

Regular Session, March 16, 2015, 7:00 p.m.
Catawba County Board of Commissioners

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The Catawba County Board of Commissioners met in regular session on Monday, March 16, 2015, at 7:00 p.m. in the Robert E. Hibbitts Meeting Room of the 1924 Courthouse, 30 North College Avenue, Newton, North Carolina.

Present were Chair Randy Isenhower, Vice-Chair Barbara G. Beatty and Commissioners Katherine W. Barnes, Sherry E. Butler and Dan A. Hunsucker.

Also present were County Manager J. Thomas Lundy, Assistant County Managers Dewey Harris and Mary Furtado, County Attorney Debra Bechtel, Assistant County Attorney Jodi Stewart and County Clerk Barbara Morris.

1. Chair Randy Isenhower called the meeting to order at 7:00 p.m. and noted a quorum was present.
2. Chair Isenhower led the Pledge of Allegiance to the Flag.
3. Commissioner Dan Hunsucker offered the invocation.
4. Commissioner Hunsucker made a motion to approve the minutes from the Board's Special Meeting, Regular Meeting and Closed Session of February 2, 2015. The motion carried unanimously.
5. Recognition of Special Guests: Chair Isenhower welcomed everyone present and thanked them for their interest in their government.
6. Public Comments for Items Not on the Agenda: None.
7. Presentations:
Commissioner Hunsucker joined Reverend Robert Silber of Eastern Catawba Cooperative Christian Ministries, Barbara Rush of the Greater Hickory Cooperative Christian Ministry and Amy McCauley, Public Health Community Outreach Manager, at the podium and presented a proclamation declaring March as Give Healthy and National Nutrition Month in Catawba County. The proclamation urged citizens to donate nutritious and healthy foods to local food pantries and soup kitchens in the hope of achieving optimum health for today and tomorrow.
8. Public Hearing:
Planner Chris Timberlake came forward and requested the Board hold a public hearing to receive citizen comments and approve an application to rezone approximately 37.63 acres from R-40 Residential to R-80-CD Conditional District, specifically for a solar farm. The R-40 Residential district requires a minimum lot size of 40,000 square feet (one acre per dwelling), and is considered a low density "general use" district. Predominant uses in this district include single-family homes and agriculture. The R-80 Residential district requires a minimum lot size of 80,000 square feet (two acres per dwelling) and is considered a low density "general use" district. Predominant uses in this district include single-family homes and agriculture, in a more rural surrounding. In contrast, conditional district zoning is based on a "specific use" such as the proposed solar farm. It is bound by a set of regulations and negotiated conditions specific to the request accompanied by a site plan. In this case, if approved, the base zoning district would be R-80-CD.

The property is located at 2951 Highway 16 South. It was zoned R-40 Residential and is undeveloped and partially used for agricultural purposes. Birdseye Renewable Energy LLC will lease 37.63 acres in the western portion of a 60 acre tract to install and operate a solar facility. Parcels surrounding the subject parcel are zoned R-40 Residential, with some containing single-family residences, some undeveloped, one containing accessory structures, and one being the location of a driveway for a parcel that is not abutting the subject parcel.

The property is located within the Rural Preservation-Overlay district, which requires a 100-foot setback for structures from Highway 16. According to the site plan submitted, the tract (37.63 acres of solar panels) will be developed according to the development standards for Solar Farms found in Section 44-633 of the Unified Development Ordinance (UDO).

Highway 16 South is designated as a minor arterial road in the Catawba County Thoroughfare Plan. This section of the highway is generally designed and constructed to carry 15,800 vehicles per day. Traffic counts taken in 2013 along Highway 16 South, north and south of the site, measured 12,000 average trips per day. Development of the property will consist of temporary construction traffic and will not overburden the existing roadway or cause significant congestion issues during normal operations.

The Balls Creek Small Area Plan serves as the current land use plan for this area. "Future Land Use Recommendations" within the plan depict the property as located in an area recommended for low density (one acre per dwelling) residential development. The density associated with the request for a solar farm at this location is consistent with the density recommendations of the plan. This particular area is comprised predominantly of large acreage tracts accommodating agricultural and residential development to the south, east, and west. Prior to recent amendments to the UDO, solar farms were classified as public service facilities allowed in all residential districts subject to a special use permit.

Staff recommended that the 37.63 acres, to be leased by Birdseye Renewable Energy LLC, be rezoned from R-40 Residential to R-80-CD Conditional District subject to the conditions listed and illustrated on a December 15, 2014, site plan, with a revised date of January 16, 2015, based on:

- 1) the relatively low density pattern of the surrounding neighborhood; consistent with density required in the R-80 district (80,000 square feet, 2 acres), combined with conditional zoning designating a solar farm as the exclusive use;
- 2) the proposed development meeting the standards of Section 44-633 of the UDO as identified on the site plan;
- 3) the topography of the site, existing vegetation and additional vegetation to be planted combine to offer minimal visibility of the site; and
- 4) the UDO allowing for the consideration of solar farms as a permitted use in the R-80-CD Conditional District.

The Catawba County Planning Board held a public hearing on January 26, 2015, to consider the request. Two board members indicated they had concerns as to how much benefit solar farms are to the County. One board member suggested this property is a good candidate for a solar farm due to its topography. Mr. Brian Bednar, President of Birdseye Renewable Energy, gave an overview of the project and also indicated that the solar farm would support homes in Catawba County and provide additional tax revenue for the County. No one spoke in opposition to the request.

The Planning Board voted 9-0 to submit a favorable recommendation to the Board of Commissioners to rezone approximately 37.63 acres to be leased by Birdseye Renewable Energy LLC from R-40 Residential to R-80-CD Conditional District based on the reasons listed above from staff, with the addition of:

- 5) Additional area along the southern line being included in the lease to provide the required screening buffer (75 feet where no additional vegetation is planted).

Chair Isenhower opened the public hearing. Brian Bednar, President of applicant company, was the only one to speak during the public hearing. Chair Isenhower closed the public hearing.

Vice-Chair Barbara Beatty confirmed that there would be a fence around the solar farm. Commissioner Hunsucker confirmed that the land toward Hwy 16 would be farm land and Chair Isenhower confirmed that the lease included the extra two acres required by the Planning Board.

Commissioner Sherry E. Butler made a motion to approve the rezoning and adopt the following consistency statement and rezoning ordinance. The motion carried unanimously.

ZONING MAP AMENDMENT CONSISTENCY STATEMENT

On March 16, 2015, the Catawba County Board of Commissioners conducted a public hearing for the purpose of considering a zoning map amendment to PIN 3659-20-81-5039 (Case #RZ2015-06). The applicant is Birdseye Renewable Energy. The property owners are Carol and Mellonee Owenby.

Upon considering the matter, the Catawba County Board of Commissioners finds the request to be consistent with low density depicted in Map 5 titled "Future Land Use Recommendations" of the Balls Creek Small Area Plan. The Board of Commissioners therefore finds the request reasonable for rezoning based upon:

- 1) The relatively low density pattern of the surrounding neighborhood; consistent with density required in the R-80 district (80,000 square feet, 2 acres), combined with conditional zoning designating a solar farm as the exclusive use;
- 2) The proposed development meeting the standards of Section 44-633 of the Unified Development Ordinance (UDO) as identified on the site plan;
- 3) The topography of the site, existing vegetation, and additional vegetation to be planted combine to offer minimal visibility of the site;
- 4) The UDO allowing for the consideration of solar farms as a permitted use in the R-80-CD Conditional District; and
- 5) Additional area along the southern line being included in the lease to provide the required screening buffer (75' where no additional vegetation is planted).

The Catawba County Board of Commissioners therefore approves the zoning map amendment. This approval was affirmed by a vote of ____ - ____ of the Catawba County Board of Commissioners.

Ordinance No. 2015-_____

AMENDMENT TO THE CATAWBA COUNTY ZONING MAP

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS, that the Catawba County Official Zoning Atlas is hereby amended by rezoning the following described properties from R-40 Residential to R-80-CD Conditional District (RZ2014-06) for a solar farm.

A portion of one parcel totaling approximately 37.63 acres located at 2951 South NC 16 Highway in the Balls Creek Small Area Planning District, Caldwell Township, and further identified by Parcel Identification Number 3659-20-81-5039.

PLAN CONSISTENCY STATEMENT:

Pursuant to NCGS 153A-341, the Catawba County Board of Commissioners finds the request to be consistent with low density depicted in Map 5 titled "Future Land Use Recommendations" of the Balls Creek Small Area Plan. The Board of Commissioners therefore finds the request reasonable for rezoning based upon:

- 1) The relatively low density pattern of the surrounding neighborhood; consistent with density required in the R-80 district (80,000 square feet, 2 acres), combined with conditional zoning designating a solar farm as the exclusive use;
- 2) The proposed development meeting the standards of Section 44-633 of the Unified Development Ordinance (UDO) as identified on the site plan;
- 3) The topography of the site, existing vegetation, and additional vegetation to be planted combine to offer minimal visibility of the site;
- 4) The UDO allowing for the consideration of solar farms as a permitted use in the R-80-CD Conditional District; and
- 5) Additional area along the southern line being included in the lease to provide the required screening buffer (75' where no additional vegetation is planted).

This, the 16th day of March, 2015.

9. **Appointments:**
Chair Isenhower recommended the appointment of Michael Pastelak for a first term on the Repay Board of Directors. This term will expire March 15, 2018. Vice-Chair Beatty recommended the appointment of Vernon Tarlton and Jerry Hodge to unexpired terms to succeed Lynda Dehart and Joe Rowe who resigned from the Board of Equalization and Review. Mr. Tarlton's term will expire December 2, 2016, and Mr. Hodge's term will expire December 3, 2015. Vice-Chair Beatty also recommended the appointment of Chris Baltz for a first term on the Catawba Valley Medical Center Board of Trustees. This term will expire December 31, 2018. Vice-Chair Beatty recommended the following individuals for appointment to the Community Child Protection/Fatality Team: Lt. Brian Kelly as Sheriff Reid's designee and Jennifer McCracken, Lt. Bryan Adams and Bobbie Sigmon as additional appointees. These terms have no expiration and are by virtue of the positions held by the appointees. Commissioner Hunsucker recommended the appointment of Dr. David Harvey for an unexpired term to succeed Dr. Geideman on the Public Health Board. This term will expire June 30, 2017.

These recommendations came in the form of a motion which carried unanimously.

10. **Consent Agenda:**
County Manager J. Thomas Lundy presented the following six items under the consent agenda: Prior to presenting the consent agenda, Commissioner Katherine W. Barnes requested the first item, Contractor Prequalification Policy, be removed from the consent agenda and be considered individually.

a. (considered individually)

A request for the Board to adopt a Contractor Prequalification Policy The North Carolina General Assembly amended North Carolina General Statute (G.S.) 143-135.8 which references prequalification of construction contractors. Catawba County has historically prequalified construction contractors for formal or other major projects and uses the State Construction Office's prequalification form and scoring matrix. The statute changes established specific procedural requirements for when and how local governments may prequalify construction contractors.

Prequalification is defined under the new G.S. 143-135.8(f)(2) as "a process of evaluating and determining whether potential bidders have the skill, judgment, integrity, sufficient financial resources and ability necessary to the faithful performance of a contract for construction or repair work." The focus of the requirements is to ensure that a prequalification process is conducted using criteria that relate to the specific project being bid and which are applied objectively and fairly to all bidders. The new requirement also gives contractors an opportunity to learn why they were denied and the ability to appeal a denial. Local governments must now adopt an objective prequalification policy applicable to all construction or repair work and the assessment tool and criteria to be used in prequalifying bidders for that specific project. The assessment tool must include scoring values and minimum required score for prequalification on that specific project.

