
AGENDA
CUMBERLAND COUNTY BOARD OF COMMISSIONERS
JUDGE E. MAURICE BRASWELL
CUMBERLAND COUNTY COURTHOUSE- ROOM 118
APRIL 7, 2025
9:00 AM

INVOCATION - Commissioner Glenn Adams

PLEDGE OF ALLEGIANCE -

1. APPROVAL OF AGENDA

2. RECOGNITION

A. Cumberland County "Ignite" Internship Program

3. CONSENT AGENDA

A. Approval of a Proclamation Recognizing April 2025 as County Government Month in Cumberland County

B. Approval of a Proclamation Recognizing Animal Care and Control Appreciation Week in Cumberland County

C. Approval of a Proclamation Recognizing National Alcohol Awareness Month in Cumberland County

D. Approval of Formal Bid Award for Access Management and Camera Upgrade for Ann Street Landfill

E. Approval of The Health Departments' Delinquent Accounts to Be Turned Over for Bad Debt Write Off

F. Approval of Amended and Restated Water Services Agreement for Gray's Creek Phase 1

4. ITEMS OF BUSINESS

A. Approval of a Proclamation Recognizing April 2025 as Child Abuse Prevention Month in Cumberland County

5. NOMINATIONS ** There are No Nominations for This Meeting**

6. APPOINTMENTS ** There are No Appointments for This Meeting**

RECESS THE BOARD OF COMMISSIONERS' MEETING

CONVENE THE GRAY'S CREEK WATER AND SEWER DISTRICT GOVERNING BOARD MEETING

7. GRAY'S CREEK WATER AND SEWER DISTRICT GOVERNING BOARD AND CONSENT AGENDA

- A. Approval of Amended and Restated Water Services Agreement for Gray's Creek Phase 1

ADJOURN THE GRAY'S CREEK WATER AND SEWER DISTRICT GOVERNING BOARD MEETING

RECONVENE THE BOARD OF COMMISSIONERS MEETING

8. CLOSED SESSION

- A. Attorney Client Matter Pursuant to NCGS 143-318.11(a)(3)

ADJOURN

REGULAR BOARD MEETINGS:

April 21, 2025 (Monday) 6:45 P.M.

May 5, 2025 (Monday) 9:00 A.M.

WATCH THE MEETING LIVE

THIS MEETING WILL BE STREAMED LIVE THROUGH THE COUNTY'S WEBSITE, www.cumberlandcountync.gov. LOOK FOR THE LINK AT THE TOP OF THE HOMEPAGE.

THE MEETING WILL ALSO BE BROADCAST LIVE ON CCNC-TV SPECTRUM CHANNEL 5



AMERICAN RESCUE PLAN

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF APRIL 7, 2025

TO: BOARD OF COUNTY COMMISSIONERS

FROM: TYE VAUGHT, CHIEF OF STAFF

DATE: 3/21/2025

SUBJECT: CUMBERLAND COUNTY "IGNITE" INTERNSHIP PROGRAM

BACKGROUND

On January 31, 2025, Cumberland County launched the 3rd cohort of the “Ignite” Internship Program. The cohort consists of college students (undergraduate and graduate), and recent college graduates. The County received a total of 44 applications and ultimately onboarded 10 interns.

The following interns were placed in various county departments to complete their ten-week Spring internship:

- Meghrik Ajazajian, Public Health
- Jashon Alford, Community Development
- Daiesha Bobbitt, Employee Wellness
- Meaghan Fournier, Human Resources
- Latasha Gaskins, ITS
- Sequoia Montague, Justice Services
- Hannah Mulbah, Solid Waste Management
- Pamela Ngadjeu, ITS
- Pierre Salomon, Human Resources
- Juan-Carlos Tosic, Human Resources

RECOMMENDATION / PROPOSED ACTION

Recognize the 3rd cohort of the Cumberland County “Ignite” Internship Program.



CLERK TO THE BOARD OF COMMISSIONERS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF APRIL 7, 2025

TO: BOARD OF COUNTY COMMISSIONERS

FROM: ANDREA TEBBE, CLERK TO THE BOARD

DATE: 3/4/2025

**SUBJECT: APPROVAL OF A PROCLAMATION RECOGNIZING APRIL 2025 AS
COUNTY GOVERNMENT MONTH IN CUMBERLAND COUNTY**

BACKGROUND

A request was received for a proclamation recognizing April 2025 as County Government Month in Cumberland County.

RECOMMENDATION / PROPOSED ACTION

Respectfully request approval of the proclamation.

ATTACHMENTS:

Description

County Government Month Proclamation

Type

Backup Material

COUNTY OF CUMBERLAND

NORTH CAROLINA

Proclamation

WHEREAS, the nation's 3,069 counties serving more than 330 million Americans provide essential services to create healthy, safe, and vibrant communities; AND

WHEREAS, counties fulfill a vast range of responsibilities and deliver services that touch nearly every aspect of our residents' lives; AND

WHEREAS, Cumberland County and all counties take pride in our responsibility to protect and enhance the health, well-being, and safety of our residents in efficient and cost-effective ways; AND

WHEREAS NACo is highlighting the theme Counties Matter. The 2025 theme highlights county services and programs provided by our County and tell the story of how governments across the country fit into the intergovernmental system; AND

WHEREAS, each year since 1991 the National Association of Counties has encouraged counties across the country to elevate awareness of county responsibilities, programs, and services; AND

*WHEREAS, Cumberland County has a diverse and dedicated workforce of more than 2,000 employees who strive every day to provide quality services to our citizens while being fiscally responsible and who serve Cumberland County's citizens and their fellow employees with **PRIDE** – Professionalism, Respect, Integrity with Accountability, Diversity and Excellent Customer Service.*

NOW, THEREFORE, We, the Board of Commissioners of Cumberland County, North Carolina, do hereby proclaim April 2025, to be National County Government Month in Cumberland County and encourage all county officials, employees, schools, and residents to participate in county government celebration activities.

Approved the 7th day of April 2025.

*Kirk J. deViere, Chairman
Cumberland County Board of Commissioners*



CLERK TO THE BOARD OF COMMISSIONERS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF APRIL 7, 2025

TO: BOARD OF COUNTY COMMISSIONERS

FROM: ANDREA TEBBE, CLERK TO THE BOARD

DATE: 3/28/2025

**SUBJECT: APPROVAL OF A PROCLAMATION RECOGNIZING ANIMAL CARE
AND CONTROL APPRECIATION WEEK IN CUMBERLAND COUNTY**

BACKGROUND

A request was received for a proclamation recognizing Animal Care and Control Appreciation Week in Cumberland County.

Staff will attend the Board of Commissioners Meeting for presentation of the proclamation following approval.

RECOMMENDATION / PROPOSED ACTION

Respectfully request approval of the proclamation.

ATTACHMENTS:

Description

National Animal Care and Control Week Proclamation

Type

Backup Material

Proclamation

WHEREAS, the National Animal Care and Control Association has designated the week of April each year as National Animal Care and Control Appreciation Week; and

WHEREAS, various federal, state, and local government officials throughout the country take this time to recognize, thank, and commend all Animal Services Staff for the dedicated service they provide to the citizens and public safety agencies across the nation; and

WHEREAS, every day, Animal Services Officers and Shelter Staff put themselves in potentially dangerous situations to protect the health and welfare of the public and many types of animals; and

WHEREAS, in 2024 Cumberland County Animal Services staff answered nearly 48,000 phone calls, responded to over 20,000 requests for field service, safely impounded over 7,500 animals, successfully placed over 5,100 animals in new homes, returned nearly 600 animals safely to their owners, and daily cared for an average of over 200 animals in the Animal Services Center; and

WHEREAS, Cumberland County recognizes the Animal Services Staff for the many dedicated hours of service they perform in protecting and caring for the animals and citizens of our community, and for fulfilling Cumberland County Animal Services' commitment to providing the highest and most efficient level of customer service; and

NOW THEREFORE, We, the Board of Commissioners of Cumberland County, does hereby recognize April 13-19, 2025 as National Animal Care and Control Appreciation Week in Cumberland County and encourages all citizens to join us in expressing their sincere appreciation for the service and dedication of our Animal Services employees.

Adopted this 7th day of April 2025.

*Kirk J. deViere, Chairman
Cumberland County Board of Commissioners*



CLERK TO THE BOARD OF COMMISSIONERS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF APRIL 7, 2025

TO: BOARD OF COUNTY COMMISSIONERS

FROM: ANDREA TEBBE, CLERK TO THE BOARD

DATE: 3/27/2025

**SUBJECT: APPROVAL OF A PROCLAMATION RECOGNIZING NATIONAL
ALCOHOL AWARENESS MONTH IN CUMBERLAND COUNTY**

BACKGROUND

A request was received for a proclamation recognizing National Alcohol Awareness Month in Cumberland County.

RECOMMENDATION / PROPOSED ACTION

Respectfully request approval of the proclamation.

ATTACHMENTS:

Description	Type
National Alcohol Awareness Month Proclamation	Backup Material

Proclamation

WHEREAS, April is Alcohol Awareness Month, an opportunity to update your knowledge about alcohol use disorder (AUD) and the adverse impact of alcohol misuse on health and society. Alcohol-related problems continue to take a heavy toll on individuals, families, and communities; and

WHEREAS, nearly 24 percent of all fatalities in the state involved drunk driving, and in particular, 18 percent of deaths of individuals under age 21 involved drunk drivers who were under the legal drinking age; and

WHEREAS, each April since 1987, the National Council on Alcohol and Drug Dependence, Inc. (NCADD) has sponsored Alcohol Awareness Month to increase public awareness and understanding, reduce stigma and encourage local communities to focus on alcoholism and alcohol-related issues; and

WHEREAS, alcohol is a factor in the deaths of thousands of young people every year in the United States. The most recent National Institute on Alcohol Abuse and Alcoholism statistics estimate that this includes 1,519 college students ages 18 to 24 and 2,586 persons the same age who die from alcohol-related unintentional injuries, including motor vehicle crashes; and

WHEREAS, according to the 2023 NSDUH, 15.1% of adults ages 18 to 25 met the criteria for past-year alcohol use disorder (AUD); According to the 2023 National Survey on Drug Use and Health (NSDUH), 48.6 million people ages 65+ (83.9% in this age group) reported that they drank alcohol in their lifetime; and

WHEREAS, through the exercise of good judgment, personal responsibility, and a commitment to never drive while under the influence of alcohol, every community member can play a role in the fight against impaired driving due to drunk, drugged, and distracted driving.

