



Wayne County, North Carolina

Board of Commissioners

April 18, 2023
224 E. Walnut Street
Courthouse 4th Floor
Goldsboro, NC 27530

MINUTES

8:00 A.M. AGENDA BRIEFING

During the scheduled briefing and prior to the regularly scheduled meeting, the Board of Commissioners held an advertised briefing session to discuss the items of business on the agenda.

The briefing began at 8:01 a.m. with County Manager Chip Crumpler reviewing the agenda. No adjustments were made to the agenda.

Finance Director Allison Speight reviewed the Budget Amendments and answered questions from the Board.

Staff Attorney Andrew Neal reviewed the Amended and Restated Landfill Gas Purchase Agreement between Wayne County and Terreva Wayne County RNG, LLC. Landfill Director Randy Rogers explained more in-depth about Terreva and outlined that Terreva is a company that purchases methane gasses produced by the landfill.

Purchasing Manager Noelle Woods reviewed changes to the purchasing policy by updating the threshold for bids and purchase orders from \$2500 to \$5000. Commissioner Joe Daughtery asked if any of the surrounding counties were doing this as well and Mrs. Woods confirmed they were.

Planning Director Berry Gray reviewed the Final Plat for Mira Branch Section 3.

Staff Attorney Andrew Neal reviewed the SRO contract and answered questions from the Board. Commissioner Wayne Aycock asked for a report on the duties of School Resource Officers.

County Manager Chip Crumpler reviewed the contract with Pikeville-Pleasant Grove Fire Department. This is to house the WCSO Mobile Command Center until the permanent location is completed. Commissioner Freeman Hardison asked about a time frame for the completion of the building. Commissioner Wayne Aycock thanked the fire department for housing the mobile command center.

Staff Attorney Andrew Neal reviewed the Minimum Housing Code Enforcement agreement.

RECESS THE WAYNE COUNTY BOARD OF COMMISSIONERS MEETING

At 8:30 a.m. Chairwoman Barbara Aycock recessed the Wayne County Board of Commissioners Meeting.

8:30 A.M. RECONVENE THE WAYNE COUNTY BOARD OF EQUALIZATION AND REVIEW

At 8:31 a.m., Chairwoman Barbara Aycock reconvened the Wayne County Board of Equalization and Review. Deputy Clerk Kayla Whitley administered the oath to Commissioner Freeman Hardison, Jr.

Tax Administrator Alan Lumpkin stated there was one appeal he is working on in his office. If the appeal is not resolved, the Board of Commissioners can act on it later.

8:30 A.M. ADJOURN THE WAYNE COUNTY BOARD OF EQUALIZATION AND REVIEW

At 8:32 a.m., Chairwoman Barbara Aycock adjourned the Wayne County Board of Equalization and Review.

RECONVENE WAYNE COUNTY BOARD OF COMMISSIONERS MEETING

At 8:32 a.m., Chairwoman Barbara Aycock reconvened the Wayne County Board of Commissioners meeting.

9:00 A.M. CALL TO ORDER - Chairwoman Barbara Aycock

The Wayne County Board of Commissioners met on Tuesday, April 18, 2023, at 9:06 a.m. in the Commissioners Meeting Room in the Wayne County Courthouse Annex, Goldsboro, North Carolina, after due notice thereof had been given.

Members present: Barbara Aycock, Chairwoman; Chris Gurley, Vice-Chairman; George Wayne Aycock, Jr.; Joe C. Daughtery, Freeman Hardison, Jr.; Antonio Williams

Members absent: Bevan Foster

INVOCATION - Commissioner Antonio Williams

Commissioner Antonio Williams gave the invocation.

PLEDGE OF ALLEGIANCE - Vice-Chairman Chris Gurley

Vice-Chairman Chris Gurley led the Board of Commissioners in the Pledge of Allegiance to the Flag of the United States of America.

APPROVAL OF MINUTES

1. Motion to Approve the April 4, 2023 Minutes of the Wayne County Board of Commissioners.

Upon motion of Commissioner Freeman Hardison, Jr., the Board of Commissioners unanimously approved the Motion to Approve the April 4, 2023 Minutes of the Wayne County Board of Commissioners, attached hereto as Attachment A.

DISCUSSION/ADJUSTMENT OF AGENDA

Upon motion of Antonio Williams, the Board of Commissioners unanimously approved the April 18, 2023 Adjusted Agenda. The presentation of Dr. Patricia Pfeiffer was removed and adding the wording "subject to the county attorneys' approval" to the Great Grant Agreement.

SPECIAL PRESENTATIONS

Time Limit of 6 to 10 Minutes

2. Motion to Approve the 2023 May is Mental Health Month Proclamation by Emily Peacock.

Upon motion of Commissioner Joe C. Daughtery, the Board of Commissioners unanimously approved the 2023 May is Mental Health Month Proclamation read by County Manager Chip Crumpler, attached hereto as Attachment B.

3. Motion to Approve National Volunteer Appreciation Week in Wayne County, by Sherry Archibald and Pilar Parks of United Wayne.

United Way Director Sherry Archibald read the National Volunteer Appreciation Week Proclamation, attached hereto as Attachment C.

Upon motion of Commissioner George Wayne Aycock, Jr., the Board of Commissioners unanimously approved the National Volunteer Appreciation Week in Wayne County.

Mrs. Archibald reminded the Board about the upcoming volunteer recognition at the Paramount Theater and thanked all of the volunteers.

4. National Library Week Proclamation and Update on Wayne County Public Library presented by Donna Phillips, Director and Maegen Wilson, Assistant Director.

Library Director Donna Phillips and Assistant Director Maegen Wilson gave a presentation on the current events at the Library. Mrs. Phillips read the National Library Week Proclamation, attached hereto as Attachment D.

Upon motion of Commissioner Antonio Williams, the Board of Commissioners unanimously approved the National Library Week Proclamation.

Commissioner Freeman Hardison asked if any grants are given to the library by the Department of Instruction. Ms. Phillips stated they receive grants through the Humanities and Arts Council and use the County's Grant Writer. County Manager Chip Crumpler stated the library staff does great work and thanked them for all they do.

5. Presentation of Annual Juvenile Crime Prevention Council (JCPC) budget and Information on Opioid Addiction Programs by JCPC Chairman Dustin Pittman.

Dustin Pittman gave a presentation on the Juvenile Crime Prevention Council budget and opioid funding request, attached hereto as Attachment E. Mr. Pittman discussed the current programs and new programs they would like to add. Commissioner Wayne Aycock commended Mr. Pittman for his work. Commissioner Joe Daughtery asked Mr. Pittman how they planned to ask for funding, with Mr. Pittman explaining they would request multi-year funds.

6. Update on CDBG-NR and HMGP Projects by Project Manager David Harris.

Mr. David Harris gave an update on the CDBG-NR and HMGP Projects. Mr. Harris said the HMGP project is down to fourteen lots and houses waiting to be cleared. He stated the CDBG-NR project is in the Rollingwood Community and provided current information. Commissioner Freeman Hardison, Jr. discussed the political red tape and asked Mr. Harris to help educate the public. County Manager Chip Crumpler stated the CDBG-NR project was not related to Hurricane Matthew. Commissioner Joe Daughtery thanked Mr. Harris for the work he does and stated he is very patient when working through all of the details.

9:45 A.M. COMMISSIONER ANTONIO WILLIAMS LEFT THE MEETING

UNFINISHED BUSINESS

7. Motion to Approve a Three Party Growing Rural Economies with Access to Technology (GREAT) Grant Agreement between the North Carolina Department of Information Technology, InfinityLink FiberNet, LLC, and the County of Wayne.

Staff Attorney Andrew Neal gave an update on the Three Party Growing Rural Economies with Access to Technology (GREAT) Grant Agreement between the North Carolina Department of Information Technology, InfinityLink FiberNet, LLC, and the County of Wayne. He stated the deadline was May 4, 2023, and recommended moving forward.

Upon motion of Vice-Chairman Chris Gurley, the Board of Commissioners unanimously approved the Three Party Growing Rural Economies with Access to Technology (GREAT) Grant Agreement between the North Carolina Department of Information Technology, InfinityLink FiberNet, LLC, and the County of Wayne pending County Attorneys' Approval

CONSENT AGENDA

Upon motion of Commissioner Freeman Hardison, the Board of Commissioners unanimously approved the consent agenda.

8. Late Application - Present Use Value
9. Late Application - Present Use Value

10. Late Application - Present Use Value
11. Late Application - Present Use Value
12. Budget Amendments
13. Motion to Approve an Amended and Restated Landfill Gas Purchase Agreement between Wayne County and Terreva Wayne County RNG, LLC.
Attached hereto as Attachment F.
14. Approve Updates to Purchasing Manual
Attached hereto as Attachment G.
15. Motion to Approve the Final Plat for Mira Branch Section 3
Attached hereto as Attachment H.
16. Motion to Approve the School Resource Officer Contract with the Wayne County Board of Education for FY 2024 and 2025.
Attached hereto as Attachment I.
17. Motion to Approve a Lease Agreement with the Pikeville-Pleasant Grove Volunteer Fire Department for the Wayne County Sheriff's Office Mobile Command Center.
Attached hereto as Attachment J.
18. Motion to Approve a Minimum Housing Code Enforcement Agreement between Wayne County and the Village of Walnut Creek.
Attached hereto as Attachment K.

10:28 A.M. COMMISSIONER ANTONIO WILLIAMS RETURNED TO THE MEETING

COUNTY MANAGER'S REPORT

County Manager Chip Crumpler reminded the Board about the National Day of Prayer on May 4th at Faith Church, the Wayne County Chamber of Commerce Eggs and Issues event on April 25th, and stated all of the Commissioners were invited to attend both events.

BOARD OF COMMISSIONERS COMMITTEE REPORTS

Commissioner Freeman Hardison, Jr. stated he enjoyed his vacation the last two weeks and expressed his concern for the children in our community.

Commissioner George Wayne Aycock, Jr. asked for updates on various projects, the budget process, and discussed his health issues.

Commissioner Joe C. Daughtery stated he attended several departmental budget meetings.

Vice-Chairman Chris Gurley expressed his concern for the children in our community and encouraged people to volunteer with the fire service.

Commissioner Antonio Williams expressed his sincere sympathy to the Pearsall family for their loss. He stated the community can work together to change these outcomes.

Chairwoman Barbara Aycock stated she attended the Cures for the Colors Banquet and said it had been a busy month so far.

CLOSED SESSIONS

At 8:36 a.m., upon motion of Commissioner George Wayne Aycock, Jr., the Board of Commissioners unanimously declared itself in closed session to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

At 8:56 a.m., upon motion of Commissioner Freman Hardison, Jr., the Board of Commissioners unanimously declared itself in regular session.

At 10:32 a.m., upon motion of Vice-Chairman Chris Gurley, the Board of Commissioners unanimously declared itself in closed session to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

At 11:31 a.m., upon motion of Commissioner Antonio Williams, the Board of Commissioners unanimously declared itself in regular session.

UNFINISHED BUSINESS

19. Motion to Extend the Lease with SunTree Foods Until April 30, 2024, subject to: a Purchase Price of \$2.1 Million; the Monthly Lease Payment will Remain at \$18,000/month; SunTree must Complete the Purchase of the Building by April 30, 2024, or Forfeit the Earnest Money and \$100,000 in Liquidated Damages; SunTree will be Responsible for all Maintenance of the Building; and additionally, SunTree shall Receive Credit for Two (2) Months of Lease Payments Towards the Purchase Price at Closing, on or before April 30, 2024.

Upon motion of Commissioner Joe C. Daughtery, the Board of Commissioners unanimously approved to Extend the Lease with SunTree Foods Until April 30, 2024, subject to: a Purchase Price of \$2.1 Million; the Monthly Lease Payment will Remain at \$18,000/month; SunTree must Complete the Purchase of the Building by April 30, 2024, or Forfeit the Earnest Money and \$100,000 in Liquidated Damages; SunTree will be Responsible for all Maintenance of the Building; and additionally, SunTree shall Receive Credit for Two (2) Months of

Lease Payments Towards the Purchase Price at Closing, on or before April 30, 2024.

TOUR OF MOBILE COMMAND CENTER

ADJOURNMENT

At 12:12 PM, Chairwoman Barbara Aycock adjourned the Meeting of the Wayne County Board of Commissioners.

NORTH CAROLINA

WAYNE COUNTY

MAY IS MENTAL HEALTH MONTH PROCLAMATION 2023

WHEREAS, mental health is essential to everyone's overall health and well-being; and

WHEREAS, all Americans experience times of difficulty and stress in their lives; and

WHEREAS, prevention is an effective way to reduce the burden of mental health conditions; and

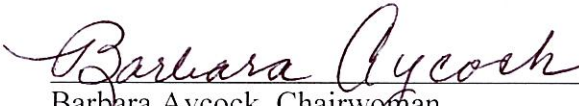
WHEREAS, there is strong research that animal companionship, humor, spirituality, religion, recreation, social connections, and work-life balance can help all Americans protect their health and well-being; and

WHEREAS, mental health conditions are real and prevalent in our nation; and

WHEREAS, with effective treatment, those individuals with mental health and other chronic health conditions can recover and lead full, productive lives; and

WHEREAS, each business, school, government agency, healthcare provider, organization and citizen share the burden of mental health problems and has a responsibility to promote mental wellness and support prevention efforts.

NOW, THEREFORE, the Wayne County Board of Commissioners does hereby proclaim May 2023 as Mental Health Month in Wayne County. We call upon the citizens, government agencies, public and private institutions, businesses, and schools in Wayne County to recommit our community to increasing awareness and understanding of mental health, the steps our citizens can take to protect their mental health, and the need for appropriate and accessible services for all people with mental health conditions.


Barbara Aycock, Chairwoman
Wayne County Board of Commissioners

Attest:


Carol Bowden, Clerk to the Board



NORTH CAROLINA

WAYNE COUNTY

WHEREAS, a sense of caring and a desire to share have motivated many men and women to volunteer their time and services to the needs of others in the Wayne County community; and

WHEREAS, volunteers help the sick, the needy, the disabled, and enrich our lives through the arts, recreation and cultural activities; and

WHEREAS, Wayne County has many dedicated volunteers who give their time and expertise on boards and committees that benefit our citizens; and

WHEREAS, volunteer action is a powerful force for the solution of problems and volunteers are increasingly recognized as an important partner with governmental agencies.

WHEREAS, volunteers have become an essential part of any prosperous community and volunteer services help expand programs and stretch our tax dollars.

WHEREAS, Governor Roy Cooper and the Volunteer NC recognizes volunteers across the state for their contributions to each 100 counties; and United Way of Wayne County will recognize those recipients and ALL volunteers at the Paramount Theatre, April 18th at 5:30p.m.

NOW, THEREFORE BE IT RESOLVED that the Wayne County Board of Commissioners does hereby proclaim the week of April 16-22, 2023 as

NATIONAL VOLUNTEER APPRECIATION WEEK IN WAYNE COUNTY

and urges all citizens to recognize and thank our volunteers across this country and within Wayne County as we acknowledge the importance of our volunteers and take the time to officially thank them for all they do.

Adopted this the 18th day of April, 2023.


Barbara Aycock, Chair
Wayne County Board of Commissioners

Attest:


Carol Bowden
Clerk to the Board



WAYNE COUNTY

NORTH CAROLINA

National Library Week 2023 Proclamation

WHEREAS, libraries provide the opportunity for everyone to pursue their passions and engage in lifelong learning, allowing them to reach their potential; and

WHEREAS, libraries have long served as trusted institutions for all members of the community; and

WHEREAS, libraries strive to develop and maintain programs and collections that are as diverse as the populations they serve and ensure equity of access for all; and

WHEREAS, libraries adapt to the ever-changing needs of their communities, continually expanding their collections, services, and partnerships; and

WHEREAS, libraries play a critical role in the economic vitality of communities by providing internet and technology access, literacy skills, and support for job seekers, small businesses, and entrepreneurs; and

WHEREAS, libraries are accessible and inclusive places that promote a sense of local connection, advancing understanding, civic engagement, and shared community goals; and

WHEREAS, libraries are cornerstones of democracy, promoting the free exchange of information and ideas for all; and

WHEREAS, libraries, librarians, and library workers are joining library supporters and advocates across the nation to celebrate National Library Week; and

NOW, THEREFORE, be it resolved that the Wayne County Board of Commissioners proclaims National Library Week, April 23-29, 2023 and encourages all residents to visit their library to explore the wealth of resources available.

This 18th day of April, 2023.


Barbara Aycock, Chairwoman

Wayne County Board of Commissioners

Attest:



Carol Bowden, Clerk to the Board



JUVENILE CRIME PREVENTION COUNCIL CERTIFICATION STANDARDS

G.S. 143B-853 allows for a 2-year funding cycle for programs that meet the requirements of the statute and have been awarded funds in a prior funding cycle. Indicate below if the JCPC plans to allow for a 1-year or 2-year funding cycle.

1-Year Funding: FY 2023-24

Membership

- | | |
|---|------------|
| A. Have the members of the Juvenile Crime Prevention Council been appointed by county commissioners? | <u>Yes</u> |
| B. Are members appointed for two-year terms and are those terms staggered? | <u>Yes</u> |
| C. Is membership reflective of social-economic and racial diversity of the community? | <u>Yes</u> |
| D. Does the membership of the Juvenile Crime Prevention Council reflect the required positions as provided by N.C.G.S. §143B-846? | <u>Yes</u> |
| If not, which positions are vacant and why? | |
| One vacant position - Substance Abuse Professional. | |

Organization

- | | |
|---|-----------------|
| A. Does the JCPC have written Bylaws? | <u>Yes</u> |
| B. Bylaws are | <u>Attached</u> |
| C. Bylaws contain Conflict of Interest section per JCPC policy and procedure. | <u>Yes</u> |
| D. Does the JCPC have written policies and procedures for funding and review? | <u>Yes</u> |
| E. These policies and procedures | <u>Attached</u> |
| F. Does the JCPC have officers and are they elected annually? | <u>Yes</u> |

Meetings

- | | |
|--|------------|
| A. JCPC meetings are considered open and public notice of meetings is provided. | <u>Yes</u> |
| B. Is a quorum defined as the majority of membership and required to be present in order to conduct business at JCPC meetings? | <u>Yes</u> |
| C. Does the JCPC meet six (6) times a year at a minimum? | <u>Yes</u> |
| D. Are minutes taken at all official meetings? | <u>Yes</u> |
| E. Are minutes distributed prior to or during subsequent meetings? | <u>Yes</u> |

Planning

- | | |
|--|------------|
| A. Does the JCPC conduct a biennial planning process which includes a needs assessment, monitoring of programs and funding allocation process? | <u>Yes</u> |
| B. Is this Biennial Plan presented to the Board of County Commissioners and to DPS? | <u>Yes</u> |
| C. Is the Funding Plan approved by the full council and submitted to Commissioners for their approval? | <u>Yes</u> |

Public Awareness

- | | |
|--|------------|
| A. Does the JCPC communicate the availability of funds to all public and private non-profit agencies which serve children or their families and to other interested community members?
☒ RFP, Distribution List, and Advertisement attached | <u>Yes</u> |
| B. Does the JCPC complete a biennial needs assessment and make that information available to agencies which serve children or their families, and to interested community members? | <u>Yes</u> |

No Overdue Tax Debt

- | | |
|--|------------|
| A. As recipient of the county DPS JCPC allocation, does the County certify that it has no overdue tax debts, as defined by N.C.G.S. §105-243.1, at the Federal, State, or local level? | <u>Yes</u> |
|--|------------|

JUVENILE CRIME PREVENTION COUNCIL CERTIFICATION STANDARDS

Briefly outline the plan for correcting any areas of standards non-compliance.

JCPC will continue to recruit membership to conform to statutory requirements.

2023-24 Wayne County JCPC Administrative funds: \$1,500

Approved this 18th day of April, 2023.

Chairperson, Wayne County Board of Commissioners

JUVENILE CRIME PREVENTION COUNCIL CERTIFICATION STANDARDS

Instructions: N.C.G.S. § 143B-846 specifies suggested members be appointed by county commissioners to serve on local Juvenile Crime Prevention Councils. In certain categories, a designee may be appointed to serve. Please indicate the person appointed to serve in each category and his/her title. Indicate appointed members who are designees for named positions. Indicate race and gender for all appointments.

Specified Members	Name	Title	Designee	Race	Gender
1) School Superintendent or designee	Jamie Livengood	Student & Family Support Coordinator	☒	White	Female
2) Chief of Police or designee	Jason Adams	Crime Stoppers Coordinator	☒	White	Male
3) Local Sheriff or designee	Larry Pierce	Sheriff		White	Male
4) District Attorney or designee	Matt Delbridge	District Attorney		White	Male
5) Chief Court Counselor or designee	Kristie Howell	Chief		White	Female
6) Director, Local Management Entity/ Managed Care Organization (LME/MCO), or designee	Melissa Reese	Community Relations	☒	White	Female
7) Director DSS or designee	Kim McGuire	CPS Director	☒	Black or African-American	Female
8) County Manager or designee	Carol Bowden	Clerk to the Board of Commissioners	☒	White	Female
9) Substance Abuse Professional					
10) Member of Faith Community	Phillip Sexton	Minister		White	Male
11) County Commissioner	Antonio Williams	Commissioner		Black or African-American	Male
12) A Person Under the Age of 21	Andrew Reynolds	Student		White	Male
13) A Person Under the Age of 21, or a member of the public representing the interests of families of at-risk juveniles	Thomas Gurley	Student		White	Male
14) Juvenile Defense Attorney	Dustin Pittman	Attorney		White	Male
15) Chief District Judge or designee	Hon. Beth Heath	Chief District Court Judge		White	Female
16) Member of Business Community	Scott Satterfield	Chamber of Commerce President		White	Male
17) Local Health Director or designee	Hunter Hijma	Public Health Education Supervisor		White	Male
18) Rep. United Way/other non-profit	Karen Sullivan	Director, Boys and Girls Club		White	Female
19) Representative/Parks and Rec	Felicia Brown	Recreation Specialist	☒	Black or African-American	Female
20) County Commissioner appointee	Beverly Bell	Prop. Manager, GHA		Black or African-American	Female
21) County Commissioner appointee	Branny Vickory	Attorney		White	Male
22) County Commissioner appointee	Colleen Kosinski	Drug Court Coordinator		White	Female
23) County Commissioner appointee	Felicia Swain	Court Counselor		Black or African-American	Female

JUVENILE CRIME PREVENTION COUNCIL CERTIFICATION STANDARDS

Specified Members	Name	Title	Designee	Race	Gender
24) County Commissioner appointee	Mary Ann Dudley	Concerned Citizen		White	Female
25) County Commissioner appointee	Renita Dawson	Wayne Community College		Black or African-American	Female
26) County Commissioner appointee	Riley Wilkins	Real Estate Agent		White	Male

**AMENDED AND RESTATED
LANDFILL GAS PURCHASE AGREEMENT AND SITE LEASE**

BETWEEN

WAYNE COUNTY

AND

TERREVA WAYNE COUNTY RNG, LLC

WAYNE COUNTY LANDFILL

April 18, 2023

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Exhibit A	Definitions
Exhibit B	Form of Monthly Statement
Exhibit C	Site Map and Delivery Point
Exhibit D	Site Lease
Exhibit E	Gas Quality Targets
Exhibit F	Division of Responsibilities

**AMENDED AND RESTATED LANDFILL GAS PURCHASE AGREEMENT
AND SITE LEASE
(Wayne County Landfill)**

This Amended and Restated Landfill Gas Purchase Agreement and Site Lease ("Agreement") is made this 18th day of April, 2023 (the "Effective Date"), by and between Wayne County, a body politic, corporate, organized and existing under the laws of the State of North Carolina, whose address is 224 E. Walnut Street, Goldsboro, North Carolina 27530 ("Seller"), and Terreva Wayne County RNG, LLC, a Delaware limited liability company, whose address is 3340 Peachtree Road NE, Suite 170, Atlanta, Georgia 30326 ("Purchaser"). Seller and Purchaser may hereinafter be referred to individually as a "Party" and collectively as the "Parties."