Commissioner Barnes indicated that under the appeal process, the designee for the Facilities Director was too broad and suggested the policy be amended to read "In the event the Facilities Director is unable to hold a hearing in a timely manner, he/she may designate an Assistant Finance Director or other employee within the Finance Department who is not a member of the Prequalification Committee to handle the appeal." The other members of the Board agreed with the clarification and this amendment was made in the form of a motion by Commissioner Barnes, which carried unanimously. Commissioner Hunsucker then made a motion to adopt the Contractor Prequalification Policy. The motion carried unanimously. The following policy applies:

PREQUALIFICATION POLICY FOR BIDDERS FOR CONSTRUCTION PROJECTS

Enacted 16 March, 2015

General

The purpose of this prequalification process is to impartially evaluate a contractor, and to properly determine by its responsible business practices, work experience, manpower and equipment that it is qualified to bid on a Catawba County construction project, including prime contracts awarded by

construction managers pursuant to the Construction Manager at Risk (CM at Risk) process. The award of contracts should be the result of open competition in bidding; impartiality in the selection of contractors; integrity in business practices; and skillful performance of public contracts.

The Purchasing Division, Construction Manager and Utilities and Engineering staff (if applicable) shall be responsible for prequalifying individual contractors to bid on Catawba County construction projects when the County believes prequalification is preferred. Catawba County is not required to prequalify contractors for any particular project or projects. However, a contractor shall not be allowed to submit a bid on construction projects subject to prequalification, unless it has been prequalified in accordance with this policy.

The construction manager and the purchasing staff shall use the State of North Carolina prequalification form and matrix for construction projects and shall use the State of North Carolina documents for prequalification of First-Tier Subcontractors under Construction Manager at Risk projects.

Notwithstanding the fact that a contractor was prequalified, the Board of Commissioners reserves the right to reject a contractor's bid if it is determined that the contractor has not submitted the lowest responsible and responsive bid. The prequalification of the contractor shall not preclude the Board of Commissioners from subsequently concluding that the contractor is not a responsible bidder pursuant to G.S. 143-129. The prequalification of a contract for a project shall only apply to the individual project. All construction and repair contracts shall be awarded to the lowest responsive and responsible bidder, taking into consideration quality, performance, and the time specified in the proposals for the performance of the contract.

Application Process

The Purchasing Manager shall oversee the prequalification process for each individual project.

Each prospective bidder on contracts identified for prequalification by the County and all CM at Risk projects shall submit an application on the approved prequalification application form in order to become prequalified. The approved prequalification application form will require information to be provided on the ownership of the firm, experience of firm's personnel, any affiliations with other construction firms, bonding capacity, financial resources, safety record, the type of work performed by the firm, and other objective criteria rationally related to the contract to be awarded.

The Purchasing Manager shall ensure that applications prepared for the projects comply with this policy and State law. The application is to be submitted by the deadline established in the notice of prequalification. The act of submitting the application does not permit the firm to submit a bid. Incomplete applications will be rejected or returned for further detail or correction in the sole discretion of Catawba County.

The County shall use the State of North Carolina prequalification application which at a minimum, addresses the following items:

Organizational Structure – The firm shall provide a list of all owners, officers, partners, or individuals authorized to represent or conduct business for or sign legal documents for the firm. This list must include the full legal name, typed or printed in a clear legible form. Firms experiencing changes in ownership, organizational structure, or material changes in assets must inform Catawba County prior to the award of a contract. Failure of a firm to comply with this requirement may result in the termination of any contract awarded by Catawba County.

Classification – The firm shall indicate the type(s) of work the firm's workforce and equipment normally perform, licensure, and other pertinent information. The firm shall provide its HUB (Historically Underutilized Business) status.

Experience – The firm shall furnish information that documents the ability of the firm to undertake a project involving the type(s) of work for which prequalification is requested.

Financial – Firms will be required to provide a current annual financial statement (current within the previous 12-month period).

Litigation/Claims – Firms must provide information on its success at completing projects on time, including the payment of liquidated damages. The firm will be required to submit information regarding its litigation history, including litigation with owners.

Capacity – Firms shall demonstrate sufficient bonding capacity, insurance and resources for the project. Firms must provide relevant information on the personnel that will be directly responsible for the work. Firms shall also demonstrate an acceptable safety history for construction projects.

Legal Authorization – All firms must show that they are a valid legal entity and authorized to conduct business in the State of North Carolina and have all required licensure for the work to be performed.

Review of Application (Other than Construction Manager at Risk)

Prequalification Committee – The Purchasing Manager shall establish a committee to review and score applications including approving and denying prequalification (Prequalification Committee).

Review of Applications – The Prequalification Committee shall use the State of North Carolina's prequalification scoring matrix. This prequalification matrix includes prequalification scoring values and the minimum required score to be prequalified for the project. The Prequalification Committee shall approve or deny the applications in accordance with the prequalification criteria and scoring system.

Notice of Decision – The firms shall be promptly notified of the Prequalification Committee's decision, including the reason for denial. Notice shall be provided prior to the opening of bids for the project and with sufficient time for the firm to appeal the denial of the prequalification.

Review of Application – CM at Risk Projects

Prequalification Committee – The Construction Manager, Purchasing Manager and Facilities Manager shall agree upon the members of the Prequalification Committee. The Prequalification Committee will review prequalification applications submitted by the firms and will determine the firm's prequalification eligibility for CM at Risk. The Prequalification Committee shall use the State of North Carolina's Qualification Questionnaire for CM at Risk Projects.

Review of Applications – The Prequalification Committee shall use the State of North Carolina's Proposals, Evaluation, Selection and Award criteria for CM at Risk Projects. The prequalification criteria shall not require the firm to have previously been awarded a construction or repair project by Catawba County. The Prequalification Committee shall approve or deny the applications in accordance with the prequalification criteria and scoring system.

Notice of Decision – The firms shall be promptly notified of the Prequalification Committee's decision, including the reason for denial. Notice shall be provided prior to the opening of bids for the project and with sufficient time for the firm to appeal the denial of prequalification.

Appeals Procedure

The firm may appeal the denial of Prequalification as noted below:

Written Appeal – A written appeal may be filed via hand-delivery or e-mail to the applicable Prequalification Committee within three business days of receipt of notice that the firm has been denied prequalification. The written appeal shall clearly articulate the reasons why the firm is contesting the denial and attach all documents and additional information supporting the firm's

position. The Prequalification Committee may contact the firm regarding the information provided prior to ruling on the appeal. If the Prequalification Committee is satisfied that the firm should be prequalified, the firm shall be notified that it is prequalified to bid on the project and allowed to participate in the bid process. If the Prequalification Committee upholds its denial, the firm shall be promptly notified.

Hearing – The firm may appeal the Prequalification Committee’s decision on the written appeal by requesting a hearing before the Facilities Director via hand-delivery or e-mail within three business days of the receipt of the Prequalification Committee’s decision. The hearing shall be held prior to the receipt of bids and within five business days of receipt of notice of appeal. The firm shall be allowed to submit additional information with the written consent of the Facilities Director. In the event the Facilities Director is unable to hold a hearing in a timely manner, he/she may designate an Assistant Finance Director or other employee within the Finance Department who is not a member of the Prequalification Committee to handle the appeal.

Decision – For projects bid by Catawba County, the decision of the Facilities Director or designee shall be final, and the firm shall be promptly notified of the decision. For CM at Risk projects, the decision of the Facilities Director or his designee shall be final. The Construction Manager and the Purchasing Manager shall review the recommended decision and issue a notice to the Prequalification Committee and the firm.

General Rules for Appeals – Firms submitting applications shall be provided an e-mail address for communication during the appeal process. The firm shall provide at least two e-mail addresses to communicate with. Any appeal and subsequent hearing shall be conducted prior to the receipt of bids.

County Manager Lundy then presented the remaining consent agenda:

b. A request for the Board to approve amendments to Chapter 8 - Buildings and Building Regulations - of the Catawba County Code of Ordinances. Numerous changes in the North Carolina General Statutes affecting construction and procurement were enacted during the 2013-14 legislative session. The amendments ensure that Chapter 8 - Buildings and Building Regulations - of the Catawba County Code of Ordinance is consistent with all 2013-14 changes to the North Carolina General Statutes affecting construction and procurement. The following ordinance applies:

ORDINANCE NO. 2015–03

BE IT ORDAINED that the Catawba County Code of Ordinances, Chapter 8, Buildings and Building Regulations, is hereby amended in its entirety to read as follows:

Chapter 8 - BUILDINGS AND BUILDING REGULATIONS

FOOTNOTE(S):

--- (1) ---

Cross reference— Fire prevention and protection, ch. 18; lakes, waterways and parks, ch. 20; manufactured home parks, ch. 26; solid waste management, ch. 32; construction and demolition debris (C&D) landfills, § 32-66 et seq.; streets, sidewalks and other public places, ch. 34; subdivisions, ch. 36; water and sewer, ch. 42; zoning, ch. 44; nonconformities, § 44-256 et seq. [\(Back\)](#)

State Law reference— Building code council and state building code, G.S. 143-136 et seq.; authority of county to levy taxes for building inspection, G.S. 153A-149(c)(26). [\(Back\)](#)

ARTICLE I. - IN GENERAL

FOOTNOTE(S):

--- (2) ---

State Law reference— Technical code promulgated by public agency may be adopted by reference by county, G.S. § 153A-47. ([Back](#))

Sec. 8-1. - Building code adopted.

The provisions of Article 9 of Chapter 143 of the North Carolina General Statutes entitled -Building Code Council and Building Code, are hereby adopted as the laws governing and applying to building, general remodeling, and construction of all kinds in the county.
(Code 1995, § 507.01)

State law reference— Building code and building code council, G.S. 143-136 et seq.; state building code applicable throughout the state, G.S. 143-138(e).

Sec. 8-2. - North Carolina Rehabilitation Code adopted.

In accordance with the provisions of Senate Bill 633, enacted and ratified during the North Carolina General Assembly's 2001 session, the 2002 edition including all subsequent amendments of the North Carolina Rehabilitation Code (NCRC) is hereby adopted by reference as fully as though set forth herein.

(a) All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

(b) If this section or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section, which can be given separate effect, and to this end the provisions of this section are declared be severable.

(c) This section shall be enforced as provide in G.S. 153A-123 or as provided in the Catawba County Code of Ordinances. All criminal sanctions shall be the maximum allowed by law.

(d) This section shall become effective on the first day of January 2004.

(Ord. No. 2003-23, 11-17-2003)

Secs. 8-3—8-15. - Reserved.

ARTICLE II. – DESIGN AND SURVEYING PROCEDURES FOR SCHOOL AND CATAWBA COUNTY CONSTRUCTION

Sec. 8-16. - Purpose; scope.

(a) The purpose of this article is to clarify general procedures for agencies to follow in working with their respective boards located in the county on construction projects. Certain prerequisite steps shall be taken as set forth in this article. These apply to Catawba Valley Medical Center, Catawba Valley Community College, and the three public school systems in the county (“Owner”).

(b) The Owner will announce all the requirements for architectural, engineering, surveying and construction management-at-risk services, to select firms qualified to provide such services on the basis of demonstrated competency and qualifications for the type of professional services required, without regard to fee, other than unit price information. Selection of a firm shall include the use of good faith efforts to notify minority firms of the opportunity to submit qualifications for consideration.

(c) County Projects - The director of facilities is designated as project manager for all county building construction projects, and the procedures set forth in this article shall be used to coordinate the efforts of all parties involved in any such project. The director of utilities and engineering shall be designated as project manager for all county construction projects involving solid waste, wastewater, sewer, and potable water facilities. Any proposed changes in the estimate, as a result of bids or otherwise, shall be reported by the director of facilities or the director of utilities and engineering, as appropriate, who shall present his recommendation to the board of commissioners prior to the advertising of bids. When compiled and approved by user agencies, all projects must conform to the county design and construction specifications.

(d) Plans and specifications must be prepared by a registered architect or engineer or both depending on the project for:

- (1) New construction or repairs involving major structural or foundation changes when the expenditure is \$135,000.00 or more.
- (2) Repairs not involving structural or foundation changes when the expenditure is \$300,000.00 or more.
- (3) Work affecting life safety systems when the expenditure is \$100,000.00 or more.
- (4) Construction of, or additions to, public buildings or State-owned and operated utilities.

The term "life safety system" means a system that involves the safety and welfare of building occupants, such as fire alarm and sprinkler systems.

