MOORE COUNTY'S
PURCHASING POLICY AND PROCEDURES MANUAL

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Moore County, North Carolina
Purchasing Policy and Procedures Manual

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I. INTRODUCTION AND PURPOSE

This Purchasing Policy and Procedures Manual (hereinafter referred to as "Policy") is intended for use as a guide to the Moore County purchasing methods and practices. In the event of conflicts between any part of this Policy and the North Carolina General Statutes, the statutes shall prevail.

Moore County's procurement practices are based on the principle of fair and open competition. In public purchasing and contracting, utmost fairness is required in expending public funds. The practice of favoritism, whether to the user, department, or to a vendor, is not permissible. All persons involved in the procurement process must work to promote and protect the basic fundamentals of the program. We are entrusted by the taxpayers to expend money in an efficient and effective manner. In doing this, the integrity of the procurement program must be maintained. Moore County's procurement operations are governed by North Carolina General Statutes, (primarily Chapter 143).

It is recommended that all employees involved in the procurement process should become thoroughly familiar with the procedures outlined in this Policy. Comments concerning this Policy or clarification of its contents should be directed to the Chief Financial Officer, County Attorney or County Manager. Any request to deviate from the self-imposed provisions of this Policy must be approved by the Chief Finance Officer, County Attorney, County Manager and Board of Commissioners.

The basic goals of the County's purchasing program are:

1. To comply with the legal and ethical requirements of public purchasing and procurement; and

2. To assure vendors that impartial and equal treatment is afforded to all who wish to do business with the County; and

3. To receive maximum value for each dollar spent by awarding contracts to the lowest responsible, responsive bidder, taking into consideration quality, performance, technical support, delivery schedule, past performance and other relevant factors; and

4. To provide County departments the required goods and services at the time and place needed; and

5. To promote positive and effective vendor relations, cultivated by informed and fair buying practices and strict maintenance of ethical standards; and

6. To effectively promote standardization of products used within and among departments in order to obtain better prices.

II. PROCUREMENT DOCUMENTS/TYPES

The County enters into a variety of purchase, service and construction contracts including, but not limited to, the following types: purchase of goods and services; property acquisition; construction, renovation, repair and maintenance of facilities; leasing of equipment and real property; and various agreements with other units of government.

III. GENERAL GUIDELINES FOR PURCHASING SUPPLIES AND MATERIALS

A. Local Buying:

The County wants to insure that local vendors who have goods or services available which are needed by the County are included in the competitive purchasing process. The County has a responsibility to its residents; however, to insure that maximum value is obtained for each public dollar spent, the County cannot and will not make purchasing decisions solely on the basis of vendor residence. Rather, the County will endeavor to encourage local vendors and suppliers to compete for all County business.

B. Planning:

Planning for purchases should be done both on a short-term and long-term basis, thereby minimizing small orders and last minute purchases. Planning will also reduce the number of trips required to obtain materials and minimize clerical and supervisory time spent on documenting purchases.

C. Buying Proper Quality:

Quality and service are as important as price and it is the duty of the requesting department to secure the best, most economical, quality that will meet but not exceed the requirements for which the goods and/or services are intended. In some instances, the lowest price does not necessarily mean the lowest cost.

D. Uniform Guidance

Contracts funded with federal grant or loan funds must be procured in a manner that conforms with all applicable Federal laws, policies, and standards, including those under the Uniform Guidance (2 C.F.R. Part 200). (Exhibit A) (Exhibit B: Uniform Guidance Conflict of Interest Policy)

E. E-Verify

Pursuant to North Carolina General Statute 143-133.3, the County will not enter into a contract unless the contractor, and the contractor's subcontractors comply with the requirements of Article 2 of Chapter 64 of the General Statutes.

F. Iran Divestment Certification

Pursuant to North Carolina General Statute 147-86.58, the County will not enter into a contract with a contractor or subcontractor listed on the Final Divestment List created by the State Treasurer.

G. Debarred Vendors

The County will not enter into a contract with a contractor or subcontract that is debarred or suspended from doing business in North Carolina.

IV. PURCHASING PROCEDURES

This section outlines the County's purchasing procedures. The procedures outlined are designed to take full advantage of a decentralized purchasing system.