Background

A. Seller owns and operates the Wayne County Landfill ("Landfill"), as defined under Solid Waste Permit No. _____, located in Wayne County, North Carolina, including Landfill Gas. Landfill gas, consisting primarily of methane and carbon dioxide, is produced from decomposing refuse ("Landfill Gas") within the Landfill and Seller owns the rights to such Landfill Gas.

B. Seller previously constructed facilities (and may construct future facilities) to collect and deliver Landfill Gas from the Landfill and currently owns such gas collection and control system (the "Gas Collection System").

C. Seller and Purchaser are party to that certain Landfill Gas and Site Lease dated as of May 12, 2009 (the "2009 Gas Rights Agreement"), pursuant to which Seller has sold landfill gas extracted from the Landfill to Purchaser and leased certain real property located at the Landfill to Purchaser. As contemplated by the 2009 Gas Rights Agreement, Purchaser has constructed certain electric generation facilities on the leased site (the "Generation Facilities").

D. Purchaser wishes to decommission the Generation Facilities and construct a new beneficial use project (the "Project") utilizing the Landfill Gas for the production of renewable energy ("Output"). Such Project will be situated on or adjacent to the Landfill in a mutually agreeable location, and Purchaser will lease the Project Site from Seller pursuant to the Site Lease.

E. Purchaser and Seller therefore wish to amend and restate the 2009 Gas Rights Agreement on the terms and conditions hereinafter set forth. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in Exhibit A attached hereto.

THEREFORE, in consideration of the mutual agreements contained herein, and other good and valuable consideration, receipt of which is hereby acknowledged, Seller and Purchaser agree as follows:

ARTICLE I
PURCHASE AND SALE OBLIGATIONS

For the Term of this Agreement and subject to its terms and conditions, including, without limitation, the termination provisions of Article IX, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, all existing and future Landfill Gas produced at the Landfill to the extent the Purchaser's Facilities, which may be expanded at Purchaser's sole discretion, have sufficient capacity to process such Landfill Gas. Notwithstanding the foregoing, Purchaser shall use commercially reasonable efforts to utilize all Landfill Gas produced at the Landfill over the term of this Agreement. Seller will provide Landfill Gas exclusively to Purchaser on "as available" basis unless otherwise agreed in writing between Parties. In the event that Purchaser fails or is unable to utilize all Landfill Gas produced at the Landfill, Purchaser and Seller shall in good faith negotiate for and jointly pursue alternative commercial uses for any excess Landfill Gas produced beyond Purchaser's capacity. In the event that Purchaser fails or is unable to utilize all Landfill Gas produced at the Landfill for a period of six (6) consecutive months, for

reasons other than a Seller breach of this Agreement and subject to Article XI (Force Majeure), Seller with Purchaser's consent, which shall not be unreasonably withheld, may pursue other commercially available opportunities to utilize any Landfill Gas in excess of Purchaser's capacity.

ARTICLE II **GAS ROYALTY**

2.1 Gas Royalty.

a. Payment to Seller shall begin on the earlier of (i) twenty-four (24) months from the date of this Agreement or (ii) COD. If COD has not occurred prior to the twenty-four (24) month anniversary of this Agreement, the Purchaser will pay Seller a minimum monthly payment of \$10,000 beginning in the 19th month and continuing until COD is achieved.

b. For the period commencing with COD and continuing for the balance of the Term, Purchaser will pay Seller the Gas Royalty within thirty (30) days of the close of each month for Gross Revenues received by Purchaser during such month. Purchaser will submit a monthly statement to Seller with each payment of Gas Royalty. The monthly statement will be in substantially the form of Exhibit B.

c. Purchaser shall be entitled to a dollar-for-dollar monthly credit against the Gas Royalty of all rent paid to Seller under the Site Lease.

2.2 Billing and Payment.

a. Errors in Billing. If either Party shall find at any time within one (1) year after the date of any payment hereunder that there has been an overcharge or undercharge, the Party finding the error shall promptly notify the other Party in writing. In the event of an undercharge, Purchaser shall pay the amount due within thirty (30) days of the date of the notice of error. In the event of an overcharge, Seller shall refund the overpayment to Purchaser within thirty (30) days of the date of the notice of error. Unless the notifying Party receives a notification

from the notified Party that such Party disputes the overcharge/undercharge within thirty (30) days of the initial notification, it shall be presumed that the notified Party concurs with the overcharge/undercharge and such overcharge/undercharge determination shall become binding at such time.

b. Records. Each Party shall keep daily records (for all workdays, usually five (5) days per week, excluding holidays) of its operating information that can be used by the other Party to verify correctness of the activities and transactions stated by Articles II and VII. Purchaser shall also keep true and accurate records of all Output produced and sold, exchanged or otherwise conveyed, in whatever form, for any portion of the Gross Revenue (as defined in Exhibit A hereto), and the quantities of Landfill Gas delivered to Purchaser that were unable to be processed into Output. Each Party shall have the right, at its sole expense during normal business hours, to examine the other Party's records to the extent necessary to verify the accuracy of any statement, change, notice, or computation made hereunder. All invoices and billings will be conclusively presumed final and accurate and all associated claims for under- or overpayments will be deemed waived unless such invoices or billings are objected to in writing, with adequate explanation and/or documentation, within one (1) year after the receipt of such invoice or billing.

ARTICLE III **TAX CREDITS**

To the extent construction or operation of the Project generates Tax Credits, Purchaser may, at its sole cost and expense, register or generate such Tax Credits: *provided, however,* that Seller shall make commercially reasonable efforts to cooperate with Purchaser so Purchaser may satisfy all requirements of any applicable Governmental Authority which has jurisdiction over the relevant Tax Credits in order for Purchaser to be able to register or generate such Tax Credits. The

Parties agree that Purchaser will own all rights to any Tax Credits and Seller hereby sells, assigns, transfers and conveys the same to Purchaser.

ARTICLE IV **DELIVERY POINT**

The Delivery Point for all Landfill Gas sold hereunder shall be at the interconnection between Purchaser's Facilities and Seller's Facilities (as defined below). Title to and control and possession of the Landfill Gas sold hereunder shall pass from Seller to Purchaser at the Delivery Point. The Delivery Point shall be at the Landfill Gas pipe flange outside the Purchaser's Facilities as shown on the Site Map attached as Exhibit C. Seller will also extend a condensate drain pipeline to the Delivery Point. Seller will accept all condensate produced at Purchaser's Landfill Gas blowers for disposal at no cost to Purchaser, subject to Section 13.2.

ARTICLE V **FACILITIES**

5.1 Seller's Facilities.

a. Seller shall bear the expense of maintaining Seller's Facilities, including adequately sized delivery pipeline, to standards generally accepted in the solid waste industry in compliance with all applicable laws and permits, and in good working order. The components of these various system include, but are not limited to, wellfield extraction features, piping, valves, pumps, tanks, blowers, heat exchangers, chillers, moisture removal vessels, instrumentation, and controls.. At all times during the term hereof, Seller's Facilities shall be designed, constructed and operated in compliance with all applicable laws and regulations, including, without limitation, environmental laws and regulations. Seller shall make good-faith commercially-reasonable efforts to collect Landfill Gas produced from the Landfill over the term of this Agreement. Notwithstanding anything herein to the contrary, Purchaser shall exercise operational control over and provide maintenance for Seller's Facilities, including the Gas Collection System, per the

division of responsibilities in Exhibit G and such operation and maintenance by Purchaser shall at all times be in accordance with operational standards generally accepted in the solid waste industry and the requirements of applicable regulations and Seller's permit(s). Purchaser shall use its best efforts to minimize surface emissions of Landfill Gas and fugitive odors from the Landfill, and the Parties agree to cooperate in addressing the same.

b. Purchaser shall be responsible for the cost of constructing any expansion of the Gas Collection System in compliance with all applicable laws and permits and good industry practice. If Purchaser should at any time deem an expansion of the Gas Collection System to be commercially viable, then Purchaser shall have the option to make or cause to be made, at no cost to Seller, improvements, additions, expansions, alterations or changes in or to the Gas Collection System (collectively, "Alterations"). Purchaser's election to make Alterations shall be subject to the prior written consent of Seller, such consent not to be unreasonably withheld, delayed or conditioned. Provided that, any such Alterations shall not unreasonably interfere with Owner's operations or use of or access to or from the Landfill. In the event that Purchaser determines Alterations are necessary or desirable, it shall provide Seller with any plans or specifications relating thereto and obtain any requisite permits prior to making such Alterations. Seller shall have the right to review and comment on such plans and specifications for up to ten (10) days thereafter and Purchaser shall exercise good faith efforts to accommodate any changes requested by Seller. Purchaser shall provide a copy of the as-built plans and specifications to Seller upon completion of the Alterations.

5.2 Purchaser's Facilities. At no cost to Seller, Purchaser shall construct, operate, and maintain the Project. The Project will be constructed at the location designated in the Site Lease (the "Project Site"). The initial processing capacity of the Project shall be 1100 scfm, which may

be expanded from time-to-time, at Purchaser's sole discretion. At all times during the term hereof, Purchaser's Facilities shall be designed, constructed, and operated in compliance with all applicable laws and regulations including, without limitation, environmental laws and regulations.

5.3 Leased Premises.

a. Seller agrees to lease the Project Site to Purchaser pursuant to the terms and conditions of the Site Lease in substantially the form attached hereto as Exhibit D. The Site Lease shall be co-terminus with this Agreement.

b. In addition, and until decommissioning of the Generation Facilities, Seller agrees to lease the Site (as defined in the 2009 Gas Rights Agreement) to Purchaser for the purpose of operating, maintaining and replacing the Generation Facilities in accordance with the provisions of Section 2.1 of the 2009 Gas Rights Agreement, the provisions of which are incorporated herein by this reference. Purchaser's rights to occupy the Site shall terminate six (6) months after decommissioning of the Generation Facilities.

5.4 Observations and Inspections. Each Party shall have the right at its own expense to observe and inspect the Facilities of the other Party, including the operations and records, for the purpose of verifying that the other Party is conducting its operations and record keeping in accordance with this Agreement. Any such observation or inspection shall be upon reasonable notice and during normal business hours. Seller shall have the right to observe and inspect the Purchaser's Facilities and records related to this Agreement, and Purchaser shall have the right to observe and inspect the Seller's Facilities and records related to this Agreement.

ARTICLE VI
GAS QUALITY

6.1 Delivery Pressure. The Purchaser's blower system shall produce a minimum vacuum at the Delivery Point sufficient for the Seller's use in extracting Landfill Gas from the Landfill to maintain compliance with applicable environmental regulations and Seller's permits.

6.2 Non-Conforming Gas. Both Parties agree to cooperate in good faith to manage the collection of Landfill Gas from the Landfill such that the Landfill Gas meets or exceeds the Gas Quality Targets set forth on Exhibit E attached hereto. Seller retains the right to operate the Landfill in its usual and customary discretion. Seller's rights include, without limitation, the right to take any action in Seller's sole and exclusive judgment necessary or appropriate in connection with or related to the Landfill or the Gas Collection System, including, without limitation, any action required to comply with any law, regulation, permit, or order of any governmental authority, without regard to the effect of such action on the quantity or quality of Landfill Gas extracted from the Landfill or otherwise. It is understood that, although Seller and Purchaser will cooperate to operate the Gas System as its top priority, Seller will also use reasonable efforts to produce Landfill Gas meeting the specifications of Exhibit E, with the understanding that there is no penalty for failure to meet such specifications, other than an adjusted payment provision as noted below. Any Landfill Gas that does not meet the Gas Quality Targets set forth on Exhibit E shall be deemed non-conforming gas ("Non-Conforming Gas"). Delivery of Non-Conforming Gas to Purchaser by Seller shall not be a breach of this Agreement and shall not give rise to any liabilities or obligations to Seller by Purchaser hereunder or otherwise, including, but not limited to, consequential or special damages. Notwithstanding the foregoing, in the event Seller delivers Non-Conforming Gas to Purchaser, Purchaser may elect either to: (i) accept the Non-Conforming Gas, or (ii) utilize Non-Conforming Gas for other commercially available applications or opportunities, including

but not limited to direct burn applications or (iii) not accept such Non-Conforming Gas, in which event Purchaser shall not be obligated to provide payments for such Non-Conforming Gas not accepted or processed by the Project or utilized for other commercially available applications. Such non-acceptance by Purchaser shall not be a default by Purchaser under this Agreement. In addition, in the event Seller delivers Non-Conforming Gas for a period of six (6) full months within a twelve (12) month period, for any reason or cause, Purchaser shall have the option, but not the requirement, to terminate this Agreement and the Site Lease. The Parties agree to use commercially reasonable efforts to correct any conditions contributing to the supply of Non-Conforming Gas or Landfill Gas that does not meet the Gas Quality Targets, as provided in Exhibit E, provided such efforts do not contribute to non-compliance with applicable regulations or Seller's permits.

6.3 Adjusted Payment Provision for Non-Conforming Gas. Payment to Seller for any quantities of Non-Conforming Gas that Purchaser elects to accept and or utilize for other commercially available applications, shall be reduced by 50% of the Gas Royalty Payment as that term is defined in Exhibit A. Purchaser shall perform a measurement of Landfill Gas to assess conformance with the specifications outlined in Exhibit E on a daily basis. The payment for Non-Conforming Gas will be determined at the end of each calendar month. If, for example, there were six days in which the measurements demonstrated conditions corresponding to Non-Conforming Gas during a month of 30 days, the Purchaser's payment to Seller would be 50% of the Gas Royalty Payment achieved for those six days, plus the full Gas Royalty Payment achieved during the remaining 24 days that exhibited Conforming Landfill Gas.

6.4 Disclaimer of Warranties. Seller makes no warranties whatsoever as to the quality or quantity of the Landfill Gas to be delivered to Purchaser hereunder. THE PARTIES AGREE

THAT THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE EXCLUDED FROM THIS TRANSACTION AND DO NOT APPLY TO THE LANDFILL GAS SOLD HEREUNDER.

ARTICLE VII
UNITS OF VOLUME AND MEASUREMENT

7.1 Unit of Volume. The unit of volume for measurement of Landfill Gas delivered hereunder will be one (1) cubic foot of Landfill Gas at a base temperature of sixty degrees Fahrenheit (60°F) and at an absolute pressure of fourteen and seventy-three one-hundreds (14.73) pounds per square inch.

7.3 Landfill Gas Metering.

a. Metering Equipment. Purchaser agrees to install, calibrate and maintain utility grade meters and analyzers for measuring Landfill Gas production and quality, at Purchaser's sole cost and expense. The parameters to be measured will include flow rate and measurements required to determine conformity with the Gas Quality Targets.

b. Purchaser Meter Tests. Purchaser, at its sole cost and expense, shall keep the metering equipment accurate to +/- two percent (2%) as factory calibrated and in good repair, making such periodic tests as Purchaser deems necessary, but at least once each year. Purchaser shall give Seller reasonable advance notice of any such test so that Seller may have its representative present. The results of each test shall continue to be used until the results of the next subsequent test are known.

c. Seller Meter Tests. At the Seller's expense, the Seller may at any time request that a test of the Purchaser's metering equipment be performed by a third-party testing service mutually acceptable to Purchaser and Seller.

d. Test Results and Adjustments. In the event any testing results in the determination that the accuracy rating of such equipment is less than ninety eight percent (98%) as factory calibrated, Purchaser shall take immediate steps to calibrate, repair or replace such equipment to attain an accuracy rating of not less than ninety eight percent (98%) as factory calibrated. In addition, if a test requested by the Seller shows that the equipment is inaccurate by more than two percent (2%) as factory calibrated, meter readings shall be corrected for a period extending back to the time such inaccuracy first occurred, if that time can be ascertained. If that time is not ascertainable, corrections shall be made for one half of the elapsed time since the previous meter calibration.

e. Meter Out of Service. If, for any reason, the metering or measurement equipment at the Delivery Point is out of service such that the amount of Landfill Gas delivered and the MMBtu value cannot be ascertained, Purchaser will notify Seller within twenty-four (24) hours of Purchaser learning of such outage. During the period when the metering or measurement equipment is out of service, the Parties will utilize the metering and measurement records from similar periods within the immediately preceding thirty (30) days to estimate the amount of Landfill Gas delivered to Purchaser.

ARTICLE VIII

AUTHORITY AND PERMITS

8.1 Permits and Authorizations. Seller and Purchaser each, at their own respective expense, shall obtain and maintain all permits, authorizations, easements, and rights of way required for the performance of their respective obligations hereunder. Each Party shall provide the other with a copy of all permits and authorizations obtained promptly upon receipt thereof. In accordance with the provisions of Section 5.1, Seller shall be responsible for all facilities and systems upstream of the Delivery Point and Purchaser shall be responsible for all facilities and

systems downstream of the Delivery Point, including any expansion, as set forth in Article V. Purchaser's responsibilities shall include but not be limited to air permits, building permits, local approvals, and state approvals. Seller agrees to grant to Purchaser such easements as Purchaser may reasonably require for the construction, operation and maintenance of the Project.

8.2 Public Utility Status. Seller and Purchaser do not intend to hold themselves as a public utility or to submit to the jurisdiction of the North Carolina Utilities Commission (NCUC), or any other state or federal regulatory agency by reason of the production, delivery, or sale of Landfill Gas or Output hereunder; provided, however, that both Parties agree to submit to the jurisdiction of any agency that administers laws or regulations concerning pipeline safety or other matters relating to the safe handling of Landfill Gas and Output as may be required by law. To that end, each Party may, in its sole discretion, seek a ruling from any such agency or other assurance satisfactory to such Party that the extrication, delivery, or sale of Landfill Gas will not subject such Party to the jurisdiction of any such governmental agency or authority.

8.3 Mutual Assistance. Upon request, the Parties hereto shall use reasonable efforts to support and assist one another in the acquisition of any required easement, permit, or authorization. Such support shall include, without limitation, participation in regulatory proceedings and provision of information concerning each Party's operations.

ARTICLE IX

TERM AND RIGHT TO TERMINATE

9.1 Term. The initial term of this Agreement shall commence on the Effective Date and shall continue until the twenty (20)-year anniversary of the COD (the "Initial Term"). The Initial Term may be extended for two (2) successive five (5)-year terms (each, an "Option Term" which, together with the "Initial Term," constitutes the "Term"), upon mutual agreement of the Parties, unless earlier terminated pursuant to the provisions of this Agreement. Notwithstanding the

foregoing, within two (2) years of the expiration of the Initial Term and one (1) year of the expiration of any Option Term, Purchaser shall provide Seller with written notice of its intent to extend, or not extend, the Initial Term or Option Term, as applicable. If Purchaser does not provide notice of its intent to extend this Agreement as provided in this Section, this Agreement will expire on the twenty (20)-year anniversary of COD. The terms and conditions of this Agreement during any Option Term shall be the same as those in effect at the time of extension, unless otherwise agreed in writing by the Parties. If Purchaser provides timely notice of its intent not to extend this Agreement, then this Agreement shall terminate on the expiration of the then-current Term, unless sooner terminated pursuant to the provisions of this Agreement.

9.2 Default and Cure. In the event either Party defaults upon any of their material obligations under this Agreement, the aggrieved Party shall notify the defaulting Party in writing of the default. If the defaulting Party fails to cure said default within ninety (90) days of the date of the notice or, if such cure cannot be completed in ninety (90) days, the Party fails to promptly initiate, diligently pursue, and implement such cure, taking into consideration the nature and circumstances of the default, then the aggrieved Party may, at their option, terminate this Agreement by providing written notice of the same to the defaulting Party under Section 9.3 and Section 9.4. Termination of this Agreement for default under Section 9.2 or Section 9.3 shall also constitute a breach of the Site Lease by the defaulting Party and shall entitle the Non-Defaulting Party to all remedies at law or equity.

9.3 Seller's Right to Terminate. Without limitation, any one of the following shall be deemed a default and Seller may terminate this Agreement by written notice to Purchaser upon the occurrence of any of the following events (any cure provisions within this section shall supersede those of Section 9.2):

a. Purchaser fails to perform its obligations under this Agreement due to an event of Force Majeure which lasts longer than six (6) months and Purchaser is not using commercially reasonable efforts to restore operations at the Project; or

b. The initiation of an involuntary proceeding occurs against Purchaser under the bankruptcy or insolvency laws, which involuntary proceeding remains undismissed for one hundred twenty (120) consecutive days, or in the event of the initiation by the Purchaser of a voluntary proceeding under the bankruptcy or insolvency laws; or

c. Purchaser fails to perform any material obligation hereunder, and fails to cure such failure to perform within ninety (90) days after receipt of Seller's notice of such failure of performance or, if such cure cannot be completed in such ninety (90) days, the Purchaser fails to make commercially reasonable efforts to promptly initiate, diligently pursue, and implement such cure, taking into consideration the nature and circumstances of the default, then the Seller may, at its option, terminate this Agreement by providing thirty (30) days' notice of same to Purchaser.

d. COD has not occurred within thirty (30) months from the Effective Date.

e. If, subsequent to COD, the Purchaser does not accept Landfill Gas for a duration of twelve (12) consecutive months, the Seller may terminate the Agreement, unless either Party asserts a Force Majeure event or Purchaser can cure the obligation through settlement with the Seller.

9.4 Purchaser's Right to Terminate. Without limitation, any one of the following shall be deemed a default and Purchaser may terminate this Agreement by written notice to Seller upon the occurrence of any of the following events (any cure provisions within this section shall supersede those of Section 9.2):

- a. Seller fails to perform its obligations under this Agreement due to an event of Force Majeure which lasts longer than six (6) months and Seller is not making best efforts to restore Seller's Facilities; or
- b. Seller fails to perform any material obligation hereunder and fails to cure such failure to perform within sixty (60) days after receipt of Purchaser's notice of such failure of performance; or
- c. Seller fails to deliver any Landfill Gas to the Delivery Point for a period of sixty (60) days out of any ninety-day (90) period; or
- d. If production of Landfill Gas drops below 250 scfm for more than sixty (60) days out of any ninety day (90) period.

9.5 Continuing Obligations. Upon termination under Section 9.4, (i) Purchaser shall remain obligated to pay Seller for all Landfill Gas previously delivered hereunder calculated pursuant to Article II and (ii) the indemnification obligations of Article XII shall remain in effect.

9.6 Actions Upon Expiration or Termination. In the event of any termination or expiration of this Agreement, Purchaser shall remove the Project except the blowers required to collect the Landfill Gas and restore the portion of the Landfill and Project Site occupied by the Project and any other portion of the Landfill or Seller's Facilities under Purchaser's possession or operational control, to at least the same condition than it was in prior to the construction of the Project. Following the removal of the Project, neither Party shall have any further obligation under this Agreement; except for any liabilities or obligations accruing to a Party prior to the termination or expiration of this Agreement and those obligations that expressly survive the termination or expiration of this Agreement.

