON-23-0016

BACKGROUND

ZON-23-0016: Text Amendment to the Cumberland County Zoning Ordinance to update and reflect the name change of Fort Bragg military base to Fort Liberty; submitted by Planning & Inspections Staff (applicant).

RECOMMENDATION / PROPOSED ACTION

Planning Board Action: Recommended approval of the text amendment at their July 18, 2023 meeting for the reasons stated and as fully reflected in the minutes of the Planning Board Meeting which are incorporated herein by reference.

Staff Recommendation: Planning and Inspections staff recommends approval of the text amendment and finds the request consistent with the 2030 Growth Vision Plan because, while specific land use plan policies do not address a comprehensive update to the County's Zoning Ordinance, a current ordinance that is in compliance with Federal law allows the department to continue to provide efficient and effective services to achieve goals laid out not only in the 2030 Growth Vision Plan, but all detailed land use plans within the County. Approval of this text amendment is also reasonable and in the public interest as it is a comprehensive update to clarify standards and review processes for the public.

If the Board of Commissioners wishes to follow the recommendation of the Planning Board in this case, the following motion is appropriate:

MOTION:

In Case ZON-23-0016, I move to approve the text amendment and find the request consistent with the 2030 Growth Vision Plan because while specific land use plan policies do not address a comprehensive update to

the County's Zoning Ordinance, a current ordinance that is in compliance with Federal law allows the department to continue to provide efficient and effective services to achieve goals laid out not only in the 2030 Growth Vision Plan, but all detailed land use plans within the County. Approval of this text amendment is also reasonable and in the public interest as it is an update to clarify standards and review processes for the public.

If the Board of Commissioners does not wish to follow the recommendation of the Planning Board in this case, the following motion is appropriate:

MOTION:

In Case ZON-23-0016, I move to deny the text amendment and find the request is not consistent with the 2030 Growth Vision Plan. Denial of this text amendment is also reasonable and in the public interest because

_____.

ATTACHMENTS:

Description

Case ZON-23-0016

Type

Backup Material

Clarence G. Grier
County Manager

Sally Shutt
Assistant County Manager



Rawls Howard
Director

David Moon
Deputy Director

Planning & Inspections Department

AUGUST 10, 2023

MEMO TO: Cumberland County Board of Commissioners

FROM: Cumberland County Joint Planning Board

SUBJECT: **ZON-23-0016:** Text Amendment to the Cumberland County Zoning Ordinance to update and reflect the name change of Fort Bragg military base to Fort Liberty; submitted by Planning & Inspections Staff (applicant).

ACTION: Recommended approval of the text amendment at their July 18, 2023 meeting for the reasons stated and as fully reflected in the minutes of the Planning Board Meeting which are incorporated herein by reference.

MINUTES OF JULY 18, 2023

In Case ZON-23-0016, Planning & Inspections staff recommends approval of the text amendment and finds the request consistent with the 2030 Growth Vision Plan because, while specific land use plan policies do not address a comprehensive update to the County's Zoning Ordinance, a current ordinance that is in compliance with Federal law allows the department to continue to provide efficient and effective services to achieve goals laid out not only in the 2030 Growth Vision Plan, but all detailed land use plans within the County. Approval of this text amendment is also reasonable and in the public interest as it is a comprehensive update to clarify standards and review processes for the public.

In Case ZON-23-0016, Mrs. Moody made a motion, seconded by Mr. Burton to recommend approval of the text amendment and finds the request consistent with the 2030 Growth Vision Plan because, while specific land use plan policies do not address a comprehensive update to the County's Zoning Ordinance, a current ordinance that is in compliance with Federal law allows the department to continue to provide efficient and effective services to achieve goals laid out not only in the 2030 Growth Vision Plan, but all detailed land use plans within the County. Approval of this text amendment is also reasonable and in the public interest as it is a comprehensive update to clarify standards and review processes for the public. Unanimous approval.

First Class and Record Owners' Mailed Notice Certification

A certified copy of the tax record owner(s) of the subject and adjacent properties and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith. The record owners' certified receipt of notice is also included.



PLANNING & INSPECTIONS

PLANNING STAFF REPORT
ZONING REGULATIONS- CASE # ZON-23-0016
Planning Board Meeting: July 18, 2023

Jurisdiction: Cumberland County

EXPLANATION OF THE REQUEST

This request is a staff-driven comprehensive text amendment to the Cumberland County Zoning Ordinance to update and reflect the name change of Fort Bragg military garrison to Fort Liberty.

In response to the William M. (Mac) Thornberry National Defense Authorization Act adopted by the U.S. Congress and enacted on January 1, 2021, the U.S. Department of Defense Naming Commission was created and directed to "remove all names, symbols, displays, monuments, and paraphernalia that honor or commemorate the Confederate States of America or any person who served voluntarily with the Confederate States of America from all assets of the Department of Defense." This directive includes renaming Fort Bragg as well as eight other military installations or garrisons named after Confederate military leaders. The proposed text amendments are provided in this report.

STAFF RECOMMENDATION

In Case ZON-23-0016, Planning & Inspections Staff **recommends approval** of the text amendment and finds the request consistent with the 2030 Growth Vision Plan because, while specific land use plan policies do not address a comprehensive update to the County's Zoning Ordinance, a current ordinance that is in compliance with Federal law allows the department to continue to provide efficient and effective services to achieve goals laid out not only in the 2030 Growth Vision Plan, but all detailed land use plans within the County. Approval of this text amendment is also reasonable and in the public interest as it is a comprehensive update to clarify standards and review processes for the public.

CUMBERLAND COUNTY ZONING CODE AMENDMENTS

(Changes are shown in strike-through, under-score format)

Article II, Section 203. Definitions of Specific Terms and Words.

Fort Bragg: See "Fort Liberty".

Fort Liberty: The United States military reservation that is under the administrative control of the United States Army Garrison Fort Liberty. The term "Fort Liberty" shall also mean any sub-installation of the reservation under the operational control of the Garrison, including Pope Field, Simmons Army Airfield, and all other real property owned, leased, or managed by the United States that fall under the control of the Garrison and located within Cumberland County.

ARTICLE XV, SECTION 1501. SUBMISSION OF AMENDMENTS AND CHANGES.

D. Notice to Military Bases. All requests for amendments that would change or affect the permitted uses of land located five miles or less from the perimeter boundary of Fort Bragg Liberty, Pope Field Air Force Base, and/or Simmons Army Airfield shall be provided to the Commander of said bases in accordance with N. C. GEN. STAT. §160D-601. (Amd. 02-19-08; Amd. 02-01-21; Amd. 0_ _ 23)

Article XVI, SECTION 1607. HEARINGS.

C. The Secretary to the Board of Adjustment shall ensure the Commanders of Fort Bragg Liberty, Pope Field Army Airfield, and Simmons Army Airfield are notified of any application affecting the use of property located within five miles or less of the perimeter boundary of said bases in accordance with N.C. GEN. STAT. §160D-601. (Amd. 02-01-21, Amd. 0_ _ - 23)

Ad Preview

PUBLIC NOTICE

The Cumberland County Board of Commissioners will meet at 6:45 p.m. on August 21, 2023 in room 118 of the County Courthouse at 117 Dick Street to hear the following:

ZON-23-0014: Conditional rezoning from C1(P) Planned Local Business Dis. and M(P) Planned Industrial Dis. to M(P)/CZ Planned Industrial Dis. Conditional Zoning or a more restrictive zoning dis.; 10.58 +/- acres, located at NW corner of Middle River Loop Rd and River Rd, Garret Fulcher (agent), Fulcher Real Estate, LLC (owner).

ZON-23-0016: Text Amendment to the Cumberland County Zoning Ordinance to update and reflect the name change of Fort Bragg military base to Fort Liberty; Planning & Inspections Staff (applicant).

ZON-23-0019: Text Amendment to the Cumberland County Subdivision Ordinance to update and reflect the name change of Fort Bragg military base to Fort Liberty; Planning & Inspections Staff (applicant).

8/7/23, 8/14/23 9094226



PLANNING AND INSPECTIONS DEPARTMENT

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: CUMBERLAND COUNTY JOINT PLANNING BOARD

DATE: 8/10/2023

SUBJECT: CASE ZON-23-0019

BACKGROUND

ZON-23-0019: Text Amendment to the Cumberland County Subdivision Ordinance to update and reflect the name change of Fort Bragg military base to Fort Liberty; submitted by Planning & Inspections Staff (applicant).

RECOMMENDATION / PROPOSED ACTION

Planning Board Action: Recommended approval of the text amendment at their July 18, 2023 meeting for the reasons stated and as fully reflected in the minutes of the Planning Board Meeting which are incorporated herein by reference.

Staff Recommendation: Planning and Inspections staff recommends approval of the text amendment and finds the request consistent with the 2030 Growth Vision Plan because, while specific land use plan policies do not address a comprehensive update to the County's Subdivision Ordinance, a current ordinance that is in compliance with Federal law allows the department to continue to provide efficient and effective services to achieve goals laid out not only in the 2030 Growth Vision Plan, but all detailed land use plans within the County. Approval of this text amendment is also reasonable and in the public interest as it is a comprehensive update to clarify standards and review processes for the public.

If the Board of Commissioners wishes to follow the recommendation of the Planning Board in this case, the following motion is appropriate:

MOTION:

In Case ZON-23-0019, I move to approve the text amendment and find the request consistent with the 2030

Growth Vision Plan because while specific land use plan policies do not address a comprehensive update to the County's Subdivision Ordinance, a current ordinance that is in compliance with Federal law allows the department to continue to provide efficient and effective services to achieve goals laid out not only in the 2030 Growth Vision Plan, but all detailed land use plans within the County. Approval of this text amendment is also reasonable and in the public interest as it is an update to clarify standards and review processes for the public.

If the Board of Commissioners does not wish to follow the recommendation of the Planning Board in this case, the following motion is appropriate:

MOTION:

In Case ZON-23-0019, I move to deny the text amendment and find the request is not consistent with the 2030 Growth Vision Plan. Denial of this text amendment is also reasonable and in the public interest because

_____.

ATTACHMENTS:

Description

Case ZON-23-0019

Type

Backup Material

Clarence G. Grier
County Manager

Sally Shutt
Assistant County Manager



Rawls Howard
Director

David Moon
Deputy Director

Planning & Inspections Department

AUGUST 10, 2023

MEMO TO: Cumberland County Board of Commissioners

FROM: Cumberland County Joint Planning Board

SUBJECT: **ZON-23-0019:** Text Amendment to the Cumberland County Subdivision Ordinance to update and reflect the name change of Fort Bragg military base to Fort Liberty; submitted by Planning & Inspections Staff (applicant).

ACTION: Recommended approval of the text amendment at their July 18, 2023 meeting for the reasons stated and as fully reflected in the minutes of the Planning Board Meeting which are incorporated herein by reference.

MINUTES OF JULY 18, 2023

In Case ZON-23-0019, Planning & Inspections staff recommends approval of the text amendment and finds the request consistent with the 2030 Growth Vision Plan because, while specific land use plan policies do not address a comprehensive update to the County's Subdivision Ordinance, a current ordinance that is in compliance with Federal law allows the department to continue to provide efficient and effective services to achieve goals laid out not only in the 2030 Growth Vision Plan, but all detailed land use plans within the County. Approval of this text amendment is also reasonable and in the public interest as it is a comprehensive update to clarify standards and review processes for the public.

In Case ZON-23-0019, Mrs. Moody made a motion, seconded by Mr. Burton to recommend approval of the text amendment and finds the request consistent with the 2030 Growth Vision Plan because, while specific land use plan policies do not address a comprehensive update to the County's Subdivision Ordinance, a current ordinance that is in compliance with Federal law allows the department to continue to provide efficient and effective services to achieve goals laid out not only in the 2030 Growth Vision Plan, but all detailed land use plans within the County. Approval of this text amendment is also reasonable and in the public interest as it is a comprehensive update to clarify standards and review processes for the public. Unanimous approval.

First Class and Record Owners' Mailed Notice Certification

A certified copy of the tax record owner(s) of the subject and adjacent properties and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith. The record owners' certified receipt of notice is also included.



PLANNING & INSPECTIONS

PLANNING STAFF REPORT
ZONING REGULATIONS- CASE # ZON-23-0019
Planning Board Meeting: July 18, 2023

Jurisdiction: Cumberland County

EXPLANATION OF THE REQUEST

This request is a staff-driven comprehensive text amendment to the Cumberland County Subdivision Ordinance to update and reflect the name change of Fort Bragg military garrison to Fort Liberty.

In response to the William M. (Mac) Thornberry National Defense Authorization Act adopted by the U.S. Congress and enacted on January 1, 2021, the U.S. Department of Defense Naming Commission was created and directed to "remove all names, symbols, displays, monuments, and paraphernalia that honor or commemorate the Confederate States of America or any person who served voluntarily with the Confederate States of America from all assets of the Department of Defense." This directive includes renaming Fort Bragg as well as eight other military installations or garrisons named after Confederate military leaders. The proposed text amendments are provided in this report.

STAFF RECOMMENDATION

In Case ZON-23-0019, Planning & Inspections Staff recommends approval of the text amendment and finds the request consistent with the 2030 Growth Vision Plan because, while specific land use plan policies do not address a comprehensive update to the County's Subdivision Ordinance, a current ordinance that is in compliance with Federal law allows the department to continue to provide efficient and effective services to achieve goals laid out not only in the 2030 Growth Vision Plan, but all detailed land use plans within the County. Approval of this text amendment is also reasonable and in the public interest as it is a comprehensive update to clarify standards and review processes for the public.

CUMBERLAND COUNTY SUBDIVISION CODE AMENDMENTS

(Changes are shown in strike-through, under-score format)

TABLE OF CONTENTS.

SEC. 2302. AREA-SPECIFIC STANDARDS

C. Fort ~~Bragg~~ Liberty Special Interest Area

ARTICLE XXI. SECTION. 2103. DEFINITIONS OF SPECIFIC TERMS AND WORDS

Fort Bragg: See "Fort Liberty".

Fort Liberty: The United States military reservation that is under the administrative control of the United States Army Garrison Fort Liberty. The term "Fort Liberty" shall also mean any sub-installation of the reservation under the operational control of the Garrison, including Pope Field, Simmons Army Airfield, and all other real property owned, leased, or managed by the United States that fall under the control of the Garrison and located within Cumberland County.

ARTICLE XXIII, SECTION 2302. AREA-SPECIFIC STANDARDS.

C. Fort ~~Bragg~~ Liberty Special Interest Area. Because of the location of known habitat and forage areas of the protected Red-Cockaded Woodpecker on the properties in and around the military reservations, the community, including the military, has a special interest in any subdivision or other development that occurs on the privately-owned properties in close proximity to the military bases. The official Fort ~~Bragg~~ Liberty Special Interest Area map, hereby adopted as part of this ordinance, shall be maintained by the Planning and Inspections Department and kept on file with the Clerk to the County Board of Commissioners – see Exhibit 6. Upon receipt for submission of any subdivision or other development subject to review under this ordinance and located within the Fort ~~Bragg~~ Liberty Special Interest Area, the Planning and Inspections Staff shall forward a copy of the preliminary plan to the military planner assigned to the affected military base and to the local office of the U.S. Fish and Wildlife Service, in addition to the other agencies involved in the review process. The military planner and the Fish and Wildlife representative will then assist the developer in identifying areas where trees should be maintained. While the owner is not obligated, the intent is to encourage clustering of developments in accordance with the special subdivision and development provisions of this ordinance or the County Zoning Ordinance, thus protecting the endangered woodpecker.

Ad Preview

PUBLIC NOTICE

The Cumberland County Board of Commissioners will meet at 6:45 p.m. on August 21, 2023 in room 118 of the County Courthouse at 117 Dick Street to hear the following:

ZON-23-0014: Conditional rezoning from C1(P) Planned Local Business Dis. and M(P) Planned Industrial Dis. to M(P)/CZ Planned Industrial Dis. Conditional Zoning or a more restrictive zoning dis.; 10.58 +/- acres, located at NW corner of Middle River Loop Rd and River Rd, Garret Fulcher (agent), Fulcher Real Estate, LLC (owner).

ZON-23-0016: Text Amendment to the Cumberland County Zoning Ordinance to update and reflect the name change of Fort Bragg military base to Fort Liberty; Planning & Inspections Staff (applicant).

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8/7/23, 8/14/23 9094226



ASSISTANT COUNTY MANAGER GENERAL GOVERNMENT AND STEWARDSHIP

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: BRIAN HANEY, ASSISTANT COUNTY MANAGER FOR GENERAL GOVERNMENT & STEWARDSHIP

DATE: 8/21/2023

SUBJECT: CONSIDERATION OF CROWN EVENT CENTER PRE-OPENING CONSULTING AGREEMENT WITH OAK VIEW GROUP AND RELATED EXCEPTION TO POLICY AND BUDGET AMENDMENT #B240323 TO PAY PRIOR YEAR EXPENSE

BACKGROUND

As part of the design process for the new Crown Event Center, County Management engaged current Crown Complex Manager Oak View Group (OVG) in the fall of 2022 regarding the provision of consulting services to ensure the facility includes what is needed from an operational standpoint.

The need for this Pre-Opening Consulting Agreement was initially discussed prior to the departure of former County Manager Amy Cannon. County staff does not possess this expertise. These services are also beyond the scope of the County's existing Management Agreement with OVG.

Per the terms of the agreement, OVG will provide additional pre-opening consulting and pre-opening management services for the new Crown Event Center at a cost of \$5,000 per month through the Opening Date of the new facility. There is also a not-to-exceed amount of \$15,000 for travel and other expenses through the term of the agreement. The agreement is effective February 1, 2023, because OVG staff have taken part in Project Delivery Team meetings and have provided guidance throughout the design process, which began in early 2023.

Based on the projected Opening Date of Nov. 1, 2025, the maximum total cost of this agreement would be \$180,000 – with \$165,000 for the 33 months from February 2023 through October 2025, and up to \$15,000 for the additional expenses.

Similar to the County's other agreements with OVG, the cost of this agreement would be paid out of the

Crown's operating fund and is not included as part of the capital project for the Crown Event Center. Funding of \$60,000 has been included in the Crown Fund for FY 2024 to cover the 12 monthly payments of \$5,000 in the current fiscal year.

To approve this agreement, the Board will need to approve an exception to the County's Purchasing Policy requiring an informal RFP for services valued at \$30,000 or above. Additionally, in order to pay for services rendered from February through June 2023, the Board will need to approve a prior year expense amount totaling \$25,000.

This item was previously brought to the Board for consideration as an Item of Business during the June 19, 2023 regular meeting. At that meeting, the Board directed staff to take the agreement to the Board of Commissioners' Crown Event Center Committee for a recommendation before bringing it back to the Board of Commissioners.

The Crown Event Center Committee met on Aug. 15, 2023, and voted unanimously to move this item to the Aug. 21 Board of Commissioners meeting for consideration by the full Board.

RECOMMENDATION / PROPOSED ACTION

Staff recommends approval of the Crown Event Center Pre-Opening Consulting Agreement with Oak View Group and related Exception to Policy and Budget Amendment, which consists of the following three items:

- Approval to Enter into Pre-Opening Consulting Agreement with Oak View Group for the Crown Event Center at a Cost of \$5,000 per Month
- Approval of Exception to County Purchasing Policy Requiring Informal RFP for Services Valued at \$30,000 and Above
- Approval of Budget Ordinance Amendment #B240323 for \$40,000 with \$25,000 to pay a prior year expense for services rendered between February and June 2023 and \$15,000 to support the not-to-exceed amount for travel and other expenses through the term of the agreement

ATTACHMENTS:

Description	Type
Pre-Opening Consulting Agreement with OVG	Backup Material

PRE-OPENING CONSULTING AGREEMENT

This Pre-Opening Consulting Agreement is entered into and made effective as of February 1, 2023 ("**Effective Date**"), by and between (i) Cumberland County Civic Center Commission, a body corporate created by the North Carolina General Assembly through the enactment of S.L. 1965-360, S.L. 1984-983 and S.L. 1991-27 ("**Commission**"); and Cumberland County, a body corporate and a political subdivision of the State of North Carolina ("**County**" and together with the Commission, the "**Client**"; and (ii) Global Spectrum, LP, a Delaware limited partnership d/b/a OVG360 ("**OVG**").