NOW, THEREFORE, We the Cumberland County Board of Commissioners, recognize the seriousness of alcohol and drug use disorders as well as the power of prevention and treatment do hereby proclaim April 2025 as National Alcohol Awareness Month in Cumberland County, North Carolina.

Adopted this 7th day of April 2025.

*Kirk J. deViere, Chairman
Cumberland County Board of Commissioners*



FINANCE DEPARTMENT

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF APRIL 7, 2025

TO: BOARD OF COUNTY COMMISSIONERS

FROM: JESSICA HULLENDER, FINANCE ACCOUNTANT MANAGER

DATE: 3/18/2025

**SUBJECT: APPROVAL OF FORMAL BID AWARD FOR ACCESS MANAGEMENT
AND CAMERA UPGRADE FOR ANN STREET LANDFILL**

BACKGROUND

Funds in the amount of \$275,000 were originally appropriated in the fiscal year 2024 Capital Investment Fund budget, then re-appropriated to the fiscal year 2025 Capital Investment Fund budget for upgrades to the security systems in the County facilities. One of the County facilities requiring upgrades to the security system is the Ann Street Landfill. Ann Street Landfill requires upgrades to the access control system and video security system.

A formal bid request was issued and three bids were received. Two bids were marked non-responsive. S-Core Technologies of NC LLC was the lowest responsive, responsible bidder.

RECOMMENDATION / PROPOSED ACTION

Finance and Purchasing staff recommend that the Board of Commissioners award IFB (Invitation for Bid) Number 25-30-ENG to S-Core Technologies of NC LLC based on lowest responsive, responsible bidder standard of award.

ATTACHMENTS:

Description	Type
Bid Award Request Form	Backup Material
Bid Tab Summary	Backup Material



Formal Bid Award Request (Eff. 6/21/21)

Please Note: This form is required for purchases in the formal bid range and must be completed and signed prior to any final bid award recommendations being submitted to a committee or the Board. Please complete all applicable fields.

Date: 3/12/2025 Department: Engineering

IFB #25-30-ENG

Bid Description (If additional space necessary, may attach a separate sheet): Ann Street Landfill Access Management & Camera Upgrade

Amount of Bid Award (or estimated contract amount): \$104,897.98 (If \$90,000 – \$99,999.99 County Manager approval required only, if \$100,000 or more County Manager and Board approval required.)

Budgeted Amount for Project: \$273,210 ^{Fy25} **Original Budget (Y/N):** No **or Budget Revision #:** 250085

Budget Line: Org. 1074185 **Object Code:** 577050 **Project Code:** 24110

Department Bid Award Recommendation (specify the vendor): S-Core Technologies of NC, LLC.

Justification (ex. lowest bidder) (Please note that if the lowest bidder is not selected a detailed explanation must be provided. If additional space necessary, may attach a separate sheet.):

S-Core Technologies of NC LLC, was the lowest, responsive, responsible bidder.

Has this project (not the bid award, just the actual project or funds for the project) **been reviewed by a committee?** No **If so, which committee?** _____ **on what date?** _____ (Please note committee review/approval is not necessarily required for all bids, if a department is not certain if committee review is necessary, they should consult their Assistant County Manager.)

Recommended By: _____
Department Head

Reviewed and Accepted By:

This is within the County Manager's authority to approve range ☐

This is within the BOCC authority to approve range, requesting County Manager approval to send forward to BOCC ☒

Rebecca M. Kance Date: 3/12/2025
Finance Director (Please see question below)

Should this bid be submitted to the Agenda Session?
Yes _____ No ☒

Justina Hillman Date: 3/12/25
County Purchasing Manager

Clara M Date: 3/14/25
County Manager (Please see question below)

Is the County Manager approval contingent upon any committee review/approvals of bid award? If so, please specify the required committee:

FOR PURCHASING ONLY BELOW THIS LINE

SAM CHECKED ☒
DOA CHECKED ☒
IRAN CHECKED ☒



Bid Tab Summary
IFB #25-30-ENG Ann Street Landfill Access Management and Video Security System

Bid Due Date: March 11, 2025 at 2:00 PM

Vendor Name	Date Received	Time Received	Proposal Sealed	Flash Drive	Attachment B	Attachment C	Bid Amount	Comments
Security 101 - Raleigh	3/10/25	4:00 PM	✓	✓	✓	✓	\$170,966.97	Non-Responsive Marked confidential
S-Core Technologies of NC LLC	3/11/25	9:00 AM	✓	✓	✓	✓	\$104,897.98	Lowest responsive, responsible bidder
i-Tech Security and Network Solutions	3/11/25	11:42 AM	X	✓	✓	✓	\$98,787.61	Non-Responsive Not sealed and marked confidential



DEPARTMENT OF PUBLIC HEALTH

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF APRIL 7, 2025

TO: BOARD OF COUNTY COMMISSIONERS

FROM: DR. JENNIFER GREEN, PUBLIC HEALTH DIRECTOR

DATE: 4/7/2025

**SUBJECT: APPROVAL OF THE HEALTH DEPARTMENTS' DELINQUENT
ACCOUNTS TO BE TURNED OVER FOR BAD DEBT WRITE OFF**

BACKGROUND

At the Board of Health meeting on March 18, 2025, the Board approved writing off a total of \$8,222.00 as bad debts. The bad debt accounts with balances of \$50.00 or higher, are sent to the North Carolina Debt Setoff Clearinghouse. This program can attach to a debtors' North Carolina State Income Tax Refund and/or Education lottery winnings for payment of bad debts. The accounts with balances under \$50.00 will continue to be worked for collection through our in-house collection efforts. The accounts listed are 90 days or older as of 2/27/2025. This write-off of bad debts is compliant with the Cumberland County Health Department's Debt Collection Policy 02-03 to write off bad debts every quarter.

RECOMMENDATION / PROPOSED ACTION

Approve write-off of \$8,222.00 bad debts to the North Carolina Debt Set-Off Program.

ATTACHMENTS:

Description

Bad Debt Write Off # 75

Type

Backup Material

**CUMBERLAND COUNTY DEPARTMENT
OF PUBLIC HEALTH
DELINQUENT ACCOUNTS TO BE TURNED OVER FOR COLLECTION
BAD DEBT WRITE OFF #75
February 27, 2025**

PROGRAM	AMOUNT
ADULT HEALTH	\$184.00
CHILD HEALTH CLINIC	\$2,128.00
FAMILY PLANNING CLINIC	\$4,595.08
IMMUNIZATIONS	\$303.00
MATERNAL HEALTH CLINIC	\$1,011.92
TOTAL	\$8,222.00

All bad debt accounts with balances of \$50.00 or higher, will be sent to the North Carolina Debt Set-Off Program, which can attach a debtor's State Income Tax Refund for payment of bad debts.

The above accounts are 90 days old or older as of 11/1/2024



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

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF APRIL 7, 2025

TO: BOARD OF COUNTY COMMISSIONERS

FROM: SALLY SHUTT, ASSISTANT COUNTY MANAGER

DATE: 3/31/2025

**SUBJECT: APPROVAL OF AMENDED AND RESTATED WATER SERVICES
AGREEMENT FOR GRAY'S CREEK PHASE 1**

BACKGROUND

The Board of Commissioners and the Gray's Creek Water and Sewer District approved a Water Services Agreement for the Gray's Creek Phase 1 project during the March 17, 2025 meeting. The agreement included in the agenda packet on March 17, 2025, included an error, which is being corrected with the attached Amended and Restated Water Services Agreement.

Both parties had agreed to delete the following terms under VIII. Term and Termination:

(b) If the Purchaser breaches any material provision of this Agreement, the Seller may terminate the Agreement, as specified above. If the Seller wishes to terminate this Agreement, without cause, the Seller must provide seventy-two (72) months' prior, written notice to the Purchaser.

(c) If the Purchaser wishes to terminate this Agreement, with or without cause, the Purchaser must provide the Seller twelve (12) months' prior written notice.

The Amended and Restated Water Services Agreement is attached for your approval.

RECOMMENDATION / PROPOSED ACTION

Approve the Amended and Restated Water Services Agreement.

ATTACHMENTS:

Description

Amended Water Services Agreement

Type

Backup Material

STATE OF NORTH CAROLINA

**AMENDED AND RESTATED
INTERGOVERNMENTAL**

COUNTY OF CUMBERLAND

WATER SERVICES AGREEMENT

This AGREEMENT is made and entered into as of the Effective Date (as hereinafter defined) by and between the **FAYETTEVILLE PUBLIC WORKS COMMISSION**, a North Carolina public authority (hereinafter called the "Seller"), and the **GRAY'S CREEK WATER AND SEWER DISTRICT** (hereinafter called the "Purchaser"), a county water and sewer district created pursuant to Article 6, Chapter 162A, of the North Carolina General Statutes. The Seller and the Purchaser are each a "party" to this Agreement, and the two of them are the "parties" to this Agreement.

WITNESSETH:

WHEREAS, the Purchaser owns and operates a municipal public water system and wishes to purchase water for that system from the Seller in order to sell water to the Purchaser's customers, and

WHEREAS, to purchase water from the Seller, the Purchaser anticipates making a significant investment in order to extend its current water system to a connection point on the Seller's system based on the Seller's construction of a water main serving the Gray's Creek and Alderman Road Elementary Schools at which the Purchaser can take delivery of the Seller's water; and

WHEREAS, the Seller owns and operates a water system with excess capacity, and the Seller wishes to sell excess water to the Purchaser; and

WHEREAS, the parties wish to enter into a mutually advantageous agreement, whereby the Purchaser will purchase from the Seller up to ninety-eight thousandths (0.098) million gallons per day (hereinafter, "Maximum Daily Usage") of water in any twenty-four (24) hour period for Gray's Creek Phase 1 (as defined and depicted on Exhibit A attached hereto), and will pay for it at Seller's wholesale water rates in effect at the time the water is delivered to Purchaser ("Wholesale Rate"), as periodically updated; and

WHEREAS, the Purchaser and Seller entered into that Intergovernmental Water Services Agreement dated March 17, 2025, (the "Initial Agreement") and the parties wish to amend and restate the Initial Agreement:

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions contained herein, and accruing to the benefit of each of the respective parties hereto, the Purchaser and the Seller agree as follows:

I. Representations and Warranties.

(a) Purchaser is a political subdivision of the State of North Carolina and a *municipal*

corporation governed by the Cumberland County Board of Commissioners acting as the governing board of the district. Those signing on behalf of the Purchaser have been authorized by the Gray's Creek Water and Sewer District Governing Board to execute this Agreement on behalf of the Purchaser.

