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BOARD OF COMMISSIONERS

CANDICE WHITE
Clerk to the Board

KELLIE BEAM
Deputy Clerk

MEMORANDUM

TO: Finance Committee Members (Commissioners Adams, Faircloth and Keefe)

FROM: Candice H. White, Clerk to the Board

DATE: January 25, 2018

SUBJECT: Finance Committee Regular Meeting – Thursday, February 1, 2018

There will be a regular meeting of the Board of Commissioners' committees (Finance, Policy and Facilities Committee) on Thursday, February 1, 2018 beginning at 8:30 a.m. in room 564 of the Judge E. Maurice Braswell Cumberland County Courthouse. All committee meetings will start as soon as the previous committee adjourns.

AGENDA

1. Election of 2018 Finance Committee Chair **(NO MATERIALS)**
2. Approval of Minutes – December 14, 2017 Special Meeting **(Pg. 2)**
3. Project "Nano2"/Campbell Soup Supply Company **(Pg. 13)**
 - A. Consideration of the Economic Development Incentives Agreement for Campbell Soup Supply Company, LLC
 - B. Consideration of Subdivision of the Cedar Creek Industrial Park
4. Consideration of Energov Land Management Software Contract for Planning and Environmental Health **(Pg. 16)**
5. Consideration of Request for Proposals (RFP) for Workforce Development **(Pg. 18)**
6. Consideration of Community Development Block Grant – Disaster Recovery (CDBG-DR) Interlocal Agreement **(Pg. 20)**
7. Update on the Statewide Opioid Litigation Process **(Pg. 42)**
8. Other Items of Business **(NO MATERIALS)**

cc: Board of Commissioners; County Administration; Vicki Evans, Finance Director; Tammy Gillis, Director of Internal Audit and Wellness Services; County Legal; County Department Head(s); Sunshine List

December 14, 2017 Special Meeting

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CUMBERLAND COUNTY FINANCE COMMITTEE
COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564
DECEMBER 14, 2017 – 1:00 PM
SPECIAL MEETING MINUTES

MEMBERS PRESENT: Commissioner Marshall Faircloth, Chairman
Commissioner Jeannette Council
Commissioner Jimmy Keefe

OTHERS: Commissioner Glenn Adams
Commissioner Michael Boose
Commissioner Larry Lancaster
Amy Cannon, County Manager
Melissa Cardinali, Assistant County Manager
Tracy Jackson, Assistant County Manager
Sally Shutt, Assistant County Manager
Duane Holder, Assistant County Manager
Rick Moorefield, County Attorney
Vicki Evans, Finance Director
Ivonne Mendez, Accounting Supervisor
Bob Tucker, Accounting Supervisor
Geneve Mankel, Communications and Outreach Coordinator
Candice H. White, Clerk to the Board

Commissioner Faircloth called the meeting to order.

1. APPROVAL OF MINUTES – NOVEMBER 2, 2017 REGULAR MEETING

MOTION: Commissioner Keefe moved to approve the November 2, 2017 minutes.
SECOND: Commissioner Council
VOTE: UNANIMOUS (3-0)

2. PRESENTATION OF FISCAL YEAR 2017 AUDIT RESULTS

BACKGROUND:

The preliminary fiscal year 2017 audit results will be presented during the December finance committee meeting.

RECOMMENDATION/PROPOSED ACTION:

No action needed – for discussion and information purposes only.

Amy Cannon, County Manager, called on Finance Director Vicki Evans who provided the following audit results presentation. Ms. Evans stated presentation of the audit results at Board of

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Commissioner meetings has historically focused on the general fund but at this meeting and in the future, staff will go in depth to include highlights of other funds that historically have not been covered. Ms. Evans stated the results of the 2017 audit can be used as a starting point for future budget discussions for fiscal year 2019.

Ms. Evans stated as in years past, the County received an unmodified or “clean opinion” on its audit which represents the highest level of assurance. Ms. Evans stated Cherry Bekaert will go into more detail about the audit during the December 18 presentation.

Ms. Evans reviewed the categories of fund balance below and stated the Board has no control over funds within the non-spendable and restricted categories and limited control over the committed categories. Ms. Evans stated assigned fund balances are funds set aside for future purposes or projects and these amounts and uses can be adjusted by Board action. Ms. Evans stated assigned and unassigned fund balance uses can be specifically covered for future planning during the fiscal year 2019 budget process and during the goal setting meeting.

Categories of Fund Balance

Non-spendable – year-end balances that are not spendable resources

Restricted – by state statute

Committed – for specific statutory purposes

Assigned – funds set aside for future purposes or projects

Unassigned – County’s policy – minimum set at 10% of expenditures

Ms. Evans stated the general fund fund balance was \$108.8 million as of June 30, 2017 and this amount does not include the county school fund. Ms. Evans provided an overview of the general fund’s fund balance stating the assigned amount totals \$30.6 million and the unassigned amount totals \$47 million. Ms. Evans stated the unassigned fund balance represents 14.83% of fiscal year 2017’s expenditures with the percentage required by policy being a minimum of 10%.

General Fund - Fund Balance

(County school fund excluded)

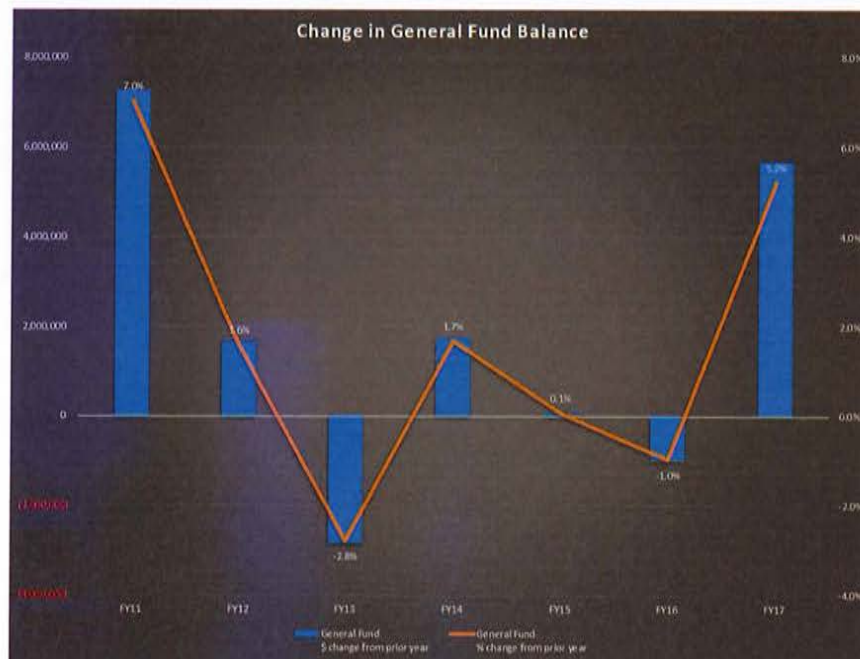
Nonspendable	
Inventories	\$ 174,458
Prepays	11,628
Restricted:	
Stabilization by state statute	26,703,544
Register of deeds	901,098
Committed:	
Tax revaluation	1,167,295
LEOSA pension obligation	2,290,100
Assigned:	
Subsequent year's expenditures	8,889,652
Tax office software	4,406,300
Water & sewer industrial expansion	4,527,610
Economic development incentives	1,065,139
Mental health services	2,160,841
Public health	3,200,854
Capital Investment Fund	1,324,938
Renovations & maintenance	1,250,000
Special purposes	2,247,143
Technology Upgrades	1,500,000
Unassigned	47,016,763
Total fund balance	<u>\$ 108,837,363</u>
2017 expenditures	\$ 317,112,543
Unassigned fund balance as a percentage of FY2017 expenditures	14.83%

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Ms. Evans provided an overview of the history of fund balance as recorded below with the general fund and county school fund combined. Ms. Evans stated for fiscal year 2017, the general fund's fund balance increased by 5.2%, or \$5.7M and the school fund's fund balance increased 26.3% or \$3.9M.

	GENERAL (101)	\$ change from prior year	% change from prior year	SCHOOL (106)	\$ change from prior year	% change from prior year	COMBINED	\$ change from prior year	% change from prior year
FY17	\$ 108,837,363	\$ 5,675,330	5.2%	\$ 14,886,966	\$ 3,913,691	26.3%	\$ 123,724,329	\$ 9,589,021	7.8%
FY16	103,162,033	(997,133)	-1.0%	10,973,275	1,955,969	17.8%	114,135,308	958,836	0.8%
FY15	104,159,166	66,020	0.1%	9,017,306	1,597,800	17.7%	113,176,472	1,663,820	1.5%
FY14	104,093,146	1,745,630	1.7%	7,419,506	(133,629)	-1.8%	111,512,652	1,612,001	1.4%
FY13	102,347,516	(2,852,737)	-2.8%	7,553,135	568,381	7.5%	109,900,651	(2,284,356)	-2.1%
FY12	105,200,253	1,663,262	1.6%	6,984,754	(979,605)	-14.0%	112,185,007	683,657	0.6%
FY11	103,536,991	\$ 7,273,948	7.0%	7,964,359	(537,626)	-6.8%	111,501,350	\$ 6,736,322	6.0%

Ms. Evans provided highlights of the following graph as a picture of the changes in fund balance within the general fund without the school fund and noted the general fund balance has fluctuated up and down over the years.



Ms. Evans stated there were four major areas that led to an increase in fund balance of the general fund this past year with plan changes in the group health insurance fund having the greatest impact. Ms. Evans stated before books were closed for year-end, it was determined the budgeted transfer from the general fund of \$2.2M was not needed as actual costs within the health insurance fund came in lower than anticipated. Ms. Evans stated ad valorem, motor vehicle, and sales taxes all came in above budget. Ms. Evans stated Hurricane Matthew recovery was a big event during the year; departments had increases to personnel costs as a result of overtime worked, equipment was

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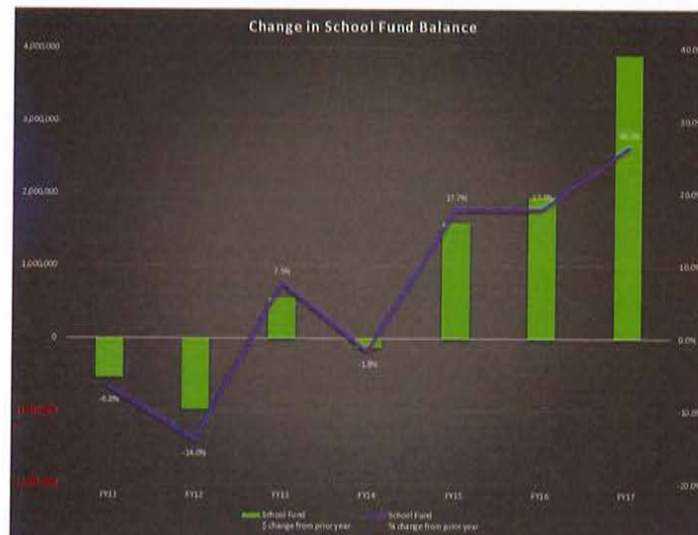
replaced, vehicles were replaced, and there was repair and maintenance to buildings. Ms. Evans stated the majority of costs were covered by insurance reimbursements and/or FEMA funding.