RECITALS

WHEREAS, Commission, County, and OVG are parties to a certain Management Agreement, dated July 1, 2017, as amended by all the parties November 17, 2021 (the "**Management Agreement**") pursuant to which OVG provides certain management services in connection with the Cumberland County Civic Center, located in Fayetteville, North Carolina and which includes, currently: (a) a 4,500 seat arena (the "**Arena**"), (b) a 2,500 seat theatre (the "**Theatre**"), (c) a ballroom seating which can seat 650 (the "**Ballroom**"), (d) a 60,000 square foot expo center (the "**Expo Center**"), and (e) a 10,000 seat coliseum (the "**Coliseum**") (collectively, (a) through (e) the "**Facilities**");

WHEREAS, Client currently anticipates closing the Arena and Theatre on or around October 2025, and replacing such locations with a new multipurpose event center (collectively, the "**New Facilities**") which is anticipated to open on or around November 1, 2025 (the actual date on which the New Facilities open, the "**Opening Date**"); and

WHEREAS, Client seeks to engage OVG, separate from the Management Agreement, to provide certain consulting services with respect to the pre-opening phase of the New Facilities, as more fully described herein.

NOW THEREFORE, for and in consideration of the foregoing, the mutual covenants and promises hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. Term; Termination.

(a) The term of this Agreement ("**Term**") will commence as of the Effective Date and shall end on the Opening Date, unless earlier (i) terminated in accordance with the terms hereof.

(b) This Agreement may be terminated by either party upon 30 days written notice (or 10 days in the event of a payment default), if the other party fails to perform or comply with any of the material terms, covenants, agreements or conditions hereof, and such failure is not cured during such 30 day (or 10 day, as applicable) notification period, provided, however, if such failure is not in the nature of a payment default and cannot reasonably be cured within such 30 day period, then a longer period of time shall be afforded to cure such breach, up to a total of 90 days, provided that the party in default is diligently seeking a cure and the non-defaulting party is not irreparably harmed by the extension of the cure period.

2. Services. During the Term, OVG shall provide the consulting services set forth on Exhibit A, attached hereto (the "**Consulting Services**"). For avoidance of doubt, the Consulting Services shall exclude any FF&E design services, including, specification, cost estimation and/or FF&E procurement-related services, and any services related to drawings, renderings or layout of work, prep, service or operational space, which, if requested by Client would be subject to a separate, mutually agreed fee. Without limiting the generality of the foregoing, OVG agrees to provide timely responses to enquiries and requests received from Client and its other consultants and advisors and shall make available its appropriate personnel to telephone conference and/or attend such events and meetings as may be reasonably necessary to fulfill its obligations hereunder.

3. **Standard of Care; Disclaimer.**

(a) OVG will perform its obligations hereunder in a competent and professional manner, and at standards no less than those normally provided by OVG for similar services at similar venues to the New Facilities.

(b) **CLIENT ACKNOWLEDGES THAT NEITHER OVG NOR ITS EMPLOYEES OR AFFILIATES ARE ARCHITECTS, GENERAL CONTRACTORS, ENGINEERS OR FINANCIAL ADVISORS, AND THEIR CONSULTING SERVICES PROVIDED UNDER THIS AGREEMENT ARE BASED ON THEIR OPERATIONAL KNOWLEDGE OF SPORTS AND ENTERTAINMENT VENUES AND SHOULD NOT BE CONSTRUED AS A REPRESENTATION OF ARCHITECTURAL, CONSTRUCTION, ENGINEERING OR FINANCIAL PRACTICES. NEITHER CLIENT NOR ANY OF ITS RESPECTIVE AFFILIATES, AGENTS, CONSULTANTS, CONTRACTORS OR REPRESENTATIVES, WILL RELY UPON OVG OR ITS EMPLOYEES, AGENTS OR AFFILIATES AS HAVING ARCHITECTURAL, CONSTRUCTION, ENGINEERING OR FINANCIAL EXPERTISE.**

4. **Compensation.** As consideration for the performance by OVG of the Consulting Services, Client shall pay OVG a consulting fee ("**Consulting Fee**") of Five Thousand U.S Dollars per month (\$5,000/month) during the Term. Upon execution of the agreement and before June 30, 2023, Client will pay OVG the initial five-month accumulated total of \$25,000 in a lump sum, for services rendered during the first five months of the agreement. Thereafter, the Consulting Fee shall be paid to OVG on the first day of each month during the Term. Any overdue amounts shall accrue interest at the rate of one percent (1%) per month, or the highest rate permitted by law, whichever is less.

5. **Expenses.** In addition to the fees described in Section 4 above, Client shall pay OVG all expenses OVG will incur in travel or other expenses and costs it incurs in performance of the Services. Such expenses shall be reimbursed by Client to OVG within 30 days of invoice, which invoice shall be accompanied with reasonable back-up documentation evidencing the incurrence of such incremental expenses in an amount not to exceed \$15,000 through the term of the agreement unless otherwise mutually agreed to in advance and in writing.

6. **Obligations of Client.** Client agrees to provide to OVG, in a timely manner, all relevant information, data, materials, design plans, drawings, and projections relating to the New Facilities as is reasonably necessary or otherwise requested by OVG to perform its obligations under this Agreement. Client shall further be available, and shall make its representatives and consultants available, to respond to questions by OVG relating to OVG's performance of the Consulting Services.

7. **Force Majeure.** OVG shall be excused from its obligations hereunder when and to the extent that performance is delayed or prevented by any event of Force Majeure. As used herein, "**Force Majeure**" means fire, flood, earthquake, tidal wave or other act of nature or natural disaster; accidents; acts of terror or terrorism; the outbreak of war or warlike situations; labor unrest or labor disputes; insurrections; epidemics, pandemics or health or quarantine restrictions; any act by any governmental authority or any orders, restrictions, limitations or revocations relating to any licensing or approvals or otherwise affecting the performance of the services to be provided hereunder, or any other occurrence, circumstance or event which is beyond the reasonable anticipation and control of OVG. OVG shall provide prompt written notice to Client of any Force Majeure impacting the provision of the Services, and shall promptly recommence its provision of the Services upon removal of the Force Majeure.

8. **Warranties; Limitation on Liability.**

(a) Except as expressly stated in Section 3(a) above, neither OVG nor any Affiliate or employee thereof has made or shall be deemed to have made any representation, warranty or guarantee with respect to the

performance of the services to be provided hereunder, nor any guarantees with respect to the design, engineering, construction, marketing, operations, performance or success of the New Facilities, and OVG hereby disclaims all representations and warranties, actual or implied.

(b) Neither party shall be liable to the other for any indirect damages, including but not limited to consequential damages, lost profits, lost business opportunity, punitive damages or exemplary damages (provided the foregoing shall not limit OVG's right to make a claim for any and all fees and expense reimbursements or payments anticipated to become due to OVG hereunder in the event of a breach or default by Client hereof, the parties agreeing that such amounts are direct damages due to OVG in the event of a breach or default by Client). The total liability of OVG and its respective owners, subcontractors, agents or affiliates with respect to or arising in connection with this Agreement including the Consulting Services, or anything done in connection herewith, whether in contract, in tort (including negligence) or otherwise, shall not exceed the amount of the fees paid and received by OVG under this Agreement.

9. **Miscellaneous.**

(a) Each of OVG and Client represent and warrant to the other that it has the full right and legal authority to enter into this agreement and to perform its obligations hereunder, and that no third-party consent or approval is required to grant the rights granted by such party hereunder or perform the obligations of such party described herein.

(b) The parties agree that OVG is being engaged by Client under this Agreement as an independent contractor, and nothing contained in this letter of intent will create, whether express or implied, a partnership, joint venture, employment, or agency relationship between OVG and Client. Neither party shall have, nor shall either party hold itself out as having, any right, power, or authority to create any contract or obligation, either express or implied, on behalf of, in the name of, or binding upon the other, or to pledge the credit of the other, or to extend credit in the name of the other, unless the other party provides its written consent thereto in advance. Each party shall be solely responsible for the payment of compensation of and to its personnel.

(c) This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and may only be modified by the written agreement of each of the parties hereto. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina, without regard to its conflict of laws principles.

(d) Neither party may assign or otherwise transfer this Agreement without the prior written approval of the other party, except that OVG may upon written notice to Client assign or transfer this Agreement and all of its rights and obligations hereunder (including without limitation its rights under Section 7 above) to an Affiliate or otherwise in connection with a sale, merger or other business combination involving all or substantially all of OVG's assets.

(e) All notices required or permitted to be given pursuant to this Agreement shall be in writing and delivered personally or sent by registered or certified mail, return receipt requested, or by generally recognized, prepaid, overnight air courier services, to the address and individual set forth below. All such notices to either party shall be deemed to have been provided when delivered, if delivered personally; within 3 business days after mailed, or the next day if sent by generally recognized, prepaid, overnight air courier services.

If to Client:

County Manager
PO Box 1829
Fayetteville, NC 28302

If to OVG360:

OVG360
150 Rouse Blvd.
Philadelphia, PA 19112

Attn: President

With a copy to:

Cumberland County Manager
PO Box 1829
Fayetteville, NC 28302

With a copy to:

OVG360
150 Rouse Blvd.
Philadelphia, PA 19112
Attn: General Counsel
Email: OVG360Legal@oakviewgroup.com

The designation of the individuals to be so notified and the addresses of such parties set forth above may be changed from time to time by written notice to the other party in the manner set forth above.

(f) There shall be no third-party beneficiaries of this Agreement.

(g) This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same document. This Agreement may be executed by the parties and transmitted by electronic mail, and if so executed and transmitted, shall be effective as if the parties had delivered an executed original of this Agreement.

[Signature Page Follows]

ACCEPTED AND AGREED as of the date first set forth above:

CUMBERLAND COUNTY CIVIC CENTER
COMMISSION

By: _____

Name: _____

Its: _____

CUMBERLAND COUNTY

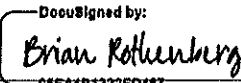
By: _____

Name: _____

Its: _____

GLOBAL SPECTRUM, L.P., d/b/a OVG360

By: Global Spectrum, LLC, its general partner

By: 
Brian Rothenberg, President

6/14/2023 | 1:09:41 PM PDT

THIS INSTRUMENT HAS BEEN PRE-AUDITED
IN THE MANNER REQUIRED BY THE LOCAL
GOVERNMENT BUDGET AND FISCAL CON-
TROL ACT.

FINANCE DIRECTOR

APPROVED FOR LEGAL SUFFICIENCY

BY: 
County Attorney's Office

EXHIBIT A
CONSULTING SERVICES

I. Pre-Opening Consulting

- (a) Assist Client with its review of the design of the New Facilities and make recommendations to Client with respect to such design.
- (b) Advise Client on any construction and operational issues with respect to the New Facilities that may arise during the Term.
- (c) Advise Client on risk management and insurance needs in connection with the operation of the New Facilities.
- (d) Assist Client in developing and implementing a telecommunications plan for the New Facilities.
- (e) Develop and recommend a proposed inventory of FF&E to be used at the Facilities. **Note:** These services do not include procurement, cost estimation or specification for FF&E plans which would be subject to an additional fee.
- (f) Prepare and submit to Client a list of operating supplies necessary for the start-up of the New Facilities.
- (g) Prepare and submit to Client pre-opening and operational sales, marketing, public relations, advertising, promotion, and revenue-generating event booking strategies and plans for maximizing revenues from the New Facilities.

II. Pre-Opening Management

- (a) Develop an Operations Manual for the New Facilities. The final version of the Operations Manual shall be mutually agreed upon by the parties.
- (b) Procure, negotiate, execute, administer, and assure compliance with service contracts.
- (c) Procure, negotiate, execute, administer, and assure compliance with revenue generating contracts.
- (d) Arrange for and otherwise book revenue-generating events at the New Facilities in accordance with a booking schedule to be developed by OVG, in consultation with Client.
- (e) Plan, promote and execute, in conjunction with Client, a "grand opening" event or events at the New Facilities.
- (f) Engage, supervise, and direct all personnel at the New Facilities that OVG deems necessary to perform the pre-opening services described herein, and conduct staff planning, retention and training programs with respect to such personnel as determined to be necessary by OVG in its sole discretion.
- (g) Maintain detailed, accurate and complete financial and other records of all its activities under this Agreement in accordance with generally accepted accounting principles, which records shall be made available to Client upon request.
- (h) Review the proposed New Facilities layout, location, design, and appearance of food service areas, including: (1) Concession stands; (2) Catering facilities; (3) Portable sales outlets; and (4) Preparation and support areas. **Note:** These services do not include design of these areas.
- (i) Cause such other acts and things to be done with respect to the New Facilities, as determined by OVG in its reasonable discretion to be necessary for the management and operation of the New Facilities prior to the Opening Date.



OFFICE OF THE COUNTY MANAGER

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: CLARENCE GRIER, COUNTY MANAGER

DATE: 8/16/2023

SUBJECT: SALARY CLASSIFICATION SCHEDULES FOR COUNTY ATTORNEYS

BACKGROUND

At the August 10, 2023 Agenda Session, the Board of County Commissioners requested that an alternative plan be brought forward for the classification and compensation of all county attorneys instead of contracting with an outside legal firm to provide legal services for the County, in particular, the Department of Social Services.

The presentation will be provided at the meeting.

RECOMMENDATION / PROPOSED ACTION

The Board approve the proposed salary and classification adjustments for the attorneys in the Child Support Department, Department of Social Services, and County Attorney Office.



PUBLIC UTILITIES DEPARTMENT

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

**FROM: JERMAINE WALKER, DIRECTOR OF ENGINEERING AND
INFRASTRUCTURE**

DATE: 8/14/2023

SUBJECT: CONSIDERATION OF AGREEMENT FOR UTILITY SERVICES

BACKGROUND

Laketree, Incorporated, is requesting installation of sanitary utility services for the Eagles Bluff - Phase I subdivision project in Wade, NC. The developer will install, at no-cost to the County, 1,031 feet of 8-inch PVC sewer main, 215 feet of ductile iron piping sewer main, 37 feet of 4- and 6-inch sewer laterals, in addition to 257 feet of 12-inch PVC and 500 feet of 12-inch ductile iron piping for the gravity sanitary sewer outfalls and interceptors.

Phase I consists of 36 single family residential lots with a total projected daily design flow of 12,960 gallons per day. The NORCRESS and Cross Creek Wastewater Treatment Facility have capacity to accept the flow.

This agreement has undergone technical and legal review.

RECOMMENDATION / PROPOSED ACTION

Staff recommends the Board of Commissioners and the NORCRESS Water and Sewer District Governing Board approve the contract with Laketree, Inc., for connection to the NORCRESS system.

ATTACHMENTS:

Description	Type
Eagles Bluff Agreement for Utility Services	Backup Material

**NORTH CAROLINA
CUMBERLAND COUNTY**

AGREEMENT FOR UTILITY SERVICE(S)

THIS AGREEMENT, made this _____ day of _____, 2023 by and between the NORCRESS Water and Sewer District (hereinafter called "DISTRICT") and Laketree, Inc. (hereinafter called "APPLICANT")

WITNESSETH

WHEREAS, APPLICANT desires public utility services from DISTRICT as selected below. (check all that apply)

- ☐ Water and/or Sewer Utility Extension
- ☐ Water Service
- ☒ Sewer Service

NOW THEREFORE, in consideration of the premises and of the mutual agreements hereinafter set forth, the parties hereby agree and contract as follows:

DEFINITION OF DISTRICT'S AGENTS. Throughout this Agreement, any reference to "Agent" or "DISTRICT'S Agent" shall mean any worker, employee, official, contractor, consultant or operator of DISTRICT'S water and sewer services or systems whether employed, hired, or contracted by DISTRICT or Cumberland County on behalf of DISTRICT.

Article 1: Water and/or Sewer Utility Extension

As selected above, APPLICANT hereby requests installation of water and/or sanitary sewer utility services as described in Exhibit "I", Project Summary, and is subject to the following terms and conditions:

- A. APPLICANT shall perform all work necessary to accomplish the proposed utility extension including, but not limited to, design, specifications, permitting and construction. Applicant will furnish all material, perform all labor, and pay all costs to construct, by a contractor licensed to perform utilities construction in North Carolina, to DISTRICT'S rules currently in effect and approved by the DISTRICT'S governing board, all applicable local codes and ordinances, the current service provider, and State regulations and laws for those utilities. The work shall be completed in accordance with this Agreement. The DISTRICT or its Agent will review and inspect work performed by APPLICANT to assure that the work meets the purpose for which it is intended and is in compliance with all requirements and conditions contained herein. Such review and approval will not relieve APPLICANT from complying with all said conditions and requirements.
- B. Such construction shall be undertaken and completed as soon as practicable, and not later than one year from date of this agreement, unless delayed or prevented by acts of God, or other things beyond APPLICANT's control. In the event that construction is not completed one year from date of this agreement, then DISTRICT, through the Director of the Cumberland County Public Utilities Department may extend the agreement upon such terms and conditions as the Director deems necessary.
- C. Fees shall be paid by APPLICANT for services provided by DISTRICT, the service provider, or its Agent for the following:
 - (1) review and approval of plans, specifications, and necessary documents, to include final review of the required documents to assure that DISTRICT has legal title to necessary rights-of-way and easements;
 - (2) review and approval of the Bill of Sale provided by APPLICANT, and acceptance of the utility extensions by DISTRICT;

- (3) and daily inspection of the construction in progress, as needed to ensure that construction of the utility extensions are in accordance with this Agreement, the Plans and Specifications, and any other DISTRICT requirements;
 - (4) conduction of pre-flush required pressure tests, any retesting which may be necessary, and sampling of the completed extension after flushing for submittal to the State, or a certified testing laboratory, for bacteriological examination;
 - (5) conduction of required pressure tests, after flushing, and any retesting of sewer system improvement which may be necessary;
 - (6) approval of the sewer video taping schedule, supervision of video taping and revisions/approval of the completed tape and log sheets;
 - (7) final inspection of the completed extension and preparation of the inspection report, which shall set forth any deficiencies that may exist;
 - (8) reinspection of any deficient work;
 - (9) review of the water and/or sewer as-built construction drawings; and
 - (10) reinspection at the end of the one-year warranty period.
- D. Materials and equipment shall be new and shall be as specified in this Agreement, the plans and specifications, the service providers standards, or if not specified, of a quality approved by DISTRICT. All materials and equipment furnished are warranted by APPLICANT as new and in accordance with this Agreement and the approved plans and specifications, and suitable for the intended purpose. In addition, APPLICANT, shall furnish DISTRICT copies of the supplier's warranty and shall adopt the same as the warranty of APPLICANT, and shall also be liable thereon to DISTRICT.
- E. Connection to DISTRICT's water and/or sanitary sewer system of buildings constructed after the date of this agreement on parcels of land that are subject to the Cumberland County's Subdivision Ordinance shall be governed by the requirements of Cumberland County's Subdivision Ordinance.
- F. Upon satisfactory completion of construction of said water and/or sanitary sewer mains and written acceptance of such construction by DISTRICT, said utility mains shall be the property solely of DISTRICT and DISTRICT will maintain same after the one (1) year warranty set forth below has expired. To accurately value the assets being transferred, APPLICANT shall complete and submit a preliminary Statement of Project Cost Form attached as Exhibit "II" to DISTRICT at time of submittal and a final certified form at project completion.
- G. Warranty: APPLICANT shall warrant that the water and/or sanitary sewer utilities to be owned by DISTRICT shall be free from any defects in materials and workmanship. APPLICANT also warrants that it shall be solely responsible for the repair of any damage caused by its agents or employees. Said warranties shall remain in full force and effect for a period of one (1) year from the date of final acceptance of the facilities by DISTRICT. In the event it becomes necessary to repair and/or replace any of the facilities during the initial one (1) year period, such repair and/or replacement shall be at APPLICANT's sole expense and the warranty as to those items repaired and/or replaced shall continue to remain in effect for an additional period of one (1) year from the date of final acceptance by DISTRICT of those repairs and/or replacements. If DISTRICT must repair and/or replace said utilities during the warranty period due to response time requirements, DISTRICT shall bill APPLICANT for work completed and APPLICANT shall remit payment therefore within thirty (30) days of the date of the invoice.
- H. Water and/or sanitary sewer connections to structures along said utility mains from service laterals installed by APPLICANT will not be made nor will such service be activated until all work to be performed by APPLICANT has been satisfactorily completed and written acceptance of such work is given by DISTRICT. Also, if a water main is extended pursuant to this agreement, it must be tested and sterilized by APPLICANT'S contractor before activation of any water service from said water main.