(b) The Seller is a public authority as defined by the General Assembly of North Carolina in Session Law 2016-47, House Bill 392, organized under the laws of the State of North Carolina and a commission of the City of Fayetteville, North Carolina. Those signing on behalf of the Seller have been duly authorized to execute this Agreement on behalf of the Seller.

(c) The Purchaser is unaware of any judgment, order, court ruling, contract, or instrument that would be violated by the Purchaser entering into this Agreement. The Purchaser is unaware of any pending or threatened litigation against it that would impair its ability to perform its duties and obligations under this Agreement.

II. Quantity of Water Purchased.

(a) The Purchaser may use and purchase monthly up to three (3.0) million gallons of the Seller's water (hereinafter, the "Maximum Monthly Usage Rate"). The Purchaser shall not be permitted to purchase more than ninety-eight thousandths (0.098) million gallons per day in any twenty-four (24) hour period (hereinafter the "Maximum Daily Usage Rate"). Regardless of how much water the Purchaser actually uses, the Purchaser will be charged at a monthly minimum of one (1.0) million gallons each month once the Purchaser commences using the Seller's water as outlined in VIII(a), as well as the Reserve Capacity Fee outlined in Subsection IX(c), below.

(b) The meter at the Metered Point (as defined below) will be read approximately every thirty (30) days by the Seller for the purpose of calculating its invoices to the Purchaser.

(c) The Purchaser may read the meter as often as it chooses for purposes of setting a flow rate. The Purchaser may adjust its consumption in order to achieve its desired daily flow rate as long as the Purchaser complies with the Maximum Monthly Usage Rate and the Maximum Daily Usage Rate imposed by Section II(a) of this Agreement. The Purchaser shall provide a forecast of future water demand and shall update said forecast on an annual basis, said date to be established by the Seller.

(d) Notwithstanding any other provision of this Agreement to the contrary, the Purchaser shall be temporarily relieved of its obligation to purchase water, and the Seller may not supply the Purchaser water, during any time period when the Seller lacks sufficient water to meet all of its customers' demands because of circumstances beyond the Seller's control (which may include, but are not limited to, a drought, but which do not include the Seller agreeing to serve new customers when it lacks sufficient water capacity to fully serve both those new customers and the Purchaser). In that event, the Seller's Water Conservation Plan shall apply.

III. Point of Delivery.

The Seller agrees to deliver water to the Purchaser at a metered point ("Metered Point"), *which the Seller will install*, and which will be located at the intersection of School Road and Alderman Road in the vicinity of Gray's Creek Elementary School at the terminus of the proposed line extension installed by Seller located at or near said location, to be determined by engineering and topographic necessity, subject to the mutual agreement of the parties. The Purchaser may connect one or more water lines to the Metered Point, on the Gray's Creek Water and Sewer District - Phase 1 side of the Metered Point. The meter that the Seller installs at the Metered Point will be sized appropriately to match the size of the lines to which the meter will be connected (as the Seller shall, in its sole and absolute discretion, determine) and the Purchaser will reimburse the Seller, within 30 (thirty) calendar days of the date of invoice, for the cost of the meter. Any replacement or other meters subsequently needed at the Metered Point shall, similarly, be installed by the Seller and paid for by the Purchaser. The Seller shall routinely inspect, test, and maintain meter regardless of any suspected irregularities, and the Seller shall repair or replace meter if suspected irregularities are confirmed. The Purchaser hereby acknowledges and agrees that the Seller shall have the right to enter the Purchaser's property, with prior written notice, when practical, to the Purchaser, to install, inspect, test, maintain, repair, and replace the meters at the Metered Point.

Purchaser shall promptly report to the Seller any malfunction or other problem that the Purchaser detects in a meter at the Metered Point.

Purchaser at its sole cost and expense reserves the right to monitor chlorine residual and pressures at the point of delivery.

IV. Water Lines and Backflow Prevention Devices.

(a) The Parties acknowledge that the Seller's proposed water main line will extend from the terminal point of the Seller's existing water main on Highway 87 south to the vicinity of the Alderman Road and School Road intersection. Subject to force majeure, the Seller agrees that construction of this water main will be completed by September 2026 at Seller's sole cost and expense. The Purchaser expressly agrees that it will, at its sole cost and expense, design and extend a water line exclusively within the public right-of-way and/or utility easements, to the point of delivery. The Purchaser will submit the design and specifications for said line to the Seller for review. The design, construction or installation, inspection, maintenance, repair, and reconstruction of water lines and devices downstream of the Metered Point, and the cost thereof, shall be the Purchaser's sole responsibility, and the Seller shall have no obligation or responsibility in connection therewith. All said water lines and devices downstream of the Metered Point, within Cumberland County, shall be and remain the Purchaser's property.

(b) The Purchaser shall install an appropriate backflow prevention device at the Metered Point, and that device must satisfy the Seller's standard specifications for lines and devices connected to the Seller's water system, and all applicable state and local laws, rules, and regulations. The Purchaser shall inspect and test its backflow prevention device or cause it to be inspected, at least once per year but in any event as required by applicable ordinance(s). The

Seller also reserves the right to reasonably inspect and test the backflow prevention device at its own expense but shall have no obligation to do so. The testing results and records shall be shared between the parties. In the event that a backflow prevention device malfunctions or fails, the Purchaser will recalibrate, repair, or replace the backflow prevention device and upgrade the vault in which it sits, as the Seller directs and in accord with the Seller 's standards and specifications in effect at the time. The Seller shall not be responsible for the inspection, testing, upkeep, maintenance, recalibration, repair, or replacement of any backflow prevention device that the Purchaser installs at the Metered Point or the upgrade of any vault, and the costs of any inspections, tests, upkeep, maintenance, recalibrations, repairs, replacements and/or upgrades. of those devices shall be paid for by the Purchaser. The Seller shall not be required to provide to the Purchaser more than the Maximum Daily Usage Rate or the Maximum Monthly Usage Rate, as provided for in Subsections II(a) and Section V of this Agreement, even if the Purchaser experiences water loss due to repair problems associated with the backflow prevention device at the Metered Point.

(c) The Purchaser, on its side of the Metered Point, shall be permitted to connect whatever types and sizes of water lines and related equipment to the Metered Point, as are necessary or appropriate to enable the Purchaser to purchase the amount of water provided for by this Agreement, except that those lines and equipment must satisfy the Seller's standard specifications for lines and devices connected to the Seller 's water system.

(d) The Purchaser shall submit the design and specifications for any supply and other water lines and other equipment it proposes to construct and /or connect to the Seller's water system, to the Seller, for review and approval within 20 business days of submission prior to construction, but the Seller shall not, thereby, become responsible for any deficiencies in the lines or other equipment's design or construction. The Seller hereby disclaims responsibility for, and the Purchaser hereby acknowledges that, the Seller shall not be responsible for, any claims or liabilities in connection therewith.

(e) Except as otherwise expressly specified herein, nothing in this Agreement shall grant to the Seller any ownership rights in the Purchaser's water lines or equipment downstream of the Metered Point or in any other water lines or equipment of the Purchaser.

V. Flow Rate.

In the event of a fire or other emergency that causes the Purchaser to need a larger volume of water, the Maximum Daily Usage Rate may be exceeded, subject to the Seller's ability to furnish additional water. In such case, the Purchaser shall give the Seller written notice of the fire or other emergency as soon as possible after such event, but, in no case later than 24 hours after such event.

VI. Compliance with Applicable Law.

(a) Each party's performance under this Agreement is subject to such federal, state, and local

laws and regulations as may be applicable, and the Seller and the Purchaser will collaborate in obtaining any necessary permits or certificates as may be required to comply with those legal requirements. If, after the date of this Agreement's execution, any changes occur in applicable federal, state, or local laws or regulations, the provisions of this Agreement will be deemed automatically amended to comply therewith, without the need for any action on the part of either party, provided that, if any such change materially and adversely impacts the right of a party hereunder, said party may terminate the Agreement by giving the other party 12 (twelve) months' prior written notice.

(b) The Purchaser agrees to operate all portions of the water system that it owns or controls, downstream from the Metered Point, in compliance with all applicable federal, state, and local laws and regulations.

VII. Records.

Each party agrees to keep and maintain records related to its performance under this Agreement, and in accordance with applicable state and local laws and regulations and agrees that any such records which are public records may be examined and copied by the other party or its representatives during regular business hours.

VIII. Term and Termination.

(a) This Agreement shall begin on the date that it has been signed by both parties (the "Effective Date"). The term of the Agreement will be ten (10) years from the Effective Date (hereinafter "Term"). The Term may be extended by two (2) consecutive periods of ten (10) years each (hereinafter an "Extension Period"). The Term will be automatically extended by each Extension Period unless either party provides notice pursuant to the terms of this Agreement, to the other in writing, six (6) months prior to the end of the Term then currently in effect of its intent not to extend the then current Term. The Purchaser agrees that it will commence using the Seller's water within three (3) years of the Effective Date or, if the Seller's water line is not operational within 3 years, within 12 months of operation of the Seller's water line, after which time, if the Purchaser has not commenced using water, the Agreement will automatically terminate, without further action on the part of either party. If the Seller contends that the Purchaser has breached a material term of this Agreement other than non-payment of an invoice, the remedy for which is addressed in Subsection IX(b), below, and failure to submit a request and plan to the Seller to increase capacity, the remedy for which is addressed in Subsection II(a), above, the Seller shall provide written notice to the Purchaser detailing the breach, and the Purchaser shall have thirty (30) calendar days from the date of the notice to cure that breach (or, if the breach cannot reasonably be cured within 30 calendar days, to make reasonable efforts to begin curing the breach and to continue diligently working to cure the breach after the thirty (30) days have ended, until the breach is cured, provided that the breach must, in any event, and nothing else to the contrary withstanding, be cured within ninety (90) calendar days of the date of the Seller's notice to the Purchaser of the breach). If the Purchaser does not cure the breach or make reasonable efforts to begin curing the breach, as applicable, within the specified time periods, or, if the Purchaser does not, thereafter, continue to diligently pursue a remedy of the

breach, all as the Seller, in its sole and absolute discretion, shall determine, the Seller may either terminate this Agreement, with thirty (30) calendar days' prior, written notice, or suspend this Agreement for as long as the breach remains uncured, as the Seller, again, in its sole and absolute discretion, shall determine. If this Agreement is suspended, the Purchaser may, at any time before the Seller provides written notice of termination, per Subsection IX(c), below, reinstate this Agreement upon curing the breach, at which time the Agreement shall be deemed reinstated.