General Fund Increase in Fund Balance

(amounts are approximate)

Group Health Insurance Fund experienced positive results	2,200,000
budgeted transfer not needed at year-end	
Motor Vehicle taxes exceeded budget	1,850,000
Ad Valorem taxes exceeded budget	1,350,000
Sales taxes exceeded budget	500,000
Hurricane Matthew recovery	(200,000)
Total Increase in Fund Balance	5,700,000

Ms. Evans provided highlights of the graph below and stated the school fund has been on the rise over the past several years after facing declines in three years between fiscal years 11 and 14. Ms. Evans stated the increase of \$3.9M means that revenues were greater than expenditures and transfers out. Ms. Evans stated actual revenues exceeded budget by \$1.3M and most notably, sales taxes were higher. Ms. Evans stated actual expenditures were below budget by \$7.4M and most notably, capital outlay for facilities was lower. Ms. Evans stated appropriated fund balance was not utilized. Ms. Evans stated the County is responsible for the capital needs of the schools and the school fund can only be used for capital expenditures or to pay debt for the schools.



	2017			
	Budget	Actual	Variance Positive (Negative)	2016
Revenues				
Other taxes	\$ 9,560,294	\$ 10,415,026	\$ 854,732	\$ 9,913,132
Unrestricted intergovernmental revenue	800,000	920,719	120,719	876,812
Restricted intergovernmental revenue	3,430,000	3,674,258	244,258	3,724,973
Interest earned on investments	-	24,775	24,775	19,338
Miscellaneous	-	80,278	80,278	73,421
Total revenues	13,790,294	15,115,056	1,324,762	14,607,676
Expenditures				
Education				
School capital outlay I	9,839,879	2,904,748	6,935,131	4,870,776
School capital outlay II	2,739,371	2,341,637	397,734	2,229,630
School capital outlay III	641,468	589,063	52,405	378,760
Total expenditures	13,220,658	5,835,448	7,385,210	7,479,166
Revenues over expenditures	569,636	9,279,608	8,709,972	7,128,510
Other financing sources (uses)				
Transfers in	-	-	-	313,330
Transfers (out)	(5,365,910)	(5,365,917)	2	(5,485,871)
Appropriated fund balance	4,796,283	-	(4,796,283)	-
Total other financing sources (uses)	(569,636)	(5,365,917)	(4,796,281)	(5,172,541)
Revenues and other financing sources (uses) over (under) expenditures	\$ -	3,913,691	\$ 3,913,691	1,955,969
Fund balances				
Beginning of year - July 1		10,973,275		9,017,396
End of year - June 30		\$ 14,886,966		\$ 10,973,275

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School Fund Increase in Fund Balance

Actual revenues exceeded budget	1,300,000
Actual expenditures were below budget	7,400,000
Appropriated fund balance was not utilized	(4,800,000)
Total Increase in Fund Balance	<u>3,900,000</u>

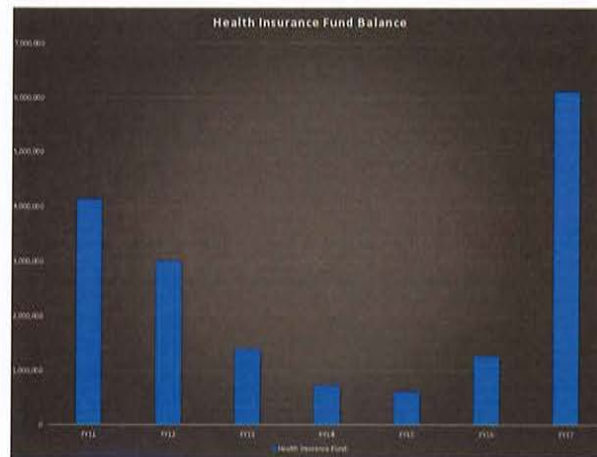
Ms. Evans provided highlights of the fund balance in the group health insurance fund. Ms. Evans stated after experiencing high claims amounts for three fiscal years in a row, the health insurance fund experienced an increase to fund balance in fiscal year 2017 as a result of significant plan changes made during that year's budget process. Ms. Evans stated the employee pharmacy, employee health clinic and staff are also part of the group health insurance fund. Ms. Evans stated in the recent past, the County has had to do transfers out of the general fund and into the health insurance fund to cover the unexpectedly high cost of rising claims. Ms. Evans stated stabilizing this fund has been discussed in the past and at a future meeting, and for planning purposes, staff would like to bring back a policy of setting a minimum fund balance for this fund to support financial stability over the long term.

	2017		Variance Positive (Negative)	2016
	Budget	Actual		
Revenues				
Operating revenues				
Contributions - Group health insurance	\$ 19,815,743	\$ 24,598,900	\$ 4,783,157	\$ 19,813,170
Pharmacy services	2,099,000	3,182,529	1,083,529	2,053,819
	<u>21,914,743</u>	<u>27,781,429</u>	<u>5,866,686</u>	<u>21,877,089</u>
Non-operating revenues				
Litigation settlement	-	(10,285)	(10,285)	(7,847)
Interest earned on investments	250	14,352	14,102	634
	<u>250</u>	<u>4,067</u>	<u>3,817</u>	<u>(7,213)</u>
Other financing sources				
Transfers in	2,310,000	110,000	(2,200,000)	5,430,000
Appropriated fund balance	-	-	-	-
Total revenues and other financing sources	<u>\$ 24,224,003</u>	<u>\$ 27,895,406</u>	<u>\$ 3,670,503</u>	<u>\$ 27,299,876</u>
Operating expenditures				
Employee pharmacy	\$ 3,457,721	\$ 3,590,037	\$ (132,316)	\$ 2,570,038
Employee clinic	403,200	353,889	49,311	281,047
Group health insurance	20,117,959	18,970,090	1,147,869	23,818,571
Employee wellness program	246,113	134,761	111,352	156,554
	<u>24,224,003</u>	<u>23,048,777</u>	<u>1,175,216</u>	<u>26,836,110</u>
Other financing uses				
Transfers out	-	-	-	-
Total expenditures and other financing uses	<u>\$ 24,224,003</u>	<u>\$ 23,048,777</u>	<u>\$ 1,175,216</u>	<u>\$ 26,836,110</u>
Reconciliation of income before transfers				
Total revenues and other financing sources		\$ 27,895,406		
Total expenditures and other financing uses		<u>23,048,777</u>		
Subtotal		<u>4,846,719</u>		
Contributions made to the pension plan in the current year		21,277		
Pension expense		<u>(21,277)</u>		
Income (loss) per the Statement of Revenues, Expenses and Changes in net position		<u>\$ 4,846,719</u>		

Group Health Insurance Fund Increase in Fund Balance

Actual revenues exceeded budget	3,600,000
Actual expenditures were below budget	1,200,000
Total Increase in Fund Balance	<u>4,800,000</u>

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Ms. Evans stated the solid waste fund is an enterprise fund that is accounted for as a business type activity. Ms. Evans provided highlights of the solid waste fund stating for fiscal year 2017, fund balance increased by \$3.2M. Ms. Evans stated within operating revenues, charges for services had the biggest impact and within non-operating revenues, grant revenue exceeded budget by \$2.3M. Ms. Evans stated this is directly related to FEMA funding as FEMA funding affected Solid Waste more than any other fund with a reimbursement of almost \$2.6M. Ms. Evans stated the largest impact was for equipment use; Solid Waste used their own equipment and FEMA allowed reimbursement based on hourly rates the equipment was in operation. Ms. Evans stated this is based on a concept that additional equipment use related to the disaster caused there to be wear-and-tear on the equipment and rates assign a value to that use.

	2017			2016
	Budget	Actual	Variance Positive (Negative)	
Operating revenues				
Charges for services	\$ 3,774,133	\$ 4,615,491	\$ 841,358	\$ 3,936,708
Other operating revenue	8,541	11,388	2,847	11,388
Solid waste fees	4,961,946	4,975,087	14,041	4,958,018
Total operating revenues	8,744,620	9,602,866	858,246	8,906,114
Nonoperating revenues and other financing sources				
Interest earned on investments	131,792	183,559	51,767	232,419
Gain (loss) on disposal of capital assets	17,889	194,768	176,879	-
Miscellaneous	209,398	28,384	(181,014)	697,799
Grant revenue	491,362	3,384,721	2,893,359	493,139
Transfers in	591,224	-	(591,224)	37,190
sources	1,441,665	3,791,432	2,349,767	1,460,547
Appropriated fund balance	10,255,057	-	(10,255,057)	-
Total revenues, other financing sources and fund balance appropriations	\$ 20,441,342	\$ 13,394,298	\$ (7,047,044)	\$ 10,366,661
Operating expenditures				
Salaries and employee benefits	\$ 3,522,533	\$ 3,519,965	\$ 2,568	\$ 3,155,816
Repairs and maintenance	1,497,500	1,344,493	153,007	1,620,406
Utilities	131,233	126,069	4,264	124,904
Administrative costs	4,492,745	3,794,838	697,907	3,295,391
Landfill closure and postclosure care costs	700,000	648,547	51,453	444,469
Total operating expenditures	10,344,011	9,434,812	909,199	8,640,986
Other expenditures and financing uses				
Capital outlay	10,048,578	2,328,339	7,720,239	2,327,953
Transfers out	48,753	-	48,753	-
Total other expenditures and financing uses	10,097,331	2,328,339	7,766,992	2,327,953
Total expenditures and other financing uses	\$ 20,441,342	\$ 11,763,151	\$ 8,678,191	\$ 10,968,939
Reconciliation of modified accrual basis to full accrual basis				
Total revenues and other financing sources		\$ 13,394,298		
Total expenditures and other financing uses		11,763,151		
		1,631,147		
Capital outlay		2,328,339		
Depreciation		(755,169)		
Contributions made to the pension plan in the current year		134,509		
Pension expense		(134,509)		
Change in net position		\$ 3,204,317		

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Solid Waste Fund Increase in Fund Balance (amounts are approximate)

Actual operating revenues exceeded budget	900,000
Actual non-operating revenue exceeded budget	2,300,000
Total Increase in Fund Balance	<u>3,200,000</u>

Ms. Evans stated in September the County engaged Cherry Bekaert to conduct a separate audit engagement and the results showed that the County's data was fairly stated in all material respects. Ms. Evans stated this means that no issues were found that could have resulted in findings or corrections having to be made.