(e) A certificate of compliance with the building code must be obtained for projects that are not required to be designed by an architect or engineer. A certificate of compliance is not required for any project that does not alter life safety systems and has a projected cost of less than \$100,000.00.

(f) Minority participation for building construction projects (formal bids). Contractors, including first-tier subcontractors on construction management-at-risk projects, must identify on their bids the minority businesses they will use on the project and the total dollar value of the bid that will be performed by minority businesses. Contractors must also include an affidavit listing the good faith efforts they have made. If contractors intend to perform all of the work with their own forces, they may submit an affidavit with an explanation.

(g) After bids are received, the apparent lowest responsible bidder must provide either:

- (1) An affidavit describing the portion of the work to be executed by minority businesses, expressed as a percentage of the total contract amount showing a percentage equal to or more than the applicable goal on the project; or
- (2) Documentation of good faith efforts to meet the goal, including any advertisements, solicitations, and evidence of other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract.

(h) Within 30 days after a contract is awarded, the successful contractor must list all identified subcontractors that will be used on the project. Failure to provide the affidavit or documentation required to demonstrate good faith efforts is grounds for rejection of a bid.

(i) A subcontractor may not be replaced except:

- (1) When the subcontractor's bid is determined to be non-responsible or nonresponsive or the subcontractor refuses to enter into a contract for the complete performance of the work; or
- (2) With the approval of the county for good cause.

(j) When selecting a substitute contractor, the contractor must make and document good faith efforts. See Minority-Owned, Woman-Owned, and Disadvantaged-Owned Outreach Plan and Guidelines.

(Code 1995, § 508.30)

Sec. 8-17. - Fees.

(a) *Architectural, engineering, surveying or construction management-at-risk fees* shall be negotiated by the owner with the selected architect, engineer or surveyor. If a contract cannot be negotiated with the highest ranked firm, negotiation with the firm shall be terminated and new negotiations initiated with the next highest ranked firm based on qualifications, references and experience with similar projects. Subsequent contracts shall be presented to the respective board for approval.

(b) *Exemption from architectural, engineering and surveying fees for county projects.* The county will exempt all projects from subsection (a) of this section where an estimated professional fee is an amount less than \$50,000.00.

(Code 1995, § 508.31)

Sec. 8-18. - Architectural, engineering or surveying contract.

Prior to commencement of services on any project under this article, the architect, engineer or surveyor must execute a mutually acceptable contract with the appropriate owner for those services. The construction budget for a project shall be certified by the owner, who shall provide the architects or engineers/surveyors with a copy thereof. Funds appropriated for a particular project must be used exclusively for that project. It is the architect's, engineer's or surveyor's responsibility to keep a project within budget. The work bid must reflect the architect's or engineer's opinion about what can be done within the budget. Where questions arise as to the amount of work which can be accomplished within the budget, an agreement must be reached with the owner concerning acceptable alternatives, if any. Alternatives that cannot be completed within the project budget or that are beyond the scope of the original project shall be discussed with the respective owner's board.

(Code 1995, § 508.32)

Sec. 8-19. - Procedures.

Upon execution of an agreement under this article, every architect, engineer, surveyor, and construction management-at-risk will be furnished with a copy of this article which shall be used in the performance of commissioned services. Any preliminary questions or concerns which the architect, engineer or surveyor might have must be resolved with the appropriate director prior to commencement of services on any project.

(Code 1995, § 508.33)

Sec. 8-20. - Contract documents' time schedule.

(a) Under this article, architects, engineers or surveyors must furnish the owner a realistic time schedule for their work as soon as the scope of the project has been determined. This is to be done in writing to the owner. It is imperative that this schedule be adhered to during preparation of all drawings and documents.

(b) The architect or engineer must furnish the owner and affected department officials with drawings as set forth in the contract and as indicated elsewhere in this article.

(c) After assimilating all appropriate information and documentation for the proposed project, the architect, engineer or surveyor shall meet with the owner and affected department official to finalize the plans for the project.

(Code 1995, § 508.34)

Sec. 8-21. - Schematic plans.

For the purposes of this article, schematic plans shall be prepared and furnished in triplicate to the owner for review. The architect or engineer will be notified when the review is complete, and a meeting will be arranged by the owner. The meeting shall include all persons involved in the project. The owner will give written authorization to the architect or engineer to proceed with design development drawings within budgeted funds. The respective boards shall review schematics for all major building projects.

(Code 1995, § 508.35)

Sec. 8-22. - Design development drawings.

(a) Under this article, design development drawings may consist of floor plans, elevations, cross sections indicating typical structural systems, ceiling heights and other pertinent information. Mechanical system types must be described along with general finishes of the interior and exterior of any building.

(b) During the design development stage, the architect or engineer must furnish a written cost estimate for the project. If, in the architect's or engineer's opinion, budgeted funds are not sufficient to accomplish all work specified, a written report must be furnished to the director, who in his exclusive discretion shall determine whether and how to modify the project or terminate the project.

(c) After proper approval by the owner, the design and development drawings are presented to the respective board. Under no condition is any architect or engineer to proceed into working drawings until approval has been given by the respective board. The owner will provide written notification of board authorization.

(Code 1995, § 508.36)

Sec. 8-23. - Working drawings.

(a) Upon receipt of written approval to proceed under this article, the architect, engineer or surveyor shall prepare working drawings which must include the following:

- (1) A firm time schedule within which work must be completed; and
- (2) A projected bid date.

(b) Upon completion of all plans and specifications, the architect or engineer will submit complete sets to the owner, the department of insurance, and other applicable agencies for final review.

(Code 1995, § 508.37)

Sec. 8-24. - Prebid conference.

For county building construction projects, the owner's staff and the architect, engineer or construction manager-at-risk shall conduct a prebid conference to explain the project and minority business requirements to prospective bidders.

(Code 1995, § 508.38)

Sec. 8-25. - Bids.

The architect, engineer or surveyor must submit a detailed synopsis of all bid responses received pursuant to this article to the owner. The owner will present the bid recommendation to the respective board, which has sole and exclusive authority to award contracts.

(Code 1995, § 508.39)

Sec. 8-26. - Construction contracts.

(a) Upon notification from the board as provided in this article, the architect, engineer or surveyor shall present a contract, which has been approved by the owner, to the successful bidder. For execution, an original of a fully executed contract, which must include all required insurance endorsements, mediation rules and contractor safety policy, shall be given to the owner prior to commencement of work under any such contract.

(b) County projects - The contracts must be reviewed by an attorney for the county, approved by the board of commissioners, and signed by the director of finance and the county manager. The director of facilities or director of utilities and engineering will return the signed contracts to the architect or engineer for distribution to the contractors.

(c) For any formal construction and repair project, the contractor and the contractor's subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes which requires E-Verify of all employees to document legal status.

(Code 1995, § 508.40)

Sec. 8-27. - Progress schedule.

Immediately after execution and delivery of the contract as provided in this article, but before the first partial payment is made, the contractor shall deliver to the architect or engineer and the owner an estimated construction progress schedule in a form satisfactory to the architect or engineer and the director. It will show the proposed dates of commencement and completion of each of the various subdivisions of work required under the contract and the anticipated amount of each monthly payment that will become due the contractor in accordance with the progress schedule. The contractor shall also furnish the following:

- (1) A detailed estimate, giving a complete breakdown of the contract price; and

(2) Periodic itemized invoices for work done for the purpose of receiving payment.

(Code 1995, § 508.41)

Sec. 8-28. - Preconstruction conference.

The architect or engineer will arrange a mandatory preconstruction conference of all contractors as soon as possible after the bids have been approved under this article. It is important that the architect or engineer, contractors, job superintendents, and the owner attend this conference so that all parties can discuss any peculiarities of the project.

(Code 1995, § 508.42)

Sec. 8-29. - Construction phase.

During construction pursuant to this article, the architect or engineer will prepare and file, at a minimum, monthly field inspection reports with the owner, along with monthly payment requests from the contractors, when applicable.

(Code 1995, § 508.43)

Sec. 8-30. - Payments.

(a) When applicable under this article, the county or school shall make progress payments to a contractor on the basis of a duly certified and approved invoice for work performed during the preceding calendar month. Until the project is 50% complete the owner cannot retain more than 5% per periodic payment owed to the prime contractor. When the project is 50% complete, no further retainage is allowed as long as performance is satisfactory. When a certificate of substantial completion is issued or upon beneficial occupancy, all remaining retainage must be released, although the owner may retain up to 2 ½ times the value of remaining work to secure completion or correction of that work. "Line-item" release of retained funds is required for "early finishing trades" (subcontractors who complete 100% of their work before the project is 50% complete). In addition to these requirements, the owner may also withhold additional amounts in certain instances generally involving unsatisfactory performance and defective workmanship (G.G. 143-134.1)The contractor shall have his invoice approved by the architect or engineer and shall submit the invoice to the owner not later than two days prior to the end of each month. Such invoices will be reviewed by the owner and, if approved, placed in line for payment to the contractor by the fifth day of the following month. The owner will maintain records by project, indicating contract prices and budgeted amounts. All change orders must be processed following the procedure as indicated in section 8-2.

(b) In preparing invoices, material delivered to the construction site, together with preparation work done, shall be taken into consideration.

(c) The contractor shall submit with each monthly pay request and final payment the form entitled "Minority Business Enterprise (MBE) Documentation for Contract Payment" for the architect's or engineer's review.

(d) The architect or engineer shall review MBE Documentation for Contract Payment found in the Minority Guidelines and Outreach Plan for compliance with minority business utilization commitments. The architect or engineer shall submit documentation for contract payment forms with monthly pay applications and copies to the owner.

(Code 1995, § 508.44)

Sec. 8-31. - Inspections.

(a) At the substantial completion stage of the work on the project under this article, the architect or engineer will be expected to schedule a semifinal inspection, during which time he will prepare a punch list of incomplete items or items which have not been done to his satisfaction. The owner should be notified of the time and date of this inspection so that their representatives can be present. After all items have been corrected in accordance with the punch lists provided to the contractors by the architect or engineer, notification shall be given to the owner that the project has been completed. At this time, a final inspection will be held with the owner.

(b) After formal acceptance of the completed project by the owner, the architect and engineers involved in the project shall furnish the owner with a certificate stating that the project has been

completed in accordance with the plans and specifications. This statement, along with final statements and certificates from all contractors, including lien waivers and warranties, must be submitted before final payment is made and the project closed. The owner shall review final statements to ensure compliance with the project's budget.

(Code 1995, § 508.45)

Sec. 8-32. - Contingencies and change orders.

All change orders made pursuant to this article shall be prepared by the architect or engineer and approved by the owner prior to any such work being done. For county projects, change orders shall be approved by the department head only if sufficient funds are available within the project budget.

(Code 1995, § 508.46)

Sec. 8-33. - Project completion and warranty.

All work done under this article shall be warranted for no less than one year. All manufacturing and material warranties shall be submitted to the director of facilities or director of utilities and engineering prior to semifinal inspection. All wastewater, sewer, potable water and building design as-built drawings shall be submitted to the director of facilities of the director of utilities and engineering within 120 days following project completion.

(Code 1995, § 508.47)

Sec. 8-34. - Construction Methods.

For building construction projects costing more than \$300,000 the owner can only use the following statutory authorized construction methods. The owner may choose, at its discretion, the specific method it wishes to use (G.S. 143-128).

(a) Separate (or Multi) Prime. The owner accepts bids separately and awards to the lowest responsive, responsible bidder for each category of work for which separate specifications are required. Each contractor is directly responsible to the owner and to the other contractors for full performance of his/her contract.

(b) Single-Prime. The owner accepts bids from general contractors for the entire project and awards to the lowest responsive, responsible bidder, and the general contractor contracts with subcontractors for branches or divisions of work on the project. The bidders must identify on their bids the subcontractors for HVAC, electrical, plumbing, and general work. Once the contract is awarded, the general contractor is directly responsible to the owner, and subcontractors are directly responsible to the general contractor.

(c) Dual bidding (both Separate and Single-Prime) – The owner may choose to accept both separate-prime and single-prime bids for the same project and then award the contract to the lowest responsive, responsible bidder in either category. In determining whether to award on a separate-prime or single-prime basis, the owner may consider the costs of construction oversight, time for completion, and other factors it deems appropriate.