IX. Payment.

(a) The Seller will read the meter at the Metered Point and submit an invoice to the Purchaser for each billing cycle, based on the total amount of water purchased by the Purchaser, as shown by the meter. If the meter fails to function properly during a particular billing cycle, so that an accurate reading of water usage for that billing cycle cannot be made, the Purchaser shall pay, as its total charge for that billing cycle, the average of the total charges per billing cycle that it paid for the three prior billing cycles for which accurate meter readings are available, unless the estimation is adjusted by mutual consent.

(b) The Purchaser shall pay the Seller for water at the Wholesale Rate within the timeframe indicated therein. The Purchaser shall be subject to all collection procedures, penalties, and remedies for non-payment, including suspension and termination of service. In the event Purchaser's purchase of water under this Agreement in any month exceeds three (3) million gallons, the cost to the Purchaser for the overage shall be two and a half (2½) times the then current Wholesale Rate.

(c) Upon connection to the point of delivery, Purchaser will be obligated to pay the then current fees and charges as set forth in Seller's applicable rate schedules, as well as an additional "Reserve Capacity Fee" for the initial three million (3,000,000) gallon per month of capacity. Purchaser shall also be liable for an additional Reserve Capacity Fee in three million (3,000,000) gallon increments for added capacity, once the Maximum Monthly Usage Rate or initial three million (3,000,000) gallon is exceeded. By way of example, a Reserve Capacity Fee is due and payable upon connection. At any point in time when the monthly usage rate increases to three million and one (3,000,001) gallons, an additional Reserve Capacity Fee will be charged. The next Reserve Capacity Fee will be due and payable once the monthly usage rate increases to six million and one (6,000,001) gallons and so on.

(d) Seller agrees to provide seven days' notice of public hearing prior to revising the rates referenced in this Agreement, in accordance with, N.C.G.S. 160A-314(a1)(1).

X. Event of Default

In addition to the rights of termination provided to Seller in this Agreement, Seller may suspend the furnishing of wholesale water to the Purchaser in the event of a default by the Purchaser. Notwithstanding the foregoing, Seller may immediately suspend the furnishing of wholesale water to the Purchaser to prevent harm to the Purchaser or to Seller's System or due to an Emergency Condition.

An “event of default” under this Agreement includes, but is not limited to, the following:

- a. Failure by the Purchaser to pay when due all of its monetary obligations under this Agreement after the expiration of ten (10) days written notice to the Purchaser;
- b. Fraudulent or unauthorized use or consumption of water from the Seller or use in such manner as to circumvent the Seller’s meter or cause meter error or tampering with the Seller’s equipment;
- c. Subject to Section V above, two (2) or more exceedances by the Purchaser of the Maximum Daily Usage Rate during any thirty (30) day period;
- d. Subject to Section V above, two (2) or more exceedances by the Purchaser of the Monthly Maximum Usage during any continuous six (6) month period for which this Agreement is in full force and effect; and
- e. Any other breach by the Purchaser of this Agreement after the expiration of thirty (30) days written notice to the Purchaser.

Notwithstanding anything to the contrary herein, in the event of a default pursuant to subsections (c) and (d) above, Seller may at its option, install at Purchaser’s expense a governing meter which shall limit the amount of water available to Purchaser.

XI. Water Quality.

The point of sale of the water provided herein shall be at the Metered Point. The Seller warrants only that all water delivered to the Metered Point is in full compliance with all applicable federal, state, and local laws and regulations. The Seller does not warrant or represent that its water is fit for any other purpose. THE SELLER EXPLICITLY EXCLUDES ANY WARRANTY UNDER THE UNIFORM COMMERCIAL CODE INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTY FOR MERCHANTABILITY. THE SELLER FURTHER DISCLAIMS ALL OTHER WARRANTIES UNDER ARTICLE 2 OF CHAPTER 25 OF THE NORTH CAROLINA GENERAL STATUTES, CONSISTENT WITH NCGS §130A-315(G) OF THE NORTH CAROLINA DRINKING WATER ACT. Further, the Seller makes no warranties about, and is not responsible for, any diminution in the quality of the water after it passes through the Metered Point and enters the Purchaser's water system.

XII. Pressure.

The Seller warrants that all water shall be delivered to the Metered Point with a minimum pressure of 70 psi at average daily flow rate or such other minimum as prescribed by applicable law. The Seller makes no warranty about, and is not responsible for, any reduction in the water's pressure once it passes through the Metered Point and enters the Purchaser’s water system.

XIII. Booster Pumps.

In the event the Purchaser installs booster pumps for the lines that the Purchaser directly connects to the Metered Point, the Purchaser shall submit plans and specifications for those pumps to the Seller for the Seller's review and approval. The Purchaser shall not install those pumps without the Seller's prior, written approval, which shall not be unreasonably withheld. Those pumps will meet the Seller's standard specifications for booster pumps connected to the Seller's water system.

XIV. No Resale to Other Water Systems.

Although the Seller acknowledges that the Purchaser is purchasing the Seller's water for resale to the Purchaser's customers, the Purchaser hereby agrees that it shall not furnish or sell such water to other governmental bodies or water systems, or make interbasin transfers of such water, without the Seller's prior written consent. For purposes of this section, "other water systems" shall mean water systems owned and operated by another government body or private entity that resells water to its own customers.

XV. Customers.

Unless otherwise agreed by the parties, the owners and occupiers of any properties that receive their water directly or indirectly from the Purchaser's water system (or for which the Purchaser does or could impose a water availability charge or comparable charge because that customer could receive water from the Purchaser's system but does not do so) will be water customers of the Purchaser and not of the Seller.

XVI. Water Emergencies.

In the event the Seller declares water use restrictions in accordance with its water emergency management policies, the Purchaser agrees, with regard to any water delivery to the Purchaser by the Seller pursuant to this Agreement, to implement water use restrictions equal to those implemented by the Seller within twenty-four (24) hours of notification to the Purchaser by the Seller.

XVII. Indemnifications.

(a) By the Purchaser: To the extent allowed by law, the Purchaser shall release, defend, indemnify, and hold the Seller harmless from and against any and all claims, costs, damages, liabilities, expenses, actions, and causes of action, whatsoever, including, but not limited to, reasonable attorneys' fees, court costs, other expenses of litigation, and incidental, indirect, consequential, special, exemplary, and punitive damages, to the extent arising out of or, in any way, connected with:

i. Under the foregoing Article II (d), the Seller's failure to supply water during any time period when the Seller lacks sufficient water to meet all of its customers' demands because of circumstances beyond the Seller's control (which may include, but are not limited to, a drought,

but which do not include the Seller agreeing to serve new customers when it lacks sufficient water capacity to fully serve both those new customers and the Purchaser).

ii. Under the foregoing Article IV, any acts or omissions of the Purchaser, in (i) the installation, construction, inspection, operation, maintenance, expansion, repair, reconstruction, rehabilitation, relocation, or replacement of that system or appurtenant devices, or any other activity associated with the system, or (i) the Purchaser's inspection of the Seller's meters, or (iii) any defect or flaw in the design, installation, or construction of, or any failure or malfunction of, the Metered Point, meters, backflow prevention devices, booster pumps, supply lines, or other lines or equipment designed, installed/constructed, or provided by the Seller or any of its employees or agents, hereunder, including but not limited to the extension by the Purchaser of the Seller's existing line to the County border, the construction by the Purchaser of any supply lines and associated equipment, and the installation by the Purchaser of any meters or backflow prevention devices.

iii. Under the foregoing Article VI, the Purchaser's failure to so comply with federal, state, and local laws and regulations.

iv. Under the foregoing Article XI, any reduction in water quality once it passes through the Metered Point and enters the Purchaser's water system.

v. Under the foregoing Article XII, any reduction in the pressure of the water once it passes through the Metered Point and enters the Purchaser's water system.

vi. Under the foregoing Article XIII, said booster pumps.

vii. Under the foregoing Article XIV, the re-sale or other provision of water by the Purchaser to any third party.

(b) By the Seller: To the extent allowed by law, the Seller shall release, defend, indemnify, and hold the Purchaser harmless from and against any and all claims, costs, damages, liabilities, expenses, actions, and causes of action, whatsoever, including, but not limited to, reasonable attorneys' fees, court costs, other expenses of litigation, and incidental, indirect, consequential, special, exemplary, and punitive damages, to the extent arising out of or, in any way, connected with:

i. The Seller's failure to operate its water system in compliance with federal, state, and local laws and regulations as to any water supplied and upstream from the Metered Point.

ii. The Seller's failure to provide the Purchaser with a maximum flow rate, under the foregoing Article V.

iii. Any breach of the Seller's warranty resulting in diminution in the quality of the water before it passes through the Metered Point, under the foregoing Article XI.

iv. The Seller's failure to deliver water to the Metered Point with a minimum pressure of 70

psi or such other minimum as prescribed by applicable law, under the foregoing Article XII.

XVIII. Iran Divestment Act.

The Parties certify that they are not on the North Carolina State Treasurer's list of persons engaging in business activities in Iran, prepared pursuant to NCGS §147-86.58; nor will the Parties utilize, on this Agreement, any contractor or subcontractor on such list.

XIX. Divestment from Companies Boycotting Israel.

The Parties certify that they are not on the North Carolina State Treasurer's list of companies engaged in a boycott of Israel, in violation of NCGS 147-86.80 et. seq., and that they will not utilize on this Agreement any contractor or subcontractor on said list.