Ms. Evans concluded her presentation stating although she presented four funds, each of which had increases to fund balance for fiscal year 2017, it should be realized that not all funds had increases to fund balance. Ms. Evans stated other funds can be found in the Comprehensive Annual Financial Report. Questions followed about the \$30.6 million total assigned and funds included therein.

3. Information on Development of Capital Planning Model

BACKGROUND:

The challenges facing Cumberland County have not diminished over the past decade, nor is it anticipated they will diminish in the near future. There remains the constant struggle of providing education, health and human services for a diverse population with very limited funding.

The struggle was the center of the Fiscal Year 2018 budget. Management understands the difficult situation posed by these opposing forces and needs. As a result, at the end of the FY18 budget cycle, we reached out to the County's financial advisors for assistance in creating a solution. Multiple conversations and financial models to develop options and understand impacts have occurred during this time. Together we have reached a recommended sustainable solution for the Finance Committee's consideration.

The capital funding model is key to providing sustainable long-term capital needs without the prospect of increasing the ad valorem tax rate. To achieve ultimate benefits of the model, it will be important to incorporate the capital planning model into the annual budget process beginning with Fiscal Year 2019.

Therefore, management recommends the details of how the model works, the goals to be set and the foreseen results be reviewed with the Board of Commissioners over the next few months. This process will coincide with the Board goal setting and capital planning process to be incorporated into the annual budget planning session in February or March 2018.

RECOMMENDATION/PROPOSED ACTION:

No action needed – information only.

Ms. Cannon stated the capital planning and funding model are directly tied to the capital investment fund which is an assignment on the balance sheet. Melissa Cardinali, Assistant County

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Manager, reviewed the background information recorded above and stated staff recognize that these challenges present a very difficult situation for the Board as leaders. Ms. Cardinali stated the most significant challenge is capital because it requires a significant dollar investment over multiple years, and not making capital improvements will result in escalating repairs and maintenance costs. Ms. Cardinali stated the issues facing Cumberland County are not unique, but the answer has to be tailored to Cumberland County's specific needs. Ms. Cardinali stated the result is a capital planning model that has been used in other large local governments that can be tailored to Cumberland County. Ms. Cardinali stated the benefits to this model are significant in that current funding can be diverted to address capital needs without increasing the tax rate and will provide flexibility to address the Board's priorities with funds available as early as FY 2019. Ms. Cardinali stated the key to moving this forward is planning and tying together the processes for the CAFR, CIP and budget because they are intertwined. Ms. Cardinali stated the success of this model is to set priorities for which projects the Board wants to address first and what dollars the Board wants to allocate to each project. Ms. Cannon stated the capital planning model is a solution that will fund repairs and maintenance, the capital improvement plan and future capital projects, and move the projects out of the operating budget in a manner that does not require additional funding. Questions and comments followed.

4. REPORT OF CONTRACTS WITH OUTSIDE LEGAL COUNSEL FOR COUNTY DEPARTMENTS

BACKGROUND:

During the Finance Committee meeting on November 2, 2017, finance committee members requested a tabulation of outside legal counsel used for all County departments and a listing of when the contracts come due or expire. The tabulation is included in the spreadsheet recorded below as requested.

RECOMMENDATION/PROPOSED ACTION:

No action needed – for discussion and information purposes only.

Attorney	Contract on file?	Expiration date?	Purpose	FEES PAID by FISCAL YEAR		
				FY18 (as of 11-20-17)	FY17	FY16
Margaret Russ	yes	6/30/2018	DSS Attorney	\$ 16,000	\$ 74,000	\$ -
Elizabeth Gurnee	yes	6/30/2018	DSS Attorney	\$ -	\$ -	\$ -
Hunton & Williams	engagement letter		Bond Counsel (debt related) - Crown Management contract question COMPLETE FY17 Overhills Park bond counsel COMPLETE FY16 CIP financing COMPLETE	\$ -	\$ 21,653	\$ 20,000
McGuire Woods/The Charleston Group	engagement letter		Bond Counsel (debt related) - FY18 CIP financing COMPLETE FY18 Overhills Park extension IN PROCESS FY18 LOBs refunding COMPLETE	\$ 77,728	\$ -	\$ -
Parker Poe Adams & Bernstein	engagement letter		Bond Counsel (debt related) - FY18 Overhills Park extension (bank counsel) IN PROCESS FY17 Overhills Park bond counsel COMPLETE FY16 CIP financing COMPLETE	\$ 2,500	\$ 5,000	\$ 10,000
Parker Poe Adams & Bernstein	engagement letter		Advisor on benefits IN PROCESS	\$ -	\$ -	\$ -
Womble Carlyle Sandridge & Rice	engagement letter		Underwriter (debt related) - FY18 LOBs refunding COMPLETE	\$ 50,000	\$ -	\$ -
David B. Craig	no		Tax Attorney for foreclosures ONGOING	\$ 34,406	\$ 62,371	\$ 85,440

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Ms. Evans stated an analysis was conducted of outside legal counsel paid by the County over fiscal years 16-17 and year-to-date fiscal year 18. Ms. Evans provided highlights of the graph recorded above and clarified the County has a contract with Attorney David B. Craig that was executed in 2010 with no expiration date and can be terminated with notice from either party. In response to a question from Commissioner Keefe, Ms. Evans stated David B. Craig is paid out of the tax budget, the two DSS attorneys are paid out of the Social Services budget and bond counsel comes out of financial costs related to that particular item.

5. MONTHLY FINANCIAL REPORT

BACKGROUND:

The financial report reflective of fiscal year 2018, October year-to-date actuals will be presented during the finance committee meeting.

The report has been modified to incorporate suggested changes made during the November finance committee meeting.

- Encumbered amounts were removed and the reports now show actuals (cash paid) instead of obligated.
- A column for fiscal year 2017 actuals has been added.
- In the spring a column for fiscal year 2018 year-end projection will be added.
- Additional detail has been provided on a separate page explaining any percentages that may appear off with year-to-date expectations.
- Overall, revenues and expenditures are consistent with the same time as last fiscal year.

As always, modifications to the report can be implemented to provide you the most useful information.

RECOMMENDATION/PROPOSED ACTION:

No action needed – for discussion and information purposes only.

REVENUES	PRELIMINARY FY16-17 AUDITED	FY17-18 ADOPTED BUDGET	FY17-18 REVISED BUDGET	YTD ACTUAL AS OF OCTOBER 31, 2017	PERCENT OF BUDGET TO DATE
Ad Valorem Taxes					
Current Year	\$ 156,131,527	\$ 160,312,162	\$ 160,312,162	\$ 37,258,284	23.2% (1)
Prior Years	1,046,732	1,121,000	1,121,000	570,301	50.9%
Motor Vehicles	17,683,864	18,070,242	18,070,242	4,656,741	25.8% (2)
Penalties and Interest	650,368	667,602	667,602	134,494	20.1%
Other	1,018,563	930,279	930,279	385,098	41.4%
Total Ad Valorem Taxes	176,531,054	181,101,285	181,101,285	43,004,918	23.7%
Other Taxes					
Sales	41,517,943	41,760,036	41,760,036	3,474,845	8.3% (3)
Real Estate Transfer	1,091,362	700,000	700,000	348,508	49.8%
Other	1,114,408	1,111,500	1,111,500	180,948	16.3%
Total Other Taxes	43,723,713	43,571,536	43,571,536	4,004,301	9.2%
Unrestricted & Restricted Intergovernmental Revenues	75,613,483	67,300,253	69,608,463	15,004,580	21.6% (4)
Charges for Services	13,832,010	12,056,608	12,071,608	3,152,198	26.1%
Other Sources (includes Transfers In)	8,945,521	6,988,890	7,028,020	524,697	7.5% (5)
Proceeds Refunding Bonds	-	-	23,005,000	23,005,000	100.0% (6)
Premium on COPS Sold	-	-	4,285,558	4,285,557	100.0% (6)
County Closing Contribution	-	-	254,736	254,735	100.0% (6)
Lease Land CFVMC	3,714,637	3,714,637	3,714,637	3,474,492	93.5% (7)
Total Other	10,703,527	38,287,951	38,287,951	31,544,481	82.4%
Total Revenue	\$ 322,360,418	\$ 314,733,209	\$ 344,640,843	\$ 96,710,478	28.1%
Fund Balance Appropriation		8,889,652	10,357,328	-	0.0% (8)
Total Funding Sources	\$ 322,360,418	\$ 323,622,861	\$ 354,998,171	\$ 96,710,478	27.2%