- I. Water and/or sanitary sewer service will be supplied to structures now or hereafter located along said utility mains in accordance with DISTRICT's rules, regulations, and rate schedules applicable to such structures and currently in effect at the time of application for service. If all normal DISTRICT fees and charges for installation and activation of such services have been paid by applicants for said services, DISTRICT will thereafter use its best efforts to supply water to said structures at good operating pressure, but in no event shall DISTRICT be liable for failure to do so, it being understood that all such original operating fees, charges, rates, etc., are, solely at DISTRICT's discretion, subject to change by DISTRICT.
- I. Any replacements or adjustments in elevations and grades of those water and/or sanitary sewer service laterals, including water meters and boxes and sanitary sewer cleanout stacks, which were originally installed by APPLICANT'S contractor in accordance with approved plans by APPLICANT's engineer, shall be at APPLICANT's expense; and the determination of DISTRICT that such replacements or adjustments are required shall be final and binding on APPLICANT.
- J. During construction of project, APPLICANT will be responsible and pay DISTRICT as invoiced for any and all damages to DISTRICT utilities and materials except when such damages are caused by DISTRICTS forces. APPLICANT shall remit payment therefore within thirty (30) days of the date of the invoice.
- K. APPLICANT'S contractor shall be responsible for complying with any and all statutes, rules, regulations or ordinances, which may be imposed by other governmental agencies (local, state and federal), which have jurisdiction. APPLICANT shall hold harmless DISTRICT against any claims, fines or civil penalties resulting from APPLICANT'S contractor's failure to comply with said regulations.
- L. The Water and Sewer Utility Extension is further illustrated in Exhibit "III", Water and Sewer Utility Extension Map. APPLICANT shall be responsible for costs (engineering, materials, design, etc.) associated with major design changes that deviate from Exhibit "II" and the attached map as identified in Exhibit "III".

Article 2: General Terms and Conditions

AUTHORITY:

DISTRICT shall have general authority over the work to be accomplished under this Agreement, provided nothing contained in this Agreement shall be construed to require DISTRICT to direct the method or manner of performing any work by APPLICANT. Incident to this general authority, DISTRICT may engage engineers and contractors to observe construction, inspect, test, and evaluate any construction performed by APPLICANT's contractors and assist APPLICANT'S contractors with correcting or completing any construction if DISTRICT determines the construction by APPLICANT'S contractors creates a risk of harm to DISTRICT'S water or sewer system for which APPLICANT'S extension is permitted. APPLICANT shall be responsible for the costs incurred by DISTRICT for this purpose.

DISTRICT shall decide all questions pertaining to the interpretation of this Agreement and the approved plans and specifications prepared thereto, the quality or acceptability of materials furnished, and work performed under this Agreement on the part of APPLICANT. The decision of DISTRICT on such matters shall be final.

All work under this Agreement shall be performed to the satisfaction of DISTRICT, and the decision by DISTRICT as to whether the work has been performed in a satisfactory manner shall be final.

DISTRICT may stop work under this Agreement whenever, in its opinion, such stoppage is necessary to ensure proper performance of this Agreement. DISTRICT may also reject all work and materials which, in its opinion, do not conform to this Agreement.

DETERMINATION OF "OR EQUAL"

DISTRICT or its Agent shall be the sole judge of the questions of "or equal" of any supplies, materials or equipment proposed by APPLICANT. APPLICANT shall pay to DISTRICT the costs of test and evaluations needed to determine the acceptability of alternates proposed by APPLICANT.

STOPPAGE OF WORK

If APPLICANT performs any work contrary to this Agreement, laws, ordinances, rules, or regulations; or, prior to obtaining any necessary permits or other required permission, DISTRICT may order the work stopped.

INSPECTIONS AND TESTS

Inspection by DISTRICT or its Agent is required for various aspects of the utility system. Such aspects include, but are not limited to: water and/or sewer main pipe laying operations, installation of sleeves, couplers and adapters on pipe, pipe bedding and backfilling, casings, concrete encasement or other special installations, repairs to water and/or sewer utilities, all water main fittings with concrete blocking, pressure testing water mains, water main purity samples after flushing, main wet taps, any cut-in's on existing water mains, hydrant installations, water service installations, vault installations and appurtenances, hole cuts on sanitary sewer pipe, manhole installations and pipe connections, manhole vacuum testing, manhole core drilling, air testing sewer main and side sewer stubs, flushing/cleaning sewer mains and CCTV inspection, grease/oil-water separators, vehicle wash and dumpster area drains, tee locations and stub markers, sewer depth at right-of-way/easement line, sewer slope, fittings and clean-outs.

Inspection of the work by DISTRICT or its Agent shall be strictly for the benefit of DISTRICT or its Agent and no other person or agency.

DISTRICT staff or its Agent, at all times, will have access to the work area for the purpose of inspecting and testing. APPLICANT shall provide facilities for safe access, inspection, and testing.

If any work is covered without the approval or consent of DISTRICT or its Agent it shall be uncovered for inspection at APPLICANT'S expense, if required by DISTRICT or its Agent.

APPLICANT shall make reasonable tests of the work at APPLICANT'S expense upon DISTRICT'S or its Agent's request and shall maintain a record of such tests.

Before a performance test is to be observed by DISTRICT or its Agent, APPLICANT shall make such preliminary tests as are necessary to assure that the material and/or equipment are in accordance with the approved plans and specifications provided. If, for any reason, the test observed is unsatisfactory, APPLICANT shall pay all costs incurred for the inspection of further testing.

Should APPLICANT elect to work more than eight hours per weekday, all costs of inspection thus entailed may be charged to APPLICANT at the overtime billing rate.

Approval is required from DISTRICT or its Agent to work nights, weekends, and holidays. After-hours inspections may not be possible due to the lack of staff availability. APPLICANT shall submit its proposed schedule to work nights, weekends, or holidays at least five days in advance (not including weekends and holidays) for review. If APPLICANT elects to work on weekends, nights or holidays, and such work schedule is approved by DISTRICT or its Agent, all costs of inspection may be charged to the APPLICANT at the overtime billing rate.

Where this Agreement, approved plans and specifications, or laws, ordinances, rules, or regulations of any governmental authority require that any work be specially tested or inspected, APPLICANT shall give DISTRICT notice that such tests or completed work is ready for inspection. APPLICANT shall notify DISTRICT of the date, time, and location of the inspection. Required certificates of inspection shall be secured by APPLICANT.

Notice of deficiencies shall be given to APPLICANT upon completion of each inspection. APPLICANT shall correct such deficiencies within seven days of the notice and before final inspection is made by DISTRICT.

A representative of APPLICANT'S contractor shall arrange a time to accompany DISTRICT or its Agent on the final inspection and subsequent reinspection, if required. DISTRICT or its Agent will not make the final inspection until the physical work, including final clean-up and all extra work ordered by the Inspector has been completed.

Deficiencies discovered during the final inspection shall be corrected within seven days of notice thereof and, in no instance, shall service be provided until the deficiencies are corrected and the utility extensions pass reinspection.

AVAILABILITY OF PROJECT DOCUMENTS

APPLICANT shall keep at least one copy of the following project documents constantly available at the construction site: (1) approved construction plans and shop drawings, and (2) construction specifications.

MATERIALS AND EQUIPMENT LIST

APPLICANT shall file three copies of a materials and equipment list with DISTRICT prior to commencing construction. This list shall designate the quantity, manufacturer and model number of materials and equipment to be installed under this Agreement.

The materials and equipment list will be checked by DISTRICT or its Agent for conformity with this Agreement and the approved plans and specifications provided. DISTRICT will determine the conformity of the list with reasonable promptness. APPLICANT shall make any required corrections and file two correct copies with DISTRICT within one week after receipt of the required corrections. DISTRICT'S review of the list shall not relieve APPLICANT from the responsibility of providing materials and equipment suitable for their intended purpose nor for deviations from this Agreement or the plans and specifications without written approval from DISTRICT.

WATER METERS

It shall be the responsibility of APPLICANT to make application and pay any necessary fees to DISTRICT for the installation of water meters. APPLICANT shall not purchase and install water meters from a private supplier.

Single family meter applications shall not be submitted until after acceptance of the utility extensions.

SEWER TAPS

It shall be the responsibility of APPLICANT to make application and pay any necessary fees to DISTRICT for the connection of sewer taps to the mains. Elder valve installations may be required in addition to sewer taps.

Single family sewer connections shall not be submitted until after acceptance of the utility extensions.

SAFETY:

Safety in, on, or about the construction site is the sole and exclusive responsibility of APPLICANT. APPLICANT's means and method of work performance, superintendent of APPLICANT's employees and sequencing of construction are also sole and exclusive responsibilities of APPLICANT.

APPLICANT shall be responsible for the safety of any person, including but not limited to, any worker, DISTRICT's Agent, Owner and/or Owner's representative, visitor or invitee on the site of the work at all times during the prosecution of the work, regardless of whether the individual is an employee of APPLICANT or APPLICANT's Contractor or Sub-Contractor. APPLICANT is responsible for compliance with the rules, regulations and interpretations of the North Carolina Department of Labor relating to "North Carolina Occupational Safety and Health Standards (OSHA) for the Construction Industry" (Title 29 CFR Part 1926 and 29 CFR Part 1919 as adopted by 13 NCAC 7C.0101) and revisions as adopted by N.C.G.S. § 95-126 through 155 and additionally with normal industry safety practices or standards.

DISTRICT shall have the right to inspect the work for pay application compliance and compliance with DISTRICT'S standards and specifications but is not required to do so. DISTRICT shall further have the right to monitor the progress of the work, but no such inspection shall relieve APPLICANT of any duty or obligation it might have under the terms of this Agreement. Nothing in this Agreement shall relieve APPLICANT of any duty or obligation to direct the means and methods of the work.

INDEMNIFICATION:

APPLICANT shall indemnify and hold DISTRICT and DISTRICT'S Agents harmless from and against all liabilities, claims, demands, suits, losses, damages, costs, and expenses (including attorney's fees) for bodily injury to or death of any person, or damage to or destruction of any property proximately caused by the negligence of APPLICANT or any person for whom APPLICANT is legally responsible during the performance of services relative to this Agreement.

INDEPENDENT CONTRACTOR:

APPLICANT is an independent contractor and shall undertake performance of the services relative to this Agreement as an independent contractor. APPLICANT shall be wholly responsible for the methods, means, and techniques of performance. DISTRICT shall have no rights to supervise methods and techniques of performance employed by APPLICANT, but DISTRICT shall have the right to observe such performance.

COMPLIANCE WITH LAWS:

In performing services relative to this Agreement, APPLICANT shall comply with all applicable regulatory requirements including federal, state, and local laws, rules, regulations, orders, codes, criteria, and standards. APPLICANT shall be responsible for procuring all permits, certificates, and licenses necessary to allow APPLICANT to undertake activities and construction relative to this Agreement.

FINAL SEQUENCE FOR ACCEPTANCE OF PROJECTS

In order for DISTRICT to accept the utility extension as part of DISTRICT'S assets, APPLICANT must complete the following:

- (1) APPLICANT'S Contractor completes all utility work and makes an appointment for final inspection.
- (2) DISTRICT'S Inspector inspects, re-inspects "punch list" items, and signs off as "complete", provided there are no deficiencies.
- (3) All applicable requirements of this Agreement have been satisfied, including but not limited to, the Operation and Maintenance Manual approved and recordable, outstanding fees paid, easements verified & recordable, Bills of Sale for transfer of facilities to be owned by DISTRICT, Maintenance Bonds, if greater than original Performance Bonds, Certification of Construction Cost, and final as-builts hard copies, CAD and shapefiles received.

NOTICE:

Any formal notice, demand, or request required by or made in connection with this Agreement shall be deemed properly made if delivered in writing or deposited in the United States mail, postage prepaid, to the address specified below.

APPLICANT: Name: Laketree, Inc.
 Attention: William S. Wellons, Jr., President
 Address: P.O. Box 766
 City, State, Zip: Spring Lake, NC 28390

DISTRICT: Name: County of Cumberland
 Attention: NORCRESS Water and Sewer District
 Address: P.O. Box 1829
 Fayetteville, NC 28302

Nothing contained in this Article shall be construed to restrict the transmission of routine communication between representatives of APPLICANT and DISTRICT.

GOVERNING LAW:

This Agreement shall be governed by the laws of the State of North Carolina.

BREACH:

APPLICANT'S failure to observe or perform any of the terms, warranties, conditions, requirements, or provisions of this Agreement shall constitute a breach of this Agreement by APPLICANT. In the event of a breach of this Agreement by APPLICANT, DISTRICT, due to such breach, shall have the right to terminate this Agreement upon which DISTRICT shall have no further obligation to perform under this Agreement and APPLICANT shall have no right to perform any further work under this Agreement.

In the event of breach of this Agreement by APPLICANT and termination of this Agreement by DISTRICT, APPLICANT hereby shall reimburse DISTRICT for all expenditures made in relation to, and in furtherance of, this Agreement.

NONWAIVER OF BREACH:

No breach or non-performance of any term of this Agreement shall be deemed to be waived by either party unless said breach or non-performance is waived in writing and signed by the parties. No waiver of any breach or non-performance under this Agreement shall be deemed to constitute a waiver of any subsequent breach or non-performance and, for any such breach or non-performance, each party shall be relegated to such remedies as provided by law.

SEVERABILITY:

The invalidity, illegality, or unenforceability of any portion or provision of this Agreement shall in no way affect the validity, legality, and/or enforceability of any other portion or provision of this Agreement. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of law with jurisdiction, then such provision shall be modified to the mutual satisfaction and agreement of the parties to reflect the parties' intent. In the event the parties cannot reach an agreement as to a modification of said provision, any invalid, illegal, or unenforceable provision of this Agreement shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced the same as if the Agreement had not contained any portion or provision which was invalid, illegal, or unenforceable.

ASSIGNMENT:

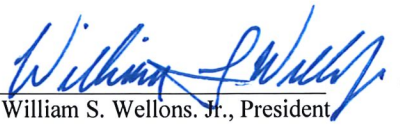
APPLICANT shall not assign, sublet, subcontract or transfer any rights under or interest in this Agreement without the written consent of DISTRICT.

BENEFITS LIMITED TO PARTIES:

Nothing herein shall be construed to give any right or benefits hereunder to any third parties other than DISTRICT and APPLICANT.

IN WITNESS WHEREOF, the parties hereto through their duly authorized officers has executed this instrument as to the date and year first above written.

Laketree, Inc.

BY: 
William S. Wellons, Jr., President

WITNESS:


Name, Title

NORCRESS WATER & SEWER DISTRICT

BY: _____
Toni Stewart, Chair

WITNESS:

Andrea Tebbe, Clerk to the Board

Approved for Legal Sufficiency
NORCRESS Water & Sewer District

Rickey L. Moorefield, County Attorney
Attorney for NORCRESS Water and Sewer District

EXHIBIT "I"
PROJECT SUMMARY

Project Name: Eagles Bluff - Phase I **Engineer:** Larry King & Associates, R.L.S, P.A.

Project Location: Wade, NC **Developer:** Laketree, Inc.

REID: 058124756000

Parcel Number: REID: 0581148347000 REID: 0581240089000

REID: 0581243251000

Asset Summary

Items listed are for the gravity sanitary sewer work on NORCRESS' infrastructure.

Project Highlights

Project description/location goes here.

Sewer listed is to serve Phase I of the Eagles Bluff subdivision project

EXHIBIT "II"
STATEMENT OF TOTAL PROJECT COST

Developer/Applicant Lakelree, Inc. Contractor TO BE DETERMINED

Project Name/Loc Eagles Bluff - Phase 1 Pipe Supplier TO BE DETERMINED

Completion Date To be determined Engineer Larry King & Associates, R.L.S., P.A.

WATER

<u>N/A</u>	feet of	<u> </u>	inch water main	
<u>N/A</u>	feet of	<u> </u>	inch water main	
<u>N/A</u>	feet of	<u> </u>	inch water main	
<u>N/A</u>	-	<u> </u>	inch domestic water lateral(s)	
Total water distribution*				\$ <u>N/A</u>
Mains greater than 12"				
<u>N/A</u>	feet of	<u> </u>	inch water main	
<u>N/A</u>	feet of	<u> </u>	inch water main	
Total water transmission *				\$ <u>N/A</u>

SEWER

<u>1,030.5</u>	feet of	<u>8" PVC</u>	inch sewer mains	
<u>215.4</u>	feet of	<u>8" DIP</u>	inch sewer mains	
<u>37</u>	-	<u>4" & 6"</u>	inch sewer laterals	
Total sanitary sewer collection*				\$ <u>TO BE DETERMINED</u>
Mains greater than 12"				
<u>257.4</u>	feet of	<u>12" DIP</u>	inch sewer main	
<u>498.4</u>	feet of	<u>12" PVC</u>	inch sewer main	
Total sanitary sewer outfalls & interceptors*				\$ <u>TO BE DETERMINED</u>
<u>N/A</u>	feet of	<u> </u>	inch sewer force mains	\$ <u>N/A</u>
	-	<u>N/A</u>	lift station (s)	\$ <u>N/A</u>

OFF-Site

<u>N/A</u>	feet of	<u> </u>	inch water mains*	\$ <u> </u>
<u>N/A</u>	feet of	<u> </u>	inch sewer mains*	\$ <u> </u>

*Value to include equipment, labor & materials (valves, fittings, fire mains & hydrants, manholes, etc.)

Other Project Costs:

Engineering TO BE DETERMINED

☐ * Percentage of Project Cost

Other (list detail)

Total project cost \$ TO BE DETERMINED

Comments: Sewer listed is to serve Phase 1 of the Eagles Bluff subdivision project.

I certify to my actual knowledge that the information provided herein is true and accurate cost for the project named above.

Signature* _____ Date _____

* Signature of Legal Authorized Representative of the "Applicant" as identified in the Agreement with District

Attach all supporting documents such as final contractor's invoice, material invoices/receipts, engineer's invoice(s), if available.