ARTICLE X
TAXES AND PENALTIES

Seller shall pay or cause to be paid all taxes, assessments and penalties imposed on Seller directly arising out of the Seller's sale of Landfill Gas, the ownership or operation of the Landfill, or Seller's Facilities, excluding any penalties assessed for non-compliance with permits if the non-compliance is caused by the Purchaser. Purchaser shall pay or cause to be paid all taxes, assessments or penalties imposed upon Purchaser directly arising out of the Purchaser's purchase of Landfill Gas or the ownership or operation of Purchaser's Facilities. Neither Party shall be responsible or liable for any taxes or any other statutory charges or penalties, including fines or fees as a result of non-compliance, levied or assessed against any of the facilities under the operational control of the other Party used for the purpose of carrying out the provisions of this Agreement.

ARTICLE XI
FORCE MAJEURE

11.1 Suspension of Obligations. If either Party is rendered unable, wholly or in part, by Force Majeure to carry out its obligations under this Agreement, it is agreed that upon such Party giving notice and reasonably full particulars of such Force Majeure in writing to the other Party as soon as practicable after the occurrence of the cause relied on, then the obligations of the Party giving such notice, including the obligation to make payments due hereunder, so far as they are affected by such Force Majeure, shall be suspended to the extent and for the period made reasonably necessary by such Force Majeure, and such Party shall pursue commercially reasonable efforts to cure and return to full performance of its obligations under this Agreement.

11.2 Definition of Force Majeure. The term "Force Majeure" as used herein shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, pandemics, landslides, lightning, earthquakes, fires,

storms, hurricanes, floods, high-water washouts, civil disturbances, explosions, breakage or accident to machinery or lines of pipe not due to negligent or intentional conduct, freezing of wells or lines of pipe, partial or entire failure of wells or supply of Landfill Gas, enactment of statutes, laws, or regulations, acts of governmental bodies and any other cause or causes, whether of the kind herein enumerated or otherwise, not reasonably within the control of the Party claiming Force Majeure and which, by the exercise of reasonable diligence, such Party is unable to prevent or overcome. Force Majeure shall not include: (i) increases in the costs associated with the construction or operation of either Party's facilities, (ii) change in market conditions which make uneconomic the operation of either Party's facilities.

11.3 Strikes or Lockouts. It is agreed that the settlement of strikes or lockouts shall be entirely within the discretion of the Party having the difficulty, and that the foregoing requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of the opposing Party when such course is inadvisable in the discretion of the Party having the difficulty.

ARTICLE XII **INDEMNITY**

To the fullest extent allowable under applicable law, each Party shall defend, indemnify and hold the other Party, its directors, officers, partners, shareholders, members, managers, employees, agents, representatives, co-venturers, tenants, contractors, or servants and all of their respective successors and assigns, harmless from and against any and all claims, penalties, demands, actions, proceedings, liability or losses of whatsoever nature including reasonable attorney's fees for injury or death to person(s) or for damage or loss to or of property to the extent arising out of or caused by: (i) a breach of this Agreement by the indemnifying Party; or (ii) the indemnifying Party's negligent operations or activities hereunder. In no event shall either Party

be liable to the other for loss of anticipated profits or consequential, special or punitive damages. Nothing contained in this Agreement is intended to be a waiver or estoppel of the Seller or its insured to rely upon the limitations, defenses, and immunities contained within North Carolina law. To the extent that indemnification is available and enforceable, neither Seller nor its insurer shall be liable in indemnity and contribution for an amount greater than the limits of liability for municipal claims established by North Carolina law.

ARTICLE XIII
SELLER'S AND PURCHASER'S OBLIGATIONS

13.1 Seller's Obligations. Seller's primary obligation and business purpose is the safe, efficient, and economical management of its Landfill and/or Landfill Gas production system in accordance with any and all Federal, state, and local laws, rules, regulations, ordinances, and orders. Seller shall operate and manage its Landfill and/or Landfill Gas production in such a manner as to not unreasonably interfere with the operation and maintenance of Purchaser's Facilities or, consistent with the provisions set forth above, to cause an intentional, material disruption of delivery of Landfill Gas to Purchaser's Facilities. Seller shall inform Purchaser of operational changes or decisions, which might reasonably and materially affect Landfill Gas production within a reasonable period before such changes are made. Such changes by Seller shall be temporary in nature and Seller shall use its best efforts to ensure that Purchaser's operations are not materially affected by Seller's changes. Seller shall have no obligation to process or treat Landfill Gas prior to making the Landfill Gas available to Purchaser.

13.2 Purchaser's Condensate. Seller will accept Condensate generated by Purchaser's Facilities at no cost to the Purchaser. If the Condensate is unsuitable for disposal by the Seller's current method of Condensate disposal for whatever reason, then the Seller can refuse to accept the condensate and the Purchaser must dispose of its condensate by an environmentally acceptable

method, at Purchaser's sole expense. Seller is under no obligation to accept or treat Purchaser's Wastewater streams beyond the Condensate.

13.3 Purchaser's Obligations. Purchaser shall be solely responsible for all costs associated with the management of Landfill Gas after the Delivery Point. Purchaser shall conduct its activities under this Agreement in such a manner as not to unreasonably interfere with Seller's use of the Landfill, unless Seller otherwise consents in writing. Purchaser shall procure and manage all downstream transportation, storage and balancing services related to the Output. Purchaser shall find the highest and best use for the Output produced and monetize the Output and associated Regulatory Credits, as defined herein. Purchaser shall act as interface to all regulatory agencies and associated certification providers to maintain the compliance of the Project with all applicable laws.

13.4 Permits and Approvals. Promptly after execution of, and pursuant to, this Agreement, Purchaser shall obtain, at its sole cost and expense, all necessary environmental impact studies, statements or reports, zoning and land use approvals, permits, licenses and utilities for the installation and construction of the Purchaser's Facilities and shall comply with all Applicable Laws, provided that all applications, filings or communications with third parties in connection with any of the foregoing provided to Seller's prior submission to any third parties. Purchaser agrees to make available to Seller copies of all environmental information reports, environmental impact reports, air impact assessment studies, environmental applications filed and other necessary available data in its possession relating to the Landfill or the Purchaser's Facilities, which materials are reasonably necessary for Seller to possess in connection with this Agreement and shall be treated as Confidential Information as provided in this Agreement.

13.5 Design and Construction of the Purchaser's Facilities. For the period between the beginning of construction and COD, Purchaser shall report to Seller monthly on the status of the construction of the Purchaser's Facilities and the progress of Purchaser towards completion of the Purchaser's Facilities.

13.6 Notification of COD. Purchaser shall provide Seller no less than thirty (30) days written notice of Project COD

13.7 Environmental Matters. Purchaser shall construct, operate and maintain Purchaser's Facilities and shall otherwise conduct its activities hereunder, including the maintenance and operation of all facilities under Purchaser's operational control, in full compliance and conformance with all applicable environmental laws, regulations and ordinances, including any such additional standards that become applicable during the Term of this Agreement.

ARTICLE XIV **WARRANTIES AND REPRESENTATIONS**

14.1 Purchaser's Representations and Warranties. Purchaser represents and warrants to Seller as follows:

a. Purchaser is a limited liability company duly organized and validly existing under the laws of the State of Delaware, with full legal right, power and authority to enter into and to fully and timely perform its obligations hereunder; and

b. Purchaser has duly authorized, executed and delivered this Agreement and this Agreement constitutes a legal, valid and binding obligation, enforceable against Purchaser in accordance with its terms; and

c. Neither the execution or delivery by Purchaser of this Agreement, nor the performance by it of its obligations in connection with the transactions contemplated hereby or the fulfillment of the terms and conditions hereof conflicts with, violates or results in a breach of any

constitution, law or governmental regulation applicable to it, or materially conflicts with, violates or results in a breach of any term or condition of any order, judgment, or decree or any agreement of instrument to which Purchaser is a Party or by which Purchaser or any of its properties or assets are bound, or constitutes a default there under; and

d. No approval, authorization, order, consent, declaration, registration or filing with any federal, state or local governmental authority or referendum of voters is required for the valid execution and delivery of this Agreement by Purchaser, except such as have been disclosed to Seller and have been duly obtained or made; and

e. Purchaser has no knowledge of any action, suit, or proceeding, at law or in equity, before or by any court or governmental authority, pending or threatened against Purchaser, in which an unfavorable decision, ruling or finding would materially adversely affect the performance by Purchaser of its obligations hereunder, or that, in any way, would materially adversely affect the validity or enforceability of this Agreement.

14.2 Seller's Representations and Warranties. Seller represents, warrants and covenants to Purchaser as follows:

a. Seller is authorized as a body politic, corporate in nature, organized and existing under the laws of the State of North Carolina, with full legal right, power and authority to enter into and to fully and timely perform its obligations hereunder; and

b. Seller has duly authorized, executed and delivered this Agreement and this Agreement constitutes a legal, valid and binding obligation, enforceable against Seller in accordance with its terms; and

c. Neither the execution or delivery by Seller of this Agreement, nor the performance by it of its obligations in connection with the transactions contemplated hereby or the

fulfillment of the terms and conditions hereof conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to it, or materially conflicts with, violates or results in a breach of any term or condition of any order, judgment, or decree or any agreement of instrument to which Seller is a Party or by which Seller or any of its properties or assets are bound, or constitutes a default there under; and

d. No approval, authorization, order, consent, declaration, registration or filing with any federal, state or local governmental authority or referendum of voters is required for the valid execution and delivery of this Agreement by Seller, except for the final approval of the Wayne County Board of County Commissioners; and

e. Other than as previously disclosed by Seller to Purchaser in writing, Seller has no knowledge of any action, suit, or proceeding, at law or in equity, before or by any court or governmental authority, pending or threatened against Seller, in which an unfavorable decision, ruling or finding would materially adversely affect the performance by Seller of its obligations hereunder, or that, in any way, would materially adversely affect the validity or enforceability of this Agreement.

f. Seller will have good and marketable title to all Landfill Gas delivered to Purchaser at the Delivery Point, it will have the right to sell the same to Purchaser, and the Landfill Gas will be free from any liens or encumbrances and upon transfer of the Landfill Gas to Purchaser, Purchaser will acquire good title to the Landfill Gas.

g. Seller will procure and maintain in force all agreements, leases, easements, licenses, consents and approvals required to obtain and supply the Landfill Gas to the Delivery Point and will be solely responsible for and will comply with the requirements of such licenses, consents and approvals.

h. Subject to the provisions of Article VI hereof, Seller will not transfer, commit to sell, pledge or otherwise sell the Landfill Gas to any party other than Purchaser for the Term of this Agreement.

ARTICLE XV **INSURANCE**

15.1 Purchaser's Insurance Requirements. At all times during the term of this Agreement, Purchaser shall maintain the following insurance coverage with an insurance company reasonably acceptable to the Seller.

a. Worker's Compensation Insurance, covering liability under applicable Worker's Compensation law, at the statutory coverage levels, including employer's liability insurance in an amount not less than \$100,000 for each accident.

b. Commercial general liability and umbrella liability with a total per occurrence limit of \$5,000,000 covering liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract.

c. Property Insurance for the full replacement cost of the Project. Such coverage shall include ordinance and law coverage and joint loss agreement. Purchaser shall insure the contents, machinery, equipment and other personal property owned by the Purchaser separately at full replacement value.

d. Business automobile coverage in the amount of \$2,000,000 each accident.

e. Purchaser shall name Seller as an additional insured on each of the above policies of insurance and shall provide thirty (30) days written notice to the Seller in advance of any termination or material change in coverage. Purchaser shall provide Seller with certificates of insurance evidencing such coverage and shall make a copy of these policies available to the Seller

upon request. Purchaser's policies of insurance shall be deemed primary coverage in relation to those policies of insurance maintained by Seller, either as to damage or injury incurred by Purchaser to Purchaser's Facilities.

15.2 Seller's Insurance Requirements. At all times during the term of this Agreement, Seller shall maintain the following insurance coverage with an insurance company reasonably acceptable to Purchaser:

a. Worker's compensation insurance, covering liability under applicable worker's compensation law, at the statutory coverage levels including employer's liability insurance in an amount not less than \$100,000 for each accident; and

b. Comprehensive general liability and property damage insurance in a combined single limit of not less than \$5,000,000 for death and injury to any person(s) or for property damage as a result of any one occurrence which may arise out of or in connection with Seller's operation of its facilities required for the performance of its obligations hereunder.

c. Seller shall provide for thirty (30) days written notice to Purchaser in advance of any termination or material change in coverage.

15.3 Certificates of Insurance. Each Party hereto shall provide to the other Party promptly upon request current and updated certificates of insurance to evidence that the required insurance coverage is in effect at all times during the Term.

ARTICLE XVI **MISCELLANEOUS**

16.1 Assignment. This Agreement may not be assigned, except as defined below, by either Party without the prior written approval of the other Party, which approval shall not be unreasonably withheld. All covenants, terms, conditions, and provisions of this Agreement shall be binding upon the Parties hereto and shall extend to and be binding upon the successors and

assigns of the Parties hereto. Notwithstanding the foregoing, Purchaser may (a) assign this Agreement or any of its rights hereunder to any affiliated entities which own or control, directly or indirectly, the Project without the consent of Seller provided that Purchaser provides written notice of such assignment to Seller and such person or entity assumes all of the obligations of Purchaser hereunder; and (b) collaterally assign, transfer, mortgage or pledge this Agreement and/or the Purchaser's rights hereunder without Seller's consent as security in connection with the financing of construction and/or the operation of Purchaser's Facilities. Upon Purchaser's request, Seller agrees to execute and deliver to any collateral assignee of Purchaser's rights under this Agreement a consent to collateral assignment containing customary and reasonable covenants. Notwithstanding the foregoing, such consent to collateral assignment shall grant Seller, in the event such collateral assignee causes to be performed any of Purchaser's applicable obligations under this Agreement by any party other than Purchaser, the right to review the technical capabilities and experience of any new proposed operator of the Project and Seller's Facilities and approve or withhold approval of the same. Such approval shall not be unreasonably withheld, conditioned, or delayed.

16.2 Notices. Any notice, request, demand, statement and/or payment provided for herein shall be in writing and, except as otherwise provided herein, shall be sent to the Parties hereto at the following addresses:

Purchaser:	Terreva Wayne County RNG, LLC 3340 Peachtree Road NE, Suite 170 Atlanta, Georgia 30326 Attn: Jason Byars
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with copies to:

CIM Group
Attn: General Counsel
4700 Wilshire Boulevard
Los Angeles, California 90010

and

Milam Howard
Attn: G. Alan Howard, Esq.
14 East Bay Street
Jacksonville, Florida 32202

Seller: Wayne County
Attn: Wayne County Manager
224 E. Walnut Street
P.O. Box 227
Goldsboro, NC 27530

with copies to:

Wayne County Attorney
PO Box 227
Goldsboro, NC 27530

All payments made by the Parties shall be sent to the applicable address shown above. All notices shall be deemed to have been given and received when personally delivered or upon receipt as evidenced by delivery by a nationally recognized overnight courier service. Either Party may change the address to which communications or payments are to be made by written notice to the other Party as set forth above.

16.3 Integration and Amendments. This Agreement constitutes the entire agreement between the Parties relating to the subject matter contemplated by this Agreement and supersedes any prior or contemporaneous agreements or representations affecting the same subject matter. No amendment, modification or change to this Agreement will be enforceable unless reduced to a writing specifically referencing this Agreement and executed by both Parties. The Parties acknowledge that each Party and its counsel have reviewed and revised this Agreement and that

the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party will not be used in interpretation of this Agreement.

16.4 Choice of Law and Venue. This Agreement and any provisions contained herein shall be interpreted under the laws of the State of North Carolina. Any lawsuit regarding the interpretation or enforcement of any provision of this Agreement shall be brought exclusively in the state court sitting in Wayne County, North Carolina or the United States District Court for the Eastern District of North Carolina, without regard to principles of conflict of law.

16.5 Economic Grants. The Parties may seek to obtain local, state or federal economic development, recycling, environmental and other grants and/or benefits for which either Party may be eligible as a direct result of its respective rights, obligations and performance hereunder, and the Parties shall coordinate and cooperate with each other in that regard.

16.6 Inurement. This Agreement will inure to the benefit of and be binding upon the respective successors and permitted assigns of the Parties.

16.7 Further Assurances. Each Party to this Agreement will perform all acts and execute and deliver all documents as may be necessary and proper under this Agreement to accomplish the intents and purposes of this Agreement and to carry out its provisions.

16.8 Cumulative Remedies. Unless otherwise specifically provided herein, the rights, powers, and remedies of each of the Parties provided herein are cumulative and the exercise of any right, power or remedy hereunder does not affect any other right power or remedy that may be available to either Party hereunder or otherwise at law or in equity.

16.9 Confidentiality. During the Term, the Parties may furnish to each other information of a confidential and proprietary nature in connection with the operation of the Landfill and Project. The Party furnishing the proprietary information will have the exclusive right and interest in and

to such proprietary information and the goodwill associated therewith. The Party receiving such information will maintain its confidentiality using such care and diligence as it uses to protect its own confidential information, but in no event less than reasonable care.

16.10 Publicity and Corporate Identity. Unless otherwise required by Applicable Law, neither Party may use the name, trade name, trademarks, service marks, or logos of the other Party or the existence of this Agreement or the project described in this Agreement or any likeness, photo, film or similar like kind reproduction of the other's facilities or property in any publicity releases, news releases, annual reports, signage, stationery, print literature, advertising, or websites without securing the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Neither Party shall issue any publicity or news release regarding the Purchaser's Facilities or project at the Landfill without the written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. The Parties shall not, without prior written consent of the other Party, represent, directly or indirectly, that any product or service offered by the Party has been approved or endorsed by the other Party.

16.11 No Partnership. This Agreement will not create or be construed to create in any respect a partnership or other business association between the Parties.

16.12 Non-Waiver: Duty to Mitigate and No Third-Party Beneficiaries. No waiver by any Party of any of its rights with respect to the other Party or with respect to any matter or default arising in connection with this Agreement will be construed as a waiver of any subsequent right, matter or default whether of a like kind or different nature. Any waiver will be in writing signed by the waiving Party. Each Party agrees that it has a duty to mitigate damages. This Agreement is made and entered into for the sole protection and legal benefit of the Parties, and their permitted

successors and assigns, and no other person will be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with this Agreement.

16.13 Severability. Except as may otherwise be stated herein, any provision or section hereof that is declared or rendered unlawful or unenforceable by any applicable court of law or regulatory agency, or deemed unlawful or unenforceable because of a statutory change, will not otherwise affect the lawful obligations that arise under this Agreement. In the event any provision of this Agreement is declared unlawful or unenforceable, the Parties will promptly renegotiate to restore this Agreement as near as possible to its original intent and effect.

16.14 Time of Essence. Time is of the essence of this Agreement.

16.15 Headings and Titles. The titles of the articles and this Agreement are inserted for convenience or reference only and will be disregarded in construing or interpreting any of its provisions.

16.16 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. Delivery of an executed signature page of this Agreement by facsimile, e-mail, or other customary means of electronic transmission shall be deemed to have the same legal effect as delivery of a manually executed counterpart hereof.

16.17 E-Verify. Purchaser shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, governing employment eligibility of Purchaser's employees. Further, if Purchaser utilizes a subcontractor, Purchaser shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina Statutes.

16.18 Iran Divestment Act Certification. Purchaser hereby certifies that Purchaser, and all subcontractors, are not on the Final Iran Divestment List ("I.List") created by the North Carolina

State Treasurer pursuant to NCGS 147, Article 6E. Purchaser shall not utilize any subcontractor that is identified on the List.

16.19 Nondiscrimination. Purchaser shall not discriminate against or deny the Contract's benefits to any person on the basis of race; religion; creed; color; sex; gender identity and expression; medical conditions related to pregnancy, childbirth, or breastfeeding; sexual orientation; marital status; age; national origin; ancestry; genetic information; disability; veteran status; or any class protected by local state or federal law.

16.20 Conflict of Interest. Purchaser represents and warrants that to its knowledge no member of Wayne County or any of its employees or officers who may obtain a direct benefit, personal gain or advantage for themselves or a relative or associate as a result of the Contract, subcontract or other agreement related to the Contract is in a position to influence or has attempted to influence the making of the Contract, has been involved in making the Contract, or will be involved in administering the Contract. Purchaser shall cause this paragraph to be included in all Contracts, subcontracts and other agreements related to the Contract.

16.21 Gratuities to Wayne County. The right of Purchaser to proceed may be terminated by written notice if Wayne County determines that Purchaser, its employees or independent contractors working on behalf of Purchaser offered or gave a gratuity to an official or employee of Wayne County in violation of the policies of Wayne County.

16.22 Kickbacks to Purchaser. Purchaser shall not permit any kickbacks or gratuities to be provided, directly or indirectly, to itself, its employees, subcontractors or subcontractor employees for the purpose of improperly obtaining or rewarding favorable treatment in connection with a Wayne County contract or in connection with a subcontract relating to a Wayne County

Contract. When Purchaser has grounds to believe that a violation of this clause may have occurred, Purchaser shall promptly report to Wayne County in writing the possible violation.

16.23 Monitoring and Evaluation. Purchaser shall cooperate with Wayne County, or with any other person or agency as directed by Wayne County, in monitoring, inspecting, auditing or investigating activities related to the Contract. Purchaser shall permit Wayne County to evaluate all activities conducted under the Contract. Wayne County has the right at its sole discretion to require that Purchaser remove any employee of Purchaser from the Project Site upon such employee's violation of any laws or any Wayne County policies and procedures (of which Purchaser has been provided a written copy) following written notice to Purchaser citing the law, policy or procedure violated.

16.24 Financial Responsibility. Purchaser is financially solvent and able to perform under the Contract. If requested by Wayne County, Purchaser agrees to provide a copy of Purchaser's most recent financial statements to Wayne County's Finance Officer. In the event of any proceedings, voluntary or involuntary (if involuntary, and not dismissed within 30 days of filing), in bankruptcy or insolvency by or against Purchaser; or in the event of the appointment, with or without Purchaser's consent, of an assignee for the benefit of creditors or of a receiver (if involuntary, and not dismissed within 30 days of filing); then Wayne County shall be entitled, at its sole option, to cancel any unfilled part of the Contract without any liability whatsoever.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties hereto have caused the execution of this Amended and Restated Landfill Gas Purchase Agreement and Site Lease by the officers whose names appear below.

WITNESSES:

Ginger Moore
Print: Ginger Moore

Print: _____

SELLER:

WAYNE COUNTY

By: Barbara Aycock
Name: Barbara Aycock
Title: Chairwoman/Commissioner
Date: 4-18-23

PURCHASER:

Terreva Wayne Country RNG, LLC

Robert Warren
Print: ROBERT WARREN

Print: _____

By: Jason Byars
Name: Jason Byars
Title: Vice President
Date: 4/19/2023

EXHIBIT A DEFINITIONS

For purposes of this Agreement, the following terms will have the meanings specified in this Exhibit A:

"Affiliate" means, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of at least 50 percent of the voting power of the entity or person.

"Agreement" has the meaning set forth in the Preamble.

"Alterations" has the meaning set forth in Section 5.1(b).

"Bankruptcy Proceeding" means with respect to a Party, such Party (a) makes an assignment or any general arrangement for the benefit of creditors, (b) files a petition or otherwise commences, authorizes or acquiesces in commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection from creditors, or has such a petition filed against it that is not dismissed within ninety (90) days of being filed or (c) otherwise becomes bankrupt or insolvent (however evidenced).