A. Request to Purchase:

The County utilizes a financial software program, for the procurement process. . The Purchase Requisition initiates the procurement cycle. The Department Director/designee(s), Purchasing Manager and Chief Finance Officer must approve all requests via the financial software program approval process

A completed requisition with appropriate approvals is required for all purchases other than those identified in Exhibit C, with the exception of purchases with a written contract.

V. PURCHASE ORDERS

To be valid, a Purchase Order must be completed and electronically signed by the Chief Financial Officer and the Purchasing Manager. Purchases with written contracts must be fully executed with a pre-audit certificate to be valid.

A. The Purchase Order Process:

A purchase order is a contract between the County and a vendor and is not binding until it is fully executed by the Chief Financial Officer and Purchasing Manager. The issuance of purchase orders by unauthorized County employees or officials will not be recognized by the County and payment of these obligations will not be approved. Obtaining apparatus, supplies, materials, equipment or services without a purchase order is also an unauthorized purchase. (Except in emergency situations as outlined in Section VIII. B.) **Unauthorized purchases are classified as a personal expense and will be paid for by the employee.**

In order to properly process the vendor's invoice(s) for payment, the purchase order receiving must be keyed prior to the invoice entry. The invoice should indicate the

purchase order number and the appropriate budget code and processed in the financial software program. This must be done immediately after the item(s) have been received, inspected and accepted by the using department.

B. Change Orders:

In order to change, modify, or cancel an existing purchase order, the using department must initiate a Purchase Order Change Form or other documentation with the Department Director's/designee(s) approval. All pertinent information needed to make changes should be completed. The change order shall be forwarded to the Purchasing Manager for review and approval in the financial software program. The Chief Financial Officer must approve change orders for purchases and/or contracts for which it originally awarded. Exhibit D is a sample of a Purchase Order Change Order form.

Change orders will not be allowed:

1. That would alter the procurement procedures that were used in the original process. (i.e., from informal to formal)
2. After the scope of services have been rendered or materials have been received
3. That would add new additional items to the purchase order

VI. AVAILABILITY AND TRANSFER OF BUDGETARY FUNDS

A. Policy:

It is the policy of the Moore County to require a Departmental Funds Transfer entry in the financial software program for any purchase or commitment of County funds for which there are insufficient funds available in the budgetary account against which a purchase or commitment is to be applied. Transfer of Funds is not allowed for the purpose of making it possible to spend all appropriations.

B. Authority:

The County Manager, Assistant County Manager, or designee are authorized to make certain changes among operating expenditure line items, (i.e. non-capital and/or non-personnel related items), in the budget of a department, or fund (department as defined in the annual budget ordinance adopted by the Board of Commissioners).

C. Responsibility:

Transfer of Funds must be requested by the Department Director/designee(s) and approved within the financial software program by the County Manager, Assistant County Manager, or designee, before any commitments are approved against an expenditure line item which would exceed the amount budgeted for that particular line item.

Requests should be stated in even dollar increments.

The Chief Financial Officer and Internal Auditor are expected and authorized to inquire about the appropriateness of any and all Department Transfer of Funds.

VII. SPECIAL PROCUREMENT PROCEDURES

A. Open Purchase Orders:

Department Director/designee(s) may request an open purchase order within the financial software program to selected vendors for the procurement of large volume items that are needed on a continuing basis such as landscaping supplies, janitorial supplies, tires, water treatment chemicals, etc. Open purchase orders should not be used for items that can/should be purchased with the purchasing card. Open purchase orders also follow the competitive bidding procedures, if the threshold level is $5,000 or greater.

Requests for Open Purchase Orders must, indicate the items covered by the Open Purchase Order. It is the responsibility of the individual authorized to purchase under an Open Purchase Order to insure that an unspent balance remains to cover the purchase to be made. **Any purchase that exceeds the funds available under an Open Purchase Order will be classified as an unauthorized purchase.**

Any purchases made by personnel not authorized by the open purchase order request will be classified as a personal expense and will be paid by the employee.