(d) Construction Management at Risk (CM@R) – Under a construction management at risk contract, the construction manager, who must be a licensed general contractor, provides construction management services such as preparing and coordinating bid packages and construction administration, and guarantees the cost of the project. The construction manager at risk acts as the fiduciary of the owner in handling and opening bids and awarding contracts. While the construction manager manages the project, plans and specifications must be drawn by a licensed architect or engineer who contracts directly with the owner. The construction manager at risk contract is covered by the Mini Brooks Act and must be selected using the qualification based selection method (G.S. 143-1289.1, G.S. 143-64.31-32).

(e) Design-Build (DB) and Design-Build Bridging (DBB) – Under these construction delivery methods, the design-builder contracts to provide both design services (architectural and engineering) and construction services under one contract. A design-build contract is subject to a specific statutory request for qualification process and the design-builder is initially selected based on qualifications, not estimated costs of the contract. Consistent with the Mini-Brooks Act (G.S. 143-

64.31), contract costs can only be negotiated once the best qualified design-builder is initially selected (G.S. 143-128.1A)

(f) A Design-Build Bridging contract differs from a design-build contract in two primary ways. First the owner contracts separately with a project designer to design 35% of the project and contracts with a design-builder to complete the project design and perform construction services. Second, the design-build contract is awarded to the lowest responsive, responsible bidder based on estimated costs of performing general contract conditions, design services, and construction service. Design-builders submit these cost estimates with their bids (G.S. 143-128.1B).

(g) Public-Private Partnership (P3) – Under this contracting method, the owner contracts with a private developer to jointly develop a capital construction project. The developer is selected on qualifications through a competitive request for qualifications process and is required to finance at least 50% of the project cost (G.S. 143.1C).

(h) Alternative Methods – Alternative construction methods are only allowed for building and construction and repair contracts costing \$300,000 or more if approved by the State Building Commission or by legislative action. Alternative construction methods can be used for building construction and repair projects costing less than \$300,000 as well as all non-building construction and repair projects regardless of cost (G.S. 143-128(a1)(5), G.S. 143-135.26(9)).

Sec. 8-35. - Dispute resolution.

Dispute resolution procedures are available for all building construction and repair projects under this article. The dispute resolution procedures are available to all parties involved in the construction project, including the architect, the construction manager and the contractors, including all levels of subcontractors, and it must be available for any issue arising out of the contract or construction process so long as the matter in dispute is \$15,000.00 or more. See the county's dispute resolution policy.

(Code 1995, § 508.50)

Sec. 8-36. – Prequalification of Contractors.

Prequalification is defined under G.S. 143-38.8(f)(2) as “(a) process of evaluating and determining whether potential bidders have the skill, judgment, integrity, sufficient financial resources, and ability necessary to the faithful performance of a contract for construction or repair work”.

Prequalification is prohibited unless all requirements below are met (G.S. 143-135.8(b):

(a) Using one of the construction methods authorized in G.S. 143-128(a1)(1) through G.S. 143-128(a1)(3) (Single-Prime, Separate-Prime or Dual Bidding).

(b) The governing body adopts an objective prequalification policy applicable to all construction or repair work. The policy must be adopted prior to advertising the contract for which the governmental entity intends to prequalify bidders.

(c) The owner adopts the assessment tool and criteria for that specific project, which must include the prequalification scoring values and minimum required score for the prequalification on that project.

Sec. 8-37. – Emergencies

Construction and repair work arising from situations involving public health and safety is exempt from competitive bidding requirements. Use of this exception should be limited to situations involving an imminent or immediate threat to public health and safety. The exception is not allowed if the local government can complete with competitive bidding requirements without exacerbating the threat to public health and safety or damage to property (G.S. 143-129(e)(2)).

Budget document means the instrument used by the budget-making authority to present a comprehensive financial program to the appropriating body.

Construction management-at-risk means services are provided by a construction manager, which may include preparation and coordination of bid packages, scheduling, cost control, value engineering, evaluation, preconstruction services and construction administration.

Contract means a legal agreement between the county and another governmental agency, company, corporation, individual or group of individuals obligating the county to pay money for services rendered or products.

Department/agency head means the highest level of supervision and coordination within a program area.

Design-Build means the design-builder contracts to provide both design services (architectural and engineering) and construction services under one contract.

Design-Build Bridging means the local government contracts separately with a project designer to design 35% of the project and contracts with a design-builder to complete the project design and perform construction services.

Dual bidding means bids may be received to erect, construct, alter or repair a building under both the single-prime and separate-prime contracting systems, and the contract shall be awarded to the lowest responsible bidder under the single-prime or the lowest responsible bidder under the separate-prime system.

Electronic auction means an auction of surplus property conducted on an internet site.

Design Builder means an appropriately licensed person, corporation, or entity that, under a single contract offers to provide design services and general contracting services.

E-Verify Local Government are prohibited from contracting for formal purchases and construction projects with a contractor that has not submitted documentation he/she has used the E-Verify program to insure their employees and sub-contractor's employees are not illegal immigrants and are legally employed.

Fiscal year means a 12-month period of time to which the annual budget applies and at the end of which a governmental unit determines its financial position and the results of its operations.

Force account means work performed by county employees that would ordinarily be performed by outside contractors.

Information technology means electronic data-processing goods and services and telecommunications goods and services, microprocessors, software, information processing, office systems, and related services and consulting or other services for design or redesign of information technology supporting business processes.

Minority business means a business of which at least 51 percent is owned by one or more minority persons or socially and economically disadvantaged individuals or, for a corporation, in which at least 51 percent of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals, and of which the management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.

Petty cash means a sum of money set aside for the purpose of making change or paying small obligations for which the issuance of a formal voucher and check would be too expensive and time-consuming or where the use of a procurement card is not feasible.

Preaudit means an examination for the purpose of determining the propriety of proposed financial transactions and financial transactions which have already taken place but which have not yet been recorded or, if such approval is required, before the approval of the financial transactions by designated officials for recording.

Purchase order means a legal document binding a vendor to provide a service or product and the county to pay a specified price.

Purchasing manager means one who purchases for another; one who is authorized by a county to negotiate contracts with vendors.

Quote means to state a price for goods or services.

Separate-prime means bids for building projects are received for each subdivision of work:

- (1) Heating, ventilating and air conditioning;
- (2) Plumbing;
- (3) Electrical; and
- (4) General.

Request for Qualifications means a process of evaluating and determining whether potential bidders have the skill, judgment, integrity, sufficient financial resources and ability necessary for faithfully performance of a contract for construction or repair work

Single-prime means bids for building projects are received from one contractor. The single-prime contractor performs all work or contracts with subcontractors for heating, ventilating and air conditioning; plumbing; and electrical.

Sole-source item means when an item is of such a special nature that it is only manufactured by one company.

Surplus property means items which are obsolete or are no longer of any value to the county.

Unencumbered balance means that portion of an appropriation which has not been expended or obligated through issuance of a purchase order.

Vendor means one who sells a commodity or a service.

Voucher means a document which evidences the propriety of transactions and indicates the accounts against which they are to be recorded.

(Ord. No. 2011-07, 6-20-2011)

Cross reference— Definitions generally, § 1-2.

Sec. 30-2. - Jurisdiction; authority.

(a) The securing of goods and services necessary to the operation of county government is a major administrative responsibility. Under the supervision of the finance director, this function of county government is the primary responsibility of the purchasing office.

(b) Statutory provisions regulating purchasing by local governments are contained primarily in G.S. 143-129—143-135. Other specific duties, responsibilities and authorities are contained in G.S. chs. 14, 44, 66, 75, 87, 105, 153, 160A, and 159, the Local Government Budget and Fiscal Control Act. By virtue of these statutes, the county is empowered to enter into contracts for the procurement of materials and services. The board of commissioners has full budget authority to sign such contracts. Authority to sign contracts for procurement of supplies and services has been delegated to the county manager.

(c) Prior to (i) entering into any agreement, (ii) making any purchase, the county must first have funds appropriated to meet financial obligations. Contracts or purchase orders requiring the payment of funds, for supplies or materials, may not be made unless a proper appropriation appears in the budget and a sufficient unencumbered balance remains in the appropriation.

(Ord. No. 2011-07, 6-20-2011)

State law reference— Budgetary accounting for appropriations, G.S. 159-28.

Sec. 30-3. - Purpose.

(a) The purchasing function is a service-oriented activity. As such, it exists to serve the needs of operating departments/agencies in county government.

(b) This chapter makes reference to statutory provisions of state law. The provisions contained in this chapter reflect the current laws. It is intended that these provisions will always duplicate whatever changes occur in state law, and such provisions will be administratively updated at that time.

(Ord. No. 2011-07, 6-20-2011)

Sec. 30-4. - Responsibility of purchasing manager.

(a) The basic responsibilities of the purchasing manager are to:

- (1) Purchase goods and materials in accordance with established law and local policy; and
- (2) Operate a consolidated purchase function for the county.

(b) The purchasing manager has the responsibility to advise of the suitability, quality or quantity of equipment, material or supplies requested and can refer such requests to the finance director and county manager for approval. The purchasing office is charged with obtaining vendor quotations, terms, delivery codes, initiating contracts, initiating and completing all formal and informal bid proceedings, maintaining an accurate inventory of central supply, disposing of surplus property in accordance with resolutions of the board of commissioners and issuing purchase orders.

(c) Any participation in the purchasing process by departments must be with the full knowledge and agreement of the purchasing manager.

(d) All state and local governmental officers and employees are prohibited from entering into any contracts involving the units they serve when any such officer or employee or a firm in which he has a financial interest has a private interest in the contract, except when that private interest:

- (1) Involves a bank or banking institution, a savings and loan association, or a regulated utility; or
- (2) Provides supplies, services, or facilities to needy persons under state and federal aid programs.

(Ord. No. 2011-07, 6-20-2011)

State law reference— Participation of a public officer in business transactions involving public funds, G.S. 14-234.

Sec. 30-5. - Departmental working relationship.

(a) As a service agency for the county, it is the desire of the purchasing office to establish and maintain at all times a close working relationship with each department. It is essential that an attitude of mutual cooperation and understanding exist between the user department and the purchasing office. The following guidelines will promote mutual assistance:

- (1) The user departments should:
 - a. Maintain a close check on supplies and stock.
 - b. Forecast any future purchasing requirements.
 - c. Request well in advance of needs whenever possible.
 - d. Eliminate all unnecessary emergency or rush purchasing.
 - e. Alert purchasing regarding late deliveries.
 - f. Examine items received for quality, quantity, and the like.
 - g. Report promptly to the purchasing office any deviations in orders received.
 - h. Submit by written memorandum complaints against vendors.

- i. Indicate to purchasing the exact needs of the user department when equipment or special orders requiring written specifications are involved.
 - j. Forward a copy of quotes obtained to the purchasing office for the purpose of maintaining a record.
- (2) The purchasing office should:
- a. Check with user departments on needs when placing consolidated orders.
 - b. Inform departments of contracts that might be utilized.
 - c. Advise departments of predicted shortages, price changes or other pertinent market or vendor data.
 - d. Expedite emergency purchases as rapidly as possible in order that normal operations of a department not be disrupted.
 - e. Contact vendors on late deliveries and report findings to ordering departments.
 - f. Mediate between the user department and the supplier on partial deliveries, cancellation, return of merchandise, and complaints.
 - g. Consult with the originating department when technical equipment, special order specifications, plans or designs are involved.
 - h. Inform the ordering department head and/or his delegate of formal or informal prebid conferences and bid openings.
 - i. Review with department head the bids and prices received; consider their preference before making recommendations for award or purchase.
- (b) From the initial request to delivery of the order, the purchasing office should coordinate all action toward accomplishing the desired goal for efficient procurement of items/services requested by county departments. Only through a harmonious working association can the purchasing office effectively function as a support service for the departments.

(Ord. No. 2011-07, 6-20-2011)

Sec. 30-6. - Local buying.

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

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

(Ord. No. 2011-07, 6-20-2011)

Sec. 30-7. - Formal bids.