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DEPARTMENTS	PRELIMINARY			YTD ACTUAL		PERCENT OF BUDGET TO DATE	..
	FY16-17 AUDITED	FY17-18 ADOPTED BUDGET	FY17-18 REVISED BUDGET	EXPENDITURES AS OF OCTOBER 31, 2017			
Governing Body	\$ 591,731	\$ 617,587	\$ 617,587	\$ 213,512		34.6%	
Administration	2,515,558	1,501,201	1,501,201	387,769		25.8%	
Public Affairs/Education	76,879	497,199	497,199	119,127		24.0%	
Human Resources	30,245	828,896	828,896	227,320		27.4%	
Print, Mail, and Design	754,908	875,345	875,345	187,469		21.4%	
Court Facilities	55,786	129,370	168,010	55,422		33.0%	
Facilities Maintenance	1,936,136	2,009,030	2,110,875	417,183		19.8%	
Landscaping & Grounds	606,364	607,577	607,577	177,234		29.2%	
Carpentry	231,715	234,884	234,884	58,413		24.9%	
Facilities Management	1,238,266	1,267,781	1,267,781	354,815		28.0%	
Public Buildings Janitorial	721,041	710,946	710,946	217,805		30.6%	
Central Maintenance	798,075	672,386	672,386	209,350		31.1%	
Information Services	3,388,444	3,958,479	4,067,447	1,188,482		29.2%	
Board of Elections	1,180,015	2,237,762	2,237,762	262,857		11.7%	(1)
Finance	1,205,572	1,201,225	1,201,225	324,393		27.0%	
Legal	668,776	813,554	813,554	181,670		22.3%	
Register of Deeds	2,092,298	2,321,099	2,761,865	550,581		19.9%	
Tax	5,567,709	5,589,154	5,620,154	1,439,147		25.6%	
Debt Service	23,400,669	21,464,283	21,466,328	3,518,312		16.4%	(2)
General Government Other	3,828,293	4,237,882	4,334,555	843,416		19.5%	
Sheriff	47,212,707	50,250,550	50,461,330	13,094,381		25.9%	
Emergency Services	3,064,405	3,320,934	3,392,791	1,019,098		30.0%	
Criminal Justice Pretrial	434,987	426,673	426,673	107,102		25.1%	
Youth Diversion	325	25,000	25,000	219		0.9%	(3)
Animal Control	2,932,986	2,922,717	2,947,717	828,914		28.1%	
Public Safety Other (Medical Examiners, NC Detention Subsidy, etc.)	1,007,220	1,075,666	1,075,666	245,042		22.8%	
Heath	22,269,462	22,506,054	22,987,565	6,146,762		26.7%	
Mental Health	3,148,761	5,452,507	5,442,207	1,453,157		26.7%	(4)
Social Services	71,524,059	66,425,182	67,141,445	18,161,708		27.0%	
Veteran Services	\$ 371,189	\$ 385,725	\$ 385,725	\$ 111,748		29.0%	
Child Support	\$ 4,893,727	\$ 5,044,200	\$ 5,044,200	\$ 1,395,427		27.7%	
Spring Lake Resource Administration	31,524	34,332	34,332	7,264		21.2%	
Library	11,105,397	10,530,428	10,694,765	3,079,088		28.8%	
Stadium Maintenance	110,288	117,296	117,296	28,820		24.6%	
Culture Recreation Other (Some of the Community Funding)	312,816	268,069	268,069	87,306		32.6%	
Planning	3,077,126	3,446,758	3,455,653	815,374		23.6%	
Engineering	439,678	510,090	510,090	144,456		28.3%	
Cooperative Extension	570,083	705,596	705,596	141,904		20.1%	
Location Services	357,095	447,221	447,221	89,974		20.1%	
Soil Conservation	141,234	136,400	1,360,808	39,129		2.9%	(5)
Public Utilities	87,442	110,270	124,474	22,241		17.9%	
Economic Physical Development Other	20,000	20,000	20,000	20,000		100.0%	(6)
Industrial Park	3,296	23,148	23,148	282		1.2%	(7)
Economic Incentive	420,423	548,418	710,918	28,749		4.0%	(8)
Water and Sewer	-	250,000	250,000	-		0.0%	(9)
Education	91,394,940	93,341,404	93,341,404	30,783,530		33.0%	
Other Uses:							
Transfers Out	2,264,613	3,522,583	3,465,252	34,531		1.0%	(10)
Refunding of 2009A and 2011B LOBS	-	-	27,543,249	27,530,230		100.0%	(11)
TOTAL	\$ 318,084,263	\$ 323,622,861	\$ 354,998,171	\$ 116,350,713		32.8%	

Expenditures by Category	FY16-17 UNAUDITED	FY17-18 ADOPTED BUDGET	FY17-18 REVISED BUDGET	EXPENDITURES AS OI OCTOBER 31, 2017	PERCENT OF BUDGET TO DATE
Personnel Expenditures	\$ 131,620,131	\$ 136,744,346	\$ 135,740,474	\$ 34,710,347	25.6%
Operating Expenditures	158,133,695	157,914,300	162,845,869	49,934,318	30.7%
Capital Outlay	2,118,869	3,460,456	3,936,999	621,725	15.8% ⁽¹¹⁾
Debt Service	23,946,955	21,981,176	21,466,328	3,519,562	16.4%
Refunding of 2009A and 2011B LOBS	-	-	27,543,249	27,530,230	100.0%
Transfers To Other Funds	2,264,613	3,522,583	3,465,252	34,531	1.0%
TOTAL	\$ 318,084,263	\$ 323,622,861	\$ 354,998,171	\$ 116,350,713	32.8%

DRAFT

December 14, 2017 Special Meeting

Fiscal Year 2018 - October Year-to-Date Actuals

Additional Detail

General Fund Revenues

*

- (1) **Current Year Ad Valorem** 23.2% - the bulk of revenues are typically recorded between November - January.
- (2) **Motor Vehicles** 25.8% - YTD Actual reflects 3 months of collections.
- (3) **Sales Tax** 8.3% - YTD Actual reflects one month of collections.
- (4) **Unrestricted/Restricted Intergovernmental Revenues** 26.1% - lag in revenue is typically one month.
- (5) **Other Sources** (includes Transfers In) 7.5% - Rental income makes up majority of actual receipts. The majority of remaining balance is budgeted as a transfer in to fund the Board of Ed debt payment toward year-end.
- (6) **Proceeds, Premium, Closing** 100% - COPS/LOBS refunding of \$23M closed in August 2017. (Correlates with item (11) on report of expenditures.)
- (7) **Lease Land CFVMC** 93.5% - typically paid in the beginning of the fiscal year. Staff are following up on the balance remaining.
- (8) **Fund Balance Appropriation** 0% - Direct entries are not made to fund balance throughout the fiscal year.

General Fund Expenditures

**

- (1) **Board of Elections** 11.7% - capital purchase budgeted for \$809,045 has not yet been purchased.
- (2) **Debt Service** 16.4% - a large debt payment was incurred in late November. The percentage of actual will be more in line after that payment.
- (3) **Youth Diversion** .9% - expenditures for this program tend to occur later in the fiscal year. Conference scheduled during the month of December.
- (4) **Mental Health** - as discussed during the November finance committee meeting, a budget revision was completed to decrease the budgeted amount for payment to Alliance Behavioral Health to be in accordance with the FY18 agreement.
- (5) **Soil Conservation** 2.9% - Revised budget reflects \$1.2M addition for stream debris removal grant for which no expenditures have been incurred.
- (6) **Economic Physical Development** 100% - NC Southeast contribution has been paid in full.
- (7) **Industrial Park** 1.2% - maintenance at Cedar Creek Industrial Park has not yet been completed.
- (8) **Economic Incentive** 4% - economic incentives are budgeted at 100% of agreements but are not paid unless/until the company complies.
- (9) **Water and Sewer** 0% - Funds budgeted for Overhills W&S have not yet been expended.
- (10) **Transfers Out** 1% - transfers out typically occur near year-end.
- (11) **Refunding** of 2009A and 2011B LOBS 100% - refunding of \$23M closed in August 2017. (Correlates with item (6) on report of revenues.)
- (12) **Capital Outlay** 15.8% - Board of Elections capital equipment and FTCC capital outlay budgeted but not incurred or encumbered makes up the majority of unutilized budget.

Ms. Evans reviewed the background information recorded above and highlighted additional details that will be provided in the monthly reports for percentages that may appear off from year-to-date expectations. Ms. Evans responded to questions about the new format and the report. Consensus was for the November year-to-date report to be provided in the new format.

In response to a question from Commissioner Keefe about Soil Conservation, Ms. Cannon explained a change will be forthcoming to move the grant funds under the Engineering budget as they will manage and monitor the grant.

6. OTHER ITEMS OF BUSINESS

Following a brief discussion, a report on jail health was requested.

There being no further business, the meeting adjourned at 2:20 p.m.

RICKEY L. MOOREFIELD
County Attorney



ITEM NO. 3.

PHYLLIS P. JONES
Assistant County Attorney

ROBERT A. HASTY, JR.
Assistant County Attorney

OFFICE OF THE COUNTY ATTORNEY

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

**MEMO FOR THE AGENDA OF THE FEBRUARY 1, 2018,
MEETING OF THE FINANCE COMMITTEE**

TO: Asst. Co. Manager Melissa Cardinali
FROM: Co. Atty. *R. Moorefield*
DATE: January 24, 2018
SUBJECT: I. Consideration of the Economic Development Incentives Agreement for
Campbell Soup Supply Company, LLC (Project NANO2)
II. Consideration of Subdivision of the Cedar Creek Industrial Park

Requested by County Manager
Estimate of Time Needed: 15 minutes
Attachments: Digital Plat to be Presented at Meeting

BACKGROUND:

On October 16, 2017, the Board conducted the advertised public hearing and approved incentives for Project "NANO2." Campbell Soup Supply Company, LLC, (the "Company") announced the project in January, 2018.

The Company requires that the transfer of the land in Cedar Creek Industrial Park be done pursuant to a purchase-sale agreement which is to be incorporated into the incentives agreement. It has been difficult to develop a purchase-sale agreement that was acceptable to the Company because the Company's initial expectation was the purchase-sale agreement would include terms that are typically found in complex, commercial real estate sales contracts between private parties for privately-owned land. In addition, the Company insists on modification of some of the terms of the incentives offer. Since the incentives were approved by the Board, it will be necessary for the Board to approve the modifications.

There are now more than 50 pages contained in the documents that constitute this incentives agreement. For that reason I have prepared a summary of the matters that need the Board's approval as follows:

1. A third party shall be the operator of the Project and create the jobs. That party has been identified as DHL. This does not create any significant issues for the incentives agreement; it just needs to be approved by the Board because this was not presented as a third party arrangement. (IA-Sec. 3.1)

2. G.S. § 158-7.1(d)(2) requires the Company to reconvey the land to the county if it fails to complete construction within 5 years. Because the construction costs of the project will be secured by a deed of trust on the land, the county would take the property subject to this large mortgage. This statute creates a harsh result for the county if the construction is not timely completed. This is a statutory requirement and is being provided to the Board as information only. (IA-Sec. 4.1.3)
3. The number of jobs the Project must create for the Company to qualify for the annual cash incentives payment has been decreased. The incentives approved by the Board required the Company to create 112 jobs the first year and to increase that to 140 jobs by the fifth year. The job numbers have been decreased to 100 the first year and going to 135 by the sixth year. The Board must approve this reduction in the job numbers. (IA-Sec. 4.4)
4. The Company requires that the county agree to the Company's designation of First American Title Insurance Company as an Escrow Agent for closing the land transaction. The Escrow Agent has significant powers. Only the Board of Commissioners can designate an agent to act on behalf of the county and the Board must approve this appointment of an agent. (PSA-Sec. 3(a))
5. The Company has the right to assign its rights to purchase the land and all of its rights and obligations under the incentives agreement to another party. This was not disclosed in the incentives approved by the Board; however, the identity of the Company was not disclosed at that time either. This potential assignment does not create any significant issues, but the Board must approve it. (PSA-Sec. 11)
6. The Company insists on a term in the contract that if the county defaults on the sale of the land, the Company has the right to compel the county to sell the land or the recovery of damages from the county in the maximum amount of \$600,000. Neither of these remedies is consistent with the application of the statute governing the transfer of land as an economic development incentive; however, it is part of the contract and because it is beyond the scope of the incentives approved by the Board, the Board must approve this term. (PSA-13(a))
7. The county is obligated to indemnify the Escrow Agent for all liabilities and costs, including counsel fees, arising out of any dispute, litigation or liabilities imposed on the Escrow Agent. There must be a maximum amount stated for this liability in order for the contract to be preaudited. That amount has not been provided at the time this memo was prepared. The Board must approve this term once the amount is provided. (PSA-Sec. 20(c))
8. The Company drafted the purchase-sale agreement but wants language in the agreement that the County contributed materially and substantially to the negotiation and drafting of it. The County did not contribute materially and substantially to the negotiation and drafting of this agreement. I have offered language to meet the Company's requirements but have not received a response at the time this memo was prepared. (PSA-Sec. 26(b))

9. The Title Insurance Company must approve the form of the deed from the county to the Company. The proposed deed will be submitted to the Company for approval before the contract is executed to avoid a dispute over the form of the deed. (TC-Sch. B-Sec. I.5.a)

Incident to the subdivision of the land to the Company, the remainder of the Cedar Creek Industrial Park was subdivided. A digital copy of the subdivision plat will be presented on the screen at the meeting. The Board must approve the subdivision.