EXHIBIT “III”
WATER AND SEWER UTILITY EXTENSION MAP

**FAST TRACK SEWER SYSTEM EXTENSION APPLICATION
INSTRUCTIONS FOR FORM: FTA 06-21 & SUPPORTING DOCUMENTATION**

This application is for sewer extensions involving gravity sewers, pump stations and force mains, or any combination that has been certified by a professional engineer and the applicant that the project meets the requirements of [15A NCAC 02T](#) and the Division's Minimum Design Criteria ([Gravity Sewer](#) & [Pump Stations/Force Mains](#)) and that **plans, specifications and supporting documents have been prepared in accordance with [15A NCAC 02T](#), [15A NCAC 02T .0300](#), Division policies, and [good engineering practices](#).**

While no upfront engineering design documents are required for submittal, in accordance with 15A NCAC 02T .0305(b), design documents must be prepared prior to submittal of a fast track permit application to the Division. This would include plans, design calculations, and project specifications referenced in [15A NCAC 02T .0305](#) and the applicable minimum design criteria. **These documents shall be immediately available upon request by the Division.**

Projects that are deemed permitted (do not require a permit from the Division) are explained in [15A NCAC 02T.0303](#).

Projects not eligible for review via the fast track process (must be submitted for full technical review):

- Projects that do not meet any part of the minimum design criteria (MDC) documents;
- Projects that involve more than one variance from the requirements of 15A NCAC 02T;
- Pressure sewer systems utilizing simplex septic tank-effluent pumps (STEPS) or simplex grinder pumps;
- Simplex STEP or simplex grinder pumps connecting to pressurized systems (e.g. force mains);
- Vacuum sewer systems.

General – When submitting an application, please use the following instructions as a checklist in order to ensure all required items are submitted. Adherence to these instructions and checking the provided boxes will help produce a quicker review time and reduce the amount of requested additional information. **Failure to submit all required items will necessitate additional processing and review time, and may result in return of the application.** Unless otherwise noted, the Applicant shall submit one original and one copy of the application and supporting documentation.

A. One Original and One Copy (second copy may be digital) of Application and Supporting Documents

- ☒ Required unless otherwise noted. Signatures on original must be “wet ink” or secure digital signatures. Please do not submit engineering design plans with the application unless specifically requested.

B. Cover Letter/Narrative Description (Required for All Application Packages):

- ☒ List all items included in the application package, as well as a brief description of the requested permitting action.
 - Be specific as to the system type, number of homes served, flow allocation required, etc.
 - Include the permit number/status of any other required sewer permits (downstream/upstream)
 - If necessary for clarity, include attachments to the application form.

C. Application Fee (All New and Modification Application Packages):

- ☒ Submit a check or money order in the amount of **\$480.00**, dated no more than 90 days prior to application submittal.
- Payable to North Carolina Department of Environmental Quality (NCDEQ)

D. Fast Track Application (Required for All Application Packages, Form FTA 05-21):

- ☒ Submit the completed and appropriately executed application.
 - If necessary for clarity or due to space restrictions, attachments to the application may be made.
- ☐ If the Applicant Type in Item I.2 is a corporation or company, provide documentation it is registered for business with the [North Carolina Secretary of State](#).
- ☐ If the Applicant Type in Item I.2 is a partnership or d/b/a, enclose a copy of the certificate filed with the Register of Deeds in the county of business.
- ☐ The Project Name in Item II.1 shall be consistent with the project name on the flow acceptance letters, agreements, etc.
- ☒ The Professional Engineer's Certification on Page 5 of the application shall be signed, sealed and dated by a [North Carolina licensed Professional Engineer](#).
- ☒ The Applicant's Certification on Page 5 of the application shall be signed in accordance with [15A NCAC 02T .0106\(b\)](#). Per 15A NCAC 02T .0106(c), an alternate person may be designated as the signing official if a delegation letter is provided from a person who meets the criteria in 15A NCAC 02T .0106(b).

E. Flow Tracking/Acceptance Form (Form: FTSE 04-16) (If Applicable):

- ☒ Submit the completed and executed FTSE form from the owners of the downstream sewers and treatment facility.
- Multiple forms may be required where the downstream sewer owner and wastewater treatment facility are different.
- The flow acceptance indicated in form FTSE must not expire prior to permit issuance and must be dated less than one year prior to the application date.
- Submittal of this application and form FTSE indicates that owner has adequate capacity and will not violate [G.S. 143-215.67\(a\)](#).
- Intergovernmental agreements or other contracts will not be accepted in lieu of a project-specific FTSE.

F. Site Maps (All Application Packages):

- ☒ Submit an 8.5-inch x 11-inch color copy of a USGS Topographic Map of sufficient scale to identify the entire project area, including the closest surface waters.
- General location of the project components (gravity sewer, pump stations, & force main)
- Downstream connection points and permit number (if known) for the receiving sewer
- ☒ Include an aerial location map showing general project area (such as street names or latitude/longitude) so that Division staff can easily locate it in the field.

G. Existing Permit (Application Packages for Modifications to an Existing Permit):

- ☐ Submit a copy of the most recently issued existing permit.
- ☐ **Include a descriptive and clear narrative identifying the previously permitted items to remain in the permit, items to be added, and/or items to be modified** (the application form itself should include only include items to be added/modified). The narrative should also include whether any previously permitted items have been certified.
- ☐ **The narrative should clearly identify the requested permitting action and accurately describe the sewers to be listed in the final permit.**

H. Power Reliability Plan (Required if portable reliability option utilized for Pump Station):

- ☐ Per [15A NCAC 02T .0305\(h\)\(1\)](#), submit documentation of power reliability for pumping stations.
- This alternative is only available for average daily flows less than 15,000 gallons per day
- It shall be demonstrated to the Division that the portable source is owned or contracted by the applicant and is compatible with the station. The Division will accept a letter signed by the applicant (see 15A NCAC 02T .0106(b)) or proposed contractor, stating that "the portable power generation unit or portable, independently-powered pumping units, associated appurtenances and personnel are available for distribution and operation of this pump station."
- **If the portable power source or pump is dedicated to multiple pump stations, an evaluation of all the pump stations' storage capacities and the rotation schedule of the portable power source or pump, including travel timeframes, shall be provided in the case of a multiple station power outage. (Required at time of certification)**

I. Certificate of Public Convenience and Necessity (All Application Packages for Privately-Owned Public Utilities):

- ☐ Per [15A NCAC 02T .0115\(a\)\(1\)](#) provide the Certificate of Public Convenience and Necessity from the [North Carolina Utilities Commission](#) demonstrating the Applicant is authorized to hold the utility franchise for the area to be served by the sewer extension, or
- ☐ Provide a letter from the [North Carolina Utilities Commission's Water and Sewer Division Public Staff](#) stating an application for a franchise has been received and that the service area is contiguous to an existing franchised area or that franchise approval is expected.

J. Operational Agreements (Applications from HOA/POA and Developers for lots to be sold):

- ☐ Home/Property Owners' Associations
 - ☐ Per [15A NCAC 02T .0115\(c\)](#), submit the properly executed [Operational Agreement \(FORM: HOA\)](#).
 - ☐ Per 15A NCAC 02T .0115(c), submit a copy of the Articles of Incorporation, Declarations and By-laws.
- ☐ Developers of lots to be sold
 - ☐ Per [15A NCAC 02T .0115\(b\)](#), submit the properly executed [Operational Agreement \(FORM: DEV\)](#).

For more information, visit the Division's collection systems [website](#)

THE COMPLETED APPLICATION PACKAGE INCLUDING ALL SUPPORTING INFORMATION AND MATERIALS, SHOULD BE SENT TO THE APPROPRIATE REGIONAL OFFICE:

REGIONAL OFFICE	ADDRESS	COUNTIES SERVED
<u>Asheville Regional Office Water Quality Section</u>	2090 US Highway 70 Swannanoa, North Carolina 28778-8211 (828) 296-4500 (828) 299-7043 Fax	Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey
<u>Fayetteville Regional Office Water Quality Section</u>	225 Green Street Suite 714 Fayetteville, North Carolina 28301-5095 (910) 433-3300 (910) 486-0707 Fax	Anson, Bladen, Cumberland, Harnett, Hoke, Montgomery, Moore, Robeson, Richmond, Sampson, Scotland
<u>Mooresville Regional Office Water Quality Section</u>	610 E. Center Avenue Mooresville, North Carolina 28115 (704) 663-1699 (704) 663-6040 Fax	Alexander, Cabarrus, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanly, Union
<u>Raleigh Regional Office Water Quality Section</u>	3800 Barrett Drive Raleigh, North Carolina 27609 (919) 791-4200 (919) 571-4718 Fax	Chatham, Durham, Edgecombe, Franklin, Granville, Halifax, Johnston, Lee, Nash, Northampton, Orange, Person, Vance, Wake, Warren, Wilson
<u>Washington Regional Office Water Quality Section</u>	943 Washington Square Mall Washington, North Carolina 27889 (252) 946-6481 (252) 975-3716 Fax	Beaufort, Bertie, Camden, Chowan, Craven, Currituck, Dare, Gates, Greene, Hertford, Hyde, Jones, Lenoir, Martin, Pamlico, Pasquotank, Perquimans, Pitt, Tyrrell, Washington, Wayne
<u>Wilmington Regional Office Water Quality Section</u>	127 Cardinal Drive Extension Wilmington, North Carolina 28405 (910) 796-7215 (910) 350-2004 Fax	Brunswick, Carteret, Columbus, Duplin, New Hanover, Onslow, Pender
<u>Winston-Salem Regional Office Water Quality Section</u>	450 W. Hanes Mill Road Suite 300 Winston-Salem, North Carolina 27105 (336) 776-9800 (336) 776-9797 Fax	Alamance, Alleghany, Ashe, Caswell, Davidson, Davie, Forsyth, Guilford, Rockingham, Randolph, Stokes, Surry, Watauga, Wilkes, Yadkin



State of North Carolina
Department of Environmental Quality
Division of Water Resources

FAST TRACK SEWER SYSTEM EXTENSION APPLICATION
FTA 06-21 & SUPPORTING DOCUMENTATION

Application Number: _____ (to be completed by DWR)

All items must be completed or the application will be returned

I. APPLICANT INFORMATION:

- Applicant's name: NORCRESS WATER AND SEWER DISTRICT (company, municipality, HOA, utility, etc.)
- Applicant type: ☐ Individual ☐ Corporation ☐ General Partnership ☐ Privately-Owned Public Utility
☐ Federal ☒ State/County ☐ Municipal ☐ Other
- Signature authority's name: Toni Stewart per 15A NCAC 02T .0106(b)
Title: Chairwoman
- Applicant's mailing address: 130 Gillespie Street, Suite 214
City: Fayetteville State: NC Zip: 28301-____
- Applicant's contact information:
Phone number: (910) 678-7637 Email Address: ahall@cumberlandcountync.gov

II. PROJECT INFORMATION:

- Project name: Eagles Bluff – Phase 1
- Application/Project status: ☒ Proposed (New Permit) ☐ Existing Permit/Project
If a modification, provide the existing permit number: WQ00____ and issued date: _____
For modifications, also attach a detailed narrative description as described in Item G of the checklist.
If new construction, but part of a master plan, provide the existing permit number: WQ00____
- County where project is located: Cumberland
- Approximate Coordinates (Decimal Degrees): Latitude: 35.163172° Longitude: -78.726108°
- Parcel ID (if applicable): 0581-14-8347 (or Parcel ID to closest downstream sewer)

III. CONSULTANT INFORMATION:

- Professional Engineer: Kenneth Smith Jr. License Number: 045277
Firm: Larry King & Associates, R.L.S., P.A.
Mailing address: 1333 Morganton Road, Suite 201
City: Fayetteville State: NC Zip: 28305-____
Phone number: (910) 391-5923 Email Address: Smithsiteconsultants@gmail.com

IV. WASTEWATER TREATMENT FACILITY (WWTF) INFORMATION:

- Facility Name: Cross Creek WWTF Permit Number: Permit NC 0023957
Owner Name: Fayetteville PWC

V. RECEIVING DOWNSTREAM SEWER INFORMATION:

- Permit Number(s): WQ
- Downstream (Receiving) Sewer Information: 12 inch ☒ Gravity ☐ Force Main
- System Wide Collection System Permit Number(s) (if applicable): WQCS00353
Owner Name(s): NORCRESS WATER AND SEWER DISTRICT

VI. GENERAL REQUIREMENTS

1. If the Applicant is a Privately-Owned Public Utility, has a Certificate of Public Convenience and Necessity been attached?
☐ Yes ☐ No ☒ N/A

2. If the Applicant is a Developer of lots to be sold, has a [Developer's Operational Agreement \(FORM: DEV\)](#) been attached?
☐ Yes ☐ No ☒ N/A

3. If the Applicant is a Home/Property Owners' Association, has an [HOA/POA Operational Agreement \(FORM: HOA\)](#) and supplementary documentation as required by 15A NCAC 02T.0115(c) been attached?
☐ Yes ☐ No ☒ N/A

4. Origin of wastewater: (check all that apply):

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Residential (Individually Owned) | <input type="checkbox"/> Retail (stores, centers, malls) | <input type="checkbox"/> Car Wash |
| <input type="checkbox"/> Residential (Leased) | <input type="checkbox"/> Retail with food preparation/service | <input type="checkbox"/> Hotel and/or Motels |
| <input type="checkbox"/> School / preschool / day care | <input type="checkbox"/> Medical / dental / veterinary facilities | <input type="checkbox"/> Swimming Pool/Clubhouse |
| <input type="checkbox"/> Food and drink facilities | <input type="checkbox"/> Church | <input type="checkbox"/> Swimming Pool/Filter Backwash |
| <input type="checkbox"/> Businesses / offices / factories | <input type="checkbox"/> Nursing Home | <input type="checkbox"/> Other (Explain in Attachment) |

5. Nature of wastewater : 100 % Domestic _____ % Commercial _____ % Industrial ([See 15A NCAC 02T .0103\(20\)](#))
 If Industrial, is there a Pretreatment Program in effect? ☐ Yes ☐ No

6. Has a flow reduction been approved under [15A NCAC 02T .0114\(f\)](#)? ☐ Yes ☐ No
 ➤ **If yes, provide a copy of flow reduction approval letter with this application**

7. Summarize wastewater generated by project:

Establishment Type (see 02T.0114(f))	Daily Design Flow ^{a,b}	No. of Units	Flow
36 single family residential lots	120 gal/bedroom	3	12,960 GPD
	gal/		GPD
	gal/		GPD
	gal/		GPD
	gal/		GPD
	gal/		GPD
<i>Total</i>			12,960 GPD

a See [15A NCAC 02T .0114\(b\), \(d\), \(e\)\(1\) and \(e\)\(2\)](#) for caveats to wastewater design flow rates (i.e., minimum flow per dwelling; proposed unknown non-residential development uses; public access facilities located near high public use areas; and residential property located south or east of the Atlantic Intracoastal Waterway to be used as vacation rentals as defined in [G.S. 42A-4](#)).

b Per 15A NCAC 02T .0114(c), design flow rates for establishments not identified [in table [15A NCAC 02T.0114](#)] shall be determined using available flow data, water using fixtures, occupancy or operation patterns, and other measured data.

8. Wastewater generated by project: 12,960 GPD (per [15A NCAC 02T .0114](#))

➤ Do not include future flows or previously permitted allocations

If permitted flow is zero, please indicate why:

☐ Pump Station/Force Main or Gravity Sewer where flow will be permitted in subsequent permits that connect to this line. Please provide supplementary information indicating the approximate timeframe for permitting upstream sewers with flow.

☐ Flow has already been allocated in Permit Number: _____ Issuance Date: _____

☐ Rehabilitation or replacement of existing sewers with no new flow expected

☐ Other (Explain): _____

VII. GRAVITY SEWER DESIGN CRITERIA (If Applicable) - [02T.0305](#) & [MDC \(Gravity Sewers\)](#):

1. Summarize gravity sewer to be permitted:

Size (inches)	Length (feet)	Material
8"	215.4	DIP
8"	1,030.5	PVC
12"	498.4	PVC
12"	257.4	DIP

- Section II & III of the MDC for Permitting of Gravity Sewers contains information related to design criteria
- Section III contains information related to minimum slopes for gravity sewer(s)
- **Oversizing lines to meet minimum slope requirements is not allowed and a violation of the MDC**

VIII. PUMP STATION DESIGN CRITERIA (If Applicable) - [02T.0305](#) & [MDC \(Pump Stations/Force Mains\)](#):

PROVIDE A SEPARATE COPY OF THIS PAGE FOR EACH PUMP STATION INCLUDED IN THIS PROJECT

1. Pump station number or name: _____
2. Approximate Coordinates (Decimal Degrees): Latitude: ____° Longitude: - ____°
3. Total number of pumps at the pump station: _____
3. Design flow of the pump station: _____ millions gallons per day (firm capacity)
 - This should reflect the total GPM for the pump station with the largest pump out of service.
4. Operational point(s) per pump(s): _____ gallons per minute (GPM) at _____ feet total dynamic head (TDH)
5. Summarize the force main to be permitted (for this Pump Station):

Size (inches)	Length (feet)	Material

If any portion of the force main is less than 4-inches in diameter, please identify the method of solids reduction per MDCPSFM Section 2.01C.1.b. ☐ Grinder Pump ☐ Mechanical Bar Screen ☐ Other (please specify) _____

6. Power reliability in accordance with [15A NCAC 02T.0305\(h\)\(1\)](#):

☐ Standby power source or ☐ Standby pump

- Must have automatic activation and telemetry - [15A NCAC 02T.0305\(h\)\(1\)\(B\)](#):
- Required for all pump stations with an average daily flow greater than or equal to 15,000 gallons per day
- **Must be permanent to facility** and may not be portable

Or if the pump station has an average daily flow less than 15,000 gallons per day [15A NCAC 02T.0305\(h\)\(1\)\(C\)](#):

☐ Portable power source with manual activation, quick-connection receptacle and telemetry -

or

☐ Portable pumping unit with plugged emergency pump connection and telemetry:

- Include documentation that the portable source is owned or contracted by the applicant and is compatible with the station.
- If the portable power source or pump is dedicated to multiple pump stations, an evaluation of all the pump stations' storage capacities and the rotation schedule of the portable power source or pump, including travel timeframes, shall be provided as part of this permit application in the case of a multiple station power outage.

IX. SETBACKS & SEPARATIONS – (02B .0200 & 15A NCAC 02T .0305(f)):

1. Does the project comply with all separations/alternatives found in [15A NCAC 02T .0305\(f\) & \(g\)](#)? ☒ Yes ☐ No

15A NCAC 02T.0305(f) contains minimum separations that shall be provided for sewer systems:

Setback Parameter*	Separation Required
Storm sewers and other utilities not listed below (vertical)	18 inches
² Water mains (vertical - water over sewer preferred, including in benched trenches)	18 inches
² Water mains (horizontal)	10 feet
Reclaimed water lines (vertical - reclaimed over sewer)	18 inches
Reclaimed water lines (horizontal - reclaimed over sewer)	2 feet
**Any private or public water supply source, including any wells, WS-I waters of Class I or Class II impounded reservoirs used as a source of drinking water, and associated wetlands.	100 feet
**Waters classified WS (except WS-I or WS-V), B, SA, ORW, HQW, or SB from normal high water (or tide elevation) and wetlands associated with these waters (see item IX.2)	50 feet
**Any other stream, lake, impoundment, or ground water lowering and surface drainage ditches, as well as wetlands associated with these waters or classified as WL.	10 feet
Any building foundation (horizontal)	5 feet
Any basement (horizontal)	10 feet
Top slope of embankment or cuts of 2 feet or more vertical height	10 feet
Drainage systems and interceptor drains	5 feet
Any swimming pools	10 feet
Final earth grade (vertical)	36 inches

➤ If noncompliance with [02T.0305\(f\) or \(g\)](#), see Section X.1 of this application

* [15A NCAC 02T.0305\(g\)](#) contains alternatives where separations in [02T.0305\(f\)](#) cannot be achieved. Please check “yes” above if these alternatives are used and provide narrative information to explain.