All formal bids will be sent out by the purchasing manager as the authorized representative of the county. Bids will be opened and tabulated by the purchasing manager. When architects or engineers are employed to perform this service on construction bids, the purchasing manager should be present at openings when possible, receive copies of the public notice and bids and prepare a recommendation for the award of a bid. Certain requirements must be followed in the formal bid process:

- (1) Written specifications must be prepared. Efficient purchasing practices require buying in accordance with carefully developed specifications. For purchases of fairly standard items, development of elaborate specifications is not necessary, but simple, standard specifications are in order. Good, clear specifications are an essential aspect of competitive bidding. Quality and service are as important as price; therefore, specifications are needed that will fulfill but not exceed the requirements for which the items and/or services are intended. A general policy should be followed

which would encourage the purchasing of a good, standard product which represents the best relationship between quality and price while providing a satisfactory level of service. Specifications are prepared by the purchasing office with input from the ordering department to ensure that the products purchased fill the need. A lengthy specification designed solely for the purpose of eliminating competition, other than those able to supply a particular brand name, will not be permitted. Brand names should be used only when no other product would be satisfactory.

(2) Bids must be advertised for prospective bidders. Advertisements must be published on the county's web site so there are seven full days between the date of the publication and the date of the opening of the bids. It will be purchasing's responsibility to maintain a vendor list and notify all parties on the vendor list for applicable projects. The advertisement must contain the time and place where plans and specifications may be obtained and the time and place for opening of the proposals. On all construction contracts, the advertisement must also contain a notice that bidders must be properly licensed under G.S. ch. 87.

(3) Prospective bidders must submit sealed bids. Unless the invitation to bid states differently, bids must be sealed and the contents must not be disclosed or exhibited prior to the time set for the bid opening.

(4) Except under the conditions in subsections (4)a. and b., the board of commissioners must accept bids and award contracts. Bid results must be presented to the board of commissioners for acceptance and award. The board of commissioners reserves the right to reject any or all proposals.

a. The county manager is authorized to award formal bids for purchase contracts in amounts less than \$250,000.00 within the following guidelines:

1. The bid is awarded to the lowest responsible bidder.
2. Sufficient funding is available within the department.
3. The purchase is consistent with the goals and/or outcomes of the department.
4. Project is approved in the budget.

The county manager is further authorized to reject any and/or all bids received less than \$250,000.00 if it is in the best interest of the county. A report shall be made to the board of commissioners of all bids awarded and rejected under this subsection and entered in the minutes of its formal sessions

b. Bids may be rejected for any reason determined by the board or the county manager, under his authority, for any reason determined to be in the best interest of the unit. However, the bid shall not be rejected for the purpose of evading the provisions of G.S. 143-129.

(Ord. No. 2011-07, 6-20-2011)

Sec. 30-8. - Request for proposal (RFP).

Requests for proposals (RFPs) are normally used in lieu of formal bids when the services of a professional are required by the county, including, but not limited to, accountants (CPAs), attorneys, and doctors. Certain procedures must be followed when utilizing the request for proposals:

(1) Requests for proposals should be drawn up by the appropriate department with the assistance of the purchasing office in such manner as the department deems appropriate to solicit responses from providers.

(2) The request for proposals should be distributed to potential contractors by the purchasing office.

(3) After the purchasing manager and the department have evaluated the request for proposals and decided on a particular individual or firm, a contract and purchase order will be issued. If a contract is used, it must first be sent to the legal department to approve as to form and to finance director for preaudit.

(4) The request for proposals process may also be used for the purchase of information technology goods and services. In such cases, the process must meet the following minimum requirements:

- a. Notice of the request for proposals shall be given in accordance with G.S. 143-129(a).
- b. Contracts shall be awarded to the person who or entity that submits the best overall proposal as determined by the awarding authority. Factors to be considered in awarding contracts shall be identified in the requests for proposals. The "best value" process as stipulated in G.S. 143-135.9 may be used to award the contract. The term "best value procurement" means the selection of the contractor based on a determination of which proposal offers the best trade-off between price and performance, where quality is considered an integral performance factor.
- c. County staff may negotiate with any proposer in order to obtain a final contract that best meets the needs of the county. Negotiations allowed under this section shall not alter the contract beyond the scope of the original request for proposals in a manner that:
 1. Deprives the proposers or potential proposers of a fair opportunity to compete for the contract; and
 2. Would have resulted in the award of the contract to a different person or entity if the alterations had been included in the request for proposals.

Proposals submitted under this section shall not be subject to public inspection until the contract is award pursuant to G.S. 143-129.8.

(Ord. No. 2011-07, 6-20-2011)

Sec. 30-9. - Evaluation.

(a) *Selection committee.* The purchasing manager will work with the department head that has primary responsibility for the items/services being procured and will designate the selection committee chairperson and members. The size of the selection committee is dependent on the nature and scope of the project.

(b) *Evaluation criteria.* Evaluation criteria are the factors used to determine which proposal best meets the requirements identified in the RFP. In establishing effective evaluation criteria, a department must clearly identify the factors relevant to its selection of a vendor and then prioritize or weigh these factors according to their importance in satisfying the established criteria. Together, the proper identification and weighing of the evaluation criteria will form an evaluation plan, which will provide a common standard by which to judge the merit of competing responses. This allows ranking the proposals while simultaneously providing respondent's with a fair basis for comparison. Evaluation criteria should be individually tailored to each RFP. Evaluation criteria should reflect the department's minimum needs and should not be so restrictive as to limit competition. Evaluation criteria often encompass such factors as price or cost, technical excellence, management capability, personnel qualifications, experience and past performance. While price or cost must be included and will be a factor, price or cost need not be the deciding factor in all acquisitions.

(c) *[Evaluation of responses.]* Responses should be evaluated based on predefined criteria and weighting methods. In most cases, the evaluation criteria are to be published in the RFP document but not their associated values and weights. RFPs involving information technology goods and services (G.S. 143-129.8) are required to include the criteria in the RFP document.

(d) *[Evaluation committee.]* The evaluation committee should meet to distribute proposals, review evaluation methods, scoring sheets, and discuss the scoring and review process. Once the proposals have been evaluated and scored by each evaluator, the committee should meet again and the following events should occur:

- (1) A master-scoring sheet should be compiled with the total score for each proposal by each evaluator or the committee as a whole, depending on the evaluation method used.
- (2) Oral presentations or demonstrations may be needed in certain cases for clarifications or if additional information is needed. These sessions will be conducted using the following guidelines:

- a. All members of the evaluation committee should be present during oral presentations and interviews.
- b. Time limits for oral presentations will be equal in length.
- c. Interviews are to be conducted and controlled by the selection committee chairperson.

No information concerning a vendor's response or the evaluation progress will be provided to anyone outside the evaluation process or other county staff. Questions concerning the dissemination of information should be directed to the purchasing manager.

(Ord. No. 2011-07, 6-20-2011)

Sec. 30-10. - Formal bid and request-for-proposal monetary limits.

(a) *When required.* Formal procedures must be followed when the purchase requires an estimated expenditure of \$90,000.00 or more. For construction, repairs and renovation, formal bid procedures must be followed if the project requires an estimated expenditure of \$500,000.00 or more, except where the work is to be done by county personnel (force account) and the total cost of the project will not exceed \$125,000.00, including all direct and indirect costs, or if the labor does not exceed \$50,000.00. Bidding requirements will still apply to apparatus, supplies, materials or equipment purchased for use on force account projects. Force account labor must be approved by the board of commissioners, and a record of all costs must be maintained for public inspection.

(b) *Minority contractors; separate specifications and contracts.* If the cost for the construction of a building is estimated at \$300,000.00 or more, the county has established a five-percent goal for participation by minority contractors in the total value of work for which a contract is awarded pursuant to G.S. 143-128. In addition, for projects totaling \$300,000.00 or more, separate specifications and contracts must be prepared for the following areas of work:

- (1) Heating, ventilating, air conditioning and accessories and/or refrigeration for cold storage (where the cooling load is 15 tons or more of refrigeration);
- (2) Plumbing and gas fittings and accessories;
- (3) Electrical wiring and installations; and
- (4) General work not included in the three areas in subsections (1) through (3).

(c) *Contracting methods.* For building construction or building repair projects \$300,000.00 and above, bids may be received by using (i) single-prime, (ii) separate-prime, (iii) dual bidding, (iv) construction management-at-risk contract or (v) alternative contracting methods authorized pursuant to G.S. 143-135.26(9) in accordance with the following:

(1) *Single-prime.* All bidders in a single-prime project shall be required to identify on their bid the contractors they have selected for the subdivisions or branches of work for: heating, ventilating, and air conditioning; plumbing; electrical; and general. The contract shall be awarded to the lowest responsible, responsive bidder, taking into consideration quality, performance, the time specified in the bids for performance of the contract, and compliance with G.S. 143-128.2. A contractor whose bid is accepted shall not substitute any person as subcontractor in the place of the subcontractors listed in the original bid, except:

- a. If the listed subcontractor's bid is later determined by the contractor to be nonresponsible or nonresponsive, or the listed subcontractor refuses to enter into a contract for the complete performance of bid order; or
- b. With the approval of the board of commissioners for good cause shown by the contractor.

When a contract is awarded using the single-prime method, the county shall make the dispute resolution process available to subcontractors.

(2) *Separate-prime.* Bids shall be accepted for each subdivision of work for which specifications are required to be prepared, and bids shall be awarded separately to responsible and reliable persons regularly engaged in their respective lines of work. Each separate contractor shall be directly liable to the county and to the other separate contractors for the full performance of all duties

and obligations due under the terms of the contract. Contracts shall be awarded to the lowest, responsible, responsive bidders, taking into consideration quality, performance, the time specified in the bids for performance of the contract and compliance with G.S. 143-128.2.

(3) *Dual bidding.* Bids may be received to erect, construct, alter or repair a building under both the single-prime and separate-prime contracting systems, and the contract shall be awarded to the lowest responsible, responsive bidder under the single-prime system or to the lowest responsible, responsive bidder under the separate-prime system, taking into consideration quality, performance and compliance with G.S. 143-128.2 and time specified in the bids to perform the contract. In determining the system under which the contract will be awarded to the lowest responsible, responsive bidder, the cost of construction oversight, time for completion, and other factors the county considers appropriate may be considered. The bids received as separate-prime bids shall be received, but not opened, no less than one hour prior to the deadline for the submission of single-prime bids. The amount of a bid submitted by a subcontractor to the general contractor under the single-prime system shall not exceed the amount bid, if any, for the same work by that subcontractor under the separate-prime system.

(4) *Construction management contracts.*

a. *Construction management services.* The term "construction management services" means services provided by a construction manager, which may include preparation and coordination of bid packages, scheduling, cost control, value engineering, evaluation, preconstruction services, and construction administration.

b. *Construction management-at-risk services.* The term "construction management-at-risk services" means services provided by a person who:

1. Provides construction management services for a project throughout the preconstruction and construction phases;
2. Is licensed as a general contractor; and
3. Guarantees the cost of the project.

c. *Construction manager-at-risk.* The construction manager-at-risk shall contract directly with the county for all construction, shall publicly advertise, and shall prequalify and accept bids from first-tier subcontractors for all construction work. The construction manager-at-risk shall address quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, capacity to perform, and other factors deemed appropriate by the county. The county shall require the construction manager-at-risk to submit its plan for compliance with G.S. 143-128.2 for approval by the board of commissioners prior to soliciting bids for the project's first-tier subcontractors. A construction manager-at-risk and first-tier subcontractors shall make a good faith effort to recruit and select minority businesses for participation in contracts pursuant to G.S. 143-128.2. A construction manager-at-risk may perform a portion of the work only if:

1. Bidding produces no responsible, responsive bidder for that portion of the work, the lowest responsible bidder will not execute a contract for the bid portion of the work or the subcontractor defaults and a prequalified replacement cannot be obtained in a timely manner; and
2. The county approves of the construction manager-at-risk's performance of the work.

d. *Design-Build and Design-Build Bridging.* The Design-Builder contracts to provide both design services (architectural and engineering) and construction services under one contract. Design-Build is subject to Request for Qualification and is initially selected based on qualifications. A Design-Build Bridging contract is when the local government contracts with a design-builder to complete project design and perform construction services. A design-build bridging contract is awarded to the lowest responsive, responsible bidder based on estimated costs of performing design and construction services.