B. Emergency Purchases:

In cases of emergencies, the Department Director/designee(s) may purchase directly from any vendor, supplies or services **whose immediate procurement is essential to prevent delays in work which may affect the life, health, or either safety or convenience of the Moore County employees or citizens**.

The using department shall exercise good judgment and use established vendors when making emergency purchases. Always obtain the best possible price and limit purchases to those items emergency related. **Not anticipating needs does not constitute an emergency situation.** First, determine if a true emergency does exist. Second, anticipate needs and avoid emergency situations whenever possible.

The following procedure should be used for emergency purchases: Contact the Purchasing Manager and give all pertinent information to obtain an emergency purchase order. The information needed will include vendor name, item(s) to be purchased, expenditure account to which the item(s) will be charged and the reason for the emergency. After verifying available funds, an emergency purchase order number will be issued for the expenditure and a purchase requisition should be entered into the financial software program so a confirming purchase order can be issued. The using department should forward the confirming purchase order to the vendor. Should the purchase order exceed available funds, a Request for Transfer of Funds entry in the

financial software program will need to be completed as soon as possible.

Emergency purchases, although sometimes necessary, are costly both in time and money. The use of emergency procedures should be limited and will be monitored for abuse.

C. Purchase Order Cut-Off Date:

Purchase request (not included in open purchase orders or service contracts) for the ending current fiscal year must be entered into the financial software program no later than May 1st. Purchase requests of a routine nature that could have been scheduled prior to May 1st, and are not critical, will be rejected. Items must be received by June 30th otherwise they will be charged to the new fiscal year. This procedure affords Purchasing and Accounts Payable the opportunity to complete fiscal year end activities in a timely and proper manner.

D. Professional Services:

Normal competitive procedures cannot be utilized in securing professional services such as attorneys, planners, financial consultants/brokers, auditing, banking, consulting firms, insurance firms, and other professionals who, in keeping with the standards of their discipline, will not enter into a competitive bidding process. When an agreement between a professional service company and the County is established, a contract with a not-to-exceed amount shall be issued to satisfy accounting and statutory requirements. As with all contracts, they must be reviewed and approved by the County Attorney, the County Manager, or Board of Commissioners, or designee, and the Chief Financial Officer.

E. Petty Cash Expenditures:

A petty cash fund has been established for the purchase of expendable items costing less than $50.00. Employees wishing to purchase items, and be reimbursed with petty cash, should obtain a petty cash form, provide a receipt for the purchase and return the cash form to the petty cash administrator for your department.

F. Purchasing Cards:

The use of purchasing cards has been proven to be a cost effective method of obtaining low cost supply items for the County. The purpose of this purchasing procedure is to provide for the use of purchasing cards for SMALL value or emergency purchases. For detailed information on the use of credit cards by County employees, please refer to the Procurement Card Procedures Policy. (Exhibit E)

VIII. BASIC CONTRACT LEGAL REQUIREMENTS

North Carolina local government contracts must satisfy additional requirements as well as common law requirements.

A. Before the County can enter into a contract, competitive bidding statutes (when legally required) and/or County Policy must be followed.

B. Contracts must be for a legally authorized public purpose. For a use to be public its benefits must be in common and not for particular persons, interests or estates, and the ultimate net gain or advantage must be to the public and not an individual or private entity.

C. The contract must be entered into by a person or board with authority.

D. Every contract must have budgetary authorization.

E. Contracts must be executed by a person who has legal authority to bind the County. The following people in the County have authority to execute contracts:

1. Chairman – No monetary limit, but requires Board approval
2. County Manager/designee(s) – up to $50,000
3. Health Director – up to $50,000; Health Department contracts only
4. Chief Financial Officer/designee(s) – up to $30,000 - PURCHASE ORDERS ONLY
5. Department Directors – up to $5,000; for respective departments only

F. <u>County Seal on Contracts</u>
Only use the County seal for real property conveyances as required by law.
Placing a seal on a contract extends the period of time within which legal challenges involving the contract must be brought. Attesting, witnessing or notarizing a signature provides proof of its authenticity which is acceptable but not required.

IX. BUDGETARY REQUIREMENTS

Pursuant to the Local Government Budget and Fiscal Control Act, all contractual obligations must be supported by an appropriation that authorizes the expenditure.