"Biomethane Environmental Attributes" means:

(i) all attributes associated with, or that may be derived from the displacement of traditional energy sources by biomethane, including any existing or future credit, benefit, attribute, aspect, characteristic, claim, reduction, offset or allowance, or similar benefit of any type, howsoever entitled or named, arising under any federal, provincial, local or other law as now in effect, or as subsequently amended, enacted or adopted;

(ii) any existing or future instrument, including any environmental emission allowances and reduction credits, reduction right, allowance, certificate or other unit of any kind whatsoever, whether tradable or not, and any resulting from, or otherwise related to the actual or assumed reduction, displacement or offset of emissions associated with, or that may be derived from the displacement of traditional natural gas by biomethane; and

(iii) all revenues, entitlements, benefits and other proceeds arising from or related to the foregoing.

"CO2 Environmental Attributes" means:

(i) all attributes associated with, or that may be derived from the capture of CO2 gas and disposition of same rather than discharge into the atmosphere, including any existing or future credit, benefit, attribute, aspect, characteristic, claim, reduction, offset or allowance, or similar benefit of any type, howsoever entitled or named, arising under any federal, provincial, local or other law as now in effect, or as subsequently amended, enacted or adopted;

(ii) any existing or future instrument, including any environmental emission allowances and reduction credits, reduction right, allowance, certificate or other unit of any kind whatsoever, whether tradable or not, and any resulting from, or otherwise related to the actual or assumed reduction, displacement or offset of emissions associated with, or that may be derived from the capture of CO₂ gas and disposition of same rather than discharge into the atmosphere; and

(iii) all revenues, entitlements, benefits and other proceeds arising from or related to the foregoing.

“Condensate” means liquid generated as a result of cooling the Landfill Gas.

“COD” means the date that the Project first produces Output for sale and derived from the Landfill Gas delivered by Seller to the Delivery Point.

“Delivery Point” means the metering interconnect where the Landfill Gas enters Purchaser’s Facilities, as shown in the depiction attached hereto as Exhibit C.

“Effective Date” has the meaning set forth in the Preamble.

“Force Majeure” has the meaning set forth in Section 11.2.

“Gas Quality Targets” has the meaning set forth in Exhibit E.

“Gas Royalty” means an amount equal to 3.5% of the Gross Revenue received from the sale of Output derived from the processing of Landfill Gas delivered to the Delivery Point during the Term.

“MMBtu” means one million (1,000,000) British thermal units.

“Governmental Authority” means any federal, provincial, local or other governmental, regulatory or administrative agency, court, commission, department, board or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority.

“Greenhouse Gas” means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons, perfluorocarbons, sulphur hexafluoride, or any other substances or combination of substances that may become regulated or designated as Greenhouse Gases under any federal, provincial or local law or regulation, or any emission reduction registry, trading system, or reporting or reduction program for Greenhouse Gas emission reductions that is established, certified, maintained, or recognized by any international, governmental (including U.N., federal, provincial, or local agencies), or non-governmental agency from time to time, in each case measured in increments of one metric ton of carbon dioxide equivalent.

“Gross Revenue” means all collected revenue received directly or indirectly by Purchaser or its Affiliates from or with respect to the sale of all Output and/or other forms of energy, or associated products, Regulatory Credits, or Production Tax Credits, derived from Landfill Gas from the Landfill and produced by Purchaser at the Project, net of any refunds of previously

collected revenue attributable to the Landfill Gas and any applicable commissions consistent with market practices, sales taxes or other taxes required to be paid to third-parties in respect of such sales or revenues. If Seller and Purchaser, in their discretion, mutually agree upon any other use by Purchaser of Landfill Gas other than the Project contemplated herein, the determination of value for purposes of this definition will be as mutually agreed upon by Seller and Purchaser, in their discretion.

“Investment Tax Credits” means tax credits issued by a Governmental Authority associated with the construction of a Project.

“Landfill” has the meaning set forth in the Background.

“Landfill Gas” means quantities, measured in MMBtu, of unprocessed gas from the Landfill that meet the Gas Quality Targets and are purchased by Purchaser pursuant to this Agreement.

“Methane Environmental Attributes” means:

(i) all attributes associated with, or that may be derived from the reduction of Greenhouse Gas emissions from the Landfill as a result of the capture of Landfill Gas, including any existing or future credit, benefit, attribute, aspect, characteristic, claim, reduction, offset or allowance, or similar benefit of any type, howsoever entitled or named, arising under any federal, provincial, local or other law as now in effect, or as subsequently amended, enacted or adopted;

(ii) any existing or future instrument, including any environmental emission allowances and reduction credits, reduction right, allowance, certificate or other unit of any kind whatsoever, whether tradable or not, and any resulting from, or otherwise related to the actual or assumed reduction, displacement or offset of emissions associated with, or that may derived from the elimination of methane discharges into the atmosphere from the Landfill as a result of capture of the Landfill Gas; and

(iii) all revenues, entitlements, benefits and other proceeds arising from or related to the foregoing.

“Non-Defaulting Party” means the Party which is not the Defaulting Party.

“Non-Conforming Gas” will have the meaning set forth in Section 6.2 of this Agreement.

“Output” has the meaning set forth in the Background.

“Party” or ***“Parties”*** has the meanings set forth in the Preamble.

“Production Tax Credits” means inflation-adjusted tax credits issued by a Governmental Authority for the generation of Output from a Project using qualified energy resources.

“Project” has the meaning set forth in the Background.

“Purchaser” has the meaning set forth in the Preamble.

“Purchaser’s Facilities” means the Project and such other facilities, pipe and equipment necessary to enable Purchaser to (i) accept Landfill Gas from the Landfill (ii) process Landfill Gas into Beneficial Use Project Output, and (iii) transport of Output to the interconnect with the downstream off-taker or gathering system.

“Regulatory Credit” means any credit, benefit, attribute, aspect, characteristic, claim, reduction, offset or allowance, or similar benefit of any type, howsoever entitled or named, arising under any federal, provincial, local or other law as now in effect, or as subsequently amended, enacted or adopted, resulting from, attributable to, or associated with the Output produced at the Project, and including Biomethane Environmental Attributes, Tax Credits, Methane Environmental Attributes and CO2 Environmental Attributes.

“Project Site” has the meaning set forth in Section 5.2 of this Agreement, and is more particularly describe in the Site Lease.

“SCFM” or ***“scfm”*** means standard cubic feet per minute.

“Section” means a section of this Agreement.

“Seller” has the meaning set forth in the Preamble.

“Seller’s Facilities” means the Gas Collection System, condensate management system, gas handling system, LFG utility flare, and all associated equipment and appurtenances required to collect, combust, treat, and/or transport the Landfill Gas to the Delivery Point, and shall include any equipment required to produce and process the Landfill Gas for “subsequent sale or beneficial use” as that phrase is used in 40 C.F.R. § 60.762, and in accordance with North Carolina Department of Environmental Quality and U.S. Environmental Protection Agency regulations, to deliver such Landfill Gas to the Delivery Point.

“Site Lease” means that certain Site Lease Agreement between Purchaser and Seller dated of even date herewith and attached hereto as Exhibit D.

“Tax Credits” means, as applicable, Investment Tax Credits, Production Tax Credits and/or other tax credits.

“Term” has the meaning set forth in Section 9.1 of this Agreement.

“Wastewater” means any liquid byproduct other than Condensate produced during the production of Output from Landfill Gas.

e-mail: admin@terrevarenewables.com

PAY TO
Wayne County Landfill 460 B Landfill Road Dudley, NC 28333 Attn: Landfill Manager

B-1

EXHIBIT C
SITE MAP AND DELIVERY POINT

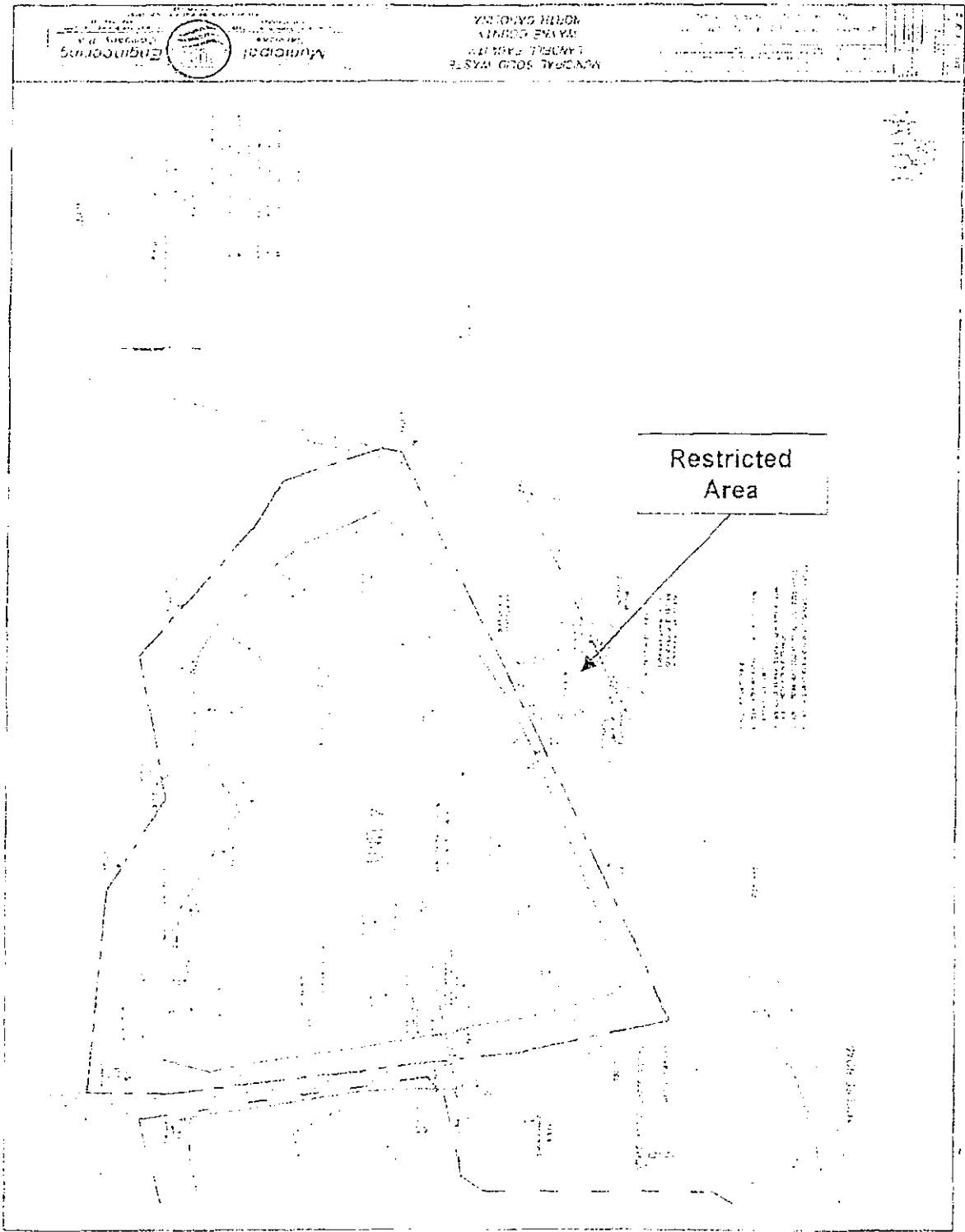


**EXHIBIT D
SITE LEASE**

SITE LEASE AGREEMENT

THIS SITE LEASE AGREEMENT ("Lease") is made and entered into as of April 18, 2023 (the "Effective Date"), by and between Wayne County, North Carolina, a body politic, corporate, organized and existing under the laws of the State of North Carolina whose address is 224 E. Walnut Street, Goldsboro, North Carolina 27530 ("Landlord"), and Terreva Wayne County RNG, LLC, a Delaware limited liability company, whose address is 3340 Peachtree Road NE, Suite 170, Atlanta, Georgia 30326 ("Tenant"). Landlord and Tenant may hereinafter be referred to individually as a "Party" and collectively as the "Parties."

Background

A. Landlord owns the Wayne County Landfill (the "Landfill") located at 460 S. Landfill Road, Dudley, North Carolina, including the gas rights to the Landfill.

B. Simultaneous with the execution and delivery of this Lease, Landlord and Tenant have executed and delivered an Amended and Restated Landfill Gas Purchase Agreement and Site Lease dated as of even date herewith (as the same may be amended, the "GRA"). Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the GRA.

C. Tenant intends to construct an RNG Plant to utilize the Landfill Gas for the production of Renewable Natural Gas. Such RNG Plant will be situated adjacent to the Landfill.

D. The Parties desire to set forth the terms and conditions upon which Landlord shall lease the Site (as defined below) to Tenant for the operation of the RNG Plant. This Lease is the Site Lease referenced in the GRA.

Agreement

NOW, THEREFORE, in consideration of the covenants and obligations set forth herein, and other good and valuable consideration, receipt of which is hereby acknowledged, Landlord and Tenant agree as follows:

1. Property Description: Survey.

(a) In consideration of the rents and covenants to be paid and performed by Tenant under the GRA and this Lease Agreement, Landlord does hereby grant, demise, and lease unto Tenant, the premises depicted in Exhibit 1 attached hereto (the "Site"), for the purpose of constructing, owning, and operating the RNG Plant. The Site is situated on the Landfill property. The Site is leased by Landlord to Tenant subject to any easements granted to Tenant hereunder.

(b) Prior to beginning any construction work at the Site, Tenant shall, at Tenant's sole cost and expense, cause an ALTA survey (the "Survey") to be conducted of the Site and any related easements, establishing a metes and bounds legal description of the Site and any related easements which conform to the depiction on Exhibit 1. Tenant agrees to provide Landlord with certified copies of any Survey(s) obtained by Tenant with respect to the Site or any related easements. Upon completion of the Survey and the reasonable approval of same by Landlord and

Tenant, the Parties agree to amend this Lease to replace the depiction on Exhibit 1 with the legal description established by the Survey.

(c) Tenant may file for record with the Register of Deeds of the Wayne County, a Memorandum of this Lease in a form approved by Landlord in advance and in writing, which approval may not be unreasonably withheld. Upon termination or expiration of this Lease, if Tenant does not promptly record a termination or cancellation of any memorandum of this Lease, Landlord is hereby authorized to do so as Tenant's attorney-in-fact.

2. Term. The term of this Lease shall commence on the Effective Date and, unless earlier terminated as provided herein, shall continue in effect for so long as the GRA remains in effect and this Lease shall automatically terminate upon the expiration or termination of the GRA, as set forth therein, and shall be automatically renewed or extended to the same extent that the GRA is renewed or extended.

3. Warranty of Title and Quiet Enjoyment. Landlord warrants that Landlord owns the Site, and that Landlord has all right and authority to make and perform this Lease. Landlord covenants that Tenant, so long as Tenant observes and keeps the covenants of this Lease on its part to be kept and complies with the GRA, and so long as the GRA is in effect and subject to the terms and conditions of the GRA, shall lawfully, peaceably and exclusively hold, occupy and enjoy the Site during the term hereof, free from any interference caused by parties claiming an interest by, through or under Landlord.

4. Easements.

(a) Landlord agrees to grant to Tenant, and/or to the appropriate utility providers, the following temporary easements, such temporary easements to be set forth in the survey described in Section 1(b) of this Lease:

(i) Utilities. Temporary Construction and Maintenance Easements upon, over, under and across the Site and property contiguous with the Site that is owned or leased by Landlord, all in form and substance mutually satisfactory to Landlord and Tenant, that may be reasonably necessary in connection with Tenant's construction and operation of the RNG Plant, performance of the terms and conditions of the GRA, or performance of the terms and conditions of this Lease, including, for pipelines to transport the Landfill Gas and for the provision of utilities, including but not limited to electric, water, sewer, natural gas, telephone and cable service, all at locations and pursuant to terms and conditions reasonably determined by Tenant, during the Term as defined in Section 2 above.

(ii) Delivery Point. Temporary Construction and Maintenance Easements upon, over, under and across the Site and property contiguous with the Site that is owned or leased by Landlord, all in form and substance mutually satisfactory to Landlord and Tenant, as necessary for the purpose of installing, constructing, operating, maintaining, repairing, adding to or altering and replacing pipelines, interconnections and related equipment and facilities for the transport of Landfill Gas, oil, gas and liquid hydrocarbons, generated or treated by the RNG Plant, from the Landfill to the delivery point, from time to time, and all other purposes reasonably

incidental thereto as contemplated by this Lease or the GRA, during the Term as defined in Section 2 above.

(iii) Interconnection. Temporary Construction and Maintenance Easements upon, over, under and across the Site and property contiguous with the Site that is owned or leased by Landlord, all in form and substance mutually satisfactory to Landlord and Tenant, as necessary for the purpose of installing, constructing, operating, maintaining, repairing, adding to or altering and replacing pipelines, interconnections and related equipment and facilities for the transport of Landfill Gas, oil, gas and liquid hydrocarbons, generated or treated by the RNG Plant, from the delivery point to the interconnection, from time to time, and all other purposes reasonably incidental thereto as contemplated by this Lease or the GRA.

With respect to the easements described in subsections (i), (ii) and (iii) above, the duration of such easements shall be only so long as is necessary to reasonably accomplish the purposes of the GRA, and shall be coterminous with the GRA and the Term of this Lease Agreement if not sooner terminated by the Parties. The location(s) of all such easements shall be mutually agreed upon by Landlord and Tenant so as to minimize or eliminate any disruption in Landlord's operations. In no event shall the easements give Tenant the right or authority to interfere or disrupt the Landlord's operation of the Landfill, as defined under Solid Waste Permit No. 1803.

(b) Tenant shall be responsible for all costs and expenses relating to documenting and recording any easements to be granted hereunder. Should additional easements hereafter become necessary for Tenant to operate the RNG Plant, and provided such additional easements in no manner impair the operation of the Landfill, then the Parties shall mutually agree upon the location of such additional easements. At the time in which Tenant desires any additional easements upon the Landfill, Tenant shall provide Landlord with such information, drawings, legal descriptions, description of the need for the additional easements, and other information as may reasonably be required by Landlord, for Landlord to evaluate the need and potential impact upon the operation of the Landfill or Landlord's obligations hereunder or under the GRA.

(c) All easements granted to Tenant or any utility providers in connection with this Lease or the GRA shall (i) be non-exclusive in nature, and (ii) automatically terminate one hundred and eighty (180) days following the termination or expiration of this Lease or the removal of the RNG Plant pursuant to this Lease and the GRA, whichever is sooner. Tenant is solely responsible for its work conducted on, and the repair and maintenance of facilities located on, any real property affected by the easements, and in conducting any work on the easements, Tenant at its sole cost will provide erosion protection, sediment control, and will return any disturbed land to substantially the same condition existing prior to such work.

5. Rent. Commencing on the COD date, Tenant shall pay Landlord monthly, in advance, rent in the amount of Five Hundred Dollars (\$500.00) per month, which the Parties agree is a fair market value rate for the use of the Site. Rent shall be abated for the construction period preceding the COD date.

6. Use, Improvements and Equipment.

(a) The Site shall be used by Tenant solely for those purposes consistent with the GRA. Pursuant to the GRA and this Lease, Tenant shall, at its sole cost, construct, own, and operate (or contract for the same) the RNG Plant on the Site. In connection therewith, and in accordance with the GRA, Tenant has the right, at its sole cost, to do all work necessary to prepare, maintain, and alter the Site for Tenant's business operations.

(b) In no way limiting the foregoing, and in addition to any other requirements set forth herein, Tenant shall be responsible for the design, construction, maintenance, replacement, and operation of the RNG Plant. Information to be provided to Landlord in connection with the design, construction, maintenance, replacement, and operation of the RNG Plant shall include, without limitation, a site plan showing the plant layout, the location of the delivery point, and such other information as may be reasonably requested by Landlord. Tenant shall be responsible for obtaining all necessary governmental permits, licenses and approvals and any other necessary consents and approvals of any other third parties required for the design, construction, installation, operation, and maintenance of the RNG Plant. However, if permits, authorizations, consents, licenses, and approvals (or modifications of any of the foregoing) for the RNG Plant or any part thereof are required for Landlord to maintain compliance with its operation of the Landfill, said permits, authorizations, consents, licenses, and approvals (or modifications of any of the foregoing) shall be in the name of the Landlord and Tenant, at its expense, shall seek same on behalf of the Landlord. Tenant shall be solely responsible to ensure that the RNG Plant and activities at the Site do not present any undue risk of an explosion or other hazard at the Site or surrounding property; comply with all applicable laws, regulations and ordinances relating to the Site and the RNG Plant and operations including, but not limited to, all environmental laws, regulations and applicable permits and Tenant shall seek any and all required governmental approvals in connection with its use and operation of the Site. Tenant shall have the right, after construction of the RNG Plant, to make alterations to the RNG Plant to expand the capacity thereof, subject to prior written notice to Landlord and Landlord's prior written consent and approval of the plans and specifications for such alterations and the location of any expansion of the RNG Plant, such consent and approval not to be unreasonably withheld, conditioned or delayed. Consent and approval of plans or specifications by the Landlord creates no warranties to Tenant nor any responsibility or liability of Landlord for the completeness, quality, accuracy or adequacy of the plans or specifications and in no event shall Landlord be responsible for any claim or damages arising out of any defects of the plans or specifications.

(c) At all times during the Term of this Lease, Tenant will keep and maintain, or cause to be kept and maintained, the RNG Plant and all such improvements, fittings and fixtures as Tenant may erect on the Site in good repair and working condition having regard to their nature and permitted use. Upon the expiration or earlier termination of this Lease, Landlord and Tenant agree that, provided Tenant is not in default hereunder or under the GRA, Tenant shall have a period of one hundred eighty (180) days, commencing on the date of expiration or termination of this Lease (the "Removal Period"), to remove the RNG Plant from the Site, including stubbing any underground pipes at ground level but excluding removal of any foundations and pads. Any part of the RNG Plant that has not been removed prior to the expiration of the Removal Period shall be deemed to have been abandoned (collectively, the "Abandoned Equipment"), and title to such Abandoned Equipment shall, at Landlord's option, vest in Landlord at the end of the Removal

Period, without any payment or other consideration given by Landlord. With respect to all Abandoned Equipment in which Landlord does not take title, in the event Landlord elects to remove or demolish such Abandoned Equipment, Tenant shall be charged and Tenant agrees to pay all reasonable costs and expenses incurred by Landlord for such removal or demolition.

(d) Landlord and Tenant intend and agree that, subject to the terms and conditions of this Lease, the RNG Plant shall be and remain the property of Tenant and shall at no time become a fixture with respect to the Site. Title to all of the RNG Plant situated or erected on the Site, as hereinabove allowed, and any alteration, change, or addition thereto, shall remain solely with Tenant.

(c) Landlord and its employees and agents shall have the right, upon reasonable notice and during normal business hours, to access the Site and to review and inspect the RNG Plant and Tenant's operations on the Site from time to time during the term of this Lease. Such review and approval shall create no warranties to Tenant and shall be limited to the extent necessary to satisfy Landlord that, in Landlord's reasonable business judgment, the RNG Plant and operations on the Site:

(i) comply with applicable law and the terms and conditions of this Lease and the GRA; and

(ii) do not affect or interfere with Landlord, the Landfill, or Landlord's operations at the Landfill in a manner inconsistent with the GRA.

(f) Landlord shall be responsible for providing Tenant, its contractors, invitees to the Site relating to Tenant's business operations, and agents suitable road access to the Site and the RNG Plant twenty-four hours per day, seven days per week. Landlord shall also be solely responsible for maintaining the access road to the Site and the RNG Plant and otherwise keeping them clear for such suitable access.

(g) Tenant shall comply with Landlord's reasonable rules and requirements applicable to all persons that enter the Landfill as may be noticed to Tenant in writing from time to time, and shall cause its officers, directors, employees, agents, contractors, and invitees to comply with such rules and requirements when crossing Landlord's property for ingress to or egress to and from the Site or when on Landlord's property for other purposes related to the transactions contemplated in this Lease, and shall cause its officers, directors, employees, agents, contractors, and invitees to comply with such rules and requirements.