RECOMMENDATION/PROPOSED ACTION:

If the terms are acceptable, the Board will need to approve the following provisions of the economic development incentives agreement with Campbell Soup Supply Company, LLC:

1. the jobs for this Project will be created and maintained by a third party identified as DHL;
2. the number of jobs for the Project to be eligible for the performance-based, annual cash incentives is decreased from 112 to 100 in the first year, going to 135 jobs by the sixth year instead of 140 by the fifth year;
3. consent to the appointment of American Title Insurance Company as an Escrow Agent for closing the sale of the land to the Company;
4. consent to the Company's assignment of the agreement for the purchase and sale of the land to a different party if the Company chooses to make such an assignment;
5. agree that the County will be liable for not more than \$600,000 in damages to the buyer of the land if the County defaults on the sale of the land;
6. agree that the County will be liable to the Escrow Agent for a maximum amount to be provided at the meeting if the Escrow Agent incurs any costs or liabilities imposed on the Escrow Agent and arising out of any dispute or litigation related to its services for closing this real estate transaction; and
7. approve the subdivision of the remaining portion of Cedar Creek Industrial Park.

MELISSA C. CARDINALI

Assistant County Manager



KEITH TODD

Information Services Director

INFORMATION SERVICES TECHNOLOGY

5th Floor, Room No. 519, Courthouse • PO Box 1829 • Fayetteville, North Carolina 28302-1829
(910) 323-6119 • Fax (910) 323-6153

**MEMO FOR THE AGENDA OF THE
FEBRUARY 1, 2018 MEETING OF THE FINANCE COMMITTEE**

TO: FINANCE COMMITTEE

FROM: KEITH TODD, CHIEF INFORMATION SERVICES DIRECTOR

THRU: MELISSA C. CARDINALI, ASSISTANT COUNTY MANAGER

DATE: DECEMBER 19, 2017

**SUBJECT: CONSIDERATION OF ENERGОВ LAND MANAGEMENT SOFTWARE
CONTRACT FOR PLANNING AND ENVIRONMENTAL HEALTH**

Presenter(s): Keith Todd, Chief Information Services Director

Estimate of Committee Time Needed: 10 Minutes

BACKGROUND

Cumberland County Planning and Inspections and Environmental Health have completed the RFP process for acquiring a new software solution for Permitting and Land Management. This solution will replace multiple outdated systems that do not currently work together or share information, to include Central Permits, Inspections, Code Enforcement, Land Use, and Parcel/Address Management. It will also replace a system currently used by Environmental Health to maintain septic systems, wells, mobile home parks, and public swimming pools. This new solution will provide much needed hand-offs between these areas to create a single system with one streamlined process. It will also maximize operational efficiency, which will greatly increase the level of customer service provided to the citizens of Cumberland County.

Celebrating Our Past...Embracing Our Future

Information Services budgeted \$265,000 for FY18 for Phase 1 of this project, which was based on a preliminary estimate to replace only the Central Permits system. However, after a comprehensive business process review, it was determined that the scope of the project needed to expand to include Environmental Health and the other areas of Planning beyond just Central Permits. Therefore, the quoted cost of Phase 1 of this project has increased by \$106,000 for a total of \$371,000 for FY18. Environmental Health will contribute \$58,669, which leaves an unbudgeted balance of \$47,331.

RECOMMENDATION

Information Services recommends approval of the contract for Energov Land Management Software for Planning and Environmental Health at a total cost of \$371,000 for phase 1.

Approve Budget Ordinance Amendment #180590 in the amount of \$106,000 for Phase 1. This revision appropriates General fund balance in the amount of \$47,331 and Environmental Health fund balance of \$58,669.

Celebrating Our Past...Embracing Our Future

★ CUMBERLAND COUNTY ★
WORKFORCE DEVELOPMENT BOARD

410 Ray Avenue • Fayetteville, North Carolina 28301
P.O. Box 1829 • Fayetteville, North Carolina 28302-1829
(910) 323-3421 • Fax (910) 323-5755

ITEM NO. 5.

MEMO FOR THE AGENDA OF THE FEBRUARY 1, 2018

MEETING OF THE FINANCE COMMITTEE

TO: FINANCE COMMITTEE MEMBERS

FROM: NEDRA CLAYBORNE RODRIGUEZ, DIRECTOR OF WORKFORCE DEVELOPMENT

THROUGH: AMY H. CANNON, COUNTY MANAGER

DATE: January 23, 2018

SUBJECT: CONSIDERATION OF REQUEST FOR PROPOSALS (RFP) FOR WORKFORCE DEVELOPMENT

Presenter(s): Nedra Clayborne Rodriguez, Director of Workforce Development

Estimate of Committee Time Needed: 15 Minutes

BACKGROUND

Cumberland County receives annual funding from the state to provide workforce development services through the Workforce Innovation & Opportunity Act (WIOA). These important services are focused on the following groups: local employers, the unemployed, underemployed adults, veterans, dislocated workers, In-School Youth (age 14-21) and Out-of-School Youth (age 16-24). These services are currently contracted to ResCare Workforce Services with a contract period ending June 30, 2018.

Workforce Development staff have prepared the Request for Proposals (RFP) for FY19 programs and services. This RFP seeks service providers who will work collaboratively with Cumberland County Workforce Development and the North Carolina Department of Commerce's Division of Workforce Solutions as part of an integrated services model. Estimated allocations for FY19 are anticipated to be as follows for these specific program areas in Cumberland County:

- 1) \$800,000 for adult services programs
- 2) \$550,000 for dislocated worker programs
- 3) \$800,000 for youth services programs

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EASTOVER • FALCON • FAYETTEVILLE • GODWIN • HOPE MILLS • LINDEN • SPRING LAKE • STEDMAN • WADE

Equal Opportunity Employer/Program
Auxiliary aids and services are available upon request to individuals with disabilities

These not-to-exceed amounts may be subject to change as it is based upon a prior estimate of available funds. It is anticipated that the exact funding amount will be known at or about the time of the final contract negotiations. All contracts for services will be on a cost-reimbursement basis, based upon performance, and may be extended for two additional years at the discretion of the County.

RECOMMENDATION/PROPOSED ACTION:

Approval to move forward with the RFP process for youth, adult, and dislocated worker workforce services in Cumberland County.

AMY H. CANNON
County Manager

MELISSA C. CARDINALI
Assistant County Manager



CUMBERLAND
★ **COUNTY** ★
NORTH CAROLINA

ITEM NO. 6.

DUANE T. HOLDER
Assistant County Manager

TRACY JACKSON
Assistant County Manager

SALLY S. SHUTT
Assistant County Manager

OFFICE OF THE COUNTY MANAGER

MEMORANDUM FOR THE AGENDA OF THE FEBRUARY 1, 2018 MEETING OF THE FINANCE COMMITTEE

TO: MEMBERS OF THE FINANCE COMMITTEE

FROM: TRACY JACKSON, ASST. COUNTY MANAGER

THROUGH: AMY CANNON, COUNTY MANAGER

DATE: JANUARY 23, 2018

SUBJECT: CONSIDERATION OF A COMMUNITY DEVELOPMENT
BLOCK GRANT – DISASTER RECOVERY (CDBG-DR)
AGREEMENT WITH THE CITY OF FAYETTEVILLE

Requested by: Tracy Jackson, Asst. County Manager

Presenter(s): Tracy Jackson, Asst. County Manager
Sylvia McLean, CDBG-DR Consultant

Estimate of Committee Time Needed: 20 Minutes

BACKGROUND:

The Community Development Block Grant – Disaster Recovery (CDBG-DR) is a program intended to address the impact of Hurricane Matthew on those that have a need for affordable housing. This grant is a pass-through from the Federal government to the State of North Carolina and then onward to counties that suffered the worst damage from the hurricane. Cumberland County and the City of Fayetteville have collaborated to develop a plan to address post-hurricane housing needs. This plan has been reviewed and approved by the State, and a Memorandum of Agreement between the County and the State has been executed so that funding can now be accessed by the County. In order to continue forward and allow the City of Fayetteville to request funding for its projects from the County, a subrecipient agreement between the County and the City is required.

The attached agreement adheres to HUD requirements and has been reviewed and approved by the State, the City Council, and the County Attorney's Office. Proposed projects will be brought back to the Board of Commissioners for approval prior to being let.

RECOMMENDATION/PROPOSED ACTION:

Staff recommends approval of the CDBG-DR subrecipient agreement between the County and the City and requests the County Manager be authorized to execute the agreement.

**AGREEMENT BETWEEN
COUNTY OF CUMBERLAND
AND
CITY OF FAYETTEVILLE**

COMMUNITY DEVELOPMENT BLOCK GRANT–DISASTER RECOVERY PROGRAM

THIS AGREEMENT, entered into this ____ day of _____, by and between the COUNTY OF CUMBERLAND (hereinafter called the COUNTY), a body politic and corporate of the State of North Carolina, and CITY OF FAYETTEVILLE (hereinafter called the CITY), a body politic and corporate of the State of North Carolina with its principal address at 433 Hay Street, Fayetteville, North Carolina 28301.