**Stream classifications can be identified using the Division’s [NC Surface Water Classifications webpage](#)

2. Does this project comply with the minimum separation requirements for water mains? ☒ Yes ☐ No ☐ N/A
 ➤ If no, please refer to 15A NCAC 18C.0906(f) for documentation requirements and submit a separate document, signed/sealed by an NC licensed PE, verifying the criteria outlined in that Rule.
3. Does the project comply with separation requirements for wetlands? ☒ Yes ☐ No ☐ N/A
 ➤ Please provide supplementary information identifying the areas of non-conformance.
 ➤ See the Division’s [draft separation requirements](#) for situations where separation cannot be met.
 ➤ No variance is required if the alternative design criteria specified is utilized in design and construction.
4. Is the project located in a river basin subject to any State buffer rules? ☐ Yes Basin name: _____ ☒ No
 If yes, does the project comply with setbacks found in the river basin rules per [15A NCAC 02B .0200?](#) ☐ Yes ☐ No
 ➤ This includes Trout Buffered Streams per [15A NCAC 2B.0202](#)
5. Does the project require coverage/authorization under a 404 Nationwide/individual permits or 401 Water Quality Certifications? ☐ Yes ☒ No
 ➤ Please provide the permit number/permitting status in the cover letter if coverage/authorization is required.
6. Does project comply with [15A NCAC 02T.0105\(c\)\(6\)](#) (additional permits/certifications)? ☒ Yes ☐ No
 Per [15A NCAC 02T.0105\(c\)\(6\)](#), directly related environmental permits or certification applications must be being prepared, have been applied for, or have been obtained. Issuance of this permit is contingent on issuance of dependent permits (erosion and sedimentation control plans, stormwater management plans, etc.).
7. Does this project include any sewer collection lines that are deemed “high-priority?” ☐ Yes ☒ No
 Per [15A NCAC 02T.0402](#), “high-priority sewer” means any aerial sewer, sewer contacting surface waters, siphon, or sewers positioned parallel to streambanks that are subject to erosion that undermines or deteriorates the sewer.
Siphons and sewers suspended through interference/conflict boxes require a variance approval.
 ➤ If yes, include an attachment with details for each line, including type (aerial line, size, material, and location).

High priority lines shall be inspected by the permittee or its representative at least once every six-months and inspections documented per 15A NCAC 02T.0403(a)(5) or the permittee’s individual System-Wide Collection permit.

X. CERTIFICATIONS:

1. Does the submitted system comply with [15A NCAC 02T](#), the [Minimum Design Criteria for the Permitting of Pump Stations and Force Mains \(latest version\)](#), and the [Gravity Sewer Minimum Design Criteria \(latest version\)](#) as applicable?

☒ Yes ☐ No

If no, for projects requiring a single variance, complete and submit the Variance/Alternative Design Request application (VADC 10-14) and supporting documents for review to the Central Office. **Approval of the request will be issued concurrently with the approval of the permit, and projects requiring a variance approval may be subject to longer review times. For projects requiring two or more variances or where the variance is determined by the Division to be a significant portion of the project, the full technical review is required.**

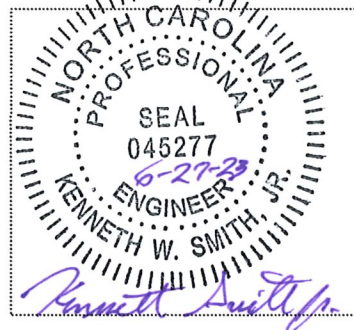
2. Professional Engineer's Certification:

I, Kenneth W. Smith, Jr., attest that this application for Eagles Bluff – Phase 1
(Professional Engineer's name from Application Item III.1.) (Project Name from Application Item II.1)

has been reviewed by me and is accurate, complete and consistent with the information supplied in the plans, specifications, engineering calculations, and all other supporting documentation to the best of my knowledge. I further attest that to the best of my knowledge the proposed design has been prepared in accordance with the applicable regulations, [Minimum Design Criteria for Gravity Sewers \(latest version\)](#), and the [Minimum Design Criteria for the Fast-Track Permitting of Pump Stations and Force Mains \(latest version\)](#). Although other professionals may have developed certain portions of this submittal package, inclusion of these materials under my signature and seal signifies that I have reviewed this material and have judged it to be consistent with the proposed design.

NOTE – In accordance with General Statutes 143-215.6A and 143-215.6B, any person who knowingly makes any false statement, representation, or certification in any application package shall be guilty of a Class 2 misdemeanor, which may include a fine not to exceed \$10,000, as well as civil penalties up to \$25,000 per violation. Misrepresentation of the application information, including failure to disclose any design non-compliance with the applicable Rules and design criteria, may subject the North Carolina-licensed Professional Engineer to referral to the licensing board. (21 NCAG 56.0701)

North Carolina Professional Engineer's seal, signature, and date:



3. Applicant's Certification per 15A NCAC 02T .0106(b):

I, TONI STEWART, attest that this application for EAGLES BLUFF - PHASE I
(Signature Authority Name from Application Item I.3.) (Project Name from Application Item II.1)

attest that this application has been reviewed by me and is accurate and complete to the best of my knowledge. I understand that if all required parts of this application are not completed and that if all required supporting documentation and attachments are not included, this application package is subject to being returned as incomplete. I understand that any discharge of wastewater from this non-discharge system to surface waters or the land will result in an immediate enforcement action that may include civil penalties, injunctive relief, and/or criminal prosecution. I will make no claim against the Division of Water Resources should a condition of this permit be violated. I also understand that if all required parts of this application package are not completed and that if all required supporting information and attachments are not included, this application package will be returned to me as incomplete.

NOTE – In accordance with General Statutes [143-215.6A](#) and [143-215.6B](#), any person who knowingly makes any false statement, representation, or certification in any application package shall be guilty of a Class 2 misdemeanor, which may include a fine not to exceed \$10,000 as well as civil penalties up to \$25,000 per violation.

Signature: _____

Date: _____



State of North Carolina
Department of Environmental Quality
Division of Water Resources

Flow Tracking for Sewer Extension Applications
(FTSE 10-18)

Entity Requesting Allocation: NORCRESS Water and Sewer District

Project Name for which flow is being requested: Eagles Bluff Subdivision - Phase 1

More than one FTSE may be required for a single project if the owner of the WWTP is not responsible for all pump stations along the route of the proposed wastewater flow.

I. Complete this section only if you are the owner of the wastewater treatment plant.

- a. WWTP Facility Name: Cross Creek Wastewater Treatment Facility
 b. WWTP Facility Permit #: NPDES NC0023957

All flows are in MGD

c. WWTP facility's permitted flow	<u>25.0</u>
d. Estimated obligated flow not yet tributary to the WWTP	<u>0.2387</u>
e. WWTP facility's actual avg. flow	<u>11.6</u>
f. Total flow for this specific request	<u>0.0130</u>
g. Total actual and obligated flows to the facility	<u>11.8517</u>
h. Percent of permitted flow used	<u>47.41</u>

II. Complete this section for each pump station you are responsible for along the route of this proposed wastewater flow.

List pump stations located between the project connection point and the WWTP:

Pump Station (Name or Number)	Pump Station Permit No.	Firm Capacity, * MGD	(A) Design Average Daily Flow** (Firm / pf), MGD	(B) Approx. Current Avg. Daily Flow, MGD	(C) Obligated, Not Yet Tributary Daily Flow, MGD	(D)=(B+C) Total Current Flow Plus Obligated Flow	(E)=(A-D) Available Capacity***
#89-Wade #1	WQCS00353	0.2880	0.1152	0.0294	0.0130	0.0424	0.0728
#90-Wade #2	WQCS00353	1.0080	0.4032	0.1270	0.0130	0.1400	0.2632
#88-Eastover#2	WQ0022859	2.5920	1.0368	0.2232	0.0130	0.2362	0.8006
#33-Cargill	15821	2.4480	0.9792	0.7807	0.0130	0.7937	0.1855

* The Firm Capacity (design flow) of any pump station is defined as the maximum pumped flow that can be achieved with the largest pump taken out of service.

** Design Average Daily Flow is the firm capacity of the pump station divided by a peaking factor (pf) not less than 2.5, per Section 2.02(A)(4)(c) of the Minimum Design Criteria.

*** A Planning Assessment Addendum shall be attached for each pump station located between the project connection point and the WWTP where the Available Capacity is ≤ 0 .

Downstream Facility Name (Sewer): NORCRESS Collection System

Downstream Permit Number: WQCS00353

III. Certification Statement:

I John P. Allen, P.E. certify to the best of my knowledge that the addition of the volume of wastewater to be permitted in this project has been evaluated along the route to the receiving wastewater treatment facility and that the flow from this project is not anticipated to cause any capacity related sanitary sewer overflows or overburden any downstream pump station en route to the receiving treatment plant under normal circumstances, given the implementation of the planned improvements identified in the planning assessment where applicable. This analysis has been performed in accordance with local established policies and procedures using the best available data. This certification applies to those items listed above in Sections I and II plus all attached planning assessment addendums for which I am the responsible party. Signature of this form certifies that the receiving collection system or treatment works has adequate capacity to transport and treat the proposed new wastewater.



Signing Official Signature

6/29/2023

Date

Interim Manager, PWC Water Resources Engineering

Title of Signing Official

EVELYN O. SHAW, COMMISSIONER
RONNA ROWE GARRETT, COMMISSIONER
DONALD L. PORTER, COMMISSIONER
CHRISTOPHER DAVIS, COMMISSIONER
MARION J NOLAND, INTERIM CEO/GENERAL MANAGER



FAYETTEVILLE PUBLIC WORKS COMMISSION
955 OLD WILMINGTON RD
P.O. BOX 1089
FAYETTEVILLE, NORTH CAROLINA 28302-1089
TELEPHONE (910) 483-1401
WWW.FAYPWC.COM

June 28, 2023

TO WHOM IT MAY CONCERN:

**SUBJECT: Flow Acceptance
Eagles Bluff Subdivision – Phase 1**

This letter is in response to the inquiry regarding the availability of sanitary sewer to serve the proposed Eagles Bluff Subdivision – Phase 1 project located on the parcel with PIN 0581-14-8347 bordered by Clara Street, Main Street, and Wade-Stedman Road in the Town of Wade, Cumberland County NC.

NORCRESS Water and Sewer District has submitted a permit application for a public sewer main extension on this project. The Public Works Commission does have an operation and maintenance agreement with NORCRESS Water and Sewer District, and has agreed to accept and treat sanitary sewer from this project in the NORCRESS Collection System (WQCS00353). The sewage and wastewater collected by this system shall be treated in the Fayetteville Public Works Commission Cross Creek Wastewater Treatment Facility (NPDES Permit No. NC0023957) prior to being discharged into the receiving stream. The projected flow for this development is 12,960 gallons per day. The Cross Creek Wastewater Treatment Facility has the capacity to accept the flow generated by this project.

If you have any questions concerning this letter, please call me at (910) 223-4734.

Very truly yours,
FAYETTEVILLE PUBLIC WORKS COMMISSION

John P. Allen, P.E.
Interim Manager
Water Resources Engineering

cc: Project File



CLERK TO THE BOARD OF COMMISSIONERS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: IVA CLARK, DEPUTY CLERK TO THE BOARD

DATE: 8/21/2023

SUBJECT: FAYETTEVILLE TECHNICAL COMMUNITY COLLEGE BOARD OF TRUSTEES (1 VACANCY)

BACKGROUND

At the August 7, 2023, regular meeting, the Board of Commissioners nominated the following individual to fill the one (1) vacancy on the Fayetteville Technical Community College Board of Trustees:

Nominees:

Ralph Huff

Randolph Williams

Mr. Williams is not eligible to serve on the Fayetteville Technical Community College Board of Trustees in accordance to G.S. 115D § 12(b1), former employees of the college are not eligible to serve on the Board for a period of five years after separation from the college.

The membership roster for the Fayetteville Technical Community College Board of Trustee is attached.

RECOMMENDATION / PROPOSED ACTION

Nominate individuals to fill the one (1) vacancy on the Fayetteville Technical College Board of Trustees.

ATTACHMENTS:

Description

Fayetteville Technical Community College Board of Trustees Roster

Type

Backup Material

FAYETTEVILLE TECHNICAL COMMUNITY COLLEGE
BOARD OF TRUSTEES
(County Appointees)
4 Year Terms

Name/Address	Date Appointed	Term	Expires	Eligible For Reappointment
David Williford (W/M) 2539 Mirror Lake Dr Fayetteville, NC 28303 323-1200/987-0548/483-2500 Dwillif363@aol.com	10/22	2nd	October 26 10/31/26	No
Dr. Linwood Powell (W/M) 510 Lionshead Road, Unit 3 Fayetteville, NC 28311 488-1616/273-7178	6/19	2nd	June/23 6/30/23	No
Charles Harrell (W/M) 2016 Winterlochen Road Fayetteville, NC 28305 910-624-8842 charrell@harrellsauto.com	5/20	2nd	June/24 6/30/24	No
Esther Thompson (PI/F) 511 Forest Lake Rd Fayetteville NC 28305 910-670-5515 ethom874@gmail.com	9/21	1st	Sept/25 9/30/25	Yes

§ 155D-12(b1) – No person who has been employed full time by the community college within the prior five (5) years and no spouse or child of a person currently employed full time by the community college shall serve on the board of trustees of that college. (See file.)

Contact person: Tracy Verrier, verriert@faytechcc.edu
PO Box 35236
Fayetteville, NC 28303
Phone: 678-8222
Fax: 678-8269

Meetings: Board has been meeting the 3rd Monday of each month at 10 a.m. – Tony Rand Student Center Board Room 2201 Hull Rd. Fayetteville, NC. No meetings in July or December. (Bylaws require one meeting per month.) Written notification is sent for all regularly-called meetings.

* Terms extended by the General Assembly *



CLERK TO THE BOARD OF COMMISSIONERS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: IVA CLARK, DEPUTY CLERK TO THE BOARD

DATE: 8/21/2023

SUBJECT: ABC BOARD (2 VACANCIES)

BACKGROUND

At the August 7, 2023, regular meeting, the Board of Commissioners nominated the following individual to fill one of the two (2) vacancies on the Cumberland County ABC Board:

NOMINEE:

Adam Phillips

The membership roster for the ABC Board is attached.

RECOMMENDATION / PROPOSED ACTION

Appoint individual to fill one of the two (2) vacancies on the ABC Board.

ATTACHMENTS:

Description

ABC Board Roster

Type

Backup Material

ABC BOARD

3 Year Term

Name/Address	Date Appointed	Term	Expires	Eligible For Reappointment
Paul Crenshaw 313 SpringBrooke Pl Fayetteville, NC 28305 223-2709/964-3811/222-1000 Pcrenshaw11@hotmail.com	6/20	2nd	June/23 6/30/23	No
(serving unexpired term; eligible for one additional three-year term)				
<u>CHAIRMAN</u>				
Harold Lee Boughman Jr.- 282 Skye Drive Fayetteville, NC 28303 484-4589/978-2293/223-1400 lee.boughman@abb-law.com	6/21	2nd	June/24 6/30/24	No
Jamail George 7724 North Ancon Drive Fayetteville, NC 28304 910-527-3418/910-223-1307 tyrangeorge@gmail.com	8/22	1 st	August/25 8/31/25	Yes
Terri Thomas 508 Spaulding Street Fayetteville, NC 28301 910-485-4765/910-988-7672 terristhomas88@gmail.com	8/22	1st	August/25 8\31/25	Yes
Tammy Sinclair Graham 2951 Cosmo Place Apt H Fayetteville, NC 28304 797-1405/483-1382 tfgmom@gmail.com	6/20	2nd	June/23 6/30/23	No

Commissioner Liaison : Commissioner Michael Boose

Regular Meetings: 2nd Monday of the month at 6:00 PM at the Person St. Store Training Room at 424 Person Street, Fayetteville, NC.

Contact: ABC Board Director David Horne
PO Box 64957
Fayetteville, NC 28306
484-8167
carolyn.parker@cumberlandabc.com



CLERK TO THE BOARD OF COMMISSIONERS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

FROM: IVA CLARK, DEPUTY CLERK TO THE BOARD

DATE: 8/21/2023

SUBJECT: LOCAL EMERGENCY PLANNING COMMITTEE (1 VACANCY)

BACKGROUND

At the August 7, 2023, regular meeting, the Board of Commissioners nominated the following individual to fill the one (1) vacancy on the Local Emergency Planning Committee:

Logan Herndon

The membership roster is attached.

RECOMMENDATION / PROPOSED ACTION

Appoint individual to fill the one vacancy on the Local Emergency Planning Committee.

ATTACHMENTS:

Description	Type
Local Emergency Planning Committee Roster	Backup Material

CUMBERLAND COUNTY
LOCAL EMERGENCY PLANNING COMMITTEE
3 Year Term
(Staggered Terms Initially)

Name/Address	Date Appointed	Term	Expires	Eligible For Reappointment
<u>Print and Broadcast Media Representative</u>				
Lou Cherry 4243 Cherry Hill Lane Fayetteville, NC 28312 919-903-6232 (C) 910-438-4023 (W) lcherry@co.cumberland.nc.us	11/22	Serving unexpired term	June/24 6/30/24	Yes
Sean Swain VACANT CC Sheriff's Office PIO 5315 Fisher Road Fayetteville, NC 28304 910-849-4004	11/19	2nd	Nov/22 11/30/22	No
<u>Operators of Facilities Representative</u>				
Donna Godwin (Dupont) 722 Alexwood Drive Hope Mills, NC 28348 676-8385 / 213-1383 D-FAYE.GODWIN@DUPONT.COM	11/22	1st	Nov/25 11/30/25	Yes
Robert Melvin VACANT (Eaton Corporation) PO Box 156 Stedman, NC 28391 910-677-5318	11/19	2nd	Nov/22 11/30/22	No
Tony Collado VACANT (Valley Proteins) 3814 Corapeake Drive Fayetteville, NC 28312 323-4112/323-9600	11/19	2nd	Nov/22 11/30/22	No
Caleb Stoker (Hexion) 821-101 Astron Lane Fayetteville, NC 28314 874-4340/364-5064 Caleb.stoker@hexion.com	6/21	2nd	June/24 6/30/24	No

Cumberland County Local Emergency Planning Committee, page 2

<u>Name/Address</u>	<u>Date Appointed</u>	<u>Term</u>	<u>Expires</u>	<u>Eligible For Reappointment</u>
<u>Law Enforcement Representative</u>				
Trooper Robert David Rhodes 1810 Carl Freeman Rd Stedman, NC 28391 910-916-3726 Robdrhodes@gmail.com	6/21	1st	June/24 6/30/24	No
Sgt. Stephen T. Hodges Cumberland Co. Sheriff's Office 312 Kirkwood Drive Fayetteville, NC 28303 321-6786/527-3637 shodges@ccsonc.org	6/20	1st	June/23 6/30/23	Yes
Brett Chandler VACANT Fayetteville Police Department 5337 Anna Belle Lane Wade, NC 28395 273-0529/433-1885	11/19	2nd	Nov/22 11/30/22	No
<u>Emergency Management Representative</u>				
Marc C. Baker 190 Wolfpoint Drive Fayetteville, NC 28311 797-7662/321-6734 mbaker@co.cumberland.nc.us	6/21	1 st	June/24 6/30/24	Yes
<u>Community Group Representative</u>				
Andrew McLean 6764 Willowbrook Drive, Apt 6 Fayetteville, NC 28314 910-987-6728 Andrew.mclean3@redcross.org	11/22	1st	Nov/22 11/30/25	Yes
<u>Transportation Representative</u>				
Janet Renae Larson 2202 Kimberly Drive Fayetteville, NC 28306 574-1338/323-8283 rlarson@parkergas.com	6/21	2nd	Feb/24 2/28/24	No