(h) Tenant will punctually pay, discharge and satisfy all water, gas, telephone, electricity, cable, internet and power charges and other like payments (collectively, "Utility Payments"), charged on or in respect of the Site and/or the RNG Plant, and if Tenant defaults in payment of such Utility Payments, Landlord may (but shall not be required to) pay the same and in addition to Landlord's other rights, powers and remedies under this Lease, may recover the same from Tenant. At any time that any Utility Payments that Tenant must pay remain unpaid and uncontested later than thirty (30) days after they become delinquent, Landlord may give written notice to Tenant of its default, specifying the default. If Tenant continues to fail to pay any Utility Payments, or to contest them in good faith within ten (10) days after the written notice, Landlord

may pay the items specified in the notice, and Tenant will, on demand, reimburse Landlord any amount paid or expended by Landlord for this purpose, plus interest at the rate of one and one-half percent (1.5%) above the fluctuating prime rate of interest announced publicly by Wells Fargo Bank, N.A., or its successor entity, from time to time as its reference rate, until Tenant has reimbursed Landlord in full.

7. Taxes and Assessments. Unless real estate taxes, personal property taxes and assessments are separately assessed against and with respect to the Site, in which case Tenant shall be responsible for payment of such taxes and assessments, Landlord will promptly pay all taxes and assessments against the Site as and when they become due.

8. Destruction of the RNG Plant. In the event the RNG Plant is partially or totally destroyed such that it cannot, in Tenant's reasonable opinion, be used for its intended purposes, and such destruction is caused by an act or omission of Landlord, Landlord shall replace or repair the RNG Plant to its original condition and the rent payable under this Lease shall immediately abate to the extent and in proportion to the amount that such destruction limits or prevents Tenant from operating the RNG Plant at levels similar to the average monthly production during the twelve (12) month period prior to the destruction (unless the RNG Plant has been operational for less than 12 months, in which case the average shall be based on levels during the actual months of operation), and, provided that all good faith efforts are being made to timely reconstruct the RNG Plant, such proportional abatement shall continue until the RNG Plant is fully restored and/or Tenant is operating the RNG Plant at levels similar to the average monthly production during the twelve (12) month period prior to the destruction. If such destruction is not caused by an act or omission of Landlord, then there shall be no abatement of rent. Unless otherwise agreed by Landlord and Tenant, Tenant shall apply the amount available under the insurance coverage required by the GRA (exclusive of any business interruption coverage) toward reconstruction of the RNG Plant and shall use good faith efforts to obtain payment of said amount from the insurer(s). If, even with the amount available from the insurer(s), it is not economically feasible to reconstruct the RNG Plant, as reasonably determined by Tenant, then Tenant shall have the right to terminate this Lease on sixty (60) days' written notice to Landlord to the extent and in a manner consistent with the termination provisions set forth in the GRA. Tenant, upon the effective date of such termination, shall have no further obligations or liabilities hereunder except as to those covenants and obligations which expressly survive the termination hereof, including removal of the RNG Plant as set forth in Section 6 and payment of \$500,000 of business interruption coverage required under the GRA.

9. Landlord's Representations and Warranties. As of the Effective Date, Landlord hereby represents and warrants to Tenant the following:

- (a) Landlord possess fee simple title to the Site;
- (b) Landlord has the power and authority to executed and deliver this Lease and carry out and perform all covenants to be performed by it hereunder;
- (c) The Site is free from all mortgages, encumbrances, liens, defects in title, violations of law or environmental regulations, leases, tenancies, easements, restrictions and

agreements of any kind whatsoever affecting the Landfill which would substantially interfere with or obstruct Tenant's use of the Site for the purposes described herein; and

(d) At the time of the commencement of the Term hereof, non-exclusive physical possession of the Site will be delivered to Tenant.

10. Default.

(a) If Tenant is in default with respect to any covenants, conditions, agreements or provisions contained herein or in the GRA and Tenant fails to cure any such default within sixty (60) days after receipt of Landlord's written notice of the default or, if any such default is capable of cure but cannot be cured within the sixty (60)-day period with reasonable diligence taking into consideration the nature of the circumstances, Tenant fails to promptly initiate, diligently pursue and implement such cure, then Landlord shall have the right to (i) terminate this Lease upon written notice to Tenant, (ii) cure such default and recover the costs thereof from the Tenant within thirty (30) days of Landlord's request therefor, or (iii) pursue any other right and remedy now or hereafter available under the laws or judicial decisions or in equity of the state in which the Site is located.

(b) If Landlord is in default with respect to any of its covenants herein contained, Tenant may, as its sole remedy, terminate this Lease if Landlord fails to cure any such default within thirty (30) days following receipt of Tenant's written notice of the default (provided that if any such default is capable of cure, but cannot be cured within the thirty (30)-day period with reasonable diligence taking into consideration the nature of the circumstances, Landlord may have additional time to cure the default, but in no event shall such period be longer than sixty (60) days, if within the initial thirty (30)-day period, Landlord makes commercially reasonable efforts to commence to cure the default and continues to pursue cure of the default diligently during the additional sixty (60) day period).

(c) If either Party waives a default by the other Party, such waiver shall not be construed or deemed to be a continuing waiver of any subsequent breach or default on the part of either Party.

11. Prohibition Against Tenant Creating Liens. Nothing contained in this Lease shall authorize Tenant to do any act that will in any way encumber (except to the extent this Lease creates such an encumbrance) the title of Landlord in and to the Site, nor shall the interest or estate of Landlord in the Site be in any way subject to any claim by way of lien or encumbrance, whether by operation of law or by virtue of any express or implied contract by Tenant, and any claim to or lien upon the Site arising from any act or omission of Tenant shall accrue only against the leasehold estate of Tenant and shall in all respects be subject and subordinate to the paramount title and rights of Landlord in and to the Site and the buildings and improvements thereon. Tenant will not permit the Site to become subject to any mechanic's, laborer's or material man's lien on account of labor or material furnished to Tenant in connection with work of any character performed or claimed to have been performed on the Site by or at the direction or sufferance of Tenant; provided, however, that Tenant shall have the right to contest in good faith and with reasonable diligence the validity of any such lien or claimed lien. If any lien is claimed, filed, or recorded with respect to the Site in violation of the provisions of this Section, Tenant shall have thirty (30) business days after knowledge thereof to remove any such lien, or bond over the lien to Landlord's reasonable

satisfaction, or Tenant shall be in breach of this Lease. Upon request, Tenant shall provide Landlord with copies of lien waivers evidencing payment for all labor and materials furnished with respect to the RNG Plant.

12. Insurance. At all times during the term of this Lease, Tenant shall maintain the insurance coverages required with respect to it as Purchaser under the GRA. In no way limiting the insurance requirements in the GRA, Tenant's minimum insurance coverages shall cover the presence and activities of Tenant's invitees, agents, and contractors on or at the Landfill.

13. Indemnity. To the extent permitted by applicable law, this Lease shall be subject to the same terms and conditions as are applicable to the Parties under Article XII of the GRA, and the provisions of Article XII of the GRA are incorporated herein by reference.

14. Estoppel Certificates. Landlord and Tenant agree, not later than ten (10) business days following the written request of the other Party, to execute and deliver to the requesting Party a written declaration made to the executing Party's knowledge: (i) ratifying this Lease; (ii) confirming the commencement and expiration dates of the Term of this Lease; (iii) certifying that Tenant is in occupancy of the Site; (iv) stating any known defaults of this Lease, and (iv) such other information that the requesting Party may reasonably require.

15. Assignment. Assignment of this Lease shall be subject to the same terms, conditions, limitations, and restrictions as are applicable to the Parties under Section 16.1 of the GRA. Without limiting the foregoing, Tenant may (a) assign this Agreement or any of its rights hereunder to any Affiliated Entities, as defined in the GRA, which own or control, directly or indirectly, the RNG Plant without the consent of Landlord provided that Tenant provides written notice of such assignment to Landlord and such person assumes all of the obligations of Tenant hereunder; and (b) collaterally assign, transfer, mortgage or pledge this Lease and/or the Tenant's leasehold rights hereunder without Landlord's consent as security in connection with the financing of construction and/or the operation of Tenant's Facilities.

16. Brokerage. Landlord and Tenant represent that they have dealt with no broker or agent with respect to this Lease or the negotiation and execution hereof. To the extent allowable by North Carolina law, each Party hereby indemnifies and saves and holds the other Party harmless against any claims for brokerage commissions or compensation or other claims of any kind (including reasonable attorney's fees and costs) arising out of a breach of the foregoing representation by the indemnifying Party.

17. Conflicts with GRA. In the event of any conflict between the provisions of this Lease and the provisions of the GRA, as may be amended, the provisions of the GRA, as may be amended, shall prevail.

18. Force Majeure. This Lease shall be subject to the same terms and conditions as are applicable to the parties under Article XI of the GRA, and the provisions of Article XI of the GRA are incorporated herein by reference.

19. Amendment. This Lease may only be modified, amended, or supplemented by an instrument in writing executed by Landlord and Tenant.

20. Governing Law and Venue. This Lease and any provisions contained herein shall be interpreted under the laws of the State of North Carolina, without regard to principles of conflict of law. The venue for any lawsuit regarding the interpretation or enforcement of any provision of this Lease shall be the General Court of Justice of Wayne County, North Carolina.

21. Attorney's Fees. If the Parties resort to legal action for the enforcement or interpretation of this Lease or for damages on account of a breach hereof, each Party shall bear its own fees and costs.

22. Notices. Any notice, request, demand, statement and/or payment provided for herein shall be in writing and, except as otherwise provided herein, shall be sent to the Parties hereto at the following addresses:

Landlord: Wayne County
Attn: Wayne County Manager
224 E. Walnut Street
P.O. Box 227
Goldsboro, NC 27530

With a copy to: Wayne County
Attn: County Attorney
224 E. Walnut Street
P.O. Box 227
Goldsboro, NC 27530

Tenant: Terreva Wayne County RNG, LLC
3340 Peachtree Road NE, Suite 170
Atlanta, Georgia 30326
Attn: Richard Crowther

With a copy to: CIM Terreva Holdings, LLC
4700 Wilshire Boulevard
Los Angeles, California 90010
Attn: General Counsel:
generalcounsel@cimgroup.com

And with further copy to:

Milam Howard Nicandri & Gillam, P.A.
14 East Bay Street
Jacksonville, Florida 32202
Attn: G. Alan Howard:
ahoward@milamhoward.com

All payments made by the Parties shall be sent to the applicable address shown above. All notices shall be deemed to have been given and received when personally delivered or upon receipt as evidenced by delivery by a nationally recognized overnight courier service. Either Party may

change the address to which communications or payments are to be made by written notice to the other Party as set forth above.

In addition, the Parties shall provide any required notices hereunder to any third parties that are contractually entitled to receive any such notices, such as, for example, a collateral assignee pursuant to this Lease; provided, however, written notice must be provided of such collateral assignee.

23. Headings. Headings or captions herein are merely for convenience and are not a part of this Lease and shall not in any way modify or affect the provisions of this Lease.

24. No Waiver. No delay or omission to exercise any right or power shall be construed to be a waiver of any default or acquiescence therein or a waiver of any right or power, and every such right and power may be exercised from time to time and as often as may be deemed expedient. Either Party's acceptance of any performance due hereunder that does not comply strictly with the terms hereof shall not be deemed to be waiver of any right of such Party to strict performance by the other Party. Acceptance of past due amounts or partial payments shall not constitute a waiver of full and timely payment of any sums due hereunder.

25. Severability. If any term or provision of this Lease should be held invalid or unenforceable, the parties to this Lease shall endeavor to replace such invalid terms or provisions by valid terms and provisions that correspond to the best of their original economic and general intentions. The invalidity or unenforceability of any term or provision hereof shall not be deemed to render the other terms or provisions hereof invalid or unenforceable.

26. Entire Agreement. This Lease and the GRA constitute the entire agreement between Tenant and Landlord relating to the subject matter hereof and supersede all prior written and oral agreements and understandings and all contemporaneous oral representations or warranties in connection therewith. Neither Tenant nor Landlord have made and do not make any representations or warranties, expressed or implied, except as herein specifically set forth, and Tenant and Landlord hereby expressly acknowledge that no such representations or warranties have been made by the other party.

27. Compliance with Laws. Each Party to this Lease shall comply with any and all applicable laws, orders, judgments or otherwise, of courts or regulatory bodies having jurisdiction that affect such Party's duties, obligations and performance pursuant to this Lease. Landlord and Tenant shall timely make any necessary regulatory filings and make copies of such filings available to the other Party.

28. Interpretation. The terms and provisions of this Lease are not to be construed more liberally in favor of, nor more strictly against, either Party. To the extent the covenants of the Parties under this Lease create obligations that extend beyond the termination or expiration of this Lease the applicable provisions of this Lease shall be deemed to survive such termination or expiration for the limited purpose of enforcing such covenants and obligations in accordance with the terms of this Lease. All exhibits and schedules attached hereto are incorporated herein by this reference.

29. Computation of Time. In computing any period of time prescribed by this Lease, the day of the act or event shall not be included. Further, the last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day that is not a Saturday, Sunday or legal holiday.

30. Further Assurances. The Parties shall perform all such acts (including, without limitation, executing and delivering instruments and documents) as reasonably may be necessary to fully effectuate the intent and each and all of the purposes of this Lease, including consents to any assignments, transfers, subleases, or easements permitted hereunder.

31. No Partnership. Nothing contained in this Lease shall be construed to create any association, trust, partnership, or joint venture or impose a trust or partnership, duty, obligation, or liability or an agency relationship on, or with regard to, either Party. Neither Party hereto shall have the right to bind or obligate the other in any way or manner unless otherwise provided for herein.

32. Successors and Assigns; Third Party Beneficiaries. Except as expressly provided herein, this Lease is intended to be solely for the benefit of the Parties hereto and their successors and permitted assignees and is not intended to and shall not confer any rights or benefits on any other third party not a signatory hereto.

33. Waiver of Damages. Neither party hereunder shall be liable to the other Party for any special, indirect, loss of use, lost profits, or consequential (other than actual and direct) damages arising under or out of this Lease or the transactions contemplated herein.

34. Reserved.

35. Counterparts. This Lease may be executed electronically and/ or in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. Delivery of an executed signature page of this Agreement by facsimile, e-mail, or other customary means of electronic transmission shall be deemed to have the same legal effect as delivery of a manually executed counterpart hereof.

SIGNATURES APPEAR ON FOLLOWING PAGE

IN WITNESS WHEREOF, the Parties hereto have executed this Site Lease Agreement as of the date first written above.

WITNESSES:

Ginger Moore
Print: Ginger Moore

Print: _____

Robert Warren
Print: ROBERT WARREN

Print: _____

LANDLORD:

WAYNE COUNTY, NORTH CAROLINA

By: Barbara Aycock
Name: Chairwoman Barbara Aycock
Title: Commissioner

TENANT:

Terreva Wayne County RNG, LLC

By: Jason Byars
Jason Byars, Vice President

**EXHIBIT 1
SITE**

Proposed Lease Area

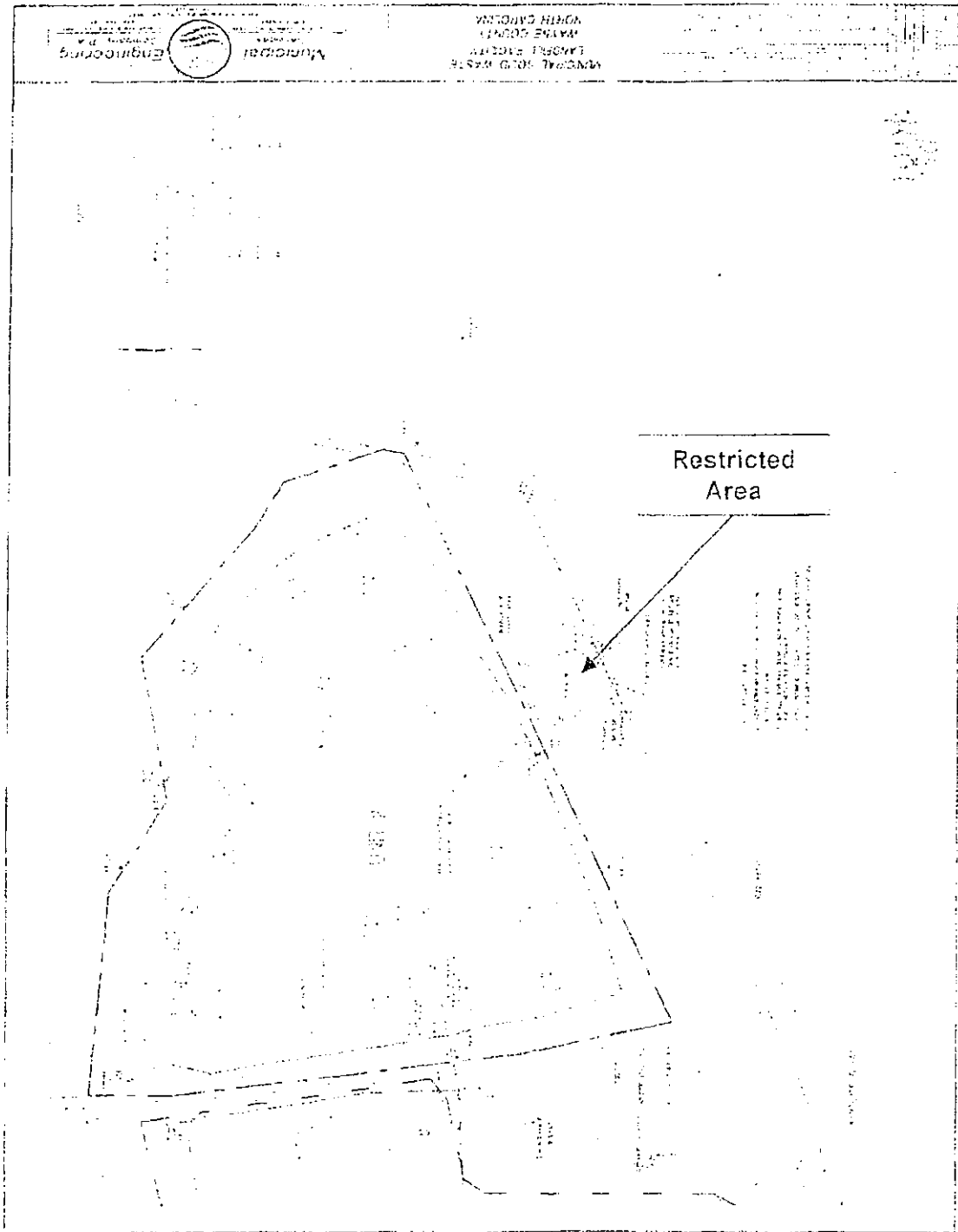


EXHIBIT E GAS QUALITY

Gas Quality Targets

Methane Content	45% or Greater by volume
Oxygen Content	Less than 5.0% by volume
Nitrogen Content	Less than 10% by volume
Sulphide Content	Not more than 250 ppmv of total sulphides

EXHIBIT F
DIVISION OF RESPONSIBILITIES

Item Number	Item Description	Seller	Purchaser	Remarks
1.00	Landfill			Gas collection system addressed below
1.10	Permitting	x		Construction and Operation
1.20	Installation ¹	x		Inclusive of cells, cover, wellfield ¹ , blower and flare
1.30	Operation & Maintenance ²	x		Inclusive of waste handling
1.40	Monitoring	x		Inclusive of surface emissions
1.50	Corrective Actions	x		
1.60	Recordkeeping ³	x		Inclusive of as-built drawings and operating reports
1.70	Regulatory Submissions	x		Inclusive of NSPS, NESHAP, Emissions Inventories, MSW and GHG Submissions
1.80	Fees	x		
2.00	Gas Collection System ⁴			
2.10	Extraction Wells			
2.11	Installation ¹	x	x	Seller responsible for compliance required items, Purchaser responsible for optional upgrades ⁴
2.12	Operation & Maintenance ²		x	Inclusive of well raisings for areas of new and existing waste
2.13	Calibration		x	Inclusive of stationary & portable monitoring/metering equipment
2.14	Monitoring		x	Inclusive of periodic tuning (min monthly) to meet LFG specifications
2.15	Installation/O&M of Wellhead Automation		x	Optional LOCI or similar system
2.20	Horizontal Collectors			
2.21	Installation ¹	x	x	Seller responsible for compliance required items, Purchaser responsible for optional upgrades ⁴
2.22	Operation & Maintenance ²		x	
2.30	LFG Piping System			
2.31	Installation ¹	x	x	Seller responsible for compliance required items, Purchaser responsible for optional upgrades ⁴
2.32	Operation & Maintenance ²		x	
2.40	Compressed Air System			
2.41	Installation ¹	x		
2.42	Operation & Maintenance ²		x	
2.50	Condensate System			
2.51	Installation ¹	x		

2.52	Operation & Maintenance ²		x	
2.53	Condensate Disposal	x		Inclusive of sewer connection if applicable
3.00	Blower System			
3.10	Permitting	x		Construction and Operation
3.20	Installation ¹	x		
3.30	Operation & Maintenance ²		x	Inclusive of maintaining system vacuum
3.40	Calibration		x	Inclusive of flow meters
3.50	Monitoring		x	
3.60	Corrective Actions	x		
3.70	Recordkeeping ³	x		
3.80	Regulatory Submissions	x		
3.90	Fees	x		
4.00	Flare System			
4.10	Permitting	x		Construction and Operation
4.20	Installation ¹	x		
4.30	Operation & Maintenance ²		x	Inclusive of the provision of any required back-up fuel
4.40	Calibration		x	Inclusive of flow meters
4.50	Monitoring		x	Inclusive of gas flow to flare, flame verification and visible emission observations
4.60	Corrective Actions	x		
4.70	Recordkeeping ³	x		Inclusive of temperature and flow
4.80	Regulatory Submissions	x		Inclusive of required NSPS, GHG, air permit and other submissions specific to Landfill
4.90	Fees	x		
5.00	RNG Plant			
5.10	Permitting		x	Construction and Operation
5.20	Installation ¹		x	
5.30	Operation & Maintenance ²		x	
5.40	Calibration		x	Inclusive of flow meters
5.50	Monitoring		x	Inclusive of gas flow from blowers as well as to off-spec flare, TOx and pipeline
5.60	Corrective Actions		x	
5.70	Recordkeeping ³		x	
5.80	Regulatory Submissions		x	Inclusive of required NSPS, GHG, air permit and other submissions specific to RNG Plant
5.90	Fees		x	
6.00	On-Call Responsibilities			
6.10	Compressed Air Outage		x	
6.20	Blower Outage		x	
6.30	Flare Outage		x	
6.40	RNG Plant Outage		x	

- 1 - Inclusive of initial design and construction along with replacements, relocations, upgrades and expansions as required
- 2 - Inclusive of at a minimum monthly inspections and provision of needed repairs to maintain proper operation
- 3 - All data collection records required to be shared between parties
- 4 – Seller is responsible for all GCCS expansions, upgrades and repairs NOT related directly to the collection and delivery of Landfill Gas to the Delivery Point, i.e. leachate collection, conveyance and disposal. Purchaser is responsible for all GCCS expansions upgrades and repairs related directly to gas collection and conveyance to the Delivery Point. Purchaser reserves the right to expand or improve the gas collection system (at Purchaser's expense) to increase LFG flow or improve gas quality (scope must be approved by Seller in advance)

County of Wayne



PURCHASING & PROCEDURES MANUAL

Approved by the Board of Commissioners on April 4, 2023

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WAYNE COUNTY PURCHASING & PROCEDURES MANUAL

INTRODUCTION

This manual has been prepared to serve as a guideline to all departments and divisions of Wayne County in obtaining apparatus, supplies, materials, equipment, and services.