WHEREAS, North Carolina General Assembly passed the Disaster Recovery Act of 2016 (S.L. 2016-124) requiring the NC Department of Commerce to transfer to the North Carolina Department of Public Safety - Division of Emergency of Management all Community Development Block Grant – Disaster Recovery (CDBG-DR) program funds; and

WHEREAS, the COUNTY has applied for and received the Community Development Block Grant Recovery Disaster Program (CDBG-DR) funding under the Continuing Appropriations Act of 2017 and Emergency Assistance Act and Public Law 114-254 from the United States Government; and; Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq); and

WHEREAS, the COUNTY desires to partner with the CITY to serve the citizens within the City of Fayetteville through the CDBG-DR program in utilizing such funds; and

NOW, THEREFORE, the parties agree that:

I. SCOPE OF SERVICES

A. ACTIVITIES/PRINCIPAL TASKS

The CITY shall provide services under the 2017 CDBG-DR Program Year in a manner satisfactory to the COUNTY and consistent with any standards required as a condition of providing these funds.

- 1. Program Activities.** CITY shall conduct the following activities eligible under the Community Development Block Grant Program for the project site located within the city limits of Fayetteville.

Activity #1. Housing Recovery: The CITY will undertake housing activities to include single family homeownership rehabilitation, single family homeownership reconstruction; mobile home repair; housing repair reimbursement; small rental repair; and provide affordable single family ownership in the Oakridge Estates Community in Fayetteville.

Activity #2. Multi-Family Rental Housing: The CITY and the COUNTY will jointly choose a consultant to guide the parties in selecting an experienced individual that demonstrates the capacity and ability to carry out the activities in accordance with HUD's guidelines and contractual obligations.

Activity #3. Economic Development (Small Business Recovery): The CITY will undertake this activity in accordance with the coordination and administration of the Department of Commerce.

Activity #4. Community Recovery: The CITY jointly with the COUNTY will collaborate as a part of the homelessness initiative in the development of a facility to provide supportive services and shelter to homeless individuals and families.

2. General Administration: The following general administration activities are necessary to provide the activities described in Activities/Principal Tasks.

Activity #1 Assigned staff of the Cumberland County Community Development Department will conduct the required monitoring of activities as described in the Cumberland County Community Development Monitoring Handbook for Community Development Block Grant funds conveyed to CITY.

Activity #2 The CITY shall be responsible for the preparation and submission of all documents and reports relative to final close-out of the grant.

Activity #3 The CITY shall keep and maintain books, records and other documents relating directly to the receipt and disbursement of grant funds, and the fulfillment of the this agreement and job creation.

Activity #4 The CITY shall at all reasonable times agree to provide the staff of Cumberland County, the NC Department of Public Safety, Department of Commerce, the United States Department of Housing and Urban Development, and the Office of the Inspector General access to and the right to inspect, copy, audit and examine all of the books, records and other documents relating to the grant and the fulfillment of this agreement for a period of four years following the completion of all closeout procedures respecting the Community Development-DR funds, and the final settlement and conclusion of a for documentation required of the program by the Grantor.

B. NATIONAL OBJECTIVES

The CITY certifies that the activities carried out with funds provided under this Agreement shall meet the CDBG-DR Program National Objective of providing benefit to low/moderate income persons. All activities funded with CDBG-DR must meet one of the CDBG-DR program's national objectives: benefit low and moderate income persons; aid in the prevention or elimination of slum or blight; or meet community development needs having a particular urgency as defined in 24 CFR 570.208 and 4 NCAC 19L.1004.

II. TIME OF PERFORMANCE

The term of this Agreement shall begin on the 1st day of _____, and end on the 31st day of _____.

III. FUNDING SOURCE - CDBG-DR

The COUNTY will allocate \$_____ in CDBG-DR funds for the purpose of benefiting low/moderate income persons.

IV. METHOD OF COMPENSATION/PAYMENT SCHEDULE

The parties agree that the total amount to be paid by the COUNTY under this contract shall not exceed \$_____. Reimbursements (as defined in 24 CFR Part 85) for the payment of eligible expenses will be charged to the program and will not exceed the allocated amount. If discrepancies are discovered during monitoring, the COUNTY reserves the right to restrict the CITY to payment for eligible expenses on a reimbursement basis only. The parties agree that any costs incurred prior to _____ of the Program Year in which the contract is executed will not be eligible for reimbursement. Payments will be contingent upon

certification of the CITY'S financial management system in accordance with the standards specified in 24 CFR Part 85.

V. NOTICES

Communication and details concerning this contract shall be directed to the following contract representatives:

CUMBERLAND COUNTY

AMY H. CANNON, COUNTY MANAGER
Cumberland County
117 Dick Street
Fayetteville, NC 28301
(910) 678-7723

CITY OF FAYETTEVILLE

DOUG HEWETT, CITY MANAGER
City of Fayetteville
433 Hay Street
Fayetteville, NC 28301
(910) 433-1990

VII. GENERAL CONDITIONS

A. GENERAL COMPLIANCE

The CITY agrees to comply with the requirements of the Housing and Urban Development regulations concerning the Community Development Block Disaster Recovery Program (CDBG-DR). The CITY also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this contract. The CITY further agrees to use funds available under this Agreement to supplement rather than to supplant funds otherwise available.

B. INDEPENDENT CONTRACTOR

Nothing contained in this Agreement is intended or shall be construed to create or establish the relationship of employer/employee between the parties. The CITY shall at all times remain an "Independent Contractor" with respect to the services to be performed under this Agreement. The COUNTY shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the CITY is an independent contractor.

C. HOLD HARMLESS

To the extent allowed by North Carolina law, the CITY shall hold harmless, defend and indemnify the COUNTY from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the CITY'S performance or nonperformance of the services or subject matter called for in this Agreement.

D. WORKERS' COMPENSATION

The CITY shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this contract.

E. INSURANCE AND BONDING

The CITY agrees to comply with 24 CFR Part 85 Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments.

F. DEBARRED / SUPENDED

The CITY must not make any award or permit any award (subgrant or contract) at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs subject to 2 CFR part 2424. The requirement set forth in 24 CFR Part 5 apply to this program.

G. COUNTY RECOGNITION

The CITY shall ensure recognition of the role of the COUNTY agency in providing services through this contract. All activities, facilities and items use pursuant to this contract shall be prominently labeled to indicate Cumberland County CDBG-DR as a funding source. In addition, the Borrower shall include a reference to the support provided herein in all publications made possible with funds made available under this contract.

H. AMENDMENTS

The COUNTY or CITY may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations. Such amendments will not invalidate this Agreement, nor relieve or release the COUNTY or CITY from its obligations under this Agreement.

The COUNTY may, at its discretion, amend this Agreement to conform with Federal, State or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the Scope of Services, or schedule of activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both COUNTY and CITY.

I. SUSPENSION OR TERMINATION

Either party may terminate this contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial terminations of the Scope of Service in Paragraph 1.A above may only be undertaken with the prior approval of the COUNTY. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the CITY under this Agreement shall, at the option of the COUNTY, become the property of the COUNTY, and the CITY shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The COUNTY may also suspend or terminate this Agreement, in whole or in part, if the CITY materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the COUNTY may declare the CITY ineligible for any further participation in the COUNTY'S contracts, as stated in the Monitoring Policy of Cumberland County Community Development, in addition to other remedies as provided by law. If there is probable cause to believe the CITY is in noncompliance with any applicable rules or regulations, the COUNTY may withhold all or any portion of said contract funds until such time as the CITY is found to be in compliance by the COUNTY, or is otherwise adjudicated to be in compliance.

VIII. ADMINISTRATIVE REQUIREMENTS

A. FINANCIAL AND PROGRAM MANAGEMENT

1. Administrative Requirements

The CITY agrees to comply with 24 CFR Part 85 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments", as applicable, regarding financial and program management. The CITY further agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary source documentation as necessary.

2. Cost Principles

The CITY will administer its program in conformance with 2 CFR Part 225, "Cost Principles for State, Local and Indian Tribal Governments". These principles will be applied for all costs incurred whether charged on a direct or indirect basis.

B. DOCUMENTATION AND RECORD-KEEPING

1. Records to be Maintained

The CITY shall maintain all records required by the Federal regulations specified in 24 CFR 507.506 that are pertinent to the activities to be funded under this Agreement, such records shall include, but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- c. Records required to determine the eligibility of activities;
- d. Records documenting compliance with the Fair Housing and Equal Opportunity components of the CDBG Program;
- e. Financial records as required by 24 CFR Part 570.502, and 24 CFR Part 85; and
- f. Other records necessary to document compliance with Subpart K of 24 CFR 570.

2. Retention

The CITY will retain all records pertinent to expenditures incurred under this contract for a period of four (4) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this contract will be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claim(s), audit(s), negotiation(s) or other actions that involve any of the records cited and that have started before the expiration of the four (4) years, then such records must be retained until completion of the actions and resolution of all issues.

3. Employee Data

The CITY shall maintain data delineating those employees identified as being in the low/moderate income category. Such data shall include, but not be limited to, employee name, address, income level, or other basis for determining eligibility, and description or service provided. Such information shall be made available to COUNTY'S monitors or its designees for review upon request.

4. Disclosure

Employee and/or client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the COUNTY'S or CITY'S responsibilities with respect to services provided under this contract, is prohibited by Federal law under 42 U.S.C., Section 145(b) (HUD/CPD) unless written consent is obtained from such persons receiving service and, in the case of a minor, from a responsible parent/guardian.

5. Close-Outs

The CITY'S obligation to the COUNTY shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments and determining the custodianship of records.

6. Audits and Inspections

The CITY agrees to have an annual agency audit conducted in accordance with OMB Circular A-133. If the CITY does not meet the threshold requirements for an annual audit in accordance with OMB Circular A-133 standards, the CITY will have an annual audit conducted by an independent certified public accountant in accordance with generally accepted government auditing standards (GAGAS). All CITY records with respect to any matters covered by this Agreement will be made available to the COUNTY, grantor agency, its designees or the Federal Government, at any time during normal business hours, as often as the COUNTY or grantor

agency deems necessary, to audit, examine and make excerpts or transcripts of all relevant data. The COUNTY will send written notice of any deficiencies to the CITY within fifteen (15) days following audit/monitoring. Any deficiencies noted in monitoring reports must be fully cleared by the CITY within thirty (30) days after receipt by the CITY. Failure of the CITY to comply with the above monitoring requirements will constitute a violation of this contract and may result in the withholding of future payments.