<u>Name/Address</u>	<u>Date Appointed</u>	<u>Term</u>	<u>Expires</u>	<u>Eligible For Reappointment</u>
<u>Health Representative</u>				
Celestine Raineri-Smith Cumberland County Public Health 6300 Nakoma Way Fayetteville, NC 28306 489-1669/433-3685 Craineri-smith@co.cumberland.nc.us	6/20	1 st	June/23 6/30/23	Yes
<u>Hospital Representative</u>				
George White (-/M) 2741 Hayfield Road Wade, NC 28395 366-8703/907-6688 GEORGE.C.WHITE.CIV@MAIL.MIL	3/22	1st	Mar/25 3/31/25	Yes
<u>Fire Fighting Representative</u>				
Chief Mike Hill VACANT 6200 Sisk Culbreth Rd Godwin, NC 28344 818-3793/433-1428 mhill@ci.fay.nc.us	6/21	1st	June/24 6/30/24	Yes
<u>First Aid Representative</u>				
Robert L. Godwin Cumberland Co. EMS/Emergency Management Cape Fear Valley Health System 3014 Player Ave Fayetteville, NC 28304 987-7923/615-5696 rgodwin@capefearvalley.com	6/20	1st	June/23 6/30/23	Yes
<u>At-Large Representative</u>				
Terrance Phillips 1926 Harcourt Circle Fayetteville, NC 28304 910-495-3653 Tlphillips247@gmail.com	5/23	1st	May/26 5/31/26	Yes
Henry Eisenbarth 786 Ashfield Drive Fayetteville, NC 28311 480-0012/624-2304	11/19	2nd	Nov/22 11/30/22	No
<u>Local Environmental Representative</u>				
Amy Mateo 5591 Bellflower Street Fayetteville, NC 28314 364-5459 Amateo011@gmail.com	1/22	1st	Jan/25 1/31/25	Yes

Cumberland County Local Emergency Planning Committee, page 4

<u>Name/Address</u>	<u>Date Appointed</u>	<u>Term</u>	<u>Expires</u>	<u>Eligible For Reappointment</u>
<u>Utilities Representative</u> Rhonda Fokes VACANT Public Works Commission 6230 King Hiram Road Hope Mills, NC 28348 303-4622/391-2142	11/19	2nd	Nov/22 11/30/22	No
Ray Jackson VACANT 955 Old Wilmington Road Fayetteville, NC 28301 237-1840/223-4118 Ray.jackson@faypwc.com	2/19	1st	Feb/22 2/28/22	Yes

Ex-Officio/Voting Member:

Larry Lancaster, County Commissioner

Emergency Management

Gene Booth, Cumberland County Emergency Services

County Manager

Amy Cannon, County Manager

Hazardous Materials Response Team Leader

David Richtmeyer, **Chairperson**, City of Fayetteville Fire Department

Fort Liberty:

Adam Buehler, Fort Liberty

Cumberland County Emergency Management Coordinator:

Garry Crumpler, **Vice Chairperson**, Cumberland County Emergency Services

Secretary

Christina King

Contacts: Garry Crumpler 438-4069 gcrumpler@co.cumberland.nc.us

Meets quarterly on the last Thursday of the month in January, April, July & October at 10:00 am –
Meeting Location Varies



PUBLIC UTILITIES DEPARTMENT

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF AUGUST 21, 2023

TO: BOARD OF COUNTY COMMISSIONERS

**FROM: JERMAINE WALKER, DIRECTOR OF ENGINEERING AND
INFRASTRUCTURE**

DATE: 8/14/2023

SUBJECT: CONSIDERATION OF AGREEMENT FOR UTILITY SERVICES

BACKGROUND

Laketree, Incorporated, is requesting installation of sanitary utility services for the Eagles Bluff - Phase I subdivision project in Wade, NC. The developer will install, at no-cost to the County, 1,031 feet of 8-inch PVC sewer main, 215 feet of ductile iron piping sewer main, 37 feet of 4- and 6-inch sewer laterals, in addition to 257 feet of 12-inch PVC and 500 feet of 12-inch ductile iron piping for the gravity sanitary sewer outfalls and interceptors.

Phase I consists of 36 single family residential lots with a total projected daily design flow of 12,960 gallons per day. The NORCRESS and Cross Creek Wastewater Treatment Facility have capacity to accept the flow.

This agreement has undergone technical and legal review.

RECOMMENDATION / PROPOSED ACTION

Staff recommends the Board of Commissioners and the NORCRESS Water and Sewer District Governing Board approve the contract with Laketree, Inc., for connection to the NORCRESS system.

ATTACHMENTS:

Description	Type
Eagles Bluff Agreement for Utility Services	Backup Material

**NORTH CAROLINA
CUMBERLAND COUNTY**

AGREEMENT FOR UTILITY SERVICE(S)

THIS AGREEMENT, made this _____ day of _____, 2023 by and between the NORCRESS Water and Sewer District (hereinafter called "DISTRICT") and Laketree, Inc. (hereinafter called "APPLICANT")

WITNESSETH

WHEREAS, APPLICANT desires public utility services from DISTRICT as selected below. (check all that apply)

- ☐ Water and/or Sewer Utility Extension
- ☐ Water Service
- ☒ Sewer Service

NOW THEREFORE, in consideration of the premises and of the mutual agreements hereinafter set forth, the parties hereby agree and contract as follows:

DEFINITION OF DISTRICT'S AGENTS. Throughout this Agreement, any reference to "Agent" or "DISTRICT'S Agent" shall mean any worker, employee, official, contractor, consultant or operator of DISTRICT'S water and sewer services or systems whether employed, hired, or contracted by DISTRICT or Cumberland County on behalf of DISTRICT.

Article 1: Water and/or Sewer Utility Extension

As selected above, APPLICANT hereby requests installation of water and/or sanitary sewer utility services as described in Exhibit "I", Project Summary, and is subject to the following terms and conditions:

- A. APPLICANT shall perform all work necessary to accomplish the proposed utility extension including, but not limited to, design, specifications, permitting and construction. Applicant will furnish all material, perform all labor, and pay all costs to construct, by a contractor licensed to perform utilities construction in North Carolina, to DISTRICT'S rules currently in effect and approved by the DISTRICT'S governing board, all applicable local codes and ordinances, the current service provider, and State regulations and laws for those utilities. The work shall be completed in accordance with this Agreement. The DISTRICT or its Agent will review and inspect work performed by APPLICANT to assure that the work meets the purpose for which it is intended and is in compliance with all requirements and conditions contained herein. Such review and approval will not relieve APPLICANT from complying with all said conditions and requirements.
- B. Such construction shall be undertaken and completed as soon as practicable, and not later than one year from date of this agreement, unless delayed or prevented by acts of God, or other things beyond APPLICANT's control. In the event that construction is not completed one year from date of this agreement, then DISTRICT, through the Director of the Cumberland County Public Utilities Department may extend the agreement upon such terms and conditions as the Director deems necessary.
- C. Fees shall be paid by APPLICANT for services provided by DISTRICT, the service provider, or its Agent for the following:
 - (1) review and approval of plans, specifications, and necessary documents, to include final review of the required documents to assure that DISTRICT has legal title to necessary rights-of-way and easements;
 - (2) review and approval of the Bill of Sale provided by APPLICANT, and acceptance of the utility extensions by DISTRICT;

- (3) and daily inspection of the construction in progress, as needed to ensure that construction of the utility extensions are in accordance with this Agreement, the Plans and Specifications, and any other DISTRICT requirements;
 - (4) conduction of pre-flush required pressure tests, any retesting which may be necessary, and sampling of the completed extension after flushing for submittal to the State, or a certified testing laboratory, for bacteriological examination;
 - (5) conduction of required pressure tests, after flushing, and any retesting of sewer system improvement which may be necessary;
 - (6) approval of the sewer video taping schedule, supervision of video taping and revisions/approval of the completed tape and log sheets;
 - (7) final inspection of the completed extension and preparation of the inspection report, which shall set forth any deficiencies that may exist;
 - (8) reinspection of any deficient work;
 - (9) review of the water and/or sewer as-built construction drawings; and
 - (10) reinspection at the end of the one-year warranty period.
- D. Materials and equipment shall be new and shall be as specified in this Agreement, the plans and specifications, the service providers standards, or if not specified, of a quality approved by DISTRICT. All materials and equipment furnished are warranted by APPLICANT as new and in accordance with this Agreement and the approved plans and specifications, and suitable for the intended purpose. In addition, APPLICANT, shall furnish DISTRICT copies of the supplier's warranty and shall adopt the same as the warranty of APPLICANT, and shall also be liable thereon to DISTRICT.
- E. Connection to DISTRICT's water and/or sanitary sewer system of buildings constructed after the date of this agreement on parcels of land that are subject to the Cumberland County's Subdivision Ordinance shall be governed by the requirements of Cumberland County's Subdivision Ordinance.
- F. Upon satisfactory completion of construction of said water and/or sanitary sewer mains and written acceptance of such construction by DISTRICT, said utility mains shall be the property solely of DISTRICT and DISTRICT will maintain same after the one (1) year warranty set forth below has expired. To accurately value the assets being transferred, APPLICANT shall complete and submit a preliminary Statement of Project Cost Form attached as Exhibit "II" to DISTRICT at time of submittal and a final certified form at project completion.
- G. Warranty: APPLICANT shall warrant that the water and/or sanitary sewer utilities to be owned by DISTRICT shall be free from any defects in materials and workmanship. APPLICANT also warrants that it shall be solely responsible for the repair of any damage caused by its agents or employees. Said warranties shall remain in full force and effect for a period of one (1) year from the date of final acceptance of the facilities by DISTRICT. In the event it becomes necessary to repair and/or replace any of the facilities during the initial one (1) year period, such repair and/or replacement shall be at APPLICANT's sole expense and the warranty as to those items repaired and/or replaced shall continue to remain in effect for an additional period of one (1) year from the date of final acceptance by DISTRICT of those repairs and/or replacements. If DISTRICT must repair and/or replace said utilities during the warranty period due to response time requirements, DISTRICT shall bill APPLICANT for work completed and APPLICANT shall remit payment therefore within thirty (30) days of the date of the invoice.
- H. Water and/or sanitary sewer connections to structures along said utility mains from service laterals installed by APPLICANT will not be made nor will such service be activated until all work to be performed by APPLICANT has been satisfactorily completed and written acceptance of such work is given by DISTRICT. Also, if a water main is extended pursuant to this agreement, it must be tested and sterilized by APPLICANT'S contractor before activation of any water service from said water main.

- I. Water and/or sanitary sewer service will be supplied to structures now or hereafter located along said utility mains in accordance with DISTRICT's rules, regulations, and rate schedules applicable to such structures and currently in effect at the time of application for service. If all normal DISTRICT fees and charges for installation and activation of such services have been paid by applicants for said services, DISTRICT will thereafter use its best efforts to supply water to said structures at good operating pressure, but in no event shall DISTRICT be liable for failure to do so, it being understood that all such original operating fees, charges, rates, etc., are, solely at DISTRICT's discretion, subject to change by DISTRICT.
- I. Any replacements or adjustments in elevations and grades of those water and/or sanitary sewer service laterals, including water meters and boxes and sanitary sewer cleanout stacks, which were originally installed by APPLICANT'S contractor in accordance with approved plans by APPLICANT's engineer, shall be at APPLICANT's expense; and the determination of DISTRICT that such replacements or adjustments are required shall be final and binding on APPLICANT.
- J. During construction of project, APPLICANT will be responsible and pay DISTRICT as invoiced for any and all damages to DISTRICT utilities and materials except when such damages are caused by DISTRICTS forces. APPLICANT shall remit payment therefore within thirty (30) days of the date of the invoice.
- K. APPLICANT'S contractor shall be responsible for complying with any and all statutes, rules, regulations or ordinances, which may be imposed by other governmental agencies (local, state and federal), which have jurisdiction. APPLICANT shall hold harmless DISTRICT against any claims, fines or civil penalties resulting from APPLICANT'S contractor's failure to comply with said regulations.
- L. The Water and Sewer Utility Extension is further illustrated in Exhibit "III", Water and Sewer Utility Extension Map. APPLICANT shall be responsible for costs (engineering, materials, design, etc.) associated with major design changes that deviate from Exhibit "II" and the attached map as identified in Exhibit "III".

Article 2: General Terms and Conditions

AUTHORITY:

DISTRICT shall have general authority over the work to be accomplished under this Agreement, provided nothing contained in this Agreement shall be construed to require DISTRICT to direct the method or manner of performing any work by APPLICANT. Incident to this general authority, DISTRICT may engage engineers and contractors to observe construction, inspect, test, and evaluate any construction performed by APPLICANT's contractors and assist APPLICANT'S contractors with correcting or completing any construction if DISTRICT determines the construction by APPLICANT'S contractors creates a risk of harm to DISTRICT'S water or sewer system for which APPLICANT'S extension is permitted. APPLICANT shall be responsible for the costs incurred by DISTRICT for this purpose.

DISTRICT shall decide all questions pertaining to the interpretation of this Agreement and the approved plans and specifications prepared thereto, the quality or acceptability of materials furnished, and work performed under this Agreement on the part of APPLICANT. The decision of DISTRICT on such matters shall be final.

All work under this Agreement shall be performed to the satisfaction of DISTRICT, and the decision by DISTRICT as to whether the work has been performed in a satisfactory manner shall be final.

DISTRICT may stop work under this Agreement whenever, in its opinion, such stoppage is necessary to ensure proper performance of this Agreement. DISTRICT may also reject all work and materials which, in its opinion, do not conform to this Agreement.

DETERMINATION OF "OR EQUAL"

DISTRICT or its Agent shall be the sole judge of the questions of "or equal" of any supplies, materials or equipment proposed by APPLICANT. APPLICANT shall pay to DISTRICT the costs of test and evaluations needed to determine the acceptability of alternates proposed by APPLICANT.

STOPPAGE OF WORK

If APPLICANT performs any work contrary to this Agreement, laws, ordinances, rules, or regulations; or, prior to obtaining any necessary permits or other required permission, DISTRICT may order the work stopped.

INSPECTIONS AND TESTS

Inspection by DISTRICT or its Agent is required for various aspects of the utility system. Such aspects include, but are not limited to: water and/or sewer main pipe laying operations, installation of sleeves, couplers and adapters on pipe, pipe bedding and backfilling, casings, concrete encasement or other special installations, repairs to water and/or sewer utilities, all water main fittings with concrete blocking, pressure testing water mains, water main purity samples after flushing, main wet taps, any cut-in's on existing water mains, hydrant installations, water service installations, vault installations and appurtenances, hole cuts on sanitary sewer pipe, manhole installations and pipe connections, manhole vacuum testing, manhole core drilling, air testing sewer main and side sewer stubs, flushing/cleaning sewer mains and CCTV inspection, grease/oil-water separators, vehicle wash and dumpster area drains, tee locations and stub markers, sewer depth at right-of-way/easement line, sewer slope, fittings and clean-outs.

Inspection of the work by DISTRICT or its Agent shall be strictly for the benefit of DISTRICT or its Agent and no other person or agency.

DISTRICT staff or its Agent, at all times, will have access to the work area for the purpose of inspecting and testing. APPLICANT shall provide facilities for safe access, inspection, and testing.

If any work is covered without the approval or consent of DISTRICT or its Agent it shall be uncovered for inspection at APPLICANT'S expense, if required by DISTRICT or its Agent.

APPLICANT shall make reasonable tests of the work at APPLICANT'S expense upon DISTRICT'S or its Agent's request and shall maintain a record of such tests.

Before a performance test is to be observed by DISTRICT or its Agent, APPLICANT shall make such preliminary tests as are necessary to assure that the material and/or equipment are in accordance with the approved plans and specifications provided. If, for any reason, the test observed is unsatisfactory, APPLICANT shall pay all costs incurred for the inspection of further testing.

Should APPLICANT elect to work more than eight hours per weekday, all costs of inspection thus entailed may be charged to APPLICANT at the overtime billing rate.

Approval is required from DISTRICT or its Agent to work nights, weekends, and holidays. After-hours inspections may not be possible due to the lack of staff availability. APPLICANT shall submit its proposed schedule to work nights, weekends, or holidays at least five days in advance (not including weekends and holidays) for review. If APPLICANT elects to work on weekends, nights or holidays, and such work schedule is approved by DISTRICT or its Agent, all costs of inspection may be charged to the APPLICANT at the overtime billing rate.

Where this Agreement, approved plans and specifications, or laws, ordinances, rules, or regulations of any governmental authority require that any work be specially tested or inspected, APPLICANT shall give DISTRICT notice that such tests or completed work is ready for inspection. APPLICANT shall notify DISTRICT of the date, time, and location of the inspection. Required certificates of inspection shall be secured by APPLICANT.

Notice of deficiencies shall be given to APPLICANT upon completion of each inspection. APPLICANT shall correct such deficiencies within seven days of the notice and before final inspection is made by DISTRICT.

A representative of APPLICANT'S contractor shall arrange a time to accompany DISTRICT or its Agent on the final inspection and subsequent reinspection, if required. DISTRICT or its Agent will not make the final inspection until the physical work, including final clean-up and all extra work ordered by the Inspector has been completed.

Deficiencies discovered during the final inspection shall be corrected within seven days of notice thereof and, in no instance, shall service be provided until the deficiencies are corrected and the utility extensions pass reinspection.

AVAILABILITY OF PROJECT DOCUMENTS

APPLICANT shall keep at least one copy of the following project documents constantly available at the construction site: (1) approved construction plans and shop drawings, and (2) construction specifications.

MATERIALS AND EQUIPMENT LIST

APPLICANT shall file three copies of a materials and equipment list with DISTRICT prior to commencing construction. This list shall designate the quantity, manufacturer and model number of materials and equipment to be installed under this Agreement.

The materials and equipment list will be checked by DISTRICT or its Agent for conformity with this Agreement and the approved plans and specifications provided. DISTRICT will determine the conformity of the list with reasonable promptness. APPLICANT shall make any required corrections and file two correct copies with DISTRICT within one week after receipt of the required corrections. DISTRICT'S review of the list shall not relieve APPLICANT from the responsibility of providing materials and equipment suitable for their intended purpose nor for deviations from this Agreement or the plans and specifications without written approval from DISTRICT.

WATER METERS

It shall be the responsibility of APPLICANT to make application and pay any necessary fees to DISTRICT for the installation of water meters. APPLICANT shall not purchase and install water meters from a private supplier.

Single family meter applications shall not be submitted until after acceptance of the utility extensions.

SEWER TAPS

It shall be the responsibility of APPLICANT to make application and pay any necessary fees to DISTRICT for the connection of sewer taps to the mains. Elder valve installations may be required in addition to sewer taps.

Single family sewer connections shall not be submitted until after acceptance of the utility extensions.

SAFETY:

Safety in, on, or about the construction site is the sole and exclusive responsibility of APPLICANT. APPLICANT's means and method of work performance, superintendent of APPLICANT's employees and sequencing of construction are also sole and exclusive responsibilities of APPLICANT.

APPLICANT shall be responsible for the safety of any person, including but not limited to, any worker, DISTRICT's Agent, Owner and/or Owner's representative, visitor or invitee on the site of the work at all times during the prosecution of the work, regardless of whether the individual is an employee of APPLICANT or APPLICANT's Contractor or Sub-Contractor. APPLICANT is responsible for compliance with the rules, regulations and interpretations of the North Carolina Department of Labor relating to "North Carolina Occupational Safety and Health Standards (OSHA) for the Construction Industry" (Title 29 CFR Part 1926 and 29 CFR Part 1919 as adopted by 13 NCAC 7C.0101) and revisions as adopted by N.C.G.S. § 95-126 through 155 and additionally with normal industry safety practices or standards.

DISTRICT shall have the right to inspect the work for pay application compliance and compliance with DISTRICT'S standards and specifications but is not required to do so. DISTRICT shall further have the right to monitor the progress of the work, but no such inspection shall relieve APPLICANT of any duty or obligation it might have under the terms of this Agreement. Nothing in this Agreement shall relieve APPLICANT of any duty or obligation to direct the means and methods of the work.