All bids shall be opened publicly and once they are opened are public records. The construction manager-at-risk shall act as the fiduciary of the county in handling and opening bids. The construction manager-at-risk shall award the contract to the lowest responsible, responsive bidder, taking into consideration quality, performance, the time specified in the bids for the performance of the contract, the cost of construction oversight, time for completion, compliance with G.S. 143-128.2, and other factors deemed appropriate by the county and advertised as part of the bid solicitation. The county may require the selection of a different first-tier subcontractor for any portion of the work, provided the construction manager-at-risk is compensated for any additional cost incurred. When contracts are awarded using this method, the county shall provide for a dispute resolution procedure as provided in G.S. 143-128(g). The construction manager-at-risk shall provide a performance and payment bond to the county.

(5) *Alternative contracting method.* Local governments can seek authority to modify bidding requirements for particular projects, specifically design-build projects for building construction.

(d) *Performance and payment bonds.* When a project exceeds \$300,000.00, performance and payment bonds are required for each contract that exceeds \$50,000.00. No bid for construction or repair work valued at \$300,000.00 or above may be considered or accepted unless, at the time of the submittal, it is accompanied by a deposit in the form of cash or certified check, in an amount equal to not less than five percent of the proposal. In lieu of making a cash deposit, the bidder may file a bid bond executed by a corporate surety licensed under the laws of the state. The successful contractor shall be required to submit performance and payment bonds to secure the faithful performance of the terms of the contract and the payment of all sums due for labor and materials.

(e) *Reporting requirements.* County staff shall report to the secretary of the department of administration the cost and effectiveness of the method used under this section. Reports shall include the following information:

- (1) The method used;
- (2) The total value of each project;
- (3) The bid costs and relevant post bid costs;
- (4) A detailed listing of all contractors and subcontractors used on the project, including identification of whether the contractor was an out of state contractor; and
- (5) When an out-of-state contractor was used, the reasons why the contractor was selected.

The reports must be filed annually beginning April 1, 2003, and thereafter must be filed in the year in which the project is completed.

(f) *Dispute resolution for building construction projects.* The county shall provide dispute-resolution procedures for all building construction or repair projects. The dispute-resolution procedures are available to all parties involved in the construction project, including the architect, the construction manager, and the contractors, including all levels of subcontractors, and are available for any issue arising out of the contract or construction process as long as the matter in dispute is \$15,000.00 or more. See dispute-resolution policy.

(g) *Minority participation for building construction projects (formal bids).*

(1) Contractors, including first-tier subcontractors on construction management-at-risk projects, must identify on their bids the minority businesses they will use on the project and the total dollar value of the bid that will be performed by minority businesses. They must also include an affidavit listing the good-faith efforts they have made. If contractors intend to perform all of the work with their own forces, they may submit an affidavit.

(2) After bids are received, the apparent lowest responsible bidder must provide either:

a. An affidavit describing the portion of the work to be executed by minority businesses, expressed as a percentage of the total contract amount showing a percentage equal to or more than the applicable goal on the project; or

b. Documentation of good-faith efforts to meet the goal, including any advertisements, solicitations, and evidence of other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract.

(3) Within 30 days after a contract is awarded, the successful contractor must list all identified subcontractors that will be used on the project. Failure to provide the affidavit or documentation required to demonstrate good faith efforts is grounds for rejection of a bid.

(4) A subcontractor may not be replaced except:

a. When the subcontractor's bid is determined to be nonresponsible or nonresponsive or the subcontractor refuses to enter into a contract for the complete performance of the work; or

b. With the approval of the county for good cause.

When selecting a substitute contractor, the contractor must make and document good faith efforts. See guidelines and minority outreach plan, on file in the county offices.

(Ord. No. 2011-07, 6-20-2011)

(h) E-Verify required for formal construction contracts. All contractors and their respective subcontractors shall provide E-Verify Affidavits for any formal construction project prior to contracting with the County.

State law reference— Authority of county to lease real property and to employ county personnel under certain circumstances, G.S. 153A-165, 143-135.

Sec. 30-11. - Formal bid exceptions.

Formal bids are not required for the following:

(1) State of emergency. The board of commissioners may set aside the normal requirements in an emergency involving the health and safety of people or their property. In such cases, the board of commissioners may let contracts as necessary in its discretion.

(2) If a contract for the purchase, lease or other acquisition of any apparatus, supplies, materials or equipment is with the:

a. United States of America or any agency thereof; or

b. Any other governmental unit or agency thereof within the United States.

(3) A project is exempt from formal bidding if it is a construction project that will not cost more than \$125,000.00, including all direct and indirect costs, or if the labor does not exceed \$50,000.00 and the work is to be done by the forces of the governmental unit involved. Bidding requirements will still apply to apparatus, supplies, materials or equipment purchased for use on force account projects. Force account labor must be approved by the board of commissioners, and a record of all costs must be maintained for public inspection.

(4) Exemption from bidding is allowed for purchases from contractors who have, within the past 12 months, contracted to furnish the desired item to the federal government or any federal agency, another state government or agency, another local government or agency. The contractor must be willing to furnish the items at the same or more favorable prices, terms, and conditions as those provided under the contract with the other unit or agency. A prior contract must have been let under public bidding process substantially similar to G.S. 143-129, and the board of commissioners must approve the contract at a regular meeting on ten days' notice, notwithstanding delegation of authority to award contracts. Notice may be published by electronic means.

(5) Purchases made through a competitive bidding group purchasing program, which is a formally organized program that offers competitively bid purchasing services at discount prices to two or more public agencies.

- (6) Purchases using contracts established by the state or any agency of the state, if the contractor is willing to extend to a political subdivision of the state the same or more favorable prices, terms, or conditions as established in the state contract.
- (7) Purchase of used apparatus, supplies, materials, or equipment. For purposes of this subsection, remanufactured or refabricated apparatus, supplies, materials, or equipment are not deemed to be "used," and are not included in this exception.
- (8) Guaranteed energy savings contracts, which are governed by G.S. 143-64.10 et seq.
- (9) Purchase of information technology using contracts established by the state office of information technology services as provided in G.S. 147-33.82(b) and 147-33.92(b).
- (10) Purchase of gasoline, diesel fuel, alcohol fuel, motor oil, fuel oil, or natural gas. These purchases are subject to G.S. 143-131.
- (11) In accordance with G.S. 143-129, single-source items are exempt from bid procedures when performance or price competition for a product is not available, when a needed product is available from only one source of supply, or when standardization or compatibility is the overriding consideration. This subsection requires action by the board of commissioners notwithstanding delegation of authority to award contracts and requires a record of justification for use of the exemption.

(Ord. No. 2011-07, 6-20-2011)

State law reference— Exemptions from formal bid requirements, G.S. 143-129, 143-135.

Sec. 30-12. - Informal bids.

(a) Informal bids are distinguished from formal bids by the following:

- (1) The dollar amount to be purchased is less than \$90,000.00 or construction/repair work for expenditures is less than \$500,000.00.
 - (2) Written specifications are not required.
 - (3) Advertising for bids is not necessary.
 - (4) Written, sealed bids need not be submitted.
 - (5) Informal bids received shall remain confidential until the bid is awarded.
- (b) . Three quotes should be obtained for purchases between \$5,000.00, and \$90,000.00 for purchases of supplies and equipment unless it is a sole source item. For purchases of supplies and equipment between \$5,000.00 and \$30,000.00, the three-quote requirement can be waived with the approval of the purchasing manager. If quotes have been attempted and the item can only be obtained from one source, the informal purchase is accomplished by a fair and reasonable acceptance of the product by the department head affected and the purchasing manager.
- (1) The officer who receives such bids is to keep a record of all bids submitted and have these available for public inspection. This record shall include the company name, the contact person, the item quoted and the date the quote was received.
 - (2) When informal bids are received by a department, the quotes received should be listed on the purchase order and a copy forwarded to purchasing.
- (c) Informal building construction and repair projects are accomplished by obtaining three written quotations for projects between \$30,000.00 and \$500,000.00. For building construction or repair contracts in the informal range, between \$30,000.00 and \$500,000.00, minority business contractors shall be solicited.

(Ord. No. 2011-07, 6-20-2011)

State law reference— Bids to be available for inspection, G.S. 143-131.

Sec. 30-13. - Award of bid.

(a) After receipt and evaluation of formal bid proposals, the purchasing manager shall make a recommendation to the county manager for purchases \$250,000.00 or less for projects approved in the budget. Such recommendation shall endorse the lowest responsible, responsive bidder, taking into consideration the following:

- (1) Price.
- (2) Quality.
- (3) Performance.
- (4) The time specified in the bid proposal for the performance of the contract (delivery or completion date).

(b) Award of a bid by the board of commissioners or the county manager will result in execution of a purchase order and/or a contract. In general, a purchase order is used for a one-time purchase of supplies, equipment or services and for minor construction work. A contract and purchase order is used for nonprofessional services required over a period of time, for all professional services and for significant construction jobs.

(c) Though dollar amounts generally determine whether formal or informal procedures are required, such practices may also be followed for purchases below the minimum cost in each category. The objective of the purchasing office is to secure with efficiency what is needed, when it is needed, and at the lowest reasonable cost. Competitive bidding can save dollars regardless of the estimated purchased amount.

(d) The purchasing office must prepare or oversee the preparation of the specifications, hold a prebid conference when applicable, advertise for bids, and conduct the bid opening. Recommendations for bid award must be taken to the county manager for purchases less than \$250,000.00 for projects approved in the budget for approval. It is important that ordering departments anticipate needs timely and allow enough time after the request is submitted for the entire purchasing process to be completed whenever formal bid procedures must be followed.

(Ord. No. 2011-07, 6-20-2011)

Sec. 30-14. - Contracts.

All contracts proposed by any county department/agency must be preaudited prior to execution as required by G.S. 159-28. In compliance therewith the following procedures relative to contracts will apply:

- (1) All contracts should be sent to the finance director for preaudit as follows:

"This Instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act."

Finance Director

- (2) A purchase order shall be issued for all contracts when county funds will be expended.
- (3) The contract will be sent to the staff attorney for approval as to form, prior to execution.
- (4) A copy of the contract will be maintained in the purchasing manager's office and the original returned to the department head.

(Ord. No. 2011-07, 6-20-2011)

Sec. 30-15. - Vendor relationships.

The purchasing/vendor relationship is one of mutuality. The promotion of good relations with vendors is an important function of the purchasing manager. Therefore, it is essential that the purchasing manager be aware of all transactions between the county and its vendors. The using

departments/agencies should not be burdened with visits from vendors or their representatives nor with the work of purchasing. Much time shall be saved by complying with the following procedures:

- (1) All vendors' representatives are received by the purchasing office promptly and courteously.
- (2) The purchasing office will arrange interviews between vendors' representatives and other departments of the county.
- (3) The purchasing office will forward to departments and division heads useful information obtained from interviewing, direct mail and advertising.
- (4) When department/agency heads are visited by sales representatives, they should ascertain whether they have been sent to them from the purchasing manager. If not, they should be referred to the purchasing office.
- (5) Department contacts with vendors or their representatives may be necessary to gain information, such as availability of materials and services, delivery and manufacturing time, demonstrations and specifications.
- (6) The county is not bound by any commitment to a vendor by a department. Any such commitment shall be the exclusive responsibility of such department.
- (7) The purchasing office shall maintain an up-to-date bid list of all vendors requesting to do business with the county. This list shall be made available to all departments.
- (8) Commitment of county funds without an approved purchase order or preaudited contract is prohibited, and such commitment will not be honored for payment as provided by G.S. 159-28.
- (9) The county will not knowingly negotiate with any contractor or vendor which has been deemed by the Equal Employment Opportunity Commission to be in noncompliance with equal employment opportunity laws.

(Ord. No. 2011-07, 6-20-2011)

Sec. 30-16. - Surplus property, in rem and complaint foreclosure on land, damaged property.