Moreover, at the time the obligation is incurred, there must be an unencumbered balance remaining in the appropriation sufficient to pay the obligation owed in the current fiscal year.

North Carolina law requires the finance officer or designee to certify that these two requirements have been met and that the finance officer signs a pre-audit certificate which must be in every contract before it is issued.

The Moore County Board of Commissioners adopted a resolution May 15, 2018 authorizing the County of Moore to engage in Electronic Payments as defined by N.C.G.S. 159-28 or N.C.G.S. 115C-441.

A contract is considered void and unenforceable if it lacks the proper appropriation and/or pre-audit certificate.

A person who incurs an obligation or pays any funds in violation of the statute is personally liable for any funds committed or disbursed.

X. COMPETITIVE BIDDING

A. Purpose

Public bidding promotes competition, reduces the risks of fraud, promotes fair play and lowers costs; therefore competition should be attempted and obtained for any contract where competition is available. It is better to actively seek competitive offers than risk a challenge to the legality of the contract or to the integrity of the process. The following State of North Carolina bidding statutes applies: G.S. 143-131 (informal bidding) and G.S. 143-129 (formal bidding).

B. Informal Bidding – G.S. 143-131

G.S. 143-131 requires informal bids when the estimated expenditure of public money is $30,000 or more, but less than $500,000 for construction or repair work; and $30,000 or more, but less than $90,000 for purchase of apparatus, supplies, materials, or equipment. The County Manager/designee(s) approves the lowest responsible, responsive bidder for all informal bids ranging from $30,000 up to $90,000 for purchases, and $30,000 up to $500,000 for construction or repair projects. If all the bids exceed the funds available, negotiations are allowed with the lowest responsible, responsive bidder, and reasonable changes can be made in the plans and specifications to bring the contract price within the funds available and then award to that bidder if the bidder is agreeable.

However, when the estimated cost is $5,000 up to $30,000 for the purchase of apparatus, supplies, materials, or equipment and for construction or repair work, the County will require informal bids unless a valid, real situation exists that requires an immediate solution where the solicitation of competition would impact the county's ability to provide a service to the public or staff, or there exists a justification for not seeking competition. The Chief Financial Officer (CFO)/designee(s) select the lowest responsible, responsive bidder for all informal bids ranging from $5,000 up to $30,000. Here, negotiating is allowed. The bid award standard will be the lowest responsible, responsive bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract.

Per County Policy and G.S. 143-131, quotes, bids or proposals should be received from vendors qualified to provide that product or service. Every reasonable effort should be made to receive at least three quotes, bids or proposals. If more than one quote, bid, or proposal is not received, documentation must support the efforts to obtain competitive offers. For the purpose of this Section on informal bidding, the word bid will be used to denote bids, quotes or proposals.

The informal bidding process requires that competitive pricing be obtained in writing. These requests are obtained by three or more sources who can supply the product(s) needed. Once received, and the lowest responsible, responsive bidder is determined, the

Department Director/designee shall initiate the procurement approval set out in IV.A. A record must be kept of bids submitted. Records are not subject to public inspection until the contract has been awarded.

Departments are authorized to use purchase orders and invoices for purchases, construction and repair projects and services costing up to $5,000 (unless otherwise directed). Competitive bids are not required for construction or repair work, services or purchases less than $5,000.

Departments are authorized to use a purchasing card for items (unless otherwise directed), costing less than $1,000. If the vendor does not accept the purchasing card, a Purchase Requisition needs to be entered in the financial software program.

Sole Source - G.S. 143-129(e)(6) and the County require governing board approval for sole source contracts equal to or in excess of $30,000. The County Manager, Assistant County Manager, or a designee of the same may approve sole source contracts (purchases and services) ranging from $5,000 up to $30,000.

C. Formal Bidding

G.S. §143-129 requires formal bids for construction or repair work when the estimated expenditure of public money is equal to or greater than $500,000; or purchase of apparatus, materials, supplies, or equipment when the estimated expenditure of public money is equal to or greater than $90,000. Formal bids require solicitation of sealed bids and legal advertisements. For construction or repair contracts, there are special requirements as to the number of bids received, which is discussed later. The Moore County Board of Commissioners awards all formal bids.