INDEMNIFICATION:

APPLICANT shall indemnify and hold DISTRICT and DISTRICT'S Agents harmless from and against all liabilities, claims, demands, suits, losses, damages, costs, and expenses (including attorney's fees) for bodily injury to or death of any person, or damage to or destruction of any property proximately caused by the negligence of APPLICANT or any person for whom APPLICANT is legally responsible during the performance of services relative to this Agreement.

INDEPENDENT CONTRACTOR:

APPLICANT is an independent contractor and shall undertake performance of the services relative to this Agreement as an independent contractor. APPLICANT shall be wholly responsible for the methods, means, and techniques of performance. DISTRICT shall have no rights to supervise methods and techniques of performance employed by APPLICANT, but DISTRICT shall have the right to observe such performance.

COMPLIANCE WITH LAWS:

In performing services relative to this Agreement, APPLICANT shall comply with all applicable regulatory requirements including federal, state, and local laws, rules, regulations, orders, codes, criteria, and standards. APPLICANT shall be responsible for procuring all permits, certificates, and licenses necessary to allow APPLICANT to undertake activities and construction relative to this Agreement.

FINAL SEQUENCE FOR ACCEPTANCE OF PROJECTS

In order for DISTRICT to accept the utility extension as part of DISTRICT'S assets, APPLICANT must complete the following:

- (1) APPLICANT'S Contractor completes all utility work and makes an appointment for final inspection.
- (2) DISTRICT'S Inspector inspects, re-inspects "punch list" items, and signs off as "complete", provided there are no deficiencies.
- (3) All applicable requirements of this Agreement have been satisfied, including but not limited to, the Operation and Maintenance Manual approved and recordable, outstanding fees paid, easements verified & recordable, Bills of Sale for transfer of facilities to be owned by DISTRICT, Maintenance Bonds, if greater than original Performance Bonds, Certification of Construction Cost, and final as-builts hard copies, CAD and shapefiles received.

NOTICE:

Any formal notice, demand, or request required by or made in connection with this Agreement shall be deemed properly made if delivered in writing or deposited in the United States mail, postage prepaid, to the address specified below.

APPLICANT: Name: Laketree, Inc.
 Attention: William S. Wellons, Jr., President
 Address: P.O. Box 766
 City, State, Zip: Spring Lake, NC 28390

DISTRICT: Name: County of Cumberland
 Attention: NORCRESS Water and Sewer District
 Address: P.O. Box 1829
 Fayetteville, NC 28302

Nothing contained in this Article shall be construed to restrict the transmission of routine communication between representatives of APPLICANT and DISTRICT.

GOVERNING LAW:

This Agreement shall be governed by the laws of the State of North Carolina.

BREACH:

APPLICANT'S failure to observe or perform any of the terms, warranties, conditions, requirements, or provisions of this Agreement shall constitute a breach of this Agreement by APPLICANT. In the event of a breach of this Agreement by APPLICANT, DISTRICT, due to such breach, shall have the right to terminate this Agreement upon which DISTRICT shall have no further obligation to perform under this Agreement and APPLICANT shall have no right to perform any further work under this Agreement.

In the event of breach of this Agreement by APPLICANT and termination of this Agreement by DISTRICT, APPLICANT hereby shall reimburse DISTRICT for all expenditures made in relation to, and in furtherance of, this Agreement.

NONWAIVER OF BREACH:

No breach or non-performance of any term of this Agreement shall be deemed to be waived by either party unless said breach or non-performance is waived in writing and signed by the parties. No waiver of any breach or non-performance under this Agreement shall be deemed to constitute a waiver of any subsequent breach or non-performance and, for any such breach or non-performance, each party shall be relegated to such remedies as provided by law.

SEVERABILITY:

The invalidity, illegality, or unenforceability of any portion or provision of this Agreement shall in no way affect the validity, legality, and/or enforceability of any other portion or provision of this Agreement. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of law with jurisdiction, then such provision shall be modified to the mutual satisfaction and agreement of the parties to reflect the parties' intent. In the event the parties cannot reach an agreement as to a modification of said provision, any invalid, illegal, or unenforceable provision of this Agreement shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced the same as if the Agreement had not contained any portion or provision which was invalid, illegal, or unenforceable.

ASSIGNMENT:

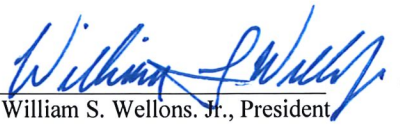
APPLICANT shall not assign, sublet, subcontract or transfer any rights under or interest in this Agreement without the written consent of DISTRICT.

BENEFITS LIMITED TO PARTIES:

Nothing herein shall be construed to give any right or benefits hereunder to any third parties other than DISTRICT and APPLICANT.

IN WITNESS WHEREOF, the parties hereto through their duly authorized officers has executed this instrument as to the date and year first above written.

Laketree, Inc.

BY: 
William S. Wellons, Jr., President

WITNESS:


Name, Title

NORCRESS WATER & SEWER DISTRICT

BY: _____
Toni Stewart, Chair

WITNESS:

Andrea Tebbe, Clerk to the Board

Approved for Legal Sufficiency
NORCRESS Water & Sewer District

Rickey L. Moorefield, County Attorney
Attorney for NORCRESS Water and Sewer District

EXHIBIT "I"
PROJECT SUMMARY

Project Name: Eagles Bluff - Phase I **Engineer:** Larry King & Associates, R.L.S, P.A.

Project Location: Wade, NC **Developer:** Laketree, Inc.

REID: 058124756000

Parcel Number: REID: 0581148347000 REID: 0581240089000

REID: 0581243251000

Asset Summary

Items listed are for the gravity sanitary sewer work on NORCRESS' infrastructure.

Project Highlights

Project description/location goes here.

Sewer listed is to serve Phase I of the Eagles Bluff subdivision project

EXHIBIT "II"
STATEMENT OF TOTAL PROJECT COST

Developer/Applicant Lakelree, Inc.

Contractor TO BE DETERMINED

Project Name/Loc Eagles Bluff - Phase 1

Pipe Supplier TO BE DETERMINED

Completion Date To be determined

Engineer Larry King & Associates, R.L.S., P.A.

WATER

<u>N/A</u>	feet of	<u> </u>	inch water main	
<u>N/A</u>	feet of	<u> </u>	inch water main	
<u>N/A</u>	feet of	<u> </u>	inch water main	
<u>N/A</u>	-	<u> </u>	inch domestic water lateral(s)	
Total water distribution*				\$ <u>N/A</u>
Mains greater than 12"				
<u>N/A</u>	feet of	<u> </u>	inch water main	
<u>N/A</u>	feet of	<u> </u>	inch water main	
Total water transmission *				\$ <u>N/A</u>

SEWER

<u>1,030.5</u>	feet of	<u>8" PVC</u>	inch sewer mains	
<u>215.4</u>	feet of	<u>8" DIP</u>	inch sewer mains	
<u>37</u>	-	<u>4" & 6"</u>	inch sewer laterals	
Total sanitary sewer collection*				\$ <u>TO BE DETERMINED</u>
Mains greater than 12"				
<u>257.4</u>	feet of	<u>12" DIP</u>	inch sewer main	
<u>498.4</u>	feet of	<u>12" PVC</u>	inch sewer main	
Total sanitary sewer outfalls & interceptors*				\$ <u>TO BE DETERMINED</u>
<u>N/A</u>	feet of	<u> </u>	inch sewer force mains	\$ <u>N/A</u>
	-	<u>N/A</u>	lift station (s)	\$ <u>N/A</u>

OFF-Site

<u>N/A</u>	feet of	<u> </u>	inch water mains*	\$ <u> </u>
<u>N/A</u>	feet of	<u> </u>	inch sewer mains*	\$ <u> </u>

*Value to include equipment, labor & materials (valves, fittings, fire mains & hydrants, manholes, etc.)

Other Project Costs:

Engineering TO BE DETERMINED

☐ * Percentage of Project Cost

Other (list detail)

Total project cost \$ TO BE DETERMINED

Comments: Sewer listed is to serve Phase 1 of the Eagles Bluff subdivision project.

I certify to my actual knowledge that the information provided herein is true and accurate cost for the project named above.

Signature* _____ Date _____

* Signature of Legal Authorized Representative of the "Applicant" as identified in the Agreement with District

Attach all supporting documents such as final contractor's invoice, material invoices/receipts, engineer's invoice(s), if available.

EXHIBIT “III”
WATER AND SEWER UTILITY EXTENSION MAP

**FAST TRACK SEWER SYSTEM EXTENSION APPLICATION
INSTRUCTIONS FOR FORM: FTA 06-21 & SUPPORTING DOCUMENTATION**

This application is for sewer extensions involving gravity sewers, pump stations and force mains, or any combination that has been certified by a professional engineer and the applicant that the project meets the requirements of [15A NCAC 02T](#) and the Division's Minimum Design Criteria ([Gravity Sewer](#) & [Pump Stations/Force Mains](#)) and that **plans, specifications and supporting documents have been prepared in accordance with [15A NCAC 02T](#), [15A NCAC 02T .0300](#), Division policies, and [good engineering practices](#).**

While no upfront engineering design documents are required for submittal, in accordance with 15A NCAC 02T .0305(b), design documents must be prepared prior to submittal of a fast track permit application to the Division. This would include plans, design calculations, and project specifications referenced in [15A NCAC 02T .0305](#) and the applicable minimum design criteria. **These documents shall be immediately available upon request by the Division.**

Projects that are deemed permitted (do not require a permit from the Division) are explained in [15A NCAC 02T.0303](#).

Projects not eligible for review via the fast track process (must be submitted for full technical review):

- Projects that do not meet any part of the minimum design criteria (MDC) documents;
- Projects that involve more than one variance from the requirements of 15A NCAC 02T;
- Pressure sewer systems utilizing simplex septic tank-effluent pumps (STEPS) or simplex grinder pumps;
- Simplex STEP or simplex grinder pumps connecting to pressurized systems (e.g. force mains);
- Vacuum sewer systems.

General – When submitting an application, please use the following instructions as a checklist in order to ensure all required items are submitted. Adherence to these instructions and checking the provided boxes will help produce a quicker review time and reduce the amount of requested additional information. **Failure to submit all required items will necessitate additional processing and review time, and may result in return of the application.** Unless otherwise noted, the Applicant shall submit one original and one copy of the application and supporting documentation.

A. One Original and One Copy (second copy may be digital) of Application and Supporting Documents

- ☒ Required unless otherwise noted. Signatures on original must be “wet ink” or secure digital signatures. Please do not submit engineering design plans with the application unless specifically requested.

B. Cover Letter/Narrative Description (Required for All Application Packages):

- ☒ List all items included in the application package, as well as a brief description of the requested permitting action.
 - Be specific as to the system type, number of homes served, flow allocation required, etc.
 - Include the permit number/status of any other required sewer permits (downstream/upstream)
 - If necessary for clarity, include attachments to the application form.

C. Application Fee (All New and Modification Application Packages):

- ☒ Submit a check or money order in the amount of **\$480.00**, dated no more than 90 days prior to application submittal.
- Payable to North Carolina Department of Environmental Quality (NCDEQ)

D. Fast Track Application (Required for All Application Packages, Form FTA 05-21):

- ☒ Submit the completed and appropriately executed application.
 - If necessary for clarity or due to space restrictions, attachments to the application may be made.
- ☐ If the Applicant Type in Item I.2 is a corporation or company, provide documentation it is registered for business with the [North Carolina Secretary of State](#).
- ☐ If the Applicant Type in Item I.2 is a partnership or d/b/a, enclose a copy of the certificate filed with the Register of Deeds in the county of business.
- ☐ The Project Name in Item II.1 shall be consistent with the project name on the flow acceptance letters, agreements, etc.
- ☒ The Professional Engineer's Certification on Page 5 of the application shall be signed, sealed and dated by a [North Carolina licensed Professional Engineer](#).
- ☒ The Applicant's Certification on Page 5 of the application shall be signed in accordance with [15A NCAC 02T .0106\(b\)](#). Per 15A NCAC 02T .0106(c), an alternate person may be designated as the signing official if a delegation letter is provided from a person who meets the criteria in 15A NCAC 02T .0106(b).

E. Flow Tracking/Acceptance Form (Form: FTSE 04-16) (If Applicable):

- ☒ Submit the completed and executed FTSE form from the owners of the downstream sewers and treatment facility.
- Multiple forms may be required where the downstream sewer owner and wastewater treatment facility are different.
- The flow acceptance indicated in form FTSE must not expire prior to permit issuance and must be dated less than one year prior to the application date.
- Submittal of this application and form FTSE indicates that owner has adequate capacity and will not violate [G.S. 143-215.67\(a\)](#).
- Intergovernmental agreements or other contracts will not be accepted in lieu of a project-specific FTSE.

F. Site Maps (All Application Packages):

- ☒ Submit an 8.5-inch x 11-inch color copy of a USGS Topographic Map of sufficient scale to identify the entire project area, including the closest surface waters.
- General location of the project components (gravity sewer, pump stations, & force main)
- Downstream connection points and permit number (if known) for the receiving sewer
- ☒ Include an aerial location map showing general project area (such as street names or latitude/longitude) so that Division staff can easily locate it in the field.

G. Existing Permit (Application Packages for Modifications to an Existing Permit):

- ☐ Submit a copy of the most recently issued existing permit.
- ☐ **Include a descriptive and clear narrative identifying the previously permitted items to remain in the permit, items to be added, and/or items to be modified** (the application form itself should include only include items to be added/modified). The narrative should also include whether any previously permitted items have been certified.
- ☐ **The narrative should clearly identify the requested permitting action and accurately describe the sewers to be listed in the final permit.**

H. Power Reliability Plan (Required if portable reliability option utilized for Pump Station):

- ☐ Per [15A NCAC 02T .0305\(h\)\(1\)](#), submit documentation of power reliability for pumping stations.
- This alternative is only available for average daily flows less than 15,000 gallons per day
- It shall be demonstrated to the Division that the portable source is owned or contracted by the applicant and is compatible with the station. The Division will accept a letter signed by the applicant (see 15A NCAC 02T .0106(b)) or proposed contractor, stating that "the portable power generation unit or portable, independently-powered pumping units, associated appurtenances and personnel are available for distribution and operation of this pump station."
- **If the portable power source or pump is dedicated to multiple pump stations, an evaluation of all the pump stations' storage capacities and the rotation schedule of the portable power source or pump, including travel timeframes, shall be provided in the case of a multiple station power outage. (Required at time of certification)**

I. Certificate of Public Convenience and Necessity (All Application Packages for Privately-Owned Public Utilities):

- ☐ Per [15A NCAC 02T .0115\(a\)\(1\)](#) provide the Certificate of Public Convenience and Necessity from the [North Carolina Utilities Commission](#) demonstrating the Applicant is authorized to hold the utility franchise for the area to be served by the sewer extension, or
- ☐ Provide a letter from the [North Carolina Utilities Commission's Water and Sewer Division Public Staff](#) stating an application for a franchise has been received and that the service area is contiguous to an existing franchised area or that franchise approval is expected.

J. Operational Agreements (Applications from HOA/POA and Developers for lots to be sold):

- ☐ Home/Property Owners' Associations
 - ☐ Per [15A NCAC 02T .0115\(c\)](#), submit the properly executed [Operational Agreement \(FORM: HOA\)](#).
 - ☐ Per 15A NCAC 02T .0115(c), submit a copy of the Articles of Incorporation, Declarations and By-laws.
- ☐ Developers of lots to be sold
 - ☐ Per [15A NCAC 02T .0115\(b\)](#), submit the properly executed [Operational Agreement \(FORM: DEV\)](#).

For more information, visit the Division's collection systems [website](#)

THE COMPLETED APPLICATION PACKAGE INCLUDING ALL SUPPORTING INFORMATION AND MATERIALS, SHOULD BE SENT TO THE APPROPRIATE REGIONAL OFFICE:

REGIONAL OFFICE	ADDRESS	COUNTIES SERVED
<u>Asheville Regional Office Water Quality Section</u>	2090 US Highway 70 Swannanoa, North Carolina 28778-8211 (828) 296-4500 (828) 299-7043 Fax	Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey
<u>Fayetteville Regional Office Water Quality Section</u>	225 Green Street Suite 714 Fayetteville, North Carolina 28301-5095 (910) 433-3300 (910) 486-0707 Fax	Anson, Bladen, Cumberland, Harnett, Hoke, Montgomery, Moore, Robeson, Richmond, Sampson, Scotland
<u>Mooresville Regional Office Water Quality Section</u>	610 E. Center Avenue Mooresville, North Carolina 28115 (704) 663-1699 (704) 663-6040 Fax	Alexander, Cabarrus, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanly, Union
<u>Raleigh Regional Office Water Quality Section</u>	3800 Barrett Drive Raleigh, North Carolina 27609 (919) 791-4200 (919) 571-4718 Fax	Chatham, Durham, Edgecombe, Franklin, Granville, Halifax, Johnston, Lee, Nash, Northampton, Orange, Person, Vance, Wake, Warren, Wilson
<u>Washington Regional Office Water Quality Section</u>	943 Washington Square Mall Washington, North Carolina 27889 (252) 946-6481 (252) 975-3716 Fax	Beaufort, Bertie, Camden, Chowan, Craven, Currituck, Dare, Gates, Greene, Hertford, Hyde, Jones, Lenoir, Martin, Pamlico, Pasquotank, Perquimans, Pitt, Tyrrell, Washington, Wayne
<u>Wilmington Regional Office Water Quality Section</u>	127 Cardinal Drive Extension Wilmington, North Carolina 28405 (910) 796-7215 (910) 350-2004 Fax	Brunswick, Carteret, Columbus, Duplin, New Hanover, Onslow, Pender
<u>Winston-Salem Regional Office Water Quality Section</u>	450 W. Hanes Mill Road Suite 300 Winston-Salem, North Carolina 27105 (336) 776-9800 (336) 776-9797 Fax	Alamance, Alleghany, Ashe, Caswell, Davidson, Davie, Forsyth, Guilford, Rockingham, Randolph, Stokes, Surry, Watauga, Wilkes, Yadkin



State of North Carolina
Department of Environmental Quality
Division of Water Resources

FAST TRACK SEWER SYSTEM EXTENSION APPLICATION
FTA 06-21 & SUPPORTING DOCUMENTATION

Application Number: _____ (to be completed by DWR)

All items must be completed or the application will be returned

I. APPLICANT INFORMATION:

- Applicant's name: NORCRESS WATER AND SEWER DISTRICT (company, municipality, HOA, utility, etc.)
- Applicant type: ☐ Individual ☐ Corporation ☐ General Partnership ☐ Privately-Owned Public Utility
☐ Federal ☒ State/County ☐ Municipal ☐ Other
- Signature authority's name: Toni Stewart per 15A NCAC 02T .0106(b)
Title: Chairwoman
- Applicant's mailing address: 130 Gillespie Street, Suite 214
City: Fayetteville State: NC Zip: 28301-____
- Applicant's contact information:
Phone number: (910) 678-7637 Email Address: ahall@cumberlandcountync.gov

II. PROJECT INFORMATION:

- Project name: Eagles Bluff – Phase 1
- Application/Project status: ☒ Proposed (New Permit) ☐ Existing Permit/Project
If a modification, provide the existing permit number: WQ00____ and issued date: _____,
For modifications, also attach a detailed narrative description as described in Item G of the checklist.
If new construction, but part of a master plan, provide the existing permit number: WQ00____
- County where project is located: Cumberland
- Approximate Coordinates (Decimal Degrees): Latitude: 35.163172° Longitude: -78.726108°
- Parcel ID (if applicable): 0581-14-8347 (or Parcel ID to closest downstream sewer)