A special attempt has been made to design policies and procedures which will serve the County's needs and provide for a more effective and efficient buying process. These procedures have been developed to implement various provisions of the North Carolina General Statutes referred to throughout this manual. Like all policies and procedures, they can be effective only if the individuals involved are aware of what they are, how they apply, and the problems to be encountered when they are not followed. For this reason, we have tried to explain each directive in detail giving the purpose, the policy, and the procedure for carrying it out.

To get the most value from this manual the following suggestions are offered:

- All Department Heads should be familiar with this manual.
- All personnel involved in the purchasing process should review this manual.
- All new personnel who may be involved in purchasing items for the County should review this manual before participating in any purchasing.
- The manual should be accessible to everyone concerned with purchasing items for the County.

The Purchasing Division hopes this manual will be a worthwhile tool for your department. As changes occur in the future, revisions to the manual will be furnished to the County departments. Please notify the Purchasing Division of any comments or suggestions you have so they may be incorporated into subsequent revisions. Please read this manual carefully and make every effort to comply with the written guidelines.

Noelle B. Woods
Purchasing Manager

I. FORWARD

The Purchasing Division is a support organization, which means we are here to assist each and every department of the County in obtaining the required goods and services, when they are needed, at a minimum cost to the taxpayer.

The procedures and details involved with purchasing shall be executed with the Finance Director currently designated as the Official which controls the duties and activities of the Purchasing Manager. North Carolina State Law prohibits commitment of County funds without certification of the availability of funds by the Finance Director or his/her deputy.

The Purchasing Manager is responsible for the execution of this manual. In order for this to be done, each department head must comply with the instructions in this manual and require the same of subordinate staff members.

In a number of instances, before a purchase order can be written, it is necessary for competitive bids to be received. All formal bids and many informal bids require the use of specifications. Specifications are written descriptions of the product or service needed by the using department. The preparation of specifications shall be a joint effort of the Purchasing Division and the using department to ensure that the products purchased fill their need. This is especially necessary where items purchased are of a specified nature. Specifications should be sufficiently detailed to be used as a basis for competitive bidding upon a common standard and free from restrictions that limit competition. In a case where the specifications recommended by a department head discourage competitive bidding, the burden of proof shall rest with the department head to justify the need for such restrictive specifications. The County Manager shall be advised of situations where competitive bidding is not possible and the reasons why.

Approved by the Wayne County Board of Commissioners on April 4, 2023.

Barbara Aycock
Wayne County Board of Commissioners

II. RESPONSIBILITIES AND OBJECTIVES

A. Responsibilities

It is the Purchasing Division's responsibility to ensure that all purchases are made in accordance with the North Carolina General Statutes. Within this responsibility, Purchasing verifies the budget availability, and approves the pricing and vendor selection for all purchases of goods and services. During this process, Purchasing may question the necessity for, or the specifications of, or purchase requests.

B. Objectives

1. To secure the necessary materials, equipment and services at the best quality, the needed quantity, the right time, and place, and at the best possible price.
2. To meet departmental requirements with a minimum investment in materials and inventory consistent with sound operating practices and economic advantage.
3. To maintain the continuity of supply to support ongoing service, operation, and construction schedules.
4. To give a fair opportunity to all prospective vendors.
5. To secure, whenever possible, competitive prices on purchases and services.
6. To assist in and/or establish specifications that will encourage competition and accurately describe the equipment and materials needed.
7. To be receptive to changes in material requirements and new products and procedures.
8. To conduct business with fairness and dignity and to demand honesty and truth in buying and selling.

III. BIDDING LAWS

The County Purchasing Division strictly enforces the Purchasing laws and guidelines of the State of North Carolina as set forth in Article 8 of Chapter 143 of the North Carolina General Statutes. It is imperative that all employees that are responsible for the requisition of goods and services understand the basic bid laws as stated below.

A. Formal Bids

State law requires that sealed bids (G.S. 143-129) be received on the purchase of apparatus, supplies, materials, or equipment when the estimated expenditure of public funds is an amount equal to or more than \$90,000. This method is also used when construction or repair to buildings exceed the amount of \$500,000. When this method is used, a legal notice stating the pertinent facts of the contemplated purchase must be published in a newspaper at least seven (7) days prior to the time bids are to be opened. The sealed bids must be opened at the specified time and place as published in the advertisement. This process may take at least four weeks once a requisition has been received by Purchasing; therefore, planning and scheduling is very important.

With approval of the County Commissioners, the Formal Bid procedure may be waived for the purchase of apparatus, supplies, materials, and equipment for the following reasons; when performance or price competition for a product(s) are not available, when a needed product(s) are available from one source of supply, or when standardization or compatibility is the overriding consideration and when utilizing the Piggybacking process. For purchases of \$90,000 and above, the provisions of G.S. 143-129 (e) 6 & (g) will be followed.

B. Informal Bids

State law requires that Informal Bids follow (G.S. 143-131) (a) which states *all contracts for construction or repair work or for the purchase of apparatus, supplies, materials, or equipment, involving the expenditure of public money in the amount of thirty thousand dollars (\$30,000) or more, but less than the limits prescribed in G.S. 143-129, made by any officer, department, board, or commission of any county, city, town, or other subdivision of this State shall be made after informal bids have been secured. All such contracts shall be awarded to the lowest responsible, responsive bidder, taking into consideration quality, performance, and the time specified in the bids for the performance contract. It shall be the duty of any officer, department, board, or commission entering into such contract to keep a record of all bids submitted, and such record shall not be subject to public inspection until the contract has been awarded.*

C. Additional Policies

Wayne County has chosen to exceed the state requirement by implementing the following additional policies:

1. All Wayne County Departments must adhere to and provide the Purchasing Manager with a Memorandum of Award (MOA) for all quotations over \$2,500.00. A RFQ (request for written quotation) is required to handle any purchase of more than \$2,500 as an informal bid. Informal bid requirements can be met by obtaining a minimum of three (3) written quotations. To facilitate the purchase, the using department may provide the Purchasing Manager with written quotations from at least three vendors. The quotations must be on the vendor's letterhead or an official quotation form and date. Quotations more than 30 days old require verification that the quotes are still valid. Written quotations should be attached to the requisition for purchase. When requesting written quotations from vendors, care should be taken to ensure they are quoting on the same item or specifications. The Purchasing Manager will approve the ultimate selection or may obtain other competitive bids when deemed necessary.
2. Construction or repair work requiring an expenditure of \$30,000 to \$499,000 also falls under the guidelines of Informal Bids. Depending on the project, the using department in conjunction with the Purchasing Manager will write specifications and obtain informal bids from qualified vendors. If there are questions, contact the Purchasing Manager for clarification.

IV. AWARDING THE CONTRACT

The award must be made to the lowest, responsible, and **qualified bidder** taking into consideration quality, performance, and the time specified in the proposals for the performance of the contract (G.S. 143-129 and 143-131).

The Purchasing Manager analyzes all bids received and solicits recommendations from the Department Heads concerned. After examination of the recommendations, the Purchasing Manager shall formulate his/her decision or recommendation to the County Manager or County Commissioners.

After the bid is awarded by the County Manager or the County Commissioners, all bid bonds (if required), with the exception of the bid bond from the successful bidder, shall be returned.

A contract shall be issued with formal specifications as a written contract, at the discretion of the Purchasing Manager, depending on the complexity of the public bid. All contracts must be accompanied by a Purchase Order and must be signed by the County Manager and pre-audited by the Finance Director to be binding.

V. BONDS

When not waived, bonds will be requested in the formal bid range depending on the need in the specifications.

A. Bid Bonds

Bids on contracts for construction or repair work in the formal bidding range must be accompanied by a bid bond or deposit in the amount of not less than 5% of the bid. This security is held by the local government to guarantee that the successful bidder will execute the contract and provide performance and payment bonds if required. If a bidder fails to execute his or her bid or refuses to enter into a contract, the unit may retain the bid deposit or seek payment under the bid bond.

B. Performance Bonds

Are required for all construction and repair projects costing \$300,000 or more. Performance bonds are designed to secure the performance of the contract. In the event of a default by the contractor, the local government can look to a third party or use the funds deposited to complete the project.

C. Payment Bonds

Are required for all construction and repair projects costing \$300,000 or more. Payment bonds ensure that the contractor will pay for materials and will pay subcontractors.

VI. M/WBE REQUIREMENTS

It is the policy of the County to prohibit discrimination in any manner on the basis of race, color, creed, national origin, sex, age, disabilities or sexual orientation. The County will pursue an affirmative policy of fostering, promoting and conducting business with minority- and women-owned business enterprises. M/WBE program is to promote equality of economic opportunities for Minority

and Women's Business Enterprises and to eliminate barriers. Purchasers should consider M/WBE firms for procurement purchases. The purchasing division is available to assist purchasers with identifying M/WBE companies. Purchasers should consider M/WBE firms for required materials, equipment or service. To search for registered M/WBE (HUB) merchants go to:

<https://ncadmin.nc.gov/businesses/historically-underutilized-businesses-hub>
or contact the M/WBE Office.

VII. THE PURCHASING SCHEDULE

The Purchasing Division has established the below stated time frames as goals for processing of requisitions once they have been received. In most cases your requisitions will be processed within these time frames. If you have not received a purchase order and it has been longer than the below stated time frame, contact the Purchasing Manager.

*** Requisition with an expenditure of \$2,500-\$89,999.00: 5-20 Working Days
Informal Bids are required!**

*** Requisition with an expenditure $\geq$ \$90,000: 30-60 Working Days
Formal Bids are required!**

All Formal Bids will need to be completed by the Purchasing Manager.

VIII. PRICING INFORMATION

When obtaining quotations from vendors, make sure to get all the necessary information needed and forwarded it to the Purchasing Division along with your requisition or requisition number:

- Include the vendor's correct name. If they are a new vendor a W-9 will need to be received in Finance's Accounts Payable department.
- Include the complete name of the person who is quoting the prices.
- Discuss shipping instructions to determine whether to add freight to the order.
- State whether the vendor can ship the requested items in the appropriate time needed.

- List the date quotations were received; Old quotations may no longer be valid.
- Identify the County and the Department's name to the vendor. Some vendors offer cities and government agencies a better discount.
- Provide the vendor with the quantity of items to be purchased. Larger quantities purchased often reduce the cost per unit.
- Never change the quantity of the order without verifying it with the vendor.
- Units of measure, examples: gallons to gallons, not gallons to quarts, should always be the same for both quantity and pricing.
- No additional charges should be added to the order. (Examples: set-up charges, etc.)
- Never discuss one vendor's pricing and delivery terms with another vendor. This may lead to unfair competition. Make sure that the vendor realizes the need for their best quote the first time.
- **Do not accept lower prices from a vendor who realizes they are about to lose an order.** This is necessary to ensure that initial quotes are always their lowest/best quotes.

IX. PREPARING A REQUISITION FOR PURCHASE

To obtain a Purchase Order, a Requisition for purchase must be completed in MUNIS. If done manually the Requisition and MOA must be signed by the department head or approved signatory and submitted to the purchasing department. (See Requisition & MOA) If the requisition is computer generated the same applies, but approval will be electronic and the MOA must be attached with your back up documentation. (See PO-Requisition & Purchase Order Cheat Sheets)

Exhibit I: PO-Requisition & Purchase Order Cheat Sheets

Exhibit II: Requisition

Exhibit III: MOA

X. THE PURCHASE ORDER

After the requisition for purchase has been submitted and approved, the Purchasing Department will convert the requisition into a purchase order.

Purchase Orders will be in MUNIS and can be accessed electronically once the items have been checked to ensure all items have been budgeted for and the amount of the purchase order has been pre-audited. All purchase orders must be signed by the Purchasing Manager and the Finance Director to be valid.

The following items are addressed in the PO-Requisition & Purchase Order Cheat Sheets for your reference:

- Rejection of Requisitions
- Workflow
- Attaching Documents
- Printing Purchase Orders

XI. CHANGING OR CANCELING A PURCHASE ORDER

A. Creating a Change Order

As soon as a copy of a Purchase Order is printed, it should be proofed for accuracy. If errors are found utilize the PO-Change Order Cheat Sheet for step by step instruction on how to correct your purchase order. You may contact the purchasing department for assistance if needed.

Exhibit IV: PO-Change Order Cheat Sheet

B. Canceling a Purchase Order

To cancel a Purchase Order, write "VOID" across the purchase order, if already printed. To cancel the Purchase Order in MUNIS utilize PO-Change Order Cheat sheet instructions. The funds in the account codes on your Purchase Order will be encumbered until it is canceled. As soon as the Purchase Order is canceled, the funds will automatically return back to its original line item account, if canceled during the current budget year.

Confirming Purchases

County employees are prohibited from obligating the County by initiating orders for goods or services prior to the actual receipt of a Purchase Order to the vendor. Such unauthorized orders constitute a confirming purchase and must be approved by the County Manager before payment by the Finance Department. State law says that if you obligate the County,

you may be held responsible for the payment.

North Carolina General Statute 159-28 states:

"(a) Incurring Obligations - No obligation may be incurred in a program, function, or activity accounted for in a fund included in the budget ordinance unless the budget ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year."

The penalties are stated as:

"(e) Penalties. - If an officer or employee of a local government or public authority incurs an obligation or pays out or causes to be paid out any funds in violation of this section, he/she and the sureties on his/her official bond are liable for any sums so committed or disbursed."

XII. PURCHASING CARDS

The purchasing card program has been established at the County to provide an easy-to-use tool for purchasing small dollar goods and services. The card allows us to further streamline the purchasing process. It reduces paperwork and handling costs and allows us to quickly get the goods and services we need to serve our customers.

The purchasing card is as easy to use as any Visa or MasterCard credit card and is just as widely accepted. You may use the card at any business that currently accepts credit cards including hardware stores, grocery stores, and department stores. Any merchant who accepts Visa should accept your County Visa purchasing card. You may also use the card to order supplies by mail or phone and make hotel reservations.

Purchasing cards are a valuable tool and the County trusts that all employees will use the cards wisely. The success of this program depends on you and your commitment to using the purchasing card to buy the items needed for our customers to receive quality services.

A cardholder that is making unauthorized purchases for which the purchasing card is not intended, such as travel and entertainment or any other item not approved by his /her approving manager, may be liable of the total dollar amount of such unauthorized purchases plus administrative fees charged by the bank in connection with the misuse. The cardholder may be subject to one or more of the following actions depending on the severity and repetitiveness of the violation:

- Cardholder advised to stop using the card outside of policy.
- Cardholder and Cardholder Manager will be notified of the infraction by the Division Program Administrator.
- The Cardholder may also be advised of Card Administrator for appropriate action.

Misuse or abuse of the card will reduce the effectiveness of the program. Vital statistical and managerial reporting relies on the appropriate use of the card.

If unauthorized purchases and or FRAUD is detected, the following steps may be taken:

- Immediate cancellation of the card
- Removal of cardholder's buying authority
- Possible termination of employment

Any violations involving suspected theft, fraud, or similar misuse of a Procurement Card, which has been reported to Department Card Administrator shall be forwarded to the State Bureau of Investigation or other law enforcement agency.

NOTE: Any questions or concerns pertaining to the Purchasing Card please or contact the Purchasing Card Administrator.

XIII. EMERGENCY PURCHASES

An emergency purchase is permitted when such is required to protect the health and/or safety of County employees and the citizens of Wayne County on the property of the County or its citizens and when normal purchasing procedures are inadequate or impossible.

Definition:

Emergency Requisition - A requisition processed to encumber necessary funds for an emergency purchase which has already occurred during the present-day office hours or during the immediately preceding day during non-office hours. The determination of this emergency status is to be made by the Department Head or immediate designee and is intended to occur only in those few circumstances where there is a major situation that demands immediate action.

If in the judgment of the Department Head, an emergency exists which necessitates immediate purchase of materials or services to continue department operations, you must notify the Purchasing Division of the Emergency Purchase. A requisition and written explanation of emergency purchase must be sent to the Purchasing Division. Procrastination or failure to properly plan for purchases is not considered an emergency.

XIV. STATE CONTRACTS

The State of North Carolina allows all local government agencies to participate in any of their contracts for the purchase of supplies and equipment. Entering into these contracts provides lower cost to the County due to quantity buying power. The Purchasing Division, with the Finance Director's approval, decides which contracts Wayne County will participate. If there are any questions about State Contracts, please contact the Purchasing Division.

XV. SOLE SOURCE PURCHASES

The Sole-source exception provides that the bidding requirements do not apply when:

- Performance or price competition for a product are not available.
- A needed product is available from only one source of supply.
- Standardization or compatibility is the overriding consideration.

In the event there is only one vendor capable of providing a particular good or service, the competitive pricing procedures outlined in this manual may be waived by the Purchasing Manager. Whenever a Department Head or his/her designee determines to purchase goods or services from a "sole source", he/she shall document on the request why only one company or individual is capable of providing the goods or services required. Purchases made under G.S. 143-129 (e) (6) set out below, will be followed.

XVI. PIGGYBACK PURCHASING

The Purchasing Division may use the piggybacking process whenever necessary to purchase apparatus, supplies, materials and equipment. Contracts in the informal range can be used as a tool to solicit additional bids, but no board actions is necessary. For purchases of \$90,000 and above, the provisions of G.S. 143-129(g), set out below, will be followed:

Waiver of Bidding for Previously Bid Contracts.- When the governing board of any political subdivision of the State, or the manager or purchasing official or delegated authority under subsection (a) of this section, determines that it is in the best interest of the unit, the requirements of this section may be waived for the purchase of apparatus, supplies, materials, or equipment from any person or entity that has, within the previous 12 months, after having completed a public, formal bid process substantially similar to the required by this Article, contracted to furnish the apparatus, supplies, materials, or equipment to:

- The United States of America or any federal agency.
- The State of North Carolina or any agency or political subdivision of the state
- Any other state or any agency or political subdivision of that state,

If the person or entity is willing to furnish the items at the same or more favorable prices, terms, and conditions as those provided under the contract with other unit or agency. Notwithstanding any other provision of this section, any purchase made under this subsection shall be approved by the governing body of the purchasing political subdivision of the State at a regularly scheduled meeting of the governing body no fewer than 10 days after publication of notice, in a newspaper of general circulation in the area served by the governing body, that a waiver of the bid procedure will be considered in order to contract with a qualified supplier pursuant to this section. Rules issued by the Secretary of Administration pursuant to G.S. 143-49 (6) shall apply with respect to participation in State term contracts.

XVII. PROFESSIONAL SERVICES:

Normal competitive procedures are not required in securing professional services such as attorneys, auditors, and other professional people. Although not required, it is sometimes in the best interest of the County to seek competitive bids on contracts even when state law does not require it.

XVIII. CHECK REQUEST

There are certain instances when Purchase Orders are not required because the items by nature are not subject to normal purchasing procedures. In such cases, a Check Request is required to process payment. Check Request Forms are sent directly to the Finance Department and do not have to be sent to Purchasing.

XIX. SURPLUS EQUIPMENT

Effective May 1, 2009, any departments wishing to dispose of any County property via surplus, sales, transfer, etc., must follow the procedure outlined below. This policy provides a standard procedure for the disposition of all County property. No one is permitted to donate, give away, sell, or otherwise dispose of any surplus or excess property, except by the procedure outlined in this policy. Disposition procedures are as follows:

- Complete a Wayne County [Asset Disposal Form](#). This form can be accessed from the Finance Office's webpage under "Finance Forms" then "Purchasing Policies and Form." [Instructions on Completing an Asset Disposal Form](#) can also be found on the same webpage.
- Contact the Finance office @ 919-731-4009 to receive a sequence number for the form.
- The Asset Disposal Form must be signed by the Department Manager. Additionally, all IT-related assets (i.e. computer, printer, camera, etc.) must be signed by the IT Director or an IT employee appointed by the IT Director.
- Forward the completed form to Facility Services, along with a copy to the Finance office.
- Place a **Track-it Work Order** with Facility Services requesting removal of the item(s). Note on the work order the sequence number from the Disposal Form.
- For items to be sold on Gov Deals, the department manager must notify in writing the Purchasing Manager what items are to be sold on Gov Deals along with a completed Asset Disposal Form. Additionally, the appropriate Gov Deals forms must be completed. The forms are located on the Finance Office's webpage <http://www.waynegov.com/page/191>. These forms need to be sent to Purchasing Manager. The County Manager has to approve all previous surplused personal property before being sold on Gov Deals. All items with a greater value of \$5,000.00 must be approved by the Board of Commissioners.
- Facility Services will complete the "receiving information" section of the Disposal Form when the items are picked up by Facility Services.

Exhibit V: Asset Disposal Form

XX. VENDOR APPLICATION

The County has requirements for businesses that wish to be on the County's vendor list. All vendors must complete a Vendor Application Form which can be obtained by utilizing the Finance Office's Webpage under "Finance Forms then "Purchasing Policies and Forms." This aids the Purchasing Division in selecting vendors for purchases. All vendors must have a W-9 on file with the Finance Office and must adhere to the Insurance Requirements listed below:

Exhibit VI: Vendor Application

XXI. WAYNE COUNTY INSURANCE REQUIREMENT

Contractor shall always maintain during the term of this Agreement, at the contractor's sole expense:

A. Commercial General Liability Insurance

Contractor shall maintain Commercial General Liability insurance, including coverage for products and completed operations liability, contractual liability, liability from independent contractors, property damage liability, bodily injury liability, and personal injury liability with limits of not less than \$1,000,000 per occurrence, and \$1,000,000 annual aggregate. The limits may be satisfied by a combination of primary and excess insurance. The coverage shall be written on an occurrence basis.

B. Business Automobile Insurance

At all times while the Contractor's representatives are conducting on-site work, the Contractor shall maintain Business Auto insurance for any owned, hired, rented, or borrowed vehicle with a limit of not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage liability. The limit may be satisfied by a combination of primary and excess insurance.

C. Workers Compensation & Employers Liability Insurance

At all times while the Contractor's representatives are conducting on-site work, Contractor shall maintain statutory Workers Compensation insurance in accordance with the laws of the North Carolina. Contractor shall also maintain Employers' Liability insurance with limits not less than \$1,000,000 per accident and \$1,000,000 each employee for injury by disease.

D. General Requirements

1. Wayne County shall be named as an additional insured under Contractor's automobile and general liability insurance. In the event of a loss arising out of, or related to, the Contractor's services performed under this Agreement, Contractor's Liability insurance shall be primary (pay first) with respect to any other insurance which may be available to the County, regardless of how the "other insurance" provisions may read.
2. The workers compensation policy must contain a waiver of subrogation in favor of the County.
3. Contractor shall be responsible for insuring all of its own personal property, improvements, and betterments.
4. All insurance policies put forth to satisfy the above requirements shall require the insurer to provide a minimum of sixty (60) days notice to the County of any material change in coverage, cancellation, or non-renewal.
5. All insurance put forth to satisfy the above requirements shall be placed with insurance companies licensed to provide insurance in the state of North Carolina. Any deductibles or self-insured retentions in the required insurance shall be subject to approval by the County.
6. Prior to beginning the work, contractor shall provide certificates of insurance to the County as evidence of the required coverage. Contractor agrees to provide complete copies of policies if requested. Failure of Contractor to provide timely evidence of insurance, or to place coverage with insurance companies acceptable to the County, shall be viewed as Contractor's delaying performance entitling the county to all appropriate remedies under the law including termination of the contract.