The Purchasing Manager and Department Director are responsible for specification development. The Purchasing Manager, under the direction of the Chief Financial Officer and County Attorney, shall be responsible for ensuring that all North Carolina General Statutes are satisfied, including, but not limited to, proper advertisement (discussed later) and receipt of sealed bids.

The bid award standard is the lowest responsible, responsive bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract. A record of all bids submitted must be maintained. All bids are subject to public inspection once opened, unless a trade secret is involved.

A Department Director shall make a formal recommendation of award to the Board of County Commissioners. Once the contract is awarded and fully executed, the encumbrance process will be initiated in the financial software program.

If all the bids exceed the funds available, negotiations are allowed with the lowest responsible, responsive bidder, and reasonable changes can be made in the plans and specifications to bring the contract price within the funds available and then award to that

bidder if the bidder is agreeable.

All formal bids are awarded by the Moore County Board of Commissioners. Contracts cannot be divided to evade the rules.

In addition, all purchases/contracts $50,000.00 or greater require the Board of County Commissioners' approval.

D. Exceptions to the Formal Bidding Process – G.S. 143-129

If deemed to be in the public interest, competitive bidding may be waived as provided by North Carolina General Statutes. Certain exceptions allow for waiver of the bidding requirements. Some apply only to purchase contracts and others apply to both purchase contracts and construction or repair contracts. Circumstances permitting waiver and direct negotiations include, but are not limited to:

Exceptions that apply to purchase contracts only:

a. Purchases from other governmental agencies (G.S. 143-129(e)(1))
b. Competitive group purchasing (G.S. 143-129(e)(3))
c. Gasoline, diesel fuel, alcohol fuel, motor oil, fuel oil or natural gas (G.S. 143-129(e)(6)) [Informal bids are required]
d. Sole sources (G.S. 143-129(e)(6)). Requires governing board approval and specific criteria must be met.

i. Sole Source - G.S. 143-129(e)(6) and the County require governing board approval or sole source contracts equal to or in excess of $30,000. The County Manager, Assistant County Manager or a designee of the same may approve sole source contracts (purchases and services) ranging from $5,000 up to $30,000. (Exhibit F)

e. Information technology goods and services purchased through the State Office of Information Technology (G.S. 143-129 (e)(7)) or using request for proposals (Procedures authorized by G.S. 143-129.8))
f. Purchase from state contracts
g. Used apparatus, supplies, materials or equipment (G.S. 143-129(e)(10)). Does not apply to remanufactured, prefabricated, or demo items.
h. Piggybacking previously bid contracts. Requires governing board approval & prior 10-day notice (G.S. 143-129(g))
i. Purchases from nonprofit work centers for the blind and severely disabled (GS 143-129.5)

Exceptions that apply to construction or repair contracts only:

a. Change order work. (G.S. 143-129(e)(4))
b. Construction management at risk projects (G.S. 143-129(e)(11)). Requirements of GS 143-128.1 apply to these projects.
c. Force account work. (G.S. 143-135) Work must be performed by labor on the permanent payroll, and does not exceed$500,000.00 for the total project cost including all direct and indirect costs of labor, materials, supplies, equipment; or the labor on the project does not exceed $$200,000.

d. Projects using unemployment-relief labor paid for in whole or part with state or federal funds. (G.S. 143-129(d))
e. Contracts with NC Department of Transportation for street construction and repair. (G.S. 136-41.3)

Exceptions that apply to both purchase and construction contracts:
a. Special emergency involving the health and safety of the people or their property. (G.S. 143-129(e)(2))
b. Guaranteed energy savings contracts. (G.S. 143-129(e)(8)) Requirements of G.S. 143-64.17 through 143-64.17G applies to these contracts.
c. Solid waste management facilities (G.S. 143-129.2).