C. REPORTING AND PAYMENT PROCEDURES

1. Indirect Costs

If indirect costs are charged, the CITY shall develop an indirect cost allocation plan for determining the appropriate CITY'S share of administrative costs and shall submit such plan to the COUNTY for approval, in a form specified by the COUNTY.

2. Payment Procedures

The COUNTY shall pay to the CITY funds available under this contract based upon information submitted by the CITY and consistent with any approved budget and COUNTY policy concerning payments. Payments shall be made for eligible expenses actually incurred by the CITY, and not to exceed actual cash requirements. In addition, the COUNTY reserves the right to allocate funds available under this contract for costs incurred by the COUNTY on behalf of the CITY.

3. Progress Reports

The CITY will submit regular monthly Progress Reports to the COUNTY in the form, content, and frequency as required by the COUNTY. If the CITY is more than 30 days delinquent in submitting its progress reports, **the COUNTY will discontinue processing all requests for payment until such time as the delinquent reports are received.**

D. PROCUREMENT

1. OMB Standards

The CITY will procure all materials, property, or services in accordance with the requirements of 24 CFR Part 85.36, Procurement Standards, and will subsequently follow Property Management Standards as modified by 24 CFR 570.502(b), covering utilization and disposal of property.

2. Compliance

The CITY will comply with COUNTY'S policies concerning the procurement of services and the purchase of equipment and will maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) will revert to the COUNTY upon termination of this contract.

IX. PERSONNEL AND PARTICIPANT CONDITIONS

A. CIVIL RIGHTS

1. Compliance

The CITY agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, The Americans with Disabilities Act of 1990, The Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive orders 11375 and 12086.

2. Nondiscrimination

The CITY will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The CITY will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection from training, including apprenticeship. The CITY agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Section 504

The CITY agrees to comply with any Federal regulations issued pursuant to compliance with

Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the disabled in any Federally assisted program. The COUNTY will provide the CITY with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

4. **EEO Statement**

The CITY will, in all solicitations or advertisements for employees placed by or on behalf of the CITY; state that it is an Equal Opportunity employer.

5. **Subcontract Provisions**

The CITY will include the provisions of Paragraph IX.A. Civil Rights in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

B. **EMPLOYMENT RESTRICTIONS**

1. **Prohibited Activity**

The CITY is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

2. **Labor Standards**

The CITY agrees to comply with the requirements of the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 U.S.C. 327 and 40 U.S.C. 276c) and all other applicable Federal, State and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The CITY shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantor for review upon request.

C. **CONDUCT**

1. **No Assignment or Transfer**

The CITY shall not assign or transfer any interest in this contract without the prior written consent of the COUNTY thereto; provided, that claims for money due or to become due to the CITY from the COUNTY under this contract may be assigned to a bank, trust company, or other financial institution without such approval, but notice of any such assignment or transfer shall be furnished promptly to the COUNTY.

2. **Subcontracts**

a. **Approvals**

The CITY shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the COUNTY prior to the execution of such agreement.

b. **Monitoring**

The CITY shall monitor all contracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. **Content**

The CITY shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. **Selection Process**

The CITY shall undertake to insure that all contracts in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the COUNTY along with documentation concerning the selection process.

3. Hatch Act

The CITY agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

The CITY agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The CITY further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the CITY hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the COUNTY, or of any designated public agencies or borrowers which are receiving funds under the CDBG-DR Program.

5. Lobbying

The CITY hereby certifies that:

- a. No Federal appropriated funds have been paid or shall be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreements;
- b. If any funds other than Federal appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- c. It shall require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts, under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly.

6. Lobbying Certification

This certification is a material representative of fact upon which reliance was placed with this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

7. Copyright

If this contract results in any copyrightable material or inventions, the Grantor and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

8. Religious Organization

The CITY agrees that funds provided under this contract shall not be used for religious activities, to promote religious interest, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 570.200(j).

X. ENVIRONMENTAL CONDITIONS

A. AIR AND WATER

The CITY agrees to comply with the following requirements insofar as they apply to the performance of this contract:

- Clean Air Act, 42 U.S.C. 7401, et seq.
- Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, § 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued hereunder.
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. FLOOD DISASTER PROTECTION

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the CITY shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained.

XI. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XII. NON-APPROPRIATION CLAUSE

If appropriations of money to conduct and administer the presently scheduled program are lawfully reduced or terminated, or it is deemed in the public interest and necessity for the health, safety, or welfare of the public to so reduce or terminate this scheduled program, the COUNTY, at its option, has the right to terminate this Agreement effective upon the end of the fiscal year. The County shall give the CITY written notice of termination under the provisions of this paragraph immediately upon receipt of actual notice by the COUNTY of a reduction or termination of appropriations of money for the scheduled program, or any other necessity to reduce or terminate the program. Following the effective date of such termination the COUNTY shall have no further obligation to make any payments; the COUNTY shall have no right to recover any payments heretofore paid which were due and payable prior to the effective date of such termination.

XIII. Environmental Review Clearance

Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by Cumberland County of a release of funds from the U.S. Department of Housing and Urban Development under 24 CFR Part 58. The parties further agree that the provision of any funds to the project is conditioned on the County's determination to proceed with, modify or cancel the project based on the results of a subsequent environmental review.

XIV. UNDERLYING GRANT CONDITIONS AND REGULATIONS

The parties acknowledge that the source of funds for this Agreement is U.S. Department of Housing and Urban Development ("HUD" Grantor) and granted the funds to the Department of Commerce ("DOC" Grantee). DOC has entered into an agreement with the NC Department of Emergency Management ("NCEM" Sub-Grantee) to administer the CDBG-DR funds. NCEM has entered into an agreement with the COUNTY to implement the approved CDBG-DR Action Plan approved on August 7, 2017. The COUNTY remains fully obligated to NCEM notwithstanding the designation of the SUBGRANTEE as the third party beneficiary for the undertaking of all or part of a program for which assistance is being originally provided to GRANTEE and in turn is being appropriated to the SUBGRANTEE under this Agreement. The SUBGRANTEE shall comply with all lawful requirements which may be imposed upon the GRANTEE and which may be deemed necessary to insure that such assistance is carried out in accordance with the GRANTEE's assurances and certifications to HUD regarding the use of such funds. Such assurances included, but are not limited to, representations that the use of such funds will fully comply with all applicable environmental laws, rules and regulations; that the funds will be used in a nondiscriminatory manner, etc. This Agreement shall be subject to all amendments, changes or other modifications appropriate from time to time to insure compliance with HUD guidelines, rules, and procedures. See Exhibit 1, Supplemental General Conditions.

XV. IRAN DIVESTMENT ACT CERTIFICATION

Contractor hereby certifies that Contractor, and all subcontractors, are not on the Iran Final Divestment List

("List") created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.55-69. Contractor shall not utilize any subcontractor that is identified on the List.

XVI. E-VERIFY

Contractor shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if Contractor utilizes a subcontractor, Contractor shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the _____ day of _____, by their respective duly authorized representatives.

COUNTY OF CUMBERLAND

ATTEST:

BY: _____
COUNTY CLERK

BY: _____
AMY H. CANNON, COUNTY MANAGER DATE

[COUNTY SEAL]

CITY OF FAYETTEVILLE

ATTEST:

BY: _____
CITY CLERK

BY: _____
DOUG HEWETT, CITY MANAGER DATE

[CITY SEAL]

PRE-AUDIT CERTIFICATE:

APPROVED FOR LEGAL SUFFICIENCY:

By: _____
Finance Director Date

By: _____
County Attorney Date

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

I, _____, a Notary Public in and for the County and State, do hereby certify that _____, who being duly sworn, personally appeared before me this day and acknowledged that she is the Clerk of the Cumberland County Board of Commissioners; that AMY H. CANNON is the duly appointed County Manager; that the seal affixed to the foregoing Agreement is the Official Seal of the Board; that said AMY H. CANNON is duly authorized to enter into this Agreement on behalf of said Board and that she signed and sealed this Agreement; and this Agreement is attested by said Clerk on behalf of said Board; all by its authority duly granted; and that said _____ acknowledged the said Agreement to be the act and deed of the County Manager.

WITNESS my hand and notarial seal this the _____ day of _____, _____.

NOTARY PUBLIC

My Commission Expires: _____

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

I, _____, a Notary Public in and for the State of NORTH CAROLINA, certify that _____, personally came before me this day and acknowledged that he/she is Clerk of _____, of North Carolina and that by authority duly given and as the act of the Town, the foregoing instrument was signed in its name by its _____, _____, sealed with its _____ seal and attested by him/her as its Secretary.

WITNESS my hand and notarial seal this the _____ day of _____, _____.

NOTARY PUBLIC

My Commission Expires: _____

Exhibit 1

COMMUNITY DEVELOPMENT BLOCK GRANT SUPPLEMENTAL GENERAL CONDITIONS

- 01 CONFLICT OF INTEREST: Interest of Members, Officers, or Employees of the Recipient, Members of Local Government Body, or Other Public Officials. No member, officer, or employee of the recipient, or its agents, no member of the government body or the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any financial interest, are direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interest in the program. The recipient shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.
- 02 LEGAL REMEDIES PROVISION: As stated in Attachment O – Circular No. A-1-2, 13.a:
Contracts other than small purchases shall contain provisions or conditions which allow for administrative, contractual, or legal remedies in instances where borrowers violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.
- Examples of legal remedies could be liquidated damages, consequential damages, arbitration and others not listed.
- 03 TERMINATION PROVISION: As stated in Attachment O-Circular No. A-102, 14b:
b. All contracts in excess of \$10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the borrower.
- 04 NONDISCRIMINATION CLAUSE – SECTION 109, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974: No person in the United States shall on the grounds of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under this title.
- 05 AGE DISCRIMINATION ACT OF 1975, AS AMENDED NONDISCRIMINATION ON THE BASIS OF AGE: No qualified person shall on the basis of age be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal Financial assistance.
- 06 SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED – NONDISCRIMINATION ON THE BASIS OF HANDICAP: No qualified handicapped person shall, on the basis of handicap be excluded from participation in; be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.
- 07 EXECUTIVE ORDER 11246 CLAUSE: During the performance of this contract, the subrecipient agrees as follows:
- 1) The subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The borrower will

take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The borrower agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

- 2) The subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the borrower, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- 3) The subrecipient will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the borrower's commitments under Section 202 of The provisions of Executive Order 11246 of Sept. 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 4) The subrecipient will comply with all provision of Executive Order No. 11246 of September 24, 1965 and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 5) The subrecipient will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and order of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- 6) In the event of the subrecipient's noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contract may be declared ineligible for further Government contracts in accordance with the procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 7) The subrecipient will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The borrower will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the even the contract becomes involved in, or threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the borrower may request the United States to enter into such litigation to protect the interests of the United States.