XXII. SPECIAL PROCEDURES

A. Procurement Procedures with Federal Funds

The purpose of this policy is to establish guidelines that meet or exceed the procurement requirements for the purchase of goods (apparatus, supplies, materials, and equipment), services, and construction or repair

projects when federal funds are being used in whole or in part to pay for the cost of the contract.

1. Policy

Application of Policy. This policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed) which includes, but is not limited to, direct grants, USDA grants and loans, CDBG funds, FEMA disaster assistance grants, and the Highway Planning, Research, and Construction Program. The requirements of this Policy also apply to any sub recipient of the funds.

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

2. Compliance with Federal Law

All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. §200.317 through §200-326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. The County of Wayne will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the County of Wayne have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law

3. Contract Award

All contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract. Consideration shall be given to contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

4. No Evasion

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

5. Contract Requirements

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

6. Contractor's Conflict of Interest

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

7. Approval and Modification

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

8. Procedures

The administrative procedures contained within this policy are administrative and may be changed as necessary at staff level to comply with the federal Procurement Standards within this Policy. However, any policy changes must be approved by the governing body prior to becoming effective.

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

B. General Procurement Standards and Procedures

1. Necessity

Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items (no stockpiling). The Purchasing Department and/or the Requesting Department should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.

2. Clear Specifications

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

3. Notice of Federal Funding

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

4. Compliance by Contractors

All solicitations should inform prospective contractors that they will need to comply with all applicable federal laws, regulations, executive orders, FEMA requirements, and terms and conditions of the funding award.

5. Fixed Price

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

6. Use of Brand Names

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

7. Lease versus Purchase

Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach. Note: This comparison is necessary for most FEMA financial assistance programs following an emergency or major disaster declaration.

8. Dividing Contract for M/WBE Participation

If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.

9. Documentation

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

10. Cost Estimate

For all procurements costing \$150,000 or more, the Purchasing Department and/or Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.

11. Contract Requirements

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

12. Debarment

No contract shall be awarded to a contractor included on the federally debarred bidder's list. Prior to preparing the contract, the Purchasing Department or the Requesting Department must verify that the contractor is not on the federally debarred bidder's list.

13. Contractor Oversight

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

14. Open Competition

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

15. Geographic Preference

No contract shall be awarded based on a geographic preference.

16. Prequalification

If time allows contractors for construction and repair projects will be prequalified in accordance with the County's Pre-Qualification for Capital Improvement Projects Exhibit V of the Wayne County Purchasing Policy and Procedure manual. Protests for denial of prequalification will be in accordance with the pre-qualification policy.

Exhibit VII: Prequalification Policy

17. Bid Protests and Disputes

A. Purpose

To establish a written bid protest procedure.

B. Procedure

Any party which is a prospective bidder, offeror, or contractor that may be aggrieved by the solicitation must submit a written protest within five (5) calendar days prior to the opening of the Request for Bid and/or the Request for Proposal.

Any party which is an actual bidder, offeror, or contractor that may be aggrieved by the award of a contract, must submit a written protest within five (5) days of County transmitting via fax or email the announcement of intent to award.

The protest must be addressed to the office of the Wayne County Purchasing Director and must include all the following information:

- Name, address, telephone number, facsimile number and email of the protester.
- Signature of the protester or authorized agent.
- The bid name and/or bid number.
- A detailed statement of the legal and factual grounds of protest including copies of relevant documents.
- Any supporting exhibits, evidence, or documents to substantiate any claims.
- All information establishing that the protester is an interested party for the purpose of filing a protest.
- The form of relief requested.

After careful consideration of all relevant information, and consultation with the County Attorney, the Purchasing Director shall make a written decision.

A decision of the Purchasing Director may be appealed to the Finance Officer. This appeal must be in writing and be delivered to the office of the Finance Officer within seven (7) calendar days of the date of the Purchasing Director faxed or emailed the decision.

The Finance Officer will then have seven (7) calendar days to render a decision. This decision may be appealed to the County Manager within seven (7) calendar days of the date of the Finance Officer faxed or emailed decision.

The County Manger will then have seven (7) days to render a final decision.

Any and all costs incurred by a protesting party in connection with a protest shall be the sole responsibility of the protesting party.

C. Specific Procurement Procedures

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

Purchase Contracts

Service Contracts (except for A/E professional services) Construction/Repair/Facility Improvement/Renovation

Up to \$10,000:

Shall be procured using the Uniform Guidance "micro-purchase" procedure (2 C.F.R. §200.320(a))

Procedures are as follows:

- No bidding is required.
- Price must be considered fair and reasonable.
- To the extent practicable, purchases must be distributed among qualified suppliers.
Contract must be in writing (this could be in the form of a purchase order)

Purchase Contracts

Service Contracts (except for A/E Professional Services)

\$10,000 up to \$90,000:

Shall be procured using the Uniform Guidance "small purchase" procedure (2 C.F.R. §200.320(b))

Procedures are as follows:

- Cost or price analysis is NOT required prior to soliciting bids.
- Obtain written price quotes from an adequate number (2) of suppliers or sources.

- Check specific grant as some agencies may require more than two (2) quotes.
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. §200.321.
- Award contract as a Fixed Price. A Not to exceed basis is permissible for service contracts only where obtaining a fixed price is not feasible.
- Award to lowest responsive, responsible bidder
- Contract must be in writing (purchase contracts may be in the form of a purchase order; service contracts and construction repair require use of contract template)
- Cannot use a cooperative purchasing program as an Exception to the Bidding

Service Contracts (\$90,000 up to \$150,000)
Purchase Contracts (\$90,000 and above)

Shall be procured using a combination of the most restrictive requirements of the Uniform Guidance "Sealed Bid" procedure (2 C.F.R. §200.320(c)) and state formal bidding procedures (G.S. 143-129)

Procedures are as follows:

- Cost or price analysis is required prior to soliciting bids.
- Complete specifications or purchase description must be available to all bidders.
- Public Advertisement: (Electronic Advertising is authorized)
 - Legal notice must reserve to the governing board the right to reject any or all bids only for "sound documented reasons."
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
- Solicit from adequate number of known suppliers.
- Bids must be submitted sealed.
- Public Bid Opening
- Must have two (2) sealed bids submitted.
- Bids may only be rejected for "sound documented reasons."
- Award contract as a fixed price. A Not to exceed basis is permissible for service contracts only where obtaining a fixed price is not feasible.
- Award to lowest, responsive, responsible bidder
- Contract must be in writing (purchase contracts may be in the form of a purchase order; service contracts and construction repair require use of contract template)
- Cannot use a cooperative purchasing program as an Exception to the Bidding
- Governing board approval is not required (per local policy, governing board has delegated award authority to County Manager)

Service Contracts (except for A/E Professional Services)

\$150,000 and above

Shall be procured using the Uniform Guidance "competitive proposal" procedure (2 C.F.R. § 200.320(d)) when the "sealed bid" procedure is not appropriate for the service being sought.

Note: RFP's (Competitive Proposals) can only be used when conditions are not appropriate for the use of sealed bids such as service contracts. This can be used for all types of contracts \$150,000 and over.

Procedures are as follows for competitive proposal method:

- Publicly advertised. Formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an "adequate number" of qualified firms.
- Solicit from adequate number of qualified firms.
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
- Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
- All responses must be considered to the maximum extent practical.
- Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
- Award the contract to the responsible firm with most advantageous proposal taking into account price and other factors identified in the RFP.
- Governing board approval is required per local policy.
- Award the contract on a fixed-price or cost-reimbursement basis.
- Must have written contract with federal contract provisions included.
- Cannot use a cooperative purchasing program as an Exception to the Bidding

Construction/Repair/Facility Improvement/Renovation

\$3,500 up to \$150,000:

Shall be procured using the Uniform Guidance "small purchase" procedure (2 C.F.R. § 200.320(b))

Procedures are as follows:

- Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.

- Obtain written price quotes from an adequate number of suppliers or sources (typically means two (2) however, verify with granting agency)
- Award Contract on a fixed-price or not to exceed basis.
- Award to lowest responsive, responsible bidder
- Governing Board approval is not required.
- Must have written contract with federal contract provisions included.

Construction/Repair/Facility Improvement/Renovation

\$150,000 up to \$500,000:

Shall be procured using the Uniform Guidance "sealed bid" procedure (2 C.F.R. § 200.320(c))

Procedures are as follows:

- Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
- Complete specifications must be made available to all bidders.
- Public Advertisement: Advertise the bid solicitation for a period of time sufficient to give bidders notice of opportunity to submit bids (formal advertisement in a newspaper is not required so long as other means of advertising will provide sufficient notice of the opportunity to bid). The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.
- Solicit from adequate number of known suppliers.
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
- Bids must be submitted sealed.
- Public Bid Opening
- Must have two (2) sealed bids submitted prior to opening.
- 5% Bid Bond (a bid that does not contain a bid bond cannot be counted toward the two (2) bid requirement).
- Performance and Payment Bonds for 100% of contract price
- Bids may only be rejected for "sound documented reasons."
- Contract awarded on firm-fixed price basis.
- Award to lowest responsive, responsible bidder
- Must have written contract with federal contract provisions included.
- Governing Board approval is not required.

Note: Construction or repair contracts involving a building \$300,000 and above must also include:

- *Formal HUB (historically underutilized business) participation required under G.S. 143-128.2, including local government outreach efforts and bidder good faith efforts shall apply.*

- *Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under G.S. 143-128(a).*
- *The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under G.S. 143-129(a1).*

Construction/Repair/Facility Improvement/Renovation

\$500,000 and above:

Shall be procured using a combination of the most restrictive requirements of the Uniform Guidance "sealed bid" procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129)

Procedures are as follows:

- Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
- Complete specifications must be made available to all bidders.
- Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under G.S. 143-128(a).
- The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under G.S. 143-129(a1).
- Public Advertisement: (Electronic Advertising is authorized)
 - Legal notice must reserve to the governing board the right to reject any or all bids only for "sound documented reasons."
- Solicit from adequate number of known suppliers.
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
- Good Faith MBE Requirements/Affidavits must be submitted.
- Bids must be submitted sealed and in paper form.
- Public Bid Opening
- Must have three (3) sealed bids submitted before opening.
- 5% Bid Bond (a bid that does not contain a bid bond cannot be counted toward the three (3) bid requirement).
- Performance and Payment Bonds for 100% of contract price
- Bids can only be rejected for "sound documented reasons."
- Contract awarded on firm-fixed Price basis.
- Award to lowest, responsive, responsible bidder
- Must have written contract with federal contract provisions included.
- Governing Board approval is required (cannot be delegated)
- Governing board may reject and all bids only for "sound documented reasons."

Professional Services (Architectural and Engineering Services)

Under \$150,000

Shall be procured using the state "Mini-Brooks Act" requirements (G.S. 143-64.31)

Procedures are as follows:

- Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms.
- Advertisement: Solicit only - Newspaper is not required).
- Price (other than unit cost) shall not be solicited in the RFQ.
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.
- Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department.
- State licensure requirements apply.
- Rank respondents based on qualifications and select the best qualified firm.
- Price cannot be a factor in the evaluation.
- Preference may be given to in-state (but not local) firms.
- Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
- Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated.
- Must be a fixed price or not to exceed contract type for services.
- Governing board approval is not required.
- Must have written contract with federal contract provisions included.

Professional Services (Architectural and Engineering Services)

\$150,000 and over

Shall be procured shall be procured using the Uniform Guidance "competitive proposal" procedure (2 C.F.R. § 200.320(d)(5))

Procedures are as follows:

- Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms.
- Advertisement: Solicit only - Newspaper is not required).
- Price (other than unit cost) shall not be solicited in the RFQ.
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.
- Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ.

- Proposals must be solicited from an “adequate number of qualified sources” (an individual federal grantor agency may issue guidance interpreting “adequate number”).
- Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
- Consider all responses to the publicized RFQ to the maximum extent practical.
- Evaluate qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department
- Rank respondents based on qualifications and select the most qualified firm.
- Preference may be given to in-state (but not local) firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
- Price cannot be a factor in the initial selection of the most qualified firm.
- Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successful, repeat negotiations with the second-best qualified firm.
- Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated.
- State licensure requirements apply.
- Must be a fixed price or not to exceed contract type for services.
- Governing board approval is not required.
- Must have written contract with federal contract provisions included.

Note1: Geographic preference can be given (in-state) as long as there is an appropriate number of qualified firms given the size of the project

Note 2: RFQ process cannot be used for general consulting services or other services not defined by state law or PDAT Supplement, Section V-15 even if those services can be performed by an architectural or engineering firm.

D. EXCEPTIONS

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

1. Sole Source

A contract may be awarded without competitive bidding when the item is available from only one source. The Purchasing Department and/or Requesting Department shall document the justification for and lack of

available competition for the item. A sole source contract must be approved by the governing board.

2. Public Exigency

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

3. Inadequate Competition

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

4. Federal Contract

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

5. Awarding Agency Approval

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

MEMORANDUM

To: Wayne County Board of Commissioners

From: Berry Gray, Planning Director

Date: January 11, 2023

Re: Final Subdivision Plat Approval

Item: Mira Branch Sec 3, Final
Owner/Developer: David A. Durham, Kathleen C Durham
Surveyor/Engineer: Kornegay Surveying
New Hope Township, S Beston Road (SR 1719)
Lots: 15

Discussion: Mira Branch Section 3 consists of 15 lots on 8.17 acres. This phase includes the creation of two new streets. The subdivision is located off S Beston Road, 1.5 miles south of its intersection with US Hwy 70 E. The property is located within the Outer Horizontal (OH) Overlay District and the average lot size is 19,860 sf. Building lots will utilize public water and onsite septic. The property is shown within the Urban Transition area on the Wayne County Growth Strategies Map. Improvements are complete and a NCDOT Built to Standards letter has been submitted to the County. Until the streets are accepted onto the State's secondary road system, the developer has signed a statement regarding the maintenance of the streets and right of ways.

The property is located within the following service areas:

- Schools – Spring Creek HS, Spring Creek Middle, Spring Creek Elem
- Water – East Wayne Sanitary District
- Fire – Elroy Fire Department
- EMS – Station 11
- Transportation – MPO
- Water Supply Watershed – No
- Voluntary Agriculture District – No
- Wetlands – No
- Board of Commissioners District – 5

Recommendation: The Wayne County Planning Board recommends approval of the final plat.

**SCHOOL RESOURCE OFFICER PROGRAM
MEMORANDUM OF UNDERSTANDING (MOU)**

This Memorandum of Understanding (hereinafter "MOU") effective July 1, 2023 is made and entered into by and between the Wayne County Board of Education (hereinafter "WCBOE" or "Board"), the governing body of the Wayne County Public Schools (hereinafter "WCPS"), and the Wayne County Sheriff's Office (hereinafter "WCSO" or "Agency").

WITNESSETH

WHEREAS, the WCBOE and the WCSO recognize the benefits of the School Resource Officer Program to the citizens of Wayne County, North Carolina, and particularly to the students, parents and staff of the public school system of Wayne County, North Carolina;

WHEREAS, the WCBOE desires to have the WCSO provide School Resource Officers to certain Wayne County Public Schools;

WHEREAS, the WCSO is willing to provide a School Resource Officers to certain Wayne County Public Schools; and

WHEREAS, it is in the best interest of WCPS, the WCSO, and the citizens of Wayne County to establish the School Resource Officer Program as hereinafter described.

NOW, THEREFORE, in consideration of the promises and covenants of the parties hereto herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, WCBOE and the WCSO do hereby agree as follows:

**Article I
Purpose and Governing Principles**

This MOU outlines the goals and guiding principles as agreed to by and between WCBOE and the WCSO in order to foster an efficient and cohesive program that will build a positive relationship between law enforcement officers, school administrators, parents, and the students in the Wayne County Public Schools. The purpose of the School Resource Officer Program in the public school system of Wayne County, North Carolina is to promote a safe and secure environment on the campuses of the Wayne County Public Schools. The ultimate goal of the School Resource Officer Program is to provide a safe, inclusive, and positive learning environment for all students and educators.

School policing is intended to promote a safe, welcoming, and inclusive environment for all students, staff, and other members of the school community while recognizing that sworn law enforcement officers have constitutional, statutory, and professional standards by which they are bound. The parties agree that, in compliance with law, the parties shall administer the School Resource Officer Program established under this MOU without discrimination against any person on the basis of sex, gender, race, color, religion, national origin, age, or disability. In particular, under no circumstances will any representative of any of the parties engage in any conduct in violation of state or federal anti-discrimination law in their interactions with students, including

but not limited to, any retaliation for reporting, alleging, or filing complaints concerning any alleged discrimination.

Article II

Duties of the Agency

The WCSO shall provide a School Resource Officer ("SRO") as follows:

1. Qualification of SROs. The WCSO shall assign regularly employed law enforcement officers to serve as SROs for WCPS. Each SRO will serve a school or a set of schools as set forth below:
 - a. One SRO will be assigned to each of the following schools: Charles B. Aycock High School, Eastern Wayne High School, Rosewood High School, Southern Wayne High School, Spring Creek High School, Wayne Middle High Academy, Brogden Middle School, Grantham Middle School, Mount Olive Middle School, Norwayne Middle School, Rosewood Middle School, and Spring Creek Middle School, Eastern Wayne Middle School, Greenwood Middle School, and Meadow Lane Elementary School.
 - b. Contingent on funding, SROs will be assigned to rotate between the following schools: Brogden Primary School, Carver Elementary School, Eastern Wayne Elementary School, Fremont STARS School, Grantham Elementary School, Northeast Elementary School, Northwest Elementary School, Rosewood Elementary School, Spring Creek Elementary School, Tommy's Road Elementary School, North Drive Elementary School, and Edgewood Community Development School.
2. Certification of SROs. The assigned SROs will be certified law enforcement officers by the State of North Carolina and must complete a forty (40) hour School Resource Officer training course through the North Carolina Justice Academy and Crisis Intervention Training (CIT). If the officers do not possess SRO training and/or CIT certification at the time of assignment, the Agency will make reasonable efforts to ensure that the officers participate in any necessary coursework to receive the training and certification at the next available course offering.
3. Assignment of SROs. The SRO positions shall be filled in accordance with the Agency's directives and selection process. The assignment of the SROs shall be subject to the review of the WCBOE and the principal(s) of the school(s) to which the SRO is assigned. The SROs should have no substantiated evidence of harassment, discrimination, disproportionate minority contact, improper use of force, or other serious performance issues in his/her work history that would make the officer inappropriate for performing duties as an SRO. In addition, the SROs should have positive experience working with youth and/or in a school setting and should be willing and able to serve as a mentor for students. The Agency shall ensure that all SROs participate in an orientation process conducted in collaboration between the Agency and WCPS to provide an overview of the School Resource Officer Program and review WCPS policies and procedures.

4. Assignment of SRO Supervisor. The WCSO shall designate a regularly employed law enforcement officer to supervise the assigned SROs and to coordinate the functions of the SRO Program with the Superintendent or designee. The duties of the SRO Supervisor shall include coordinating work assignments of the SROs; ensuring SRO compliance with directives and policies of the Agency and WCPS; coordinating SRO scheduling and work hours (vacation requests, sick leave, etc.); and addressing concerns and complaints regarding performance and conduct of the SROs in collaboration with WCPS and in accordance with Agency protocols.
5. SRO Vehicle. The Agency shall provide a motor vehicle for the use of each SRO assigned to WCPS.
6. SRO Training. The Agency shall ensure that the SROs maintain minimum in-service training and certification requirements as would normally apply to all other certified officers in the Agency in addition to any training and certification required under this MOU.
7. SRO Orientation, Annual SRO Summit, and Ongoing Guidance Sessions. The WCSO shall collaborate with WCPS to host and/or attend an annual summit of SROs and school administrators to discuss issues relevant to the School Resource Officer Program and operations. The WCSO shall require the SROs to attend the annual summit and any other WCPS or Agency orientations and guidance sessions designed for SROs that may occur periodically during the school year during the SROs' regular duty hours, so long as the scheduling of the summit and guidance sessions offered by WCPS does not conflict with assignments from the Agency. Such guidance sessions shall be designed to provide resources to the SROs on topics relevant to the School Resource Officer Program, such as working with students with disabilities and special needs; student records and privacy issues; cultural competency and nondiscriminatory administration of school discipline; positive behavior interventions and supports; restorative justice and alternatives to incarceration programs; and mediation and conflict resolution processes with students. Other law enforcement officers who supervise the SRO will be strongly encouraged to attend such sessions.
8. SRO Work Hours. SROs shall work forty (40) hours per week. Unless modified by the SRO Supervisor, the principal, or principal's designee, SROs shall work from 7:30 a.m. until 4:00 p.m. every day when school is in session and will be provided one 30-minute lunch break. For any hours worked beyond this time, i.e. for special events at the request of the principal or the principal's designee, the SRO will be paid at the established standard hourly rate. The current established standard hourly rate is \$25.00 per hour and is subject to adjustment.
9. SRO Absences. The WCSO shall not utilize the SROs during the designated workday for duties other than set forth herein, except in emergency situations that necessitate removal of the SRO from his/her normal duties pursuant to this MOU. To the greatest extent reasonably practicable, vacation leave, reserve training, and law enforcement training shall be scheduled during the summer months, spring break, or other times when students are not regularly enrolled in school. Any vacation leave during school time shall be approved

in advance by the SRO Supervisor. In the event an SRO is temporarily unavailable on campus due to training, illness, approved leave, court hearing, or other reasons, the WCSO shall provide a replacement officer, whenever possible. The WCSO agrees to use all reasonable efforts to have a replacement SRO fill this void.

10. Reporting. At least quarterly, the WCSO agrees to provide to WCPS reports of the aggregated number of referrals (reported by race, gender, offense charged, and school assignment) of WCPS students by the SROs to the adult criminal justice system and/or juvenile intake counsel.

Article III

WCBOE Expectations of the SROs While Serving on Campus

1. SRO Work Hours, Uniform, and Visibility on Campus. The SROs shall remain on the school grounds during normal school hours, except when necessary to attend to a law enforcement emergency, to attend any meetings or trainings described in this MOU, or on limited occasions, to attend to official law enforcement business off-campus. With the exception of emergency situations out of the SROs' control, SROs shall give the SRO Supervisor and the principal or principal's designee reasonable advance notice of any times when an SRO is not expected to be on campus during normal school hours, and the WCSO will provide a replacement officer to the extent possible in accordance with Article II, Section 10, of this MOU. SROs shall wear the official law enforcement uniform or other apparel issued by the WCSO at all times while serving on WCBOE property and shall make best efforts to maintain high visibility at all times when practical and safe to do so, especially in areas where incidents of crime or violence are most likely to occur. SROs shall, whenever possible and in accordance with guidance from the school principal or designee, participate in or attend school functions during the SROs' regular duty hours, in order to assure the peaceful operation of school-related programs.
2. SRO Mentoring and Outreach. Each SRO shall conduct himself or herself as a role model at all times and in all facets of the job; shall seek to establish a strong rapport with staff, faculty, students, and others associated with the school; and shall encourage students to develop positive attitudes towards the school, education, law enforcement officers, and positive living in general.
 - a. *Interaction with parent and faculty groups.* SROs shall be strongly encouraged to attend meetings of parent and faculty groups during the SROs' regular duty hours to solicit their support and understanding of the School Resource Officer Program and to promote awareness of law enforcement functions.
 - b. *Information on community resources.* SROs shall be familiar with community agencies that offer assistance to youths and their families, including, but not limited to, mental health clinics and drug treatment centers, and shall provide information on such agencies to students, parents, and/or school administrators when appropriate. In addition, SROs shall provide information to the school principal, students, and parents regarding additional resources offered in the community that provide afterschool and summer programs and opportunities for youth.