E. Legal Advertisements – Formal Bidding

Pursuant to G.S. 143-129(b), a local governing board may at a regular meeting authorize use of advertisement by electronic means instead of published notice. On June 7, 2010 the Moore County Board of Commissioners authorized use of advertisement by electronic means. Electronic advertisements must be placed on the County's website. Otherwise, the formal bidding process requires advertising in a newspaper of general circulation. The advertisement must appear at least one time, with at least seven full days elapsing between the day the ad appears and the bid opening date. The advertisement must state the time and place where plans and specifications may be obtained, the time and place for opening of the proposals/bids, and reserve to the governing body the right to reject any or all proposals/bids. Additional notice may be given (G.S. 143-129(b)).

F. Minority Business/Historically Underutilized Business Participation

Notice: Building projects costing $300,000 or more:
G.S. 143-128.2 requires that a local government unit or other public or private entity that receives State appropriations for a building project or other State grant funds for a building project, including a building project done by a private entity on a facility to be leased or purchased by the local government unit, where the project cost is one hundred thousand dollars ($100,000) or more, shall have a verifiable ten percent (10%) goal for participation by minority businesses in the total value of the work; provided, however, a local government unit may apply a different verifiable goal that was adopted prior to December 1, 2001, if the local government unit had and continues to have a sufficiently strong basis in evidence to justify the use of that goal. A verifiable percentage goal is also required for building projects costing $300,000 or more when no state funds are involved. The Outreach Plan shall also be applicable to the selection process of architectural, engineering and construction manager at risk services.

Moore County has a current verifiable goal of ten percent (10%) for minority participation for public building projects. The overall goal will be reviewed annually or as soon as relevant data is available. (Exhibit G)

G. Dispute Resolution

Pursuant to G.S. 143-128(f1), all disputes involving contractors on a building construction or repair project with Moore County shall be resolved pursuant to County of Moore Rules for Implementing Mediated Settlement Conferences in the Building Projects (Exhibit H)

H. Receiving and Opening Bids; Number of Bids

All formal bids must be opened in public. Bids must be sealed and opening a bid or package with knowledge that it contained a bid or disclosing the contents without the permission of the bidder prior to the time set for opening constitutes a Class 1 misdemeanor (G.S. 143- 129(b)).

Three (3) bids are required for formal construction or repair work (G.S. 143-132(a)). If at least three bids are not received, a second advertisement must be made, after which bids may be opened and a contract awarded even if less than three bids are received. There is no minimum number of bids required for purchase contract bids. However, every reasonable effort should be made to obtain at least three (3) bids.

I. Bid Deposits

For formal construction, renovation and repair contracts, the bid must contain a bid deposit equal to not less than five (5) percent of the bid amount. The deposit may be in the form of cash, cashier's check, certified check or bid bond executed by a surety licensed in North Carolina. No other forms are acceptable. Bid deposits may not be waived.

J. Withdrawal of Bid

A bidder may request permission to withdraw their bid after the bids are opened, without forfeiting their bid deposit, if he/she can produce credible evidence that the bid was based on a mistake containing a substantial, unintentional arithmetic error or unintentional omission of work. Withdrawal is not allowed due to errors in judgment. The request to withdraw must be made not later than 72 hours after the bid opening. A bidder that requests that their bid be withdrawn cannot participate in the contract, even if the project is re-bid.

K. Bid Evaluation and Awarding

Award to the lowest responsible, responsive bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract. A record of all bids submitted must be maintained. All bids are subject to public inspection once opened, unless a trade secret is involved.

To ascertain the lowest responsible, responsive bidder, first, determine the lowest bidder. Then, determine the lowest responsive bidder. Bids are responsive when they substantially meet the applicable specifications and laws. The County may waive minor, but not material deviations. A material deviation, if waived, would give the bidder an advantage or benefit over other bidders. After determining the lowest responsive bidder,

determine the most responsible bidder. To determine responsibility, take into account the skill, judgment and integrity necessary to the faithful performance of the contract, as well as sufficient financial resources and ability.

For statutorily required bidding only, if all bids exceed the funds available, negotiations are allowed with the lowest responsible, responsive bidder, and reasonable changes can be made in the plans and specifications to bring the contract price within the funds available and then award to that bidder if the bidder is agreeable.

Who can award bids?