XVIII E-Verify.

The Applicant will comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Furthermore, if the Applicant utilizes a contractor, the Applicant will require the contractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

XIV Defenses.

The Seller hereby reserves any and all defenses available to it at law or in equity, including, but not limited to, the defenses of governmental immunity, contributory negligence, and employees acting outside the scope of employment.

XX. Chlorine Residuals.

If the Purchaser's water system must be flushed to maintain chlorine residuals therein, the Purchaser shall be solely responsible to flush its water system, in order to maintain chlorine residuals therein, and to pay to the Seller the cost of the water required to flush said system.

XXI. Interlocal Cooperation Statute Requirements.

To the extent any portion of this Agreement is authorized by Article 20, Part I of Chapter 160A of the North Carolina General Statutes, the following provisions will apply:

- (a) No joint agency is established by virtue of this Agreement.
- (b) The Purchaser and the Seller, will be responsible to appoint or employ the personnel necessary to implement their respective obligations, as indicated herein.
- (c) The financing of the undertaking which is the subject of this Agreement, and the

apportionment of costs and revenues, will be as indicated herein.

(d) To the extent any real property is involved in the undertaking, which is the subject of this Agreement, said real property will be held by the party indicated herein (the City of Fayetteville, North Carolina, by and through Fayetteville Public Works Commission, will hold title on behalf of the Seller with respect to any real property with respect to which the Seller is obligated herein).

XXII. Counterparts; Facsimiles and Electronic Signatures.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which combined shall constitute one and the same instrument. Facsimile and/or electronic copies of the parties' signatures shall be valid and treated the same as original signatures.

XXIII. Entire Agreement.

This Agreement constitutes the entire agreement and understanding between the parties concerning the subject matter of this Agreement, and it supersedes all other offers, negotiations, representations, and agreements, either written or oral, concerning that subject matter. Any amendment to this Agreement must be in writing, approved by the governing boards of both parties, and executed by both parties.

XXIV. Governing Law and Forum.

This Agreement shall be governed by the laws of the State of North Carolina without regard to North Carolina's choice of law provisions. The sole and exclusive venue for any action pertaining to this Agreement shall be the Cumberland County Superior Court in Cumberland County, North Carolina.

XXV. Invalidated Provisions Stricken.

If any term of this Agreement is found by a court of competent jurisdiction to be invalid, the invalid term shall be enforced to the greatest extent legally permissible, and the invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

XXVI. Waiver.

If either party waives or excuses any breach of this Agreement by the other party, that shall not be deemed to waive or excuse any later breach of this Agreement by the other party, nor shall it be deemed a waiver of this section of the Agreement.

XXVII. Assignment.

Neither party may assign its rights or obligations under this Agreement, or sub-contract

any part of this Agreement, without written approval from the other party. This Agreement shall be binding on any person or entity acquiring the Seller 's water system, and the Seller shall provide the Purchaser with at least thirty (30) days' advance written notice before conveying the Seller's water system to any person or entity.

XXVIII.No Third-Party Beneficiaries.

The Seller and the Purchaser do not intend for this Agreement to grant any rights to any third parties, and this Agreement shall not be deemed to grant any rights to any third parties.

XXIX. Notices.

All notices, requests, demands and other communications hereunder must be in writing and shall be deemed to have been duly given by hand delivery (with receipt therefor) or by Federal Express or similar courier service, or if mailed by first class, certified or registered mail, return receipt requested, postage and certification or registry fees prepaid, and addressed as follows:

To Seller:

Fayetteville Public Works Commission
955 Old Wilmington Road
Fayetteville, NC 28301
Attn: CEO/General Manager

With copy to:

Fayetteville Public Works Commission
955 Old Wilmington Road
Fayetteville, NC 28301
Attn: General Counsel

To: Purchaser

Gray's Creek Water & Sewer District
117 Dick Street, Suite 507
P.O. Box 1829
Fayetteville, NC 28302-1829

{SIGNATURES PAGES FOLLOW}

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Fayetteville Public Works Commission

By: _____
Timothy Bryant, CEO and General Manager

Date: _____

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act (N.C. Gen. Stat. § 159-1 et seq.).

By: _____
Rhonda Graham, Chief Financial Officer

Approved as to form:

Legal Department

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

By: _____
Kirk deViere, Chairman
Gray's Creek Water and Sewer District
Cumberland County Board of Commissioners

Date: _____

Attest:

Andrea Tebbe
Clerk to the Board

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

By: _____
Robin M. Koonce, CFO/Finance Director

Approved as to form:

County Attorney's Office

EXHIBIT A – Gray’s Creek Phase 1

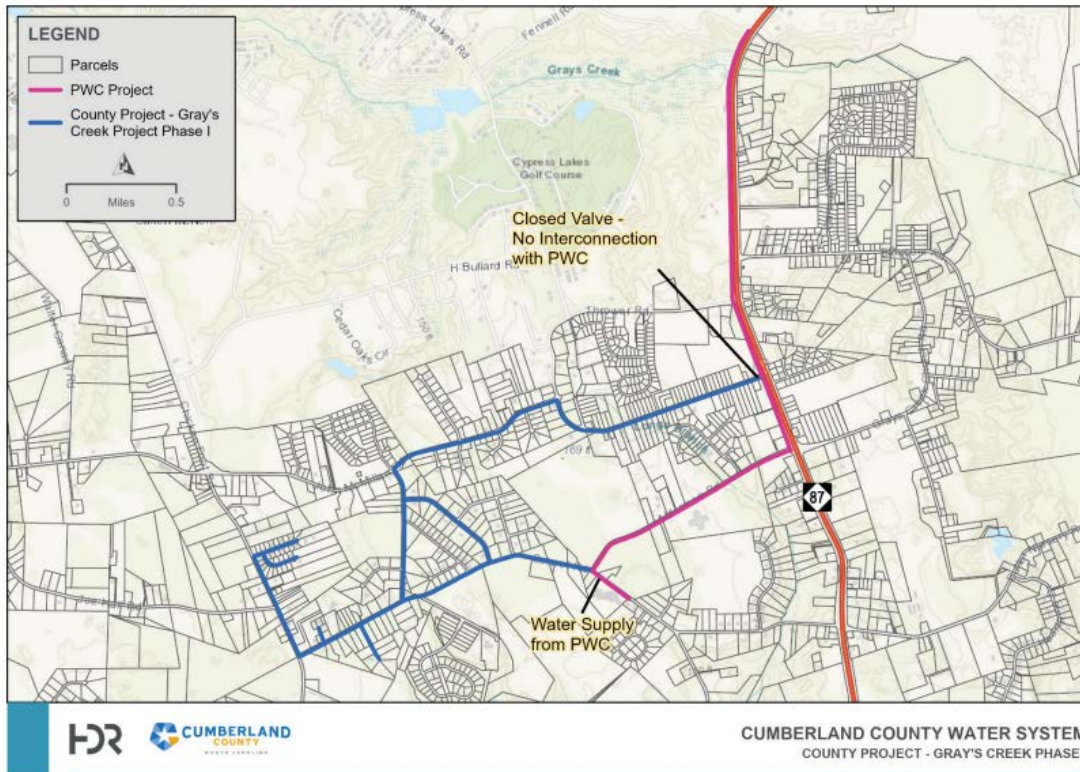


Figure ES-1. Alternative 1(Preferred)

1



CLERK TO THE BOARD OF COMMISSIONERS

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF APRIL 7, 2025

TO: BOARD OF COUNTY COMMISSIONERS

FROM: ANDREA TEBBE, CLERK TO THE BOARD

DATE: 2/12/2025

**SUBJECT: APPROVAL OF A PROCLAMATION RECOGNIZING APRIL 2025 AS
CHILD ABUSE PREVENTION MONTH IN CUMBERLAND COUNTY**

BACKGROUND

A request was received for a proclamation recognizing April 2025 as Child Abuse Prevention Month in Cumberland County and for the proclamation to be presented to the Child Advocacy Center staff at the April 7, 2025 Regular Meeting.

RECOMMENDATION / PROPOSED ACTION

Respectfully request approval of the proclamation and to present the proclamation at the April 7, 2025 Regular Meeting.

ATTACHMENTS:

Description	Type
Child Abuse Prevention	Backup Material

Proclamation

April 2025 Child Abuse Prevention and Awareness Month

WHEREAS, based on national best practice and research, The Child Advocacy Center (CAC) was founded in 1993 by a group of concerned local professionals seeking to coordinate services to child abuse victims and their families; and

WHEREAS, the primary goal of the CAC is to alleviate the trauma children experience once a disclosure of sexual abuse or serious physical abuse occurs; and

WHEREAS, the CAC provides a safe and child-friendly environment where professionals from 19 community agencies come together to interview, investigate and provide support for abused children and their families; and

WHEREAS, the CAC reduces the number of interviews for child victims of abuse by providing specially trained professionals to conduct forensic interviews in a centralized location; and

WHEREAS, the CAC provides continuing education to professionals who serve child abuse victims and child abuse prevention and awareness programs to the entire community; and

WHEREAS, the CAC coordinates Multidisciplinary Team case reviews where professionals from multiple agencies come together to plan the best course of legal and supportive action for the child abuse victim; and

WHEREAS, national research has determined that this type of coordinated approach can help alleviate trauma for children, increase the prosecution rate of perpetrators, and be fiscally beneficial to the community.

Now, Therefore, We, the Cumberland County Board of Commissioners, on behalf of the citizens of Cumberland County, do hereby proclaim April 2025 as **Child Abuse Prevention and Awareness Month** in Cumberland County, N.C. and recognize the Child Advocacy Center and the work of its community partners in creating a safer community for all and protecting our community's children.

Adopted this 7th day of April 2025.

Kirk J. deViere, Chairman
Cumberland County Board of Commissioners



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

MEMORANDUM FOR BOARD OF COMMISSIONERS AGENDA OF APRIL 7, 2025

TO: BOARD OF COUNTY COMMISSIONERS

FROM: SALLY SHUTT, ASSISTANT COUNTY MANAGER

DATE: 3/31/2025

**SUBJECT: APPROVAL OF AMENDED AND RESTATED WATER SERVICES
AGREEMENT FOR GRAY'S CREEK PHASE 1**

BACKGROUND

The Board of Commissioners and the Gray's Creek Water and Sewer District approved a Water Services Agreement for the Gray's Creek Phase 1 project during the March 17, 2025 meeting. The agreement included in the agenda packet on March 17, 2025, included an error, which is being corrected with the attached Amended and Restated Water Services Agreement.