08

SECTION 3 CLAUSE: "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities:

- a. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that that to

the greatest extent feasible opportunities for training and employment be given to lower residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

- b. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with the requirements.
- c. The subrecipient will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment and training.
- d. The contract will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The borrower will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its borrowers and subcontractors, its successors or assigns to those sanctions specified by the grant or loan agreement of contract through which federal assistance is provided, and to such sanctions as specified by 24 CFR 135.

09 COPELAND "ANTI-KICKBACK" ACT PROVISION: As stated in Attachment O – Circular No. A-102. 14.d.:

All contracts and subgrants for construction or repair shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 US 874) as supplemented in Department of Labor regulations (29 CFR Part 3). This Act provides that each contractor or borrower shall be prohibited from inducing, by any means any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which is otherwise entitled. The Grantee shall report all suspected or reported violations to the grantor agency.

This material is presented in the Labor Standard Handbook 6500.3, Exhibit 14. These provisions should be contained in each bid document and referenced in each contract.

10 DAVIS-BACON ACT PROVISION: The subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, and as further outlined in form HUD-4010; the provisions of Contract Work Hours and Safety

Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 U.S.C. 327 and 40 U.S.C. 276c); and all other applicable Federal, State and Local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Borrower shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the County for review upon request.

The subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the County pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor under 29 CFR Parts 1, 3, 5, and 7 governing the payment of wages and ratio of apprentices and trainees to journeyman workers and ensure that all workers associated with the contract are paid the prevailing wage in accordance with the Department of Labor Wage Determination Number applicable for each project. If wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the borrower of its obligation, if any, to required payment of the higher wage. The borrower shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph."

10 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT PROVISION: As stated in 24 CFR 85.36:

Where applicable, all contracts awarded by grantees and borrowers in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplanted by Department of Labor regulations (29 CFR Part 5). Under Section 103 of the Act each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1 – 1 / 2 times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

This material is presented in the Labor Standards Handbook 6500.3, Exhibit 14. These provisions should be contained in each bid document and referenced in each contract.

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT: The subrecipient, if the contract is in excess of \$2,000, and any of his subcontractors, shall comply with Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations contained in 29 CFR Parts 3, 5, and 5a. Under Section 103 of the Act, the borrower and any of subcontractors shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of eight hours and a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible, provided the worker is compensated at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or forty hours in any work week. Section 5 of the Federal Labor Standards

Provision, HUD Form 4010 and 4010.1 attached and incorporated herein, sets forth in detail the Section 103 requirements.

Section 107 of the Act provides that no labor or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety, as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market.

- 11 ACCESS TO RECORDS AND RECORD RETAINAGE CLAUSE: In general, all official project records and document must be maintained during the operation of this project and for a period of four years following close-out in compliance with 24 CFR 570.502(a)(16).

The North Carolina Department of Commerce – Division of Community Assistance, the North Carolina Department of Treasurer, U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Administering Agency which are pertinent to the execution of this Agreement, for the purpose of making audits, examinations, excerpts and transcriptions in compliance with the above Rule.

- 12 CLEAN WATER, CLEAN AIR, E.O. 11738 AND EPA REGULATIONS PROVISIONS:
Compliance with Air and Water Acts. This agreement is subject to the requirements of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.
The borrower and any of its subcontractors for work funded under this Agreement which is in excess of \$100,000 agree to the following requirements:

1. A stipulation by the borrower or subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
2. Agreement by the borrower to comply with the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
3. A stipulation that as a condition for the award of the contract prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, including that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
4. Agreement by the borrower that he will include or cause to be included the criteria and requirements in paragraph 1 through 4 of this section in every nonexempt subcontract and requiring that the borrower will take such action as the Government may direct as a means of enforcing such provisions.

In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility which has given rise to a conviction under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

- 14 LEAD-BASED PAINT CLAUSE: The subrecipient is hereby specifically made aware of the HUD Lead Based Paint regulations at 24 CFR 570.608 and 24 CFR Part 35, which are applicable to the construction or rehabilitation of residential structures. To the extent that the subject matter of this contract involves residential structures, the borrower will comply with the lead-based paint

regulations.

15 LOBBY CLAUSES: Required by Section 1352, Title 31, U.S. Code

No Federal appropriated funds have been paid or shall be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreements;

If any funds other than Federal appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

This certification is a material representative of fact upon which reliance was placed with this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

16 PROGRAM INCOME: The use of program income by borrower shall comply with the requirements set forth as 24 CFR 570.504. By way of further limitations, borrower may use such income during the contract period for activities permitted under this contract and shall reduce requests for additional funds by the amount of any such program income balances on hand. The County may require remittance of unused program income at the end of the contract period. Any interest earned on cash advances from the U.S. Treasury is not program income and shall be identified, and shall be remitted promptly to the Grantee.

17 REVERSION OF ASSETS: Subrecipient shall maintain real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in accordance with 24 CFR Parts 570.503(b) (7).

18 RECORDS AND REPORTS: Subrecipient shall submit regular Progress Reports to the County in the form, content, and frequency as required by the County.

ADDITIONAL SUPPLEMENTAL REQUIREMENTS

The CDBG program requirements, laws, rules, regulations and requirements, as may be amended, including those set forth in 24 CFR Part 570 and 04 NCAC 19L.

Environmental Review Procedures for the CDBG Program and the CDBG regulations contained in 24 CFR 58 and as further outlined in Exhibit B.

Conflict of Interest Provisions, including but not limited to those found at NC Gen. Stat. 14-234, 04 NCAC 19L. 0414, 24 CFR 200.112, and 24 CFR 270.611. Certain limited exceptions to the conflict of interest rules listed in 24 CFR 570.489 may be granted in writing by Department of Housing and Urban Development (HUD) and/or Commerce and NCEM upon written request and the provision of information specified in 24 CFR 570.489(h)(ii)(4).

Labor Standards, including but not limited to the rules set forth in 04 NCAC 19L.1006, 24 CR 570.603 and the following (as may be applicable to CDBG-DR projects):

Davis-Bacon Act- (40 U.S.C.A. 276a) Among other provisions, this act requires that prevailing local wage levels be paid to laborers and mechanics employed on certain construction work assisted with CDBG-DR funds.

Contract Work Hours and Safety Standards Act- (40 U.S.C.A 327 through 333) Under this act, among other provisions, laborers and mechanics employed by contractors and subcontractors on construction work assisted with CDBG-Dr funds must received overtime compensation at a rate not less than one and one-half the basic rate of pay for all hours worked in excess of forty in any workweek. Violators shall be liable for the unpaid wages and in addition for liquidated damages computed in respect to each laborer or mechanic employed in violation of the act.

Fair Labor Standards Act- (29 U.S.C. 201 et seq.) requiring among other things that covered employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rate for all hours worked in excess of the prescribed workweek.

Federal anti-kickback laws- (18 U.S.C. 874 and 40 U.S.C. 276) which, among other things, outlaws and prescribes criminal penalties for "kickbacks" of wages in federally financed or assisted construction activities. Weekly statements of compliance and weekly payrolls must be provided by all contractors and subcontractors.

Architectural Barriers- Per 04NCAC 19L.1007, 24 CFR 570.487 and 57.614 and other applicable law, all applicable buildings or facilities designed, constructed or altered with CDBG-DR Grant funds shall be made accessible and useable to the physically handicapped as may be required by applicable laws, rules, regulations or requirements. Additionally, Recipient must comply with the following (as may be applicable to CDBG projects) – Architectural Barriers Act of 1968 (P.L. 90 480) this act requires recipient to ensure that certain buildings constructed or altered with CDBG-DR funds are readily accessible to the physically handicapped.

Minimum Guidelines and Requirements for Accessible Design 36 CFR Part 1190

Americans with Disabilities Act (ADA) and the ADA Accessibility Guidelines for Buildings and Facilities or the Uniform Federal Accessibility Standards.

North Carolina Building Code, Vol. I, Chapter II-X. These provisions describe minimum standards recipient must meet in constructing or altering building and facilities, to make them accessible to and useable by the physically handicapped.

Environmental Review – CDBG-DR funds are required to comply with the requirement of the National Environmental Policy Act of 1969 (NEPA) found at 24 CFR Part 38 and complete an Environmental Review Record (ERR). Commerce and NCEM may also require additional environmental review for project that receive these funds.

FloodPlain – The project shall follow flood coverage requirements 24 CFR 570.202(b)(7)(iii), 24 CFR 570.509(c)(4)(iv), 24CFR 570.605 and 42 U.S.C 4106, Section 202. In addition, if the project occurs in the following floodplain zones:

If the project occurs in a 100-year floodplain (A zone), a 8-step process is required as provided for in 40 CFR 55.20 or as reduced to the 5-step process pursuant to 40 CFR 55.12(a), unless an exception is applicable pursuant to 40 CFR 55.12(b).

If the project occur in a 500-year floodplain (B zone or shaded X zone), the 8-step process is required for critical actions as provided for in 40 CFR 55.20 or a reduced to the 5-step process pursuant to 40 CFR 55.12(a), unless an exception is applicable pursuant to 40 CFR 55.12(b).

AMY H. CANNON
County Manager

MELISSA C. CARDINALI
Assistant County Manager



CUMBERLAND
★ **COUNTY** ★
NORTH CAROLINA

DUANE T. HOLDER
Assistant County Manager

TRACY JACKSON
Assistant County Manager

SALLY S. SHUTT
Assistant County Manager

OFFICE OF THE COUNTY MANAGER

MEMO FOR THE AGENDA OF THE FEBRUARY 1, 2018 MEETING OF THE FINANCE COMMITTEE

TO: BOARD OF COUNTY COMMISSIONERS

FROM: AMY CANNON, COUNTY MANAGER

DATE: JANUARY 24, 2018

SUBJECT: UPDATE ON THE STATEWIDE OPIOID LITIGATION
PROCESS

Requested by: Commissioner Glenn Adams

Presenter(s): Rick Moorefield

Estimate of Committee Time Needed: 10 Minutes

BACKGROUND

Commissioner Glenn Adams requested an update on the statewide Opioid Litigation.

RECOMMENDATION/PROPOSED ACTION:

This item is for information and discussion only.

/ct

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