- Formal Bids.....Board of Commissioners
- Informal Bids - $30,000 up to $50,000 for purchases and $30,000 up to $50,000 for construction or repair projects.....County Manager/designees
- Informal Bids - $5,000 up to $30,000 .....Chief Financial Officer/designees
- Informal Bids - $0.00 up to $5,000.....Department Directors

L. Performance and Payment Bonds

For construction or repair projects where the total amount of all the contracts exceed $300,000.00, each contractor must provide performance and payment bonds for the full amount of each contract that exceeds $50,000.00 (GS 143-129(c)). The contractor may provide cash, certified checks or government securities instead of bonds.

M. Rejection of Bids

In requesting bids/proposals, any and all offers received may be rejected in whole or in part. Basis for rejection shall include, but not be limited to:

1. The bid/proposal being deemed unsatisfactory as to quantity, quality, delivery, price or service offered.
2. The bid/proposal did not comply with the conditions of the invitation or with the intent of the proposed contract.
3. Lack of competitiveness by reason of collusion or otherwise, or knowledge that reasonably available competition was not received.
4. Errors in specifications or indication that revisions would be to the County's advantage.
5. Cancellation of or changes in the intended project or determination that the proposed requirement is no longer needed.
6. Limitation or lack of available funds.
7. Circumstances which prevent determination of the lowest responsible, responsive.
8. A determination that rejection would be in the best interest of the County.

N. Contractor Licensure

Prior to contract execution for any project owned by Moore County, a bidding contractor must furnish Moore County with appropriate documentation that indicates that the contractor is currently duly licensed to participate in construction of a project of the same value.

XI. INFORMATION TECHNOLOGY AND BIDDING

Information technology is defined in G.S. 147-33.81(2) as follows:
"Electronic data processing goods and services, telecommunications goods and services, security goods and services, microprocessors, software, information processing, office systems, any service related to the foregoing, and consulting or other services for design or redesign of information technology supporting business processes."

G.S. 143-129.8 offers flexibility in purchasing information technology due to:
"The complex and innovative nature of information technology goods and services, and the desirability of a single point of responsibility for contracts that include combinations of purchase of goods, design, installation, training, operation, maintenance, and related services..."

Local governments may contract for information technology using the procedure set forth in G.S. 143-129.8 as an alternative to G.S. 143-129 (formal bidding) or G.S. 143-131 (informal bidding), but only when a mixture of services and purchases are involved. However, the following requirements must be satisfied:
1. Notice of the request for proposal (RFP) shall be given in accordance with the G.S. 143-129 – the formal bidding statute.
2. Contracts are awarded to the best overall proposal considering factors identified in the RFP.

Negotiations are allowed, but should not alter the contract beyond the scope of the original RFP in a manner that:
1. Deprives the proposers or potential proposers of a fair opportunity to compete for the contract; and
2. Would have resulted in the award of the contract to someone else if the alteration had been included in the RFP.

Local governments are not obligated to use either the competitive bidding or the request for proposals procedures for contracts that consist **only** for **services**. Proposals submitted are not subject to public inspection until a contract is awarded. However, every effort to obtain three (3) bids, quotes or proposals should be made. Here, negotiating is allowed.

Formal or informal bidding statutes apply when the contract consists of purchases involving hardware and/or software. (You determine which statute to follow based upon monetary thresholds.) Negotiations are not allowed unless all bids come in over budget. If this is the case, negotiations are allowed with the lowest responsible, responsive bidder.

XII. REQUEST FOR QUALIFICATIONS (RFQ)

The Request for Qualifications (RFQ) is a qualifications-based selection process that applies to the following services:

1. Architectural
2. Engineering

3. Surveying
4. Construction manager-at-risk
5. Design-build Services
6. Public-Private partnership

Procedure:
1. Announce all requirements by following the formal bidding advertisement requirements.
2. Select the most qualified firm on the basis of demonstrated competence and qualification for the type of professional services required, without regard to fee other than unit price information. Follow the selection committee internal policy processes and procedures. The selection committee will determine the best qualified firm.
3. Negotiate with the best qualified firm.
4. Can move to the next best qualified firm if an agreement cannot be reached with the most qualified firm.