Both parties had agreed to delete the following terms under VIII. Term and Termination:

(b) If the Purchaser breaches any material provision of this Agreement, the Seller may terminate the Agreement, as specified above. If the Seller wishes to terminate this Agreement, without cause, the Seller must provide seventy-two (72) months' prior, written notice to the Purchaser.

(c) If the Purchaser wishes to terminate this Agreement, with or without cause, the Purchaser must provide the Seller twelve (12) months' prior written notice.

The Amended and Restated Water Services Agreement is attached for your approval.

RECOMMENDATION / PROPOSED ACTION

Approve the Amended and Restated Water Services Agreement.

ATTACHMENTS:

Description

Type

STATE OF NORTH CAROLINA

**AMENDED AND RESTATED
INTERGOVERNMENTAL**

COUNTY OF CUMBERLAND

WATER SERVICES AGREEMENT

This AGREEMENT is made and entered into as of the Effective Date (as hereinafter defined) by and between the **FAYETTEVILLE PUBLIC WORKS COMMISSION**, a North Carolina public authority (hereinafter called the "Seller"), and the **GRAY'S CREEK WATER AND SEWER DISTRICT** (hereinafter called the "Purchaser"), a county water and sewer district created pursuant to Article 6, Chapter 162A, of the North Carolina General Statutes. The Seller and the Purchaser are each a "party" to this Agreement, and the two of them are the "parties" to this Agreement.

WITNESSETH:

WHEREAS, the Purchaser owns and operates a municipal public water system and wishes to purchase water for that system from the Seller in order to sell water to the Purchaser's customers, and

WHEREAS, to purchase water from the Seller, the Purchaser anticipates making a significant investment in order to extend its current water system to a connection point on the Seller's system based on the Seller's construction of a water main serving the Gray's Creek and Alderman Road Elementary Schools at which the Purchaser can take delivery of the Seller's water; and

WHEREAS, the Seller owns and operates a water system with excess capacity, and the Seller wishes to sell excess water to the Purchaser; and

WHEREAS, the parties wish to enter into a mutually advantageous agreement, whereby the Purchaser will purchase from the Seller up to ninety-eight thousandths (0.098) million gallons per day (hereinafter, "Maximum Daily Usage") of water in any twenty-four (24) hour period for Gray's Creek Phase 1 (as defined and depicted on Exhibit A attached hereto), and will pay for it at Seller's wholesale water rates in effect at the time the water is delivered to Purchaser ("Wholesale Rate"), as periodically updated; and

WHEREAS, the Purchaser and Seller entered into that Intergovernmental Water Services Agreement dated March 17, 2025, (the "Initial Agreement") and the parties wish to amend and restate the Initial Agreement:

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions contained herein, and accruing to the benefit of each of the respective parties hereto, the Purchaser and the Seller agree as follows:

I. Representations and Warranties.

(a) Purchaser is a political subdivision of the State of North Carolina and a *municipal*

corporation governed by the Cumberland County Board of Commissioners acting as the governing board of the district. Those signing on behalf of the Purchaser have been authorized by the Gray's Creek Water and Sewer District Governing Board to execute this Agreement on behalf of the Purchaser.

(b) The Seller is a public authority as defined by the General Assembly of North Carolina in Session Law 2016-47, House Bill 392, organized under the laws of the State of North Carolina and a commission of the City of Fayetteville, North Carolina. Those signing on behalf of the Seller have been duly authorized to execute this Agreement on behalf of the Seller.

(c) The Purchaser is unaware of any judgment, order, court ruling, contract, or instrument that would be violated by the Purchaser entering into this Agreement. The Purchaser is unaware of any pending or threatened litigation against it that would impair its ability to perform its duties and obligations under this Agreement.

II. Quantity of Water Purchased.

(a) The Purchaser may use and purchase monthly up to three (3.0) million gallons of the Seller's water (hereinafter, the "Maximum Monthly Usage Rate"). The Purchaser shall not be permitted to purchase more than ninety-eight thousandths (0.098) million gallons per day in any twenty-four (24) hour period (hereinafter the "Maximum Daily Usage Rate"). Regardless of how much water the Purchaser actually uses, the Purchaser will be charged at a monthly minimum of one (1.0) million gallons each month once the Purchaser commences using the Seller's water as outlined in VIII(a), as well as the Reserve Capacity Fee outlined in Subsection IX(c), below.

(b) The meter at the Metered Point (as defined below) will be read approximately every thirty (30) days by the Seller for the purpose of calculating its invoices to the Purchaser.

(c) The Purchaser may read the meter as often as it chooses for purposes of setting a flow rate. The Purchaser may adjust its consumption in order to achieve its desired daily flow rate as long as the Purchaser complies with the Maximum Monthly Usage Rate and the Maximum Daily Usage Rate imposed by Section II(a) of this Agreement. The Purchaser shall provide a forecast of future water demand and shall update said forecast on an annual basis, said date to be established by the Seller.

(d) Notwithstanding any other provision of this Agreement to the contrary, the Purchaser shall be temporarily relieved of its obligation to purchase water, and the Seller may not supply the Purchaser water, during any time period when the Seller lacks sufficient water to meet all of its customers' demands because of circumstances beyond the Seller's control (which may include, but are not limited to, a drought, but which do not include the Seller agreeing to serve new customers when it lacks sufficient water capacity to fully serve both those new customers and the Purchaser). In that event, the Seller's Water Conservation Plan shall apply.

III. Point of Delivery.

The Seller agrees to deliver water to the Purchaser at a metered point ("Metered Point"), *which the Seller will install*, and which will be located at the intersection of School Road and Alderman Road in the vicinity of Gray's Creek Elementary School at the terminus of the proposed line extension installed by Seller located at or near said location, to be determined by engineering and topographic necessity, subject to the mutual agreement of the parties. The Purchaser may connect one or more water lines to the Metered Point, on the Gray's Creek Water and Sewer District - Phase 1 side of the Metered Point. The meter that the Seller installs at the Metered Point will be sized appropriately to match the size of the lines to which the meter will be connected (as the Seller shall, in its sole and absolute discretion, determine) and the Purchaser will reimburse the Seller, within 30 (thirty) calendar days of the date of invoice, for the cost of the meter. Any replacement or other meters subsequently needed at the Metered Point shall, similarly, be installed by the Seller and paid for by the Purchaser. The Seller shall routinely inspect, test, and maintain meter regardless of any suspected irregularities, and the Seller shall repair or replace meter if suspected irregularities are confirmed. The Purchaser hereby acknowledges and agrees that the Seller shall have the right to enter the Purchaser's property, with prior written notice, when practical, to the Purchaser, to install, inspect, test, maintain, repair, and replace the meters at the Metered Point.

Purchaser shall promptly report to the Seller any malfunction or other problem that the Purchaser detects in a meter at the Metered Point.

Purchaser at its sole cost and expense reserves the right to monitor chlorine residual and pressures at the point of delivery.

IV. Water Lines and Backflow Prevention Devices.

(a) The Parties acknowledge that the Seller's proposed water main line will extend from the terminal point of the Seller's existing water main on Highway 87 south to the vicinity of the Alderman Road and School Road intersection. Subject to force majeure, the Seller agrees that construction of this water main will be completed by September 2026 at Seller's sole cost and expense. The Purchaser expressly agrees that it will, at its sole cost and expense, design and extend a water line exclusively within the public right-of-way and/or utility easements, to the point of delivery. The Purchaser will submit the design and specifications for said line to the Seller for review. The design, construction or installation, inspection, maintenance, repair, and reconstruction of water lines and devices downstream of the Metered Point, and the cost thereof, shall be the Purchaser's sole responsibility, and the Seller shall have no obligation or responsibility in connection therewith. All said water lines and devices downstream of the Metered Point, within Cumberland County, shall be and remain the Purchaser's property.

(b) The Purchaser shall install an appropriate backflow prevention device at the Metered Point, and that device must satisfy the Seller's standard specifications for lines and devices connected to the Seller's water system, and all applicable state and local laws, rules, and regulations. The Purchaser shall inspect and test its backflow prevention device or cause it to be inspected, at least once per year but in any event as required by applicable ordinance(s). The

Seller also reserves the right to reasonably inspect and test the backflow prevention device at its own expense but shall have no obligation to do so. The testing results and records shall be shared between the parties. In the event that a backflow prevention device malfunctions or fails, the Purchaser will recalibrate, repair, or replace the backflow prevention device and upgrade the vault in which it sits, as the Seller directs and in accord with the Seller's standards and specifications in effect at the time. The Seller shall not be responsible for the inspection, testing, upkeep, maintenance, recalibration, repair, or replacement of any backflow prevention device that the Purchaser installs at the Metered Point or the upgrade of any vault, and the costs of any inspections, tests, upkeep, maintenance, recalibrations, repairs, replacements and/or upgrades of those devices shall be paid for by the Purchaser. The Seller shall not be required to provide to the Purchaser more than the Maximum Daily Usage Rate or the Maximum Monthly Usage Rate, as provided for in Subsections II(a) and Section V of this Agreement, even if the Purchaser experiences water loss due to repair problems associated with the backflow prevention device at the Metered Point.

(c) The Purchaser, on its side of the Metered Point, shall be permitted to connect whatever types and sizes of water lines and related equipment to the Metered Point, as are necessary or appropriate to enable the Purchaser to purchase the amount of water provided for by this Agreement, except that those lines and equipment must satisfy the Seller's standard specifications for lines and devices connected to the Seller's water system.

(d) The Purchaser shall submit the design and specifications for any supply and other water lines and other equipment it proposes to construct and /or connect to the Seller's water system, to the Seller, for review and approval within 20 business days of submission prior to construction, but the Seller shall not, thereby, become responsible for any deficiencies in the lines or other equipment's design or construction. The Seller hereby disclaims responsibility for, and the Purchaser hereby acknowledges that, the Seller shall not be responsible for, any claims or liabilities in connection therewith.