3. Law Enforcement Actions and Safety Interventions. SROs may initiate appropriate law enforcement actions to address criminal matters, including matters that threaten the safety and security of the school or its occupants, and/or intervene with staff or students (with or without a referral from school staff) when necessary to ensure the immediate safety of persons in the school environment in light of an actual or imminent threat to health or safety. Any such intervention shall be reasonable in scope and duration in light of the nature of the circumstances presented and shall be reasonably calculated to protect the physical safety of members within the school community, while minimizing, to the extent possible, any unintended negative effects on students. All law enforcement actions and interventions to protect the safety of others shall be consistent with all applicable laws, regulations, and policies. Use of force may be implemented pursuant to Agency procedures and protocol as well as all applicable laws, if objectively reasonable based on the totality of the circumstances, and shall not be excessive, arbitrary, or malicious. SROs also shall, whenever possible, advise the principal before requesting additional law enforcement assistance on campus and shall request such assistance only when necessary to protect the safety or security of those present on the school campus.
 - a. *Alternative Resolutions.* SROs shall, as much as possible, seek all alternative methods other than arrest when dealing with problems arising at their assigned school. This includes, but is not limited to:
 1. Speaking with and providing advice to students in order to deter future problems and help build better rapport between students and the SRO;
 2. Referring students to Teen Court in lieu of filing of criminal charges/citations; and
 3. Issuing warning citations for minor traffic infractions committed on school premises.
 - b. *Patrolling and Surveillance.* SROs shall treat their school as if it were a normally-assigned patrol zone. As such, SROs shall alternate between patrolling the school grounds and static surveillance.
 - c. *Investigations and Arrests.* Criminal investigations and arrests by an SRO will be conducted in accordance with all applicable legal requirements, including all applicable laws, regulations, and policies governing the use of force, interrogations, searches, and arrests. SROs shall promptly notify appropriate school authorities whenever an SRO asks a student questions of an investigative nature or takes any direct law enforcement action against a student; however, notification may be withheld until deemed appropriate by the SRO if such notification would endanger a student or any other person or compromise an ongoing criminal investigation. The appropriate school authorities shall promptly notify the parent(s) or guardian of any student suspected of criminal wrongdoing, whenever an SRO asks a student questions of an investigative nature or takes any direct action against any student suspected of criminal wrongdoing. The SRO and school administrators shall collaborate and determine how such notice should be given in each individual circumstance. SROs shall comply with Miranda and juvenile Miranda rules whenever applicable in the course of questioning individuals suspected of criminal wrongdoing. If an SRO questions, searches, or

arrests a student at school, all reasonable efforts will be made to remove the student from other students and bystanders and to not bring undue attention to the student.

- d. *Searches.* SROs shall be aware of and comply with all laws and standards regarding searches of persons and property while performing services pursuant to this MOU. SROs shall be aware of the differing standards governing searches by law enforcement officers for law enforcement purposes as compared with searches by school administrators in connection with student discipline. At no time shall an SRO request that any WCPS employee lead or conduct a search of a student for law enforcement purposes.
 - e. *Interrogations.* In cases where the parent(s) or guardian cannot be reached, and any questioning of a student is conducted without parental notification, the school principal or designee must be present during the questioning unless an SRO directs otherwise for safety or investigative reasons. Presence of the principal/designee does not in any way impact the SRO's duty, if applicable in the situation, to comply with the student's Miranda or juvenile Miranda rights. At no time shall an SRO request that any WCPS employee act as an agent of the SRO or law enforcement in any interrogation.
 - f. *Non-school Investigations.* SROs shall refrain from questioning students at school regarding non-school related matters unless the SRO has a warrant or unless questioning, searching, or arresting a student on school property at that time is necessary, in the discretion of the SRO, for the success of a law enforcement investigation or to prevent injury or crime.
4. School Discipline. The school administrator shall be solely responsible for implementing the student discipline policies. The school administration, not the SRO, has primary responsibility for maintaining order in the school environment and for investigating and responding to school disciplinary matters. SROs shall refer any reports or concerns relating to student discipline to the principal or designee and shall not independently investigate or administer consequences for violations of any school disciplinary rules. SROs should generally not have any further involvement in routine disciplinary matters, such as tardiness, loitering, noncompliance, the use of inappropriate language, dress code violations, minor classroom disruptions, and disrespectful behaviors and other similar minor infractions of school rules. School officials shall only request SRO assistance when necessary to protect the physical safety of staff, students, or others in the school environment.
- a. *Searches.* SROs shall not conduct or participate in searches of students or their belongings in school disciplinary investigations unless their assistance is requested by school personnel to maintain a safe and secure school environment.
 - b. *Interrogations.* SROs will not be involved in questioning of students initiated and conducted by school personnel in disciplinary matters unless requested by school personnel to maintain a safe and secure school environment. If an SRO's presence is requested under these circumstances, the SRO shall confine his or her involvement to what is reasonably necessary to protect the safety and security of members of the school

community and shall not lead the investigation or actively question students.

5. Joint Law Enforcement and School Discipline Investigations. In cases where school disciplinary investigations and law enforcement investigations into criminal activity overlap and relate to matters affecting health or safety (e.g., when both the school administration and the SRO are investigating matters related to the presence of drugs or weapons on campus), it may be appropriate for school administrators and the SRO to work in tandem. In such events, the criminal investigation takes precedence over school disciplinary issues. In such circumstances, the SRO shall be mindful of and clarify his or her role as a law enforcement officer conducting a law enforcement investigation when interviewing student witnesses, particularly students suspected of criminal wrongdoing. The SRO shall also adhere to all appropriate laws and standards governing law enforcement investigations and not assume that laws and standards that govern school disciplinary investigations will also apply to him or her in the course of conducting a criminal investigation.
6. Transporting Students. No SRO shall transport any student in his or her Agency-issued vehicle except when the student is a victim of a crime, under arrest, or when other emergency circumstances exist. Under no circumstances may an SRO transport any student in the SRO's personal vehicle. NOTE: This does not apply to situations where an SRO wishes to transport his or her own child in his or her personal vehicle or in cases where the SRO is attending a school function as a spectator or in his or her capacity as a parent.
7. Traffic and Event Security. At the request of the principal or designee, the SRO shall coordinate traffic and security at athletic events and school functions at his or her assigned school.
8. Confidentiality; Access to Student Records. SROs shall comply with all laws, regulations, and WCBOE policies regarding access to confidential student records, provided that the SRO shall under no circumstances be required or expected to act in a manner inconsistent with his/her duties as a law enforcement officer. SROs may have access to confidential student records or to any personally identifiable information of any WCPS student as defined in 34 CFR 99.3, only to the extent allowed under the Family Educational Rights and Privacy Act (FERPA) and applicable WCBOE policies and procedures. SROs shall not automatically have access to confidential student records or personally identifiable information in those records simply because an SRO is conducting a criminal investigation involving a student or for general, non-specific purposes. School officials may, however, share relevant confidential student records and personally identifiable information contained in those records with an SRO under any of the following circumstances:
 - a. The SRO is acting as a "school official" (as it relates to accessing student records) as defined in 34 CFR 99.31 because he has legitimate educational interests in the information to be disclosed.
 - b. The SRO has written consent from a parent or eligible student to review the records or information in question.

- c. The principal or designee reasonably determines that disclosure to the SRO without parental consent is necessary in light of a significant and articulable threat to one or more person's health or safety.
 - d. The disclosure is made pursuant to a valid subpoena or court order.
 - e. The information disclosed is "directory information" as defined by WCBOE policy, and the parent or eligible student has not opted out of the disclosure of directory information.
 - f. The disclosure is otherwise authorized under FERPA, its implementing regulations, and applicable WCBOE policies and procedures.
9. Communication between the SRO and Principal. Each SRO is expected to meet with the school principal and members of the administrative team designated by the principal on a regular basis, both formally and informally, to discuss school safety concerns, duties, and responsibilities.
10. Development of School Safety Plans. SROs shall report any safety concerns to the school principal and/or designee and shall confer with the school principal to develop plans and strategies to prevent and/or minimize dangerous situations on or near the campus or involving students at school-related activities. The school principal will contact any other school system personnel who should be involved in these discussions.
11. SRO Orientation, Annual SRO Summit, and Ongoing Guidance Sessions. SROs shall attend all orientations, meetings, summits, and information and guidance sessions scheduled during the SROs' regular duty hours as requested by the WCSO and/or WCPS in accordance with Article II, Section 7 herein.

Article IV

Duties of WCBOE and WCPS

1. Provision of Office Space and Access to School Community. The WCBOE, Superintendent, and school principal agree to provide to each full-time SRO:
- a. Exclusive access to an air-conditioned and properly lighted office at the school, which shall include a telephone, desk, chair, computer with access to the WCPS Ethernet, and lockable filing cabinet;
 - b. Electronic rights to install Agency records management system software on the computer;
 - c. Access to the school's CCTV system;
 - d. A radio for use on campus;
 - e. Keys to the assigned school; and

- f. A reasonable opportunity to address students, teachers, school administrators, and parents about criminal justice, safety, and security issues relating to school-aged students.
2. Referrals to the SRO. Maintaining order in the school environment and investigating and responding to school discipline matters shall be the responsibility of the school administration. School administrators are expected to adhere to the student discipline procedures outlined in applicable state and federal law and Board policies. WCPS shall refrain from involving SROs in the response to student disciplinary incidents and the enforcement of disciplinary rules that do not constitute violations of law, except when necessary to support staff in maintaining a safe school environment. WCPS shall provide training to school administrators regarding the role of SROs and the appropriate involvement of SROs in student matters that pose a threat to the safe school environment, at least on an annual basis. Such trainings shall include information on how to distinguish between disciplinary infractions appropriately handled by school officials versus threats to school safety that warrant a referral to law enforcement.
3. Communication between SRO and Principal. The school principal is expected to meet with the SRO on a regular basis, both formally and informally, to discuss school safety concerns, duties, and responsibilities. Specifically, the principal or designee and SRO shall meet in person during the beginning and end of each school day to discuss issues and concerns related to school safety. The principal and SRO shall establish long-term plans to address school crisis drills, athletic event coverage, special school events, and after-hours activity on school grounds. The WCBOE authorizes the principal to report any crimes that occur on campus to the assigned SRO in compliance with all applicable state laws and WCBOE policies that require school officials to report criminal acts occurring on school grounds to law enforcement.
4. SRO Orientation, Annual SRO Summit, and Ongoing Guidance Sessions. WCPS shall coordinate an orientation for SROs to discuss an overview of the School Resource Officer Program and review WCPS policies and procedures. WCPS also shall host, in collaboration with the WCSO, an annual summit of SROs and school administrators to discuss issues relevant to the School Resource Officer Program and operations. At least one school administrator from each school and the school's assigned SRO shall be required to attend the summit. In addition, WCPS shall offer additional guidance sessions and resources to SROs on topics relevant to the School Resource Officer Program that may occur periodically during the school year, such as working with students with disabilities and special needs; student records and privacy issues; cultural competency and nondiscriminatory administration of school discipline; positive behavior interventions and supports; restorative justice and alternatives to incarceration programs; and mediation and conflict resolution processes with students.
5. Review of SRO Program. The Superintendent or his/her designee shall collect feedback from the principals at least annually regarding the SRO program and provide feedback to the WCSO regarding the SRO program and the performance of the SROs on an annual basis.

Article V

Employment Status of School Resource Officer; Dismissal, Removal, Suspension, or Reassignment

1. Status. SROs shall remain employees of the Agency and shall not be employees of the WCBOE.
2. SRO Performance Issues. If, in the discretion of the school principal, an SRO is not effectively performing his/her duties or responsibilities, and/or receives a complaint from a staff member, student, or parent about actions of the SRO, the principal should report concerns to the SRO Supervisor to address the performance concerns. In the event concerns continue or persist, the principal shall recommend to the Superintendent that the SRO be removed from the program and shall state the reasons in writing. After receiving the recommendation from the principal, the Superintendent or his/her designee, if s/he agrees, shall advise the Agency of the request. The Agency shall contact the Superintendent or his/her designee and shall agree to remove the SRO from serving WCPS if, upon review by the Agency, there is verifiable, documented evidence of ongoing performance issues that have persisted despite the SRO being provided notice and an opportunity to improve.
3. SRO Misconduct. If the principal documents SRO misconduct that threatens the health or safety of students or staff, WCPS will immediately notify the SRO Supervisor and provide copies of such documentation, and the Agency shall promptly remove the SRO from serving WCPS until the completion of the Agency's review of the misconduct, consistent with the Agency's policies and ordinances and this MOU.
4. SRO Resignation, Dismissal, Removal, or Reassignment. In the event of the resignation, dismissal, removal, or reassignment of an SRO, the Agency shall provide a replacement for the SRO within a reasonable period of time, to be discussed between the parties when a vacancy occurs. During such interim period, as much as reasonably possible, the Agency shall assign an alternate law enforcement officer temporarily to carry out the duties of the SRO until a replacement can be secured. The Agency agrees to use all reasonable efforts to prioritize the assignment of the replacement officer.
5. Authority of Superintendent and Agency. Notwithstanding the foregoing, nothing in this MOU shall prohibit the Superintendent from preventing the access of any individual, including an assigned SRO, to WCBOE property, if the Superintendent determines it is in the best interest of the health and safety of WCPS students. Likewise, the Agency reserves the right to suspend an SRO from duty with WCPS. During any period of suspension under this section, the Agency shall provide a replacement SRO pursuant to Article II, Section 10 herein.

Article VI

Term and Termination of MOU

1. Term. The term of this MOU shall begin on July 1, 2023 and end on June 30, 2025, unless terminated earlier as provided herein. However, the parties shall review the terms of this MOU at least annually and may amend it at any time in writing and by mutual agreement

2. Termination. Any party's participation in this MOU may be terminated by that party, with or without cause, upon ninety (90) days written notice to the other parties. In the event that either party terminates this agreement, the parties agree that there will not be any reallocation or proration of funding for the current fiscal year.

Article VII Notice

Any notice, consent, or other communication in connection with this MOU shall be in writing and may be delivered in person, by mail, or by facsimile transmission (provided sender confirms notice by written copy). If hand-delivered, the notice shall be effective upon delivery. If by facsimile copy, the notice shall be effective when sent. If served by mail, the notice shall be effective three (3) business days after being deposited in the United States Postal Service by certified mail, return receipt requested, addressed appropriately to the Agency and to the WCBOE at their respective addresses, below:

If to WCBOE:

Wayne County Public Schools
Attn: Superintendent
2001 E. Royall Avenue
Goldsboro, NC 27534

If to WCSO:

Wayne County Sheriff's Office
P.O. Box 1877
Goldsboro, NC 27533

Article VIII Miscellaneous Provisions

1. Sex Offender Registry Checks. The parties acknowledge that the requirements of G.S. 115C-332.1 apply to this MOU. The Agency shall conduct an annual check of the sworn law enforcement officers assigned as SROs on the North Carolina Sex Offender and Public Protection Registration Program, the North Carolina Sexually Violent Predator Registration Program, and the National Sex Offender Registry. The Agency certifies that no individual may provide services to WCBOE under this MOU if he/she appears on any of the sex offender registries.
2. Relationship of Parties. The Agency and WCBOE shall be independent contractors, and nothing herein shall be construed as creating a partnership or joint venture; nor shall any employee of either party be construed as employees, agents, or principals of any other party hereto. The Agency maintains control over its personnel and any employment rights of personnel assigned under this MOU shall not be abridged. Each party agrees to assume the liability for its own acts or omissions, or the acts or omissions of their employees or agents, during the term of this MOU to the extent permitted under North Carolina law.
3. Governing Law and Venue. This MOU shall be governed by the laws of the State of North Carolina. The venue for initiation of any such action shall be Wayne County, North Carolina.
4. Amendments and Modifications: Additional Policies and Procedures. This MOU may be modified or amended by mutual consent of the parties as long as the amendment is executed

in the same fashion as this MOU. Notwithstanding the foregoing, the parties may develop additional policies and procedures by consent to implement this MOU, including but not limited to policies and procedures regarding reporting requirements and sharing information between WCPS and the Agency. Further, each party may develop internal policies and procedures to implement their respective obligations under this MOU.

5. Entire Agreement. This MOU constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, whether written or oral, relating to the subject matter of this MOU.
6. Severability. In the event that any provision of this MOU shall be invalid, illegal, or otherwise unenforceable, the validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired thereby.
7. No Third-Party Benefits. There are no third-party beneficiaries to this MOU. Nothing in this MOU shall create or give to third parties any claim or right of action against WCBOE, the Agency, or an SRO.
8. Counterparts. This MOU may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together constitute one and the same instrument.
9. E-verify. All parties shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, "Verification of Work Authorization," and will provide documentation reasonably requested by the other demonstrating such compliance.

The Wayne County Board of Education hereby agrees to the terms of the School Resource Officer Program Memorandum of Understanding (MOU), effective July 1, 2023.

Chair, Wayne County Board of Education

Date

This instrument has been preaudited in the manner required by the School Budget and Fiscal Control Act.

(Date)

(Signature of Wayne County Public Schools finance officer)

The Wayne County Sheriff's Office hereby agrees to the terms of the School Resource Officer Program Memorandum of Understanding (MOU), effective July 1, 2023.

Larry M. Pierce
Wayne County Sheriff

4/27/23
Date

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

4-18-2023
(Date)

Allison W. Speight
(Signature of Wayne County finance officer)

NORTH CAROLINA

WAYNE COUNTY

**LEASE AGREEMENT BETWEEN PIKEVILLE-PLEASANT GROVE VOLUNTEER
FIRE DEPARTMENT, INC AND THE COUNTY OF WAYNE**

Beginning April 1, 2023 and ending March 31, 2024, the Pikeville-Pleasant Volunteer Fire Department, Inc. (hereafter referred to as "PPGVFD") agrees to lease to the County of Wayne, dba Wayne County Sheriff's Office, (hereafter referred to as "WCSO") portions of the facility located at PPGVFD at 803 Pikeville-Princeton Road, Pikeville, NC 27863 for storage of the WCSO Mobile Command Center as outlined below:

1. The specific space to be leased currently and or upon the signing of this agreement is ample bay space for the WCSO Mobile Command Center.
2. The monthly lease payment shall be \$400.00 per month and will payable to PPGVFD the tenth of each month beginning April 10, 2023.
3. The County of Wayne agrees to provide insurance for the WCSO Mobile Command Center and all WCSO equipment housed in the Command Center or PPGVFD building.
4. PPGVFD shall not be required to provide insurance coverage for any WCSO equipment or personal items of any WCSO employees.
5. PPGVFD and WCSO will communicate any complaints, operational concerns, personnel concerns, etc. through one appointed individual with PPGVFD, which shall be approved by the President of Fire Department. This individual will communicate only with the Wayne County Sheriff or his designee on these matters.
6. PPGVFD will pay all building utility and maintenance costs and maintain insurance that is reasonable and prudent for the building.
7. PPGVFD shall be liable for any damages to the WCSO Mobile Command Center or any WCSO property housed at PPGVFD arising out the negligence or actions of PPGVFD or its agents.
8. Only members who are preapproved by the Sheriff or his designee shall be authorized to operate the Mobile Command Center in limited circumstances as determined by the Sheriff. The PPGVFD President shall submit names of members to the Sheriff for approval. The WCSO shall provide proper training to those members preapproved by the WCSO. No member or agent of PPGVFD, even those

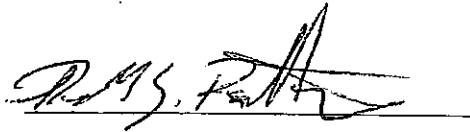
preapproved for operation of the Command Center, shall operate the WCSO Mobile Command Center without the permission of the Wayne County Sheriff or his designee.

9. This agreement may be cancelled in 30 days by the action of either party in writing. Such request must be sent to the Wayne County Sheriff or his designee and the Chief of PPGVFD or his designee.
10. This executed lease will be valid for a period of one year and must be reviewed and re-signed prior to operations continuing.
11. PPGVFD and any of its subcontractors must comply with the requirements of the North Carolina General Statutes, if applicable, which require certain employers to verify the work authorization of each newly hired employee through the Federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies.
12. As of this date listed below, PPGVFD is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 147-86.59.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease as of the day and year first written above.

LESSOR

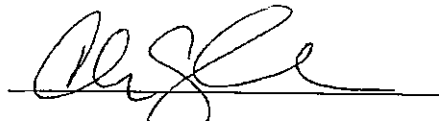
By:



PIKEVILLE-PLEASANT GROVE VFD

LESSEE

By:



CHIP CRUMPLER
WAYNE COUNTY MANAGER

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

BY: Allison W. Spaight
Finance Director

STATE OF NORTH CAROLINA
COUNTY OF WAYNE

MINIMUM HOUSING CODE ENFORCEMENT AGREEMENT

THIS Minimum Housing Code Enforcement Agreement ("Agreement") dated the 18th day of April 2023, between the COUNTY OF WAYNE ("County"), a body politic and corporate organized under the laws of the State of North Carolina and the VILLAGE OF WALNUT CREEK ("Village"), a North Carolina Municipal corporation in the County of Wayne, State of North Carolina.

WHEREAS, a local government may enter into contract with another city, county, or combination thereof to perform inspection services within the town's jurisdiction as authorized by N.C.G.S. §160D-402(c) and N.C.G.S. §160D-1105; and

WHEREAS, the County operates an inspection department which has authority to perform inspections services within the jurisdiction of Wayne County; and

WHEREAS, the County currently provides inspection services to several municipalities in Wayne County pursuant to its authority under N.C.G.S. §160D-402(c) and N.C.G.S. §160D-1105; and

WHEREAS, the Village desires to contract with County so that condemnation services can be completed within its jurisdiction.

NOW, THEREFORE, in consideration of the mutual covenants contained herein the parties hereto agree as follow:

1. County shall provide services to Village for enforcement of the North Carolina Building Code for condemnation purposes only.
2. County shall provide inspection services upon the written request of the Village Manager or his designee.
3. County shall invoice Village monthly upon the completion of work at the rate of Seventy-Five dollars (\$75.00) per hour.
4. Village shall pay County for inspector's time spent inspecting residential structures, non-residential structures, and any required court time.
5. All permits required for renovations on condemned properties shall be issued at the Wayne County Inspections Department and proper inspections shall be performed by County.
6. Village shall be responsible for securing professional legal services in the event that

litigation is necessary for any properties inspected by County. County shall not be required to provide legal services as part of this Agreement.

7. This Agreement is effective upon execution and shall remain in effect for one year. Either party may be terminate this agreement upon thirty days written notice. It shall automatically renew for one year periods unless either party provides thirty days written notice of its intent not to renew.
8. This Agreement shall be governed and interpreted under the laws of the State of North Carolina. Exclusive venue for any dispute shall be the General Court of Justice in Wayne County, North Carolina.
9. This interlocal agreement shall be approved by the governing bodies of County and City and reflected in the minutes of the respective governing bodies.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

VILLAGE OF WALNUT CREEK

By: _____
Danny Jackson, Mayor
Village of Walnut Creek

ATTEST:

Jacqui Whitmire
Clerk, Village Council of Walnut Creek

WAYNE COUNTY

By: Barbara Aycock
Barbara Aycock, Chairwoman
Wayne County Board of Commissioners

ATTEST:

Carol Bowden
Carol Bowden
Clerk, Wayne County Board of Commissioners