Exemptions to RFQ:
Pursuant to G.S. 143-64.32, a local government may exempt particular projects in writing (by Resolution) where:
1. Estimated professional fee is less than $50,000 for proposed projects

The Moore County Board of Commissioners' exempted by a Resolution on September 1, 2015 all projects involving architectural, engineering, surveying and construction manager-at-risk services, design-build services and public-private partnership construction services where the estimated professional fee is less than $50,000. All exceptions must be approved by the Purchasing Manager and County Manager or designee. (Exhibit I)

XIII. SERVICE CONTRACTS

Service contracts are generally distinguished from purchase contracts in that they call for personal performance or work rather than delivery of a tangible item. Contracts are required when paying for services. North Carolina law does not require bidding. However, every effort should be made to obtain three informal quotes when the estimated cost of the service is $5,000 up to $90,000. Use formal bidding standards when the estimated cost of the service is $90,000 or greater. Contract negotiations are allowed. Award contracts to the lowest responsible, responsive bidder.

The steps for contact execution are:
- The County Attorney's Office must approve all contracts.
- Vendor review/sign contract
- Contract is forwarded to the Purchasing Manager for pre-audit
- Contact is executed by authorized County personnel.

Examples of service contracts:
- Janitorial services

- Recycling services
- Waste collection or disposal services

XIV. SPECIFICATIONS

When goods and/or services are procured under the informal or formal bidding process, specifications must be prepared. All specifications should do at least four things:

a. Identify minimum requirements
b. Encourage competitive bids
c. Be capable of objective review
d. Provide for an equitable award at the lowest possible cost

Specifications shall be as simple as possible while maintaining the degree of exactness required to prevent bidders from avoiding supplying the goods and/or services required or otherwise taking advantage of their competitors.

All specifications utilizing a name brand must include the term "or approved equal" to avoid being restrictive and eliminating fair competition from the bidding process. A digital pdf of the specifications required will assist the Purchasing Section in procuring the desired item(s).

XV. DELIVERY AND PERFORMANCE

A completed and accepted purchase order by the parties concerned must produce the intended results or objectives before it can be considered a successful or completed purchase. The terms and conditions must clearly define the delivery and performance requirements.

The importance of the delivery schedule will be emphasized to the vendor. Delivery requirements will be clearly written and fully understood by all vendors. If several items are required by the purchase order, there may be a different delivery schedule for each item. It is necessary to clearly indicate the delivery location on the Purchase Requisition.

A. Partial Deliveries:

Some purchase orders may list several items and the vendor may fulfill the purchase order by multiple deliveries, which are referred to as "partial deliveries". Upon receipt of a (partial) delivery, enter partial receiving record and complete invoice process in the financial software program. .

B. Non-performance:

If a vendor fails to meet any requirement(s) of the specifications or terms and conditions of the contract or purchase order, the vendor can be cited for non-performance. The seriousness of non-performance will be evaluated based upon the circumstances of each violation.

XVI. INSPECTION AND TESTING

Life and safety as well as successful operation of expensive equipment and supplies may depend upon how well a purchased item meets the design and performance specifications.

Goods and materials should be checked at the time of receipt for damage or defects. The inspection shall include assuring goods comply with the specifications. If damage is found or the goods fail to comply with the specifications, the item(s) shall be rejected as outlined below.

A. Rejection:

In order to protect the County's rights in the event of rejection, for whatever reason, the vendor shall be informed immediately. Reasons for the rejection must be documented in memo form and the using department shall notify the vendor of the reason(s) for the rejection.

B. Damaged Goods:

One of the major reasons for immediately inspecting the goods upon receipt is to detect any visible damage. When it is apparent that the extent of the damage causes the goods to be worthless, they will not be accepted. It is necessary that all damage including evidence of concealed damage shall be documented by memo and the using department shall notify the vendor of the damages.

C. Latent Defects:

Latent defects may be the result of damage in transit or failure of the manufacturer to conform to specifications. Consequently, it is often difficult to fix responsibility for the defective material. If specific liability for the defect cannot be determined between the carrier, the vendor, or the manufacturer, the County may file a claim against all parties. A memo attached to a photocopy of the purchase order must be forwarded to the Purchasing Manager so all