(e) Except as otherwise expressly specified herein, nothing in this Agreement shall grant to the Seller any ownership rights in the Purchaser's water lines or equipment downstream of the Metered Point or in any other water lines or equipment of the Purchaser.

V. Flow Rate.

In the event of a fire or other emergency that causes the Purchaser to need a larger volume of water, the Maximum Daily Usage Rate may be exceeded, subject to the Seller's ability to furnish additional water. In such case, the Purchaser shall give the Seller written notice of the fire or other emergency as soon as possible after such event, but, in no case later than 24 hours after such event.

VI. Compliance with Applicable Law.

(a) Each party's performance under this Agreement is subject to such federal, state, and local

laws and regulations as may be applicable, and the Seller and the Purchaser will collaborate in obtaining any necessary permits or certificates as may be required to comply with those legal requirements. If, after the date of this Agreement's execution, any changes occur in applicable federal, state, or local laws or regulations, the provisions of this Agreement will be deemed automatically amended to comply therewith, without the need for any action on the part of either party, provided that, if any such change materially and adversely impacts the right of a party hereunder, said party may terminate the Agreement by giving the other party 12 (twelve) months' prior written notice.

(b) The Purchaser agrees to operate all portions of the water system that it owns or controls, downstream from the Metered Point, in compliance with all applicable federal, state, and local laws and regulations.

VII. Records.

Each party agrees to keep and maintain records related to its performance under this Agreement, and in accordance with applicable state and local laws and regulations and agrees that any such records which are public records may be examined and copied by the other party or its representatives during regular business hours.

VIII. Term and Termination.

(a) This Agreement shall begin on the date that it has been signed by both parties (the "Effective Date"). The term of the Agreement will be ten (10) years from the Effective Date (hereinafter "Term"). The Term may be extended by two (2) consecutive periods of ten (10) years each (hereinafter an "Extension Period"). The Term will be automatically extended by each Extension Period unless either party provides notice pursuant to the terms of this Agreement, to the other in writing, six (6) months prior to the end of the Term then currently in effect of its intent not to extend the then current Term. The Purchaser agrees that it will commence using the Seller's water within three (3) years of the Effective Date or, if the Seller's water line is not operational within 3 years, within 12 months of operation of the Seller's water line, after which time, if the Purchaser has not commenced using water, the Agreement will automatically terminate, without further action on the part of either party. If the Seller contends that the Purchaser has breached a material term of this Agreement other than non-payment of an invoice, the remedy for which is addressed in Subsection IX(b), below, and failure to submit a request and plan to the Seller to increase capacity, the remedy for which is addressed in Subsection II(a), above, the Seller shall provide written notice to the Purchaser detailing the breach, and the Purchaser shall have thirty (30) calendar days from the date of the notice to cure that breach (or, if the breach cannot reasonably be cured within 30 calendar days, to make reasonable efforts to begin curing the breach and to continue diligently working to cure the breach after the thirty (30) days have ended, until the breach is cured, provided that the breach must, in any event, and nothing else to the contrary withstanding, be cured within ninety (90) calendar days of the date of the Seller's notice to the Purchaser of the breach). If the Purchaser does not cure the breach or make reasonable efforts to begin curing the breach, as applicable, within the specified time periods, or, if the Purchaser does not, thereafter, continue to diligently pursue a remedy of the

breach, all as the Seller, in its sole and absolute discretion, shall determine, the Seller may either terminate this Agreement, with thirty (30) calendar days' prior, written notice, or suspend this Agreement for as long as the breach remains uncured, as the Seller, again, in its sole and absolute discretion, shall determine. If this Agreement is suspended, the Purchaser may, at any time before the Seller provides written notice of termination, per Subsection IX(c), below, reinstate this Agreement upon curing the breach, at which time the Agreement shall be deemed reinstated.

IX. Payment.

(a) The Seller will read the meter at the Metered Point and submit an invoice to the Purchaser for each billing cycle, based on the total amount of water purchased by the Purchaser, as shown by the meter. If the meter fails to function properly during a particular billing cycle, so that an accurate reading of water usage for that billing cycle cannot be made, the Purchaser shall pay, as its total charge for that billing cycle, the average of the total charges per billing cycle that it paid for the three prior billing cycles for which accurate meter readings are available, unless the estimation is adjusted by mutual consent.

(b) The Purchaser shall pay the Seller for water at the Wholesale Rate within the timeframe indicated therein. The Purchaser shall be subject to all collection procedures, penalties, and remedies for non-payment, including suspension and termination of service. In the event Purchaser's purchase of water under this Agreement in any month exceeds three (3) million gallons, the cost to the Purchaser for the overage shall be two and a half (2½) times the then current Wholesale Rate.

(c) Upon connection to the point of delivery, Purchaser will be obligated to pay the then current fees and charges as set forth in Seller's applicable rate schedules, as well as an additional "Reserve Capacity Fee" for the initial three million (3,000,000) gallon per month of capacity. Purchaser shall also be liable for an additional Reserve Capacity Fee in three million (3,000,000) gallon increments for added capacity, once the Maximum Monthly Usage Rate or initial three million (3,000,000) gallon is exceeded. By way of example, a Reserve Capacity Fee is due and payable upon connection. At any point in time when the monthly usage rate increases to three million and one (3,000,001) gallons, an additional Reserve Capacity Fee will be charged. The next Reserve Capacity Fee will be due and payable once the monthly usage rate increases to six million and one (6,000,001) gallons and so on.

(d) Seller agrees to provide seven days' notice of public hearing prior to revising the rates referenced in this Agreement, in accordance with, N.C.G.S. 160A-314(a1)(1).

X. Event of Default

In addition to the rights of termination provided to Seller in this Agreement, Seller may suspend the furnishing of wholesale water to the Purchaser in the event of a default by the Purchaser. Notwithstanding the foregoing, Seller may immediately suspend the furnishing of wholesale water to the Purchaser to prevent harm to the Purchaser or to Seller's System or due to an Emergency Condition.

An “event of default” under this Agreement includes, but is not limited to, the following:

- a. Failure by the Purchaser to pay when due all of its monetary obligations under this Agreement after the expiration of ten (10) days written notice to the Purchaser;
- b. Fraudulent or unauthorized use or consumption of water from the Seller or use in such manner as to circumvent the Seller’s meter or cause meter error or tampering with the Seller’s equipment;
- c. Subject to Section V above, two (2) or more exceedances by the Purchaser of the Maximum Daily Usage Rate during any thirty (30) day period;
- d. Subject to Section V above, two (2) or more exceedances by the Purchaser of the Monthly Maximum Usage during any continuous six (6) month period for which this Agreement is in full force and effect; and
- e. Any other breach by the Purchaser of this Agreement after the expiration of thirty (30) days written notice to the Purchaser.

Notwithstanding anything to the contrary herein, in the event of a default pursuant to subsections (c) and (d) above, Seller may at its option, install at Purchaser’s expense a governing meter which shall limit the amount of water available to Purchaser.

XI. Water Quality.

The point of sale of the water provided herein shall be at the Metered Point. The Seller warrants only that all water delivered to the Metered Point is in full compliance with all applicable federal, state, and local laws and regulations. The Seller does not warrant or represent that its water is fit for any other purpose. THE SELLER EXPLICITLY EXCLUDES ANY WARRANTY UNDER THE UNIFORM COMMERCIAL CODE INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTY FOR MERCHANTABILITY. THE SELLER FURTHER DISCLAIMS ALL OTHER WARRANTIES UNDER ARTICLE 2 OF CHAPTER 25 OF THE NORTH CAROLINA GENERAL STATUTES, CONSISTENT WITH NCGS §130A-315(G) OF THE NORTH CAROLINA DRINKING WATER ACT. Further, the Seller makes no warranties about, and is not responsible for, any diminution in the quality of the water after it passes through the Metered Point and enters the Purchaser's water system.

XII. Pressure.

The Seller warrants that all water shall be delivered to the Metered Point with a minimum pressure of 70 psi at average daily flow rate or such other minimum as prescribed by applicable law. The Seller makes no warranty about, and is not responsible for, any reduction in the water's pressure once it passes through the Metered Point and enters the Purchaser’s water system.

XIII. Booster Pumps.

In the event the Purchaser installs booster pumps for the lines that the Purchaser directly connects to the Metered Point, the Purchaser shall submit plans and specifications for those pumps to the Seller for the Seller's review and approval. The Purchaser shall not install those pumps without the Seller's prior, written approval, which shall not be unreasonably withheld. Those pumps will meet the Seller's standard specifications for booster pumps connected to the Seller's water system.

XIV. No Resale to Other Water Systems.

Although the Seller acknowledges that the Purchaser is purchasing the Seller's water for resale to the Purchaser's customers, the Purchaser hereby agrees that it shall not furnish or sell such water to other governmental bodies or water systems, or make interbasin transfers of such water, without the Seller's prior written consent. For purposes of this section, "other water systems" shall mean water systems owned and operated by another government body or private entity that resells water to its own customers.

XV. Customers.

Unless otherwise agreed by the parties, the owners and occupiers of any properties that receive their water directly or indirectly from the Purchaser's water system (or for which the Purchaser does or could impose a water availability charge or comparable charge because that customer could receive water from the Purchaser's system but does not do so) will be water customers of the Purchaser and not of the Seller.

XVI. Water Emergencies.

In the event the Seller declares water use restrictions in accordance with its water emergency management policies, the Purchaser agrees, with regard to any water delivery to the Purchaser by the Seller pursuant to this Agreement, to implement water use restrictions equal to those implemented by the Seller within twenty-four (24) hours of notification to the Purchaser by the Seller.