(a) If county property with a fair market value of \$1,000.00 or more becomes surplus to the county's needs due to obsolescence, end of useful life, or for any other reason deemed appropriate by the county, such property will be disposed of by means most advantageous to the county. This includes tangible personal property, buildings and structures, and real estate acquired in foreclosure proceedings for nonpayment of property taxes.

(b) Property with an original value of \$5,000.00 or more must be declared surplus on a fixed asset form furnished by accounting. The completed form is approved by the department head and forwarded to the purchasing office. A work order should be completed by the department head and forwarded to the purchasing office. Purchasing will then determine if any other department needs the item; if not, the work order will be forwarded to maintenance so the items can be picked up and stored. The purchasing office then forwards the fixed asset form to accounting to update fixed assets. Once the property is disposed of, a list is then forwarded to accounting.

(c) Disposal of surplus property is the responsibility of the purchasing office and is accomplished by trade-in at the time new equipment is purchased; transfer to another county agency; sale by public auction, electronic auction, private negotiation and sale; advertisement for sealed bids; negotiated offer, advertisement, and upset bid; or exchange. Trade-ins with purchase are specifically authorized and exempted from otherwise applicable statutes governing disposal of surplus property. A fixed asset form should be submitted for property that is traded in, when applicable. Award of the bid may be based on both the purchase of equipment and the sale of trade-in property, taking into consideration the amount offered on the trade-in when applying the criteria for award established in G.S. 143-129. Notice for public auction for real or personal property may be by electronic means.

(d) If it is determined that trade-in is not to the advantage of the county, the surplus property will be offered to all other county agencies on an equal basis. A written notice of availability with a description of the surplus property will be distributed to all departments. Should an agency advise

the purchasing office of an interest in the item, the purchasing manager will transfer to that agency the equipment on a request of need.

(e) If the property is neither traded nor transferred, it is offered for sale by public auction, electronic auction, private negotiation and sale; advertisement for sealed bids; negotiated offer, advertisement, and upset bid; or exchange.

(f) When the value of personal property is less than \$10,000.00 for any one item or group of items, the purchasing manager is authorized and may declare items surplus. When the value of personal property is between \$10,000.00 and \$30,000.00 the county manager is authorized and may declare items surplus. The county manager and/or the purchasing manager shall determine the fair market value, taking into consideration the present market value, depreciation, condition of the property, and other factors affecting value. After a determination of the fair market value, the purchasing manager, by any manner deemed necessary, is authorized to sell or exchange any property for fair market value and has full authority to convey good title to the property. A record of all transactions shall be kept generally describing the property sold or exchanged, to whom it was sold, or with whom exchanged, and the amount of money or other consideration received for each sale or exchange. The county manager and/or the purchasing manager may discard any personal property that:

- (1) Is determined to have no value;
- (2) Remains unsold or unclaimed after the county has exhausted efforts to sell the property using any applicable procedures; or
- (3) Poses a threat to the public health or safety.

(g) Any county employee who has the responsibility of declaring an item to be surplus property shall not purchase or obtain the item under any circumstances for personal use.

(h) Surplus library books. Each branch library has a Friends of the Library organization. Library staff shall have the authority to transfer surplus and donated library materials to the Friends of the Library. Further, the Friends of the Library shall have the authority to sell donated or discarded county books on behalf of the county pursuant to G.S. 266(c). The Friends of the Library shall use the proceeds to purchase new library materials and programs.

(Ord. No. 2011-07, 6-20-2011)

Sec. 30-17. - Central warehouse.

The central warehouse was established to reduce the volume of paperwork generated to obtain a small number of repetitive items and to accelerate delivery time of these items. The central warehouse stocks printed forms and items bearing the name, seal, and other logotypes symbolizing the county, commonly known as county logo items. The procedure for ordering warehouse supplies is outlined in subsection 30-21(2).

(Ord. No. 2011-07, 6-20-2011)

Sec. 30-18. - Emergency purchases.

(a) Emergency purchasing permission is granted only in extreme cases. During normal working hours, if, in the judgment of the department head, an emergency arises which necessitates immediate purchase of materials or services to continue with department operations, he notifies the purchasing manager of the emergency purchase which will be necessary and enters the purchase order in the computer system. The purchasing manager then processes the purchase order immediately, contacting finance for approval.

(b) After working hours, the department head will decide if an emergency exists and in such case will authorize the necessary emergency purchase. A disbursement voucher shall be completed for any emergency purchase with an explanation attached.

(c) In all cases, if the department head is not available, the decision regarding emergencies will be made by the finance director or assistant finance director. These procedures apply to all county agencies and departments.

(d) Emergency procedures are not intended for purchases required because of failure to anticipate normal needs. Work should be planned in advance and material requirements determined so that items can be requisitioned as a regular purchase.

(Ord. No. 2011-07, 6-20-2011)

Sec. 30-19. - Federal government surplus store.

When items are obtained from the federal surplus store, the amount paid for them represents simply the cost of transferring them to the county. Such items are, therefore, not purchased, but transferred, and the purchasing manager assumes full responsibility for all surplus items. As such, these items must remain on county property or premises at all times. If government officials wish to inspect any of these items, the purchasing manager will be contacted and must be familiar with the items and their location. Therefore, the purchasing manager will check periodically with departments that utilize such items and equipment.

(Ord. No. 2011-07, 6-20-2011)

Sec. 30-20. - Use of purchasing procedures and purchasing office required.

(a) The purchasing of goods and services utilized by county departments must be handled in accordance with the policies and procedures contained in this chapter.

(b) The purchasing of such items and services shall be accomplished through the use of the purchasing office. The key to an efficient and economical central purchasing system is optimum use of that system.

(c) While some exception to this policy will be allowed, e.g., emergency purchases as covered in section 30-18, failure to use the purchasing office may result in the county's refusal to pay invoices for such purchases.

(Ord. No. 2011-07, 6-20-2011)

Sec. 30-21. - Purchasing procedures.

Each county department is responsible for requesting, receiving, inspecting and accepting supplies and equipment for that department in accordance with the following:

(1) *Purchase order (entered via computer system).*

a. A purchase order is used to request tangible goods or equipment which must be bought, excluding warehouse supplies. The ordering department should anticipate needs in sufficient time for normal processing by the purchasing office.

1. Any tangible goods purchased which have a value of \$5,000.00 or more and a life expectancy of three years or more should be coded to the appropriate capital line item.

2. All related expenses, e.g., shipping, installation, should be coded to the capital line item for the equipment purchased.

b. The purchase order should be entered through the financial software system. The following information should be included:

1. Buyer.

2. Vendor.

3. Shipment destination.

4. Unit price.

5. Contract number, if applicable.

6. Description.

7. Quantity.

8. Unit of measure.

9. Fund.

10. Department identification.
 11. Account number.
 12. Project, if applicable.
- c. Refer to the financial software system user's guide for more detailed instructions or contact the purchasing office for assistance and/or the intranet for more detailed instructions. Contact the finance software administrator or the purchasing office for further assistance.
 - d. The purchasing manager will review the purchase order, obtain pricing, if applicable and, if appropriate, approve the purchase order. The purchase order is then reviewed by finance for confirmation that the appropriate accounts were charged. If the wrong accounts were entered, the ordering department will be advised, and the order will be held until it is corrected.
 - e. The purchasing manager has the authority to revise purchase orders and estimates of quantity, quality, or cost, as long as the established standards and specifications are maintained. If it is necessary to revise a purchase order, the ordering department will be informed immediately.
 - f. Authorization in the department budget for a particular item does not authorize a specific purchase. The purchasing manager must review each request independently when it is submitted by the ordering department and can request further review by the finance department or county manager.

(2) *Central warehouse supplies.*

- a. All warehouse supplies will be listed in the supply catalogue provided to each department by the purchasing office and which is posted on the county's intranet. The central warehouse supplies include standardized, printed forms and items bearing the name, seal, and other logotypes symbolizing the county, commonly known as county logo items.
- b. To request supplies, determine quantity needed, inventory number and account number. This information should be sent to the purchasing office via e-mail.

(3) *Issuance of purchase order; processing; records; disbursement vouchers.* After submission of a purchase order by the user department and review by the purchasing office and finance, a purchase order is issued. The purchase order is a legal instrument that is sent to the vendor for the actual purchase of items and as such is a contract to buy on behalf of the county and to sell at a specified price on behalf of the vendor. State preaudit law requires dual signatures on all purchase orders issued, a designated purchasing office representative and a finance office representative. When both representatives have approved the purchase orders, they are distributed electronically to the vendor, finance department and requester.

- a. When an ordering department receives, inspects and accepts delivery of a complete order:
 1. The department should use the finance software system to obtain a voucher number.
 2. The voucher number should be written on the invoice and forwarded to finance.
 3. The voucher number should be written on the departmental copy of the purchase order and filed in that department for future reference.
- b. When ordered goods are received, inspected and accepted as a partial or incomplete shipment, the ordering department uses the same procedures as listed in subsection (3)a.
 1. When the remainder of the order is received, the ordering department should again use the finance software system to obtain a voucher number.
 2. If the remainder of the order does not arrive in a reasonable time, the ordering department should notify the purchasing office by memorandum so the vendor can be contacted regarding the reason for the delay in shipment.
- c. When a department receives partial delivery of an order and finds that the balance of the order is not needed, the department shall notify the purchasing office in writing and request cancellation of the remaining balance, provided the complete order has not yet been shipped and

the vendor is agreeable. If a department wishes to cancel a purchase order in its entirety, the department head should immediately notify the purchasing office in writing and explain the reasons for the cancellation. The purchasing office will then notify the vendor directly; an ordering department may not contact the vendor personally to cancel a purchase order. Authorization for a cancellation may be made only by the purchasing manager.

d. A purchasing system is not efficient without the maintenance of up-to-date, accurate records on purchases made but not yet received. Until satisfactory delivery of such orders has occurred, the purchasing office has not achieved its ultimate goal. Therefore, it is important that the ordering department keep close check on expected delivery dates of purchase orders and notify the purchasing office of any outstanding orders so that necessary action may be taken. If follow-up action is required, the purchasing office will mail a letter to the vendor requesting that delivery be made or asking for an explanation of the delay. The purchasing office will then place the purchase order and a copy of the form letter in a suspense file. If the order is received on or before the new delivery date, no further action is required. If the items have not been received, the purchasing office will again contact the vendor as to the delay and/or cancel the purchase order if immediate delivery cannot be guaranteed.

e. There may be occasions when a department wishes to return merchandise to the vendor. In such case, the department head should notify the purchasing office so that the vendor may be contacted and the return of the order negotiated. If the order is not to be replaced by the vendor, the department should request purchasing to cancel the purchase order.

f. A disbursement voucher system will be used to request payment for goods and services when a purchase order is not feasible or when the invoice amount exceeds the purchase order amount. Examples of the kinds of transactions for which a disbursement voucher form will be used are as follows:

1. Purchases shall not exceed \$999.99 for all county departments. The county manager reserves the right to lower the purchase order limit for any department.
2. Postage.
3. Dues, subscriptions and advance registration fees.
4. Payment of debt service charges.
5. Sheriff's department requests for informant and narcotics monies.
6. Newspaper advertising.
7. Vehicle, equipment repair and emergency maintenance repair.
8. Payments to the county manager, board of commissioners, the county attorney and members of other county boards.
9. All requests for payment of invoices wherein a purchase order has not been completed.
10. Temporary nonemployee or professional workers not covered by a contract.
11. Refunds.
12. Utilities.
13. Library books received on approval.
14. Advance travel conference or lodging reservations.
15. Employee reimbursements.
16. Client assistance payments.
17. Medical.
18. Equipment service contracts.

g. Any payment on a disbursement voucher which should have had a purchase order issued must be accompanied by a memorandum stating why a purchase order was not obtained and if any corrective action has been taken to prevent further occurrences.

(Ord. No. 2011-07, 6-20-2011)

Sec. 30-22. - Completion of disbursement voucher form.

(a) The disbursement voucher form referenced in subsection 30-21(3)f. shall be completed and shall be completed using the on-line financial system.