III. CONSULTANT INFORMATION:

- Professional Engineer: Kenneth Smith Jr. License Number: 045277
Firm: Larry King & Associates, R.L.S., P.A.
Mailing address: 1333 Morganton Road, Suite 201
City: Fayetteville State: NC Zip: 28305-____
Phone number: (910) 391-5923 Email Address: Smithsiteconsultants@gmail.com

IV. WASTEWATER TREATMENT FACILITY (WWTF) INFORMATION:

- Facility Name: Cross Creek WWTF Permit Number: Permit NC 0023957
Owner Name: Fayetteville PWC

V. RECEIVING DOWNSTREAM SEWER INFORMATION:

- Permit Number(s): WQ
- Downstream (Receiving) Sewer Information: 12 inch ☒ Gravity ☐ Force Main
- System Wide Collection System Permit Number(s) (if applicable): WQCS00353
Owner Name(s): NORCRESS WATER AND SEWER DISTRICT

VI. GENERAL REQUIREMENTS

1. If the Applicant is a Privately-Owned Public Utility, has a Certificate of Public Convenience and Necessity been attached?
☐ Yes ☐ No ☒ N/A

2. If the Applicant is a Developer of lots to be sold, has a [Developer's Operational Agreement \(FORM: DEV\)](#) been attached?
☐ Yes ☐ No ☒ N/A

3. If the Applicant is a Home/Property Owners' Association, has an [HOA/POA Operational Agreement \(FORM: HOA\)](#) and supplementary documentation as required by 15A NCAC 02T.0115(c) been attached?
☐ Yes ☐ No ☒ N/A

4. Origin of wastewater: (check all that apply):

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Residential (Individually Owned) | <input type="checkbox"/> Retail (stores, centers, malls) | <input type="checkbox"/> Car Wash |
| <input type="checkbox"/> Residential (Leased) | <input type="checkbox"/> Retail with food preparation/service | <input type="checkbox"/> Hotel and/or Motels |
| <input type="checkbox"/> School / preschool / day care | <input type="checkbox"/> Medical / dental / veterinary facilities | <input type="checkbox"/> Swimming Pool/Clubhouse |
| <input type="checkbox"/> Food and drink facilities | <input type="checkbox"/> Church | <input type="checkbox"/> Swimming Pool/Filter Backwash |
| <input type="checkbox"/> Businesses / offices / factories | <input type="checkbox"/> Nursing Home | <input type="checkbox"/> Other (Explain in Attachment) |

5. Nature of wastewater : 100 % Domestic _____ % Commercial _____ % Industrial ([See 15A NCAC 02T .0103\(20\)](#))
 If Industrial, is there a Pretreatment Program in effect? ☐ Yes ☐ No

6. Has a flow reduction been approved under [15A NCAC 02T .0114\(f\)](#)? ☐ Yes ☐ No
 ➤ **If yes, provide a copy of flow reduction approval letter with this application**

7. Summarize wastewater generated by project:

Establishment Type (see 02T.0114(f))	Daily Design Flow ^{a,b}	No. of Units	Flow
36 single family residential lots	120 gal/bedroom	3	12,960 GPD
	gal/		GPD
	gal/		GPD
	gal/		GPD
	gal/		GPD
	gal/		GPD
<i>Total</i>			12,960 GPD

a See [15A NCAC 02T .0114\(b\), \(d\), \(e\)\(1\) and \(e\)\(2\)](#) for caveats to wastewater design flow rates (i.e., minimum flow per dwelling; proposed unknown non-residential development uses; public access facilities located near high public use areas; and residential property located south or east of the Atlantic Intracoastal Waterway to be used as vacation rentals as defined in [G.S. 42A-4](#)).

b Per 15A NCAC 02T .0114(c), design flow rates for establishments not identified [in table [15A NCAC 02T.0114](#)] shall be determined using available flow data, water using fixtures, occupancy or operation patterns, and other measured data.

8. Wastewater generated by project: 12,960 GPD (per [15A NCAC 02T .0114](#))
 ➤ Do not include future flows or previously permitted allocations

If permitted flow is zero, please indicate why:

☐ Pump Station/Force Main or Gravity Sewer where flow will be permitted in subsequent permits that connect to this line. Please provide supplementary information indicating the approximate timeframe for permitting upstream sewers with flow.

☐ Flow has already been allocated in Permit Number: _____ Issuance Date: _____

☐ Rehabilitation or replacement of existing sewers with no new flow expected

☐ Other (Explain): _____

VII. GRAVITY SEWER DESIGN CRITERIA (If Applicable) - [02T.0305](#) & [MDC \(Gravity Sewers\)](#):

- Summarize gravity sewer to be permitted:

Size (inches)	Length (feet)	Material
8"	215.4	DIP
8"	1,030.5	PVC
12"	498.4	PVC
12"	257.4	DIP

- Section II & III of the MDC for Permitting of Gravity Sewers contains information related to design criteria
- Section III contains information related to minimum slopes for gravity sewer(s)
- **Oversizing lines to meet minimum slope requirements is not allowed and a violation of the MDC**

VIII. PUMP STATION DESIGN CRITERIA (If Applicable) - [02T.0305](#) & [MDC \(Pump Stations/Force Mains\)](#):

PROVIDE A SEPARATE COPY OF THIS PAGE FOR EACH PUMP STATION INCLUDED IN THIS PROJECT

- Pump station number or name: _____
- Approximate Coordinates (Decimal Degrees): Latitude: ____° Longitude: - ____°
- Total number of pumps at the pump station: _____
- Design flow of the pump station: _____ millions gallons per day (firm capacity)
 - This should reflect the total GPM for the pump station with the largest pump out of service.
- Operational point(s) per pump(s): _____ gallons per minute (GPM) at _____ feet total dynamic head (TDH)
- Summarize the force main to be permitted (for this Pump Station):

Size (inches)	Length (feet)	Material

If any portion of the force main is less than 4-inches in diameter, please identify the method of solids reduction per MDCPSFM Section 2.01C.1.b. ☐ Grinder Pump ☐ Mechanical Bar Screen ☐ Other (please specify) _____

- Power reliability in accordance with [15A NCAC 02T.0305\(h\)\(1\)](#):

☐ Standby power source or ☐ Standby pump

- Must have automatic activation and telemetry - [15A NCAC 02T.0305\(h\)\(1\)\(B\)](#):
- Required for all pump stations with an average daily flow greater than or equal to 15,000 gallons per day
- **Must be permanent to facility** and may not be portable

Or if the pump station has an average daily flow less than 15,000 gallons per day [15A NCAC 02T.0305\(h\)\(1\)\(C\)](#):

☐ Portable power source with manual activation, quick-connection receptacle and telemetry -

or

☐ Portable pumping unit with plugged emergency pump connection and telemetry:

- Include documentation that the portable source is owned or contracted by the applicant and is compatible with the station.
- If the portable power source or pump is dedicated to multiple pump stations, an evaluation of all the pump stations' storage capacities and the rotation schedule of the portable power source or pump, including travel timeframes, shall be provided as part of this permit application in the case of a multiple station power outage.

IX. SETBACKS & SEPARATIONS – (02B .0200 & 15A NCAC 02T .0305(f)):

1. Does the project comply with all separations/alternatives found in [15A NCAC 02T .0305\(f\) & \(g\)](#)? ☒ Yes ☐ No

15A NCAC 02T.0305(f) contains minimum separations that shall be provided for sewer systems:

Setback Parameter*	Separation Required
Storm sewers and other utilities not listed below (vertical)	18 inches
² Water mains (vertical - water over sewer preferred, including in benched trenches)	18 inches
² Water mains (horizontal)	10 feet
Reclaimed water lines (vertical - reclaimed over sewer)	18 inches
Reclaimed water lines (horizontal - reclaimed over sewer)	2 feet
**Any private or public water supply source, including any wells, WS-I waters of Class I or Class II impounded reservoirs used as a source of drinking water, and associated wetlands.	100 feet
**Waters classified WS (except WS-I or WS-V), B, SA, ORW, HQW, or SB from normal high water (or tide elevation) and wetlands associated with these waters (see item IX.2)	50 feet
**Any other stream, lake, impoundment, or ground water lowering and surface drainage ditches, as well as wetlands associated with these waters or classified as WL.	10 feet
Any building foundation (horizontal)	5 feet
Any basement (horizontal)	10 feet
Top slope of embankment or cuts of 2 feet or more vertical height	10 feet
Drainage systems and interceptor drains	5 feet
Any swimming pools	10 feet
Final earth grade (vertical)	36 inches

➤ If noncompliance with [02T.0305\(f\) or \(g\)](#), see Section X.1 of this application

* [15A NCAC 02T.0305\(g\)](#) contains alternatives where separations in [02T.0305\(f\)](#) cannot be achieved. Please check “yes” above if these alternatives are used and provide narrative information to explain.

**Stream classifications can be identified using the Division’s [NC Surface Water Classifications webpage](#)

2. Does this project comply with the minimum separation requirements for water mains? ☒ Yes ☐ No ☐ N/A
 ➤ If no, please refer to 15A NCAC 18C.0906(f) for documentation requirements and submit a separate document, signed/sealed by an NC licensed PE, verifying the criteria outlined in that Rule.
3. Does the project comply with separation requirements for wetlands? ☒ Yes ☐ No ☐ N/A
 ➤ Please provide supplementary information identifying the areas of non-conformance.
 ➤ See the Division’s [draft separation requirements](#) for situations where separation cannot be met.
 ➤ No variance is required if the alternative design criteria specified is utilized in design and construction.
4. Is the project located in a river basin subject to any State buffer rules? ☐ Yes Basin name: _____ ☒ No
 If yes, does the project comply with setbacks found in the river basin rules per [15A NCAC 02B .0200?](#) ☐ Yes ☐ No
 ➤ This includes Trout Buffered Streams per [15A NCAC 2B.0202](#)
5. Does the project require coverage/authorization under a 404 Nationwide/individual permits or 401 Water Quality Certifications? ☐ Yes ☒ No
 ➤ Please provide the permit number/permitting status in the cover letter if coverage/authorization is required.
6. Does project comply with [15A NCAC 02T.0105\(c\)\(6\)](#) (additional permits/certifications)? ☒ Yes ☐ No
 Per [15A NCAC 02T.0105\(c\)\(6\)](#), directly related environmental permits or certification applications must be being prepared, have been applied for, or have been obtained. Issuance of this permit is contingent on issuance of dependent permits (erosion and sedimentation control plans, stormwater management plans, etc.).
7. Does this project include any sewer collection lines that are deemed “high-priority?” ☐ Yes ☒ No
 Per [15A NCAC 02T.0402](#), “high-priority sewer” means any aerial sewer, sewer contacting surface waters, siphon, or sewers positioned parallel to streambanks that are subject to erosion that undermines or deteriorates the sewer.
Siphons and sewers suspended through interference/conflict boxes require a variance approval.
 ➤ If yes, include an attachment with details for each line, including type (aerial line, size, material, and location).

High priority lines shall be inspected by the permittee or its representative at least once every six-months and inspections documented per 15A NCAC 02T.0403(a)(5) or the permittee’s individual System-Wide Collection permit.

X. CERTIFICATIONS:

1. Does the submitted system comply with [15A NCAC 02T](#), the [Minimum Design Criteria for the Permitting of Pump Stations and Force Mains \(latest version\)](#), and the [Gravity Sewer Minimum Design Criteria \(latest version\)](#) as applicable?

☒ Yes ☐ No

If no, for projects requiring a single variance, complete and submit the Variance/Alternative Design Request application (VADC 10-14) and supporting documents for review to the Central Office. **Approval of the request will be issued concurrently with the approval of the permit, and projects requiring a variance approval may be subject to longer review times. For projects requiring two or more variances or where the variance is determined by the Division to be a significant portion of the project, the full technical review is required.**

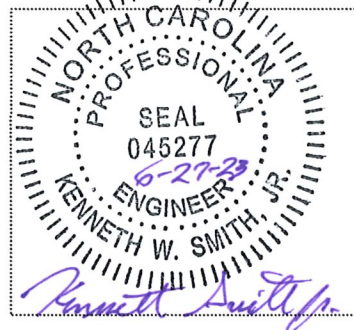
2. Professional Engineer's Certification:

I, Kenneth W. Smith, Jr., attest that this application for Eagles Bluff – Phase 1
(Professional Engineer's name from Application Item III.1.) (Project Name from Application Item II.1)

has been reviewed by me and is accurate, complete and consistent with the information supplied in the plans, specifications, engineering calculations, and all other supporting documentation to the best of my knowledge. I further attest that to the best of my knowledge the proposed design has been prepared in accordance with the applicable regulations, [Minimum Design Criteria for Gravity Sewers \(latest version\)](#), and the [Minimum Design Criteria for the Fast-Track Permitting of Pump Stations and Force Mains \(latest version\)](#). Although other professionals may have developed certain portions of this submittal package, inclusion of these materials under my signature and seal signifies that I have reviewed this material and have judged it to be consistent with the proposed design.

NOTE – In accordance with General Statutes 143-215.6A and 143-215.6B, any person who knowingly makes any false statement, representation, or certification in any application package shall be guilty of a Class 2 misdemeanor, which may include a fine not to exceed \$10,000, as well as civil penalties up to \$25,000 per violation. Misrepresentation of the application information, including failure to disclose any design non-compliance with the applicable Rules and design criteria, may subject the North Carolina-licensed Professional Engineer to referral to the licensing board. (21 NCAG 56.0701)

North Carolina Professional Engineer's seal, signature, and date:



3. Applicant's Certification per 15A NCAC 02T .0106(b):

I, TONI STEWART, attest that this application for EAGLES BLUFF - PHASE I
(Signature Authority Name from Application Item I.3.) (Project Name from Application Item II.1)

attest that this application has been reviewed by me and is accurate and complete to the best of my knowledge. I understand that if all required parts of this application are not completed and that if all required supporting documentation and attachments are not included, this application package is subject to being returned as incomplete. I understand that any discharge of wastewater from this non-discharge system to surface waters or the land will result in an immediate enforcement action that may include civil penalties, injunctive relief, and/or criminal prosecution. I will make no claim against the Division of Water Resources should a condition of this permit be violated. I also understand that if all required parts of this application package are not completed and that if all required supporting information and attachments are not included, this application package will be returned to me as incomplete.

NOTE – In accordance with General Statutes [143-215.6A](#) and [143-215.6B](#), any person who knowingly makes any false statement, representation, or certification in any application package shall be guilty of a Class 2 misdemeanor, which may include a fine not to exceed \$10,000 as well as civil penalties up to \$25,000 per violation.

Signature: _____

Date: _____



State of North Carolina
Department of Environmental Quality
Division of Water Resources

Flow Tracking for Sewer Extension Applications
(FTSE 10-18)

Entity Requesting Allocation: NORCRESS Water and Sewer District

Project Name for which flow is being requested: Eagles Bluff Subdivision - Phase 1

More than one FTSE may be required for a single project if the owner of the WWTP is not responsible for all pump stations along the route of the proposed wastewater flow.

I. Complete this section only if you are the owner of the wastewater treatment plant.

- a. WWTP Facility Name: Cross Creek Wastewater Treatment Facility
 b. WWTP Facility Permit #: NPDES NC0023957

All flows are in MGD

c. WWTP facility's permitted flow	<u>25.0</u>
d. Estimated obligated flow not yet tributary to the WWTP	<u>0.2387</u>
e. WWTP facility's actual avg. flow	<u>11.6</u>
f. Total flow for this specific request	<u>0.0130</u>
g. Total actual and obligated flows to the facility	<u>11.8517</u>
h. Percent of permitted flow used	<u>47.41</u>

II. Complete this section for each pump station you are responsible for along the route of this proposed wastewater flow.

List pump stations located between the project connection point and the WWTP:

Pump Station (Name or Number)	Pump Station Permit No.	Firm Capacity, * MGD	(A) Design Average Daily Flow** (Firm / pf), MGD	(B) Approx. Current Avg. Daily Flow, MGD	(C) Obligated, Not Yet Tributary Daily Flow, MGD	(D)=(B+C) Total Current Flow Plus Obligated Flow	(E)=(A-D) Available Capacity***
#89-Wade #1	WQCS00353	0.2880	0.1152	0.0294	0.0130	0.0424	0.0728
#90-Wade #2	WQCS00353	1.0080	0.4032	0.1270	0.0130	0.1400	0.2632
#88-Eastover#2	WQ0022859	2.5920	1.0368	0.2232	0.0130	0.2362	0.8006
#33-Cargill	15821	2.4480	0.9792	0.7807	0.0130	0.7937	0.1855

* The Firm Capacity (design flow) of any pump station is defined as the maximum pumped flow that can be achieved with the largest pump taken out of service.

** Design Average Daily Flow is the firm capacity of the pump station divided by a peaking factor (pf) not less than 2.5, per Section 2.02(A)(4)(c) of the Minimum Design Criteria.

*** A Planning Assessment Addendum shall be attached for each pump station located between the project connection point and the WWTP where the Available Capacity is ≤ 0 .

Downstream Facility Name (Sewer): NORCRESS Collection System

Downstream Permit Number: WQCS00353

III. Certification Statement:

I John P. Allen, P.E. certify to the best of my knowledge that the addition of the volume of wastewater to be permitted in this project has been evaluated along the route to the receiving wastewater treatment facility and that the flow from this project is not anticipated to cause any capacity related sanitary sewer overflows or overburden any downstream pump station en route to the receiving treatment plant under normal circumstances, given the implementation of the planned improvements identified in the planning assessment where applicable. This analysis has been performed in accordance with local established policies and procedures using the best available data. This certification applies to those items listed above in Sections I and II plus all attached planning assessment addendums for which I am the responsible party. Signature of this form certifies that the receiving collection system or treatment works has adequate capacity to transport and treat the proposed new wastewater.


Signing Official Signature

6/29/2023
Date

Interim Manager, PWC Water Resources Engineering
Title of Signing Official

EVELYN O. SHAW, COMMISSIONER
RONNA ROWE GARRETT, COMMISSIONER
DONALD L. PORTER, COMMISSIONER
CHRISTOPHER DAVIS, COMMISSIONER
MARION J NOLAND, INTERIM CEO/GENERAL MANAGER



FAYETTEVILLE PUBLIC WORKS COMMISSION
955 OLD WILMINGTON RD
P.O. BOX 1089
FAYETTEVILLE, NORTH CAROLINA 28302-1089
TELEPHONE (910) 483-1401
WWW.FAYPWC.COM

June 28, 2023

TO WHOM IT MAY CONCERN:

**SUBJECT: Flow Acceptance
Eagles Bluff Subdivision – Phase 1**

This letter is in response to the inquiry regarding the availability of sanitary sewer to serve the proposed Eagles Bluff Subdivision – Phase 1 project located on the parcel with PIN 0581-14-8347 bordered by Clara Street, Main Street, and Wade-Stedman Road in the Town of Wade, Cumberland County NC.

NORCRESS Water and Sewer District has submitted a permit application for a public sewer main extension on this project. The Public Works Commission does have an operation and maintenance agreement with NORCRESS Water and Sewer District, and has agreed to accept and treat sanitary sewer from this project in the NORCRESS Collection System (WQCS00353). The sewage and wastewater collected by this system shall be treated in the Fayetteville Public Works Commission Cross Creek Wastewater Treatment Facility (NPDES Permit No. NC0023957) prior to being discharged into the receiving stream. The projected flow for this development is 12,960 gallons per day. The Cross Creek Wastewater Treatment Facility has the capacity to accept the flow generated by this project.

If you have any questions concerning this letter, please call me at (910) 223-4734.

Very truly yours,
FAYETTEVILLE PUBLIC WORKS COMMISSION

John P. Allen, P.E.
Interim Manager
Water Resources Engineering

cc: Project File