XVII. Indemnifications.

(a) By the Purchaser: To the extent allowed by law, the Purchaser shall release, defend, indemnify, and hold the Seller harmless from and against any and all claims, costs, damages, liabilities, expenses, actions, and causes of action, whatsoever, including, but not limited to, reasonable attorneys' fees, court costs, other expenses of litigation, and incidental, indirect, consequential, special, exemplary, and punitive damages, to the extent arising out of or, in any way, connected with:

i. Under the foregoing Article II (d), the Seller's failure to supply water during any time period when the Seller lacks sufficient water to meet all of its customers' demands because of circumstances beyond the Seller's control (which may include, but are not limited to, a drought,

but which do not include the Seller agreeing to serve new customers when it lacks sufficient water capacity to fully serve both those new customers and the Purchaser).

ii. Under the foregoing Article IV, any acts or omissions of the Purchaser, in (i) the installation, construction, inspection, operation, maintenance, expansion, repair, reconstruction, rehabilitation, relocation, or replacement of that system or appurtenant devices, or any other activity associated with the system, or (i) the Purchaser's inspection of the Seller's meters, or (iii) any defect or flaw in the design, installation, or construction of, or any failure or malfunction of, the Metered Point, meters, backflow prevention devices, booster pumps, supply lines, or other lines or equipment designed, installed/constructed, or provided by the Seller or any of its employees or agents, hereunder, including but not limited to the extension by the Purchaser of the Seller's existing line to the County border, the construction by the Purchaser of any supply lines and associated equipment, and the installation by the Purchaser of any meters or backflow prevention devices.

iii. Under the foregoing Article VI, the Purchaser's failure to so comply with federal, state, and local laws and regulations.

iv. Under the foregoing Article XI, any reduction in water quality once it passes through the Metered Point and enters the Purchaser's water system.

v. Under the foregoing Article XII, any reduction in the pressure of the water once it passes through the Metered Point and enters the Purchaser's water system.

vi. Under the foregoing Article XIII, said booster pumps.

vii. Under the foregoing Article XIV, the re-sale or other provision of water by the Purchaser to any third party.

(b) By the Seller: To the extent allowed by law, the Seller shall release, defend, indemnify, and hold the Purchaser harmless from and against any and all claims, costs, damages, liabilities, expenses, actions, and causes of action, whatsoever, including, but not limited to, reasonable attorneys' fees, court costs, other expenses of litigation, and incidental, indirect, consequential, special, exemplary, and punitive damages, to the extent arising out of or, in any way, connected with:

i. The Seller's failure to operate its water system in compliance with federal, state, and local laws and regulations as to any water supplied and upstream from the Metered Point.

ii. The Seller's failure to provide the Purchaser with a maximum flow rate, under the foregoing Article V.

iii. Any breach of the Seller's warranty resulting in diminution in the quality of the water before it passes through the Metered Point, under the foregoing Article XI.

iv. The Seller's failure to deliver water to the Metered Point with a minimum pressure of 70

psi or such other minimum as prescribed by applicable law, under the foregoing Article XII.

XVIII. Iran Divestment Act.

The Parties certify that they are not on the North Carolina State Treasurer's list of persons engaging in business activities in Iran, prepared pursuant to NCGS §147-86.58; nor will the Parties utilize, on this Agreement, any contractor or subcontractor on such list.

XIX. Divestment from Companies Boycotting Israel.

The Parties certify that they are not on the North Carolina State Treasurer's list of companies engaged in a boycott of Israel, in violation of NCGS 147-86.80 et. seq., and that they will not utilize on this Agreement any contractor or subcontractor on said list.

XVIII E-Verify.

The Applicant will comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Furthermore, if the Applicant utilizes a contractor, the Applicant will require the contractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

XIV Defenses.

The Seller hereby reserves any and all defenses available to it at law or in equity, including, but not limited to, the defenses of governmental immunity, contributory negligence, and employees acting outside the scope of employment.

XX. Chlorine Residuals.

If the Purchaser's water system must be flushed to maintain chlorine residuals therein, the Purchaser shall be solely responsible to flush its water system, in order to maintain chlorine residuals therein, and to pay to the Seller the cost of the water required to flush said system.

XXI. Interlocal Cooperation Statute Requirements.

To the extent any portion of this Agreement is authorized by Article 20, Part I of Chapter 160A of the North Carolina General Statutes, the following provisions will apply:

- (a) No joint agency is established by virtue of this Agreement.
- (b) The Purchaser and the Seller, will be responsible to appoint or employ the personnel necessary to implement their respective obligations, as indicated herein.
- (c) The financing of the undertaking which is the subject of this Agreement, and the

apportionment of costs and revenues, will be as indicated herein.

(d) To the extent any real property is involved in the undertaking, which is the subject of this Agreement, said real property will be held by the party indicated herein (the City of Fayetteville, North Carolina, by and through Fayetteville Public Works Commission, will hold title on behalf of the Seller with respect to any real property with respect to which the Seller is obligated herein).

XXII. Counterparts; Facsimiles and Electronic Signatures.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which combined shall constitute one and the same instrument. Facsimile and/or electronic copies of the parties' signatures shall be valid and treated the same as original signatures.

XXIII. Entire Agreement.

This Agreement constitutes the entire agreement and understanding between the parties concerning the subject matter of this Agreement, and it supersedes all other offers, negotiations, representations, and agreements, either written or oral, concerning that subject matter. Any amendment to this Agreement must be in writing, approved by the governing boards of both parties, and executed by both parties.

XXIV. Governing Law and Forum.

This Agreement shall be governed by the laws of the State of North Carolina without regard to North Carolina's choice of law provisions. The sole and exclusive venue for any action pertaining to this Agreement shall be the Cumberland County Superior Court in Cumberland County, North Carolina.

XXV. Invalidated Provisions Stricken.

If any term of this Agreement is found by a court of competent jurisdiction to be invalid, the invalid term shall be enforced to the greatest extent legally permissible, and the invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

XXVI. Waiver.

If either party waives or excuses any breach of this Agreement by the other party, that shall not be deemed to waive or excuse any later breach of this Agreement by the other party, nor shall it be deemed a waiver of this section of the Agreement.

XXVII. Assignment.

Neither party may assign its rights or obligations under this Agreement, or sub-contract

any part of this Agreement, without written approval from the other party. This Agreement shall be binding on any person or entity acquiring the Seller 's water system, and the Seller shall provide the Purchaser with at least thirty (30) days' advance written notice before conveying the Seller's water system to any person or entity.

XXVIII.No Third-Party Beneficiaries.

The Seller and the Purchaser do not intend for this Agreement to grant any rights to any third parties, and this Agreement shall not be deemed to grant any rights to any third parties.

XXIX. Notices.

All notices, requests, demands and other communications hereunder must be in writing and shall be deemed to have been duly given by hand delivery (with receipt therefor) or by Federal Express or similar courier service, or if mailed by first class, certified or registered mail, return receipt requested, postage and certification or registry fees prepaid, and addressed as follows:

To Seller:

Fayetteville Public Works Commission
955 Old Wilmington Road
Fayetteville, NC 28301
Attn: CEO/General Manager

With copy to:

Fayetteville Public Works Commission
955 Old Wilmington Road
Fayetteville, NC 28301
Attn: General Counsel

To: Purchaser

Gray's Creek Water & Sewer District
117 Dick Street, Suite 507
P.O. Box 1829
Fayetteville, NC 28302-1829

{SIGNATURES PAGES FOLLOW}

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Fayetteville Public Works Commission

By: _____
Timothy Bryant, CEO and General Manager

Date: _____

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act (N.C. Gen. Stat. § 159-1 et seq.).

By: _____
Rhonda Graham, Chief Financial Officer

Approved as to form:

Legal Department

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

By: _____
Kirk deViere, Chairman
Gray's Creek Water and Sewer District
Cumberland County Board of Commissioners

Date: _____

Attest:

Andrea Tebbe
Clerk to the Board

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

By: _____
Robin M. Koonce, CFO/Finance Director

Approved as to form:

County Attorney's Office

EXHIBIT A – Gray’s Creek Phase 1

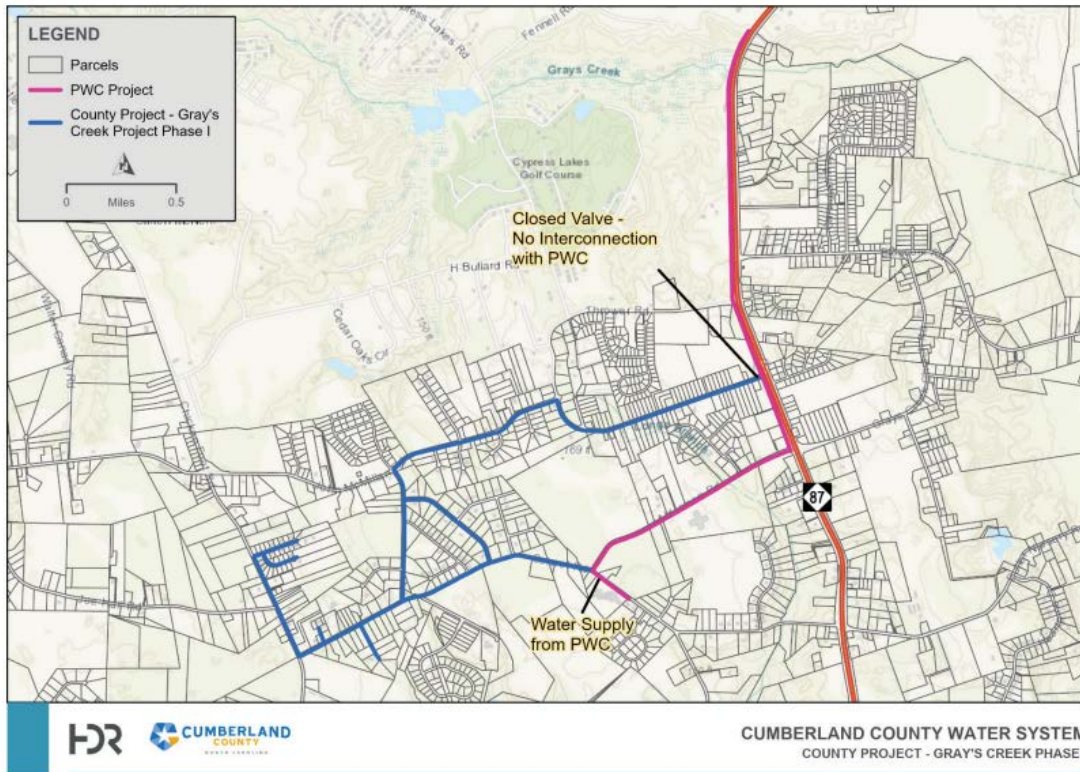


Figure ES-1. Alternative 1(Preferred)

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