(b) A .pdf copy of the invoice will be attached to the voucher using the on-line financial system and the daily Accounts Payable Voucher spreadsheet shall be emailed to Accounts Payable.

(Ord. No. 2011-07, 6-20-2011)

Sec. 30-23. - Procurement card procedures.

(a) The procurement card program was established to provide a more rapid turnaround of requests for low-dollar-value goods and to reduce paperwork and handling costs. Those requesters who have been issued credit cards may initiate transactions in person, on the internet, or by telephone, within the limits of these procedures, and may receive goods.

(b) Department heads may propose an employee to be a cardholder by completing the request for credit card form; the form can be found on the county's intranet. The request is to be forwarded to the purchasing office for processing. The proposed cardholder shall be issued a copy of this procedure and shall be required to acknowledge (countersign) an authorization memorandum, indicating the cardholder understands the procedures.

(c) Team cards are available for units and/or departments. The team card is one card with several authorized users.

(d) The unique credit card that the cardholder receives has his name embossed on it and shall only be used by the cardholder. No other person is authorized to use that card.

(e) Use of the credit card shall be limited to the following conditions:

(1) Payment for a purchase will not be split into multiple transactions to stay within the single purchase limit.

(2) All items purchased over the counter must be immediately available at the time of the credit card use. No back ordering of merchandise is allowed.

(3) The credit card shall not be used for the following:

a. Personal purchase or identification.

b. A single purchase of supplies or equipment that exceeds the purchase order limit.

c. Cash advances.

d. Telephone calls.

e. Purchase of alcoholic beverages.

f. Payment for spouse-related travel expenses.

(f) The single transaction limit for the purchase of supplies and material is \$499.99. Travel expenses and non-tangible training items may exceed \$499.99 for a single transaction. At the finance director's discretion, a department head's employee's single transaction limit can be \$999.99, and he may designate staff that has responsibility for purchasing within the department to have a single transaction limit of \$999.99.

(g) The assistant finance director and the purchasing manager may authorize exemptions to the single transaction limit under special circumstances.

(Ord. No. 2011-07, 6-20-2011)

This the 16th day of March, 2015.

d. A request for the Board to approve entering into a Right of Way Agreement with Duke Energy Carolinas, LLC. The Sheriff's Office is constructing a firing range at the Blackburn Landfill. The project has a budget of \$100,000 and will consist of gravel parking, a metal shed, metal carport, asphalt and electricity.

The Sheriff's Office currently rents land for a shooting range that is basically a marshy area. There are several underground springs that staff have tried repeatedly to drain by running drain lines into the creek. When there is heavy rain, the whole range floods including a tower used for storage. The underground water system frequently disables the electronics of the target system. In addition, the equipment is frequently shot by someone with deer rifles. The neighbors surrounding the current firing range complain every time the range is used.

The site at the Blackburn Landfill should be a perfect location for the new range - it is isolated, not in a flood plain and not expected to be needed for landfill operations for at least 40 years. In order to provide electricity at the site, Duke Energy Carolinas, LLC will construct poles, lighting, fixtures, transformers, etc. and Duke requires a Right of Way Agreement. The following agreement applies:

STATE OF NORTH CAROLINA TEMPORARY RIGHT OF WAY
AGREEMENT
COUNTY OF CATAWBA

KNOW ALL MEN BY THESE PRESENTS, That Catawba County hereinafter called "Grantor" (whether one or more), in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, does hereby grant unto DUKE ENERGY CAROLINAS, LLC, and its successors and assigns, subsidiaries and divisions, hereinafter called "Grantee," a temporary right, privilege and easement to go in and upon that certain land of Grantor (hereinafter "premises") situated in said County and State, property described as:

PIN 3617-0279-6313, Book 2676 at Page 1675

and over and across said premises within a right-of-way strip (check applicable):

X having a width of 15 feet on each side of a centerline determined by the centerline of the electrical facilities and/or the lighting facilities, as installed, to construct, maintain and operate with poles, lighting fixtures, crossarms, wires, guys, anchors, cables, transformers and other apparatus and appliances, overhead lines for the purpose of transporting electricity and/or providing lighting services and for the communications purposes of the Grantee and regulated telephone utilities. The following rights are also granted to Grantee: to enter said premises to inspect said lines, equipment and facilities, to perform maintenance and repairs, and to make alterations and additions thereto; and relocate its facilities and right-of-way strip over the premises to conform to any future highway or street relocation, widening or improvement; and to remove from the right-of-way strip, now or at any time in the future, trees, structures or other obstructions that may endanger the proper maintenance and operation of said lines or other facilities or equipment and trees of any species that Grantee determines will grow at maturity to a height that will endanger the proper maintenance and operation of said lines or other facilities or equipment; to trim or remove and to keep trimmed or remove dead, diseased, weak or leaning trees or limbs outside of the right-of-way strip which, in the opinion of the Grantee, might interfere with or fall upon the electric, lighting, or regulated telephone facilities within the right-of-way strip; and to install guy wires and anchors extending beyond the limits of the right-of-way strip.

X having a width of 15 feet on each side of a centerline determined by the centerline of the electrical facilities and/or the lighting facilities, as installed, to construct, maintain and operate underground lines and conduits with other apparatus and appliances, either above ground or below ground, to include transformers and service connections, for the purpose of transporting electricity,

providing lighting services and for the communications purposes of Grantee. The following rights are also granted to Grantee: to enter said premises to inspect said lines, equipment and facilities, to perform maintenance and repairs, and to make alterations and additions thereto; and relocate its facilities and right-of-way strip over the premises to conform to any future highway or street relocation, widening or improvement; and to clear the land within the right-of-way strip and to keep it clear of trees, structures or other obstructions; and to clear that land outside the right-of-way strip within ten feet of the service door of any transformer or cabinet located within the right-of-way strip and to keep the area within ten feet of said door clear of trees, structures or other obstructions.

Grantor, for itself and its successors and assigns, agrees to hold Grantee, its successors and assigns, harmless for replacement and/or repair of paving, landscaping and fences as a result of future system maintenance and repair. All underground facilities are to be installed in accordance with the provisions of Grantee's Underground Distribution Installment Plan, NCUC Docket E-7, Sub 828, receipt of a copy of which is acknowledged by Grantor.

The easement described herein shall remain in effect until such time as the installed electrical facilities and/or the lighting facilities are installed as prescribed herein and are no longer needed as determined by Grantor.

IN WITNESS WHEREOF, this instrument is executed on this _____ day of _____,

GRANTOR

e. In accordance with North Carolina General Statutes, a request for the Board to accept a report from the Catawba County Tax Collector setting forth the total amount of unpaid taxes for the current year and adopt a resolution ordering the Tax Collector to advertise the delinquent tax liens as prescribed by the Statutes. As of January 31, 2015, delinquent real property taxes in Catawba County totaled \$4,529,278, which represents 6.51% of the 2014 real property levy. The following resolution applies:

RESOLUTION No.

BE IT RESOLVED, the Board of Commissioners for Catawba County, in compliance with NCGS 105-369(a), orders the Tax Collector to advertise all unpaid tax liens, as prescribed in NCGS 105-369.

This the _____ day of March, 2015

f. A request for the Board to approve the Travel Policy for the Alcoholic Beverage Control (ABC) Board. Commissioner Butler pointed out an error in the mileage allowance definition and it was noted this would be corrected. The ABC Board requested that the Board of Commissioners approve an ABC Travel Policy that has been approved by the Catawba County ABC Board. The North Carolina Alcoholic Beverage Control Commission requires that the Catawba County ABC Board provide proof that its appointing authority has approved its travel policy on an annual basis. The policy very closely mirrors the County's travel policy.

11. Departmental Reports:

A. Catawba Valley Community College (CVCC):

Dr. Garrett Hinshaw, CVCC President, presented two separate requests. The first was a request to transfer \$480,000 from capital projects funded in Fiscal Year 2014/15 to current expense to mitigate required State funding reversions. The second was to provide CVCC with a letter of commitment to fund \$890,000 to replace underground pipes.

Due to State funding formula changes and overall reductions at the State level, CVCC has been forced to revert \$1,386,001 since July 1, 2014. So far this year, CVCC has been able to cover roughly \$900,000 of the reversion by eliminating 12 positions and transferring State capital/operating funds to instruction. These reductions are in addition to a \$1.47 million reversion resulting in the

elimination of 11 positions last year. In order to avoid eliminating 7 additional positions, CVCC requested that the County transfer \$480,000 from two capital projects (chiller and gas pack replacements) approved in Fiscal Year 2014/15 to current expense. These projects will now be the two top priorities for the College in Fiscal Year 2015/16. CVCC anticipates being able to cover the current expense deficit moving forward through a combination of increased enrollment that will increase State funding, anticipated changes in funding flexibility from the State and savings resulting from reductions made after the start of the current fiscal year.

After Dr. Hinshaw responded to Commissioners' questions as to improvements in enrollment and state funding, Commissioner Barnes made a motion to approve the requested transfer of funds. The motion carried unanimously. The following appropriations apply:

Appropriation:

Revenue:

110-710050-695420	\$480,000
Transfer from General Fund	

Expense:

420-750100-995110	\$480,000
Transfer to General Fund	

420-750100-862200-34100-3-11	(\$255,000)
CVCC Chiller	

420-750100-862200-3400-4-16	(\$225,000)
CVCC Gas Packs	

110-710050-862100	\$480,000
CVCC Current Expense	

Additionally, CVCC requested that the County provide a letter of commitment to fund \$890,000 to replace roughly 1.5 miles of underground piping across the campus. After a sinkhole developed on the campus in 2013, CVCC contracted an engineer to do an inspection of all underground piping. The engineer's report found that there were multiple sections of piping across the campus that were severely deteriorated and recommended replacement within one year to 18 months. CVCC has an existing renovations project with \$1.5 million to address paving needs and many of the areas to be paved are also the areas that need piping replacement. CVCC can obtain State approval for the project and begin design work now with the existing funding, with the bulk of the work to be completed over the summer. CVCC requested the letter of commitment be provided now to include the additional \$890,000 in the County's Fiscal Year 2015/16 budget. The entire project will be debt financed, with debt likely issued this fall. The County has sufficient funds dedicated to schools' debt service to finance roughly \$41 million in projects in the next four year cycle, including the piping replacement. Commissioner Butler made a motion to provide this letter of commitment. The motion carried unanimously.

B. Hickory Public Schools:

Dr. Walter Hart, Hickory Public Schools Superintendent, presented a request from Hickory Public Schools to transfer \$35,000 in funds remaining in a Longview Elementary School project to a technology project to provide a local match for federal E-Rate funds. Hickory Public Schools has been working to upgrade technology infrastructure to support widespread internet and technology integration into instructional programs. A significant cost for school systems is having network infrastructure that will support thousands of technology users simultaneously. The school system has already used federal E-Rate funds to address technology infrastructure at high poverty schools (Longview, Southwest, Viewmont, Grandview, and Hickory Career and Arts Magnet) but still has about \$1 million in needs at lower poverty schools (Hickory High, Jenkins, Oakwood, and Northview). Hickory Public Schools is eligible to receive an additional \$300,000 in federal E-Rate funds but a local match is required to leverage these funds. The school system has approximately \$50,000

remaining in the Longview Elementary School project and would like to transfer \$35,000 to a technology project to provide the needed local match. Commissioner Barnes made a motion to approve this transfer of funds. The motion carried unanimously. The following appropriations apply:

Transfer of Appropriation:

423-740100-865200-32106-2-01	Hickory– Longview Elementary School	(\$35,000)
423-740050-995420-30050-9-02	Transfer to Schools Capital Projects	\$35,000
420-750100-865200-32150-5-02	Hickory – Technology	\$35,000
420-750100-695423	From Schools Construction	\$35,000

12. Other Items of Business: None.
13. Attorney's Report: None.
14. Manager's Report Manager's Report: None.
15. Adjournment. Commissioner Hunsucker made a motion to adjourn at 7:55 p.m. The motion carried unanimously and the meeting adjourned.

Randy Isenhower, Chair
Catawba County Board of Commissioners

Barbara E. Morris
County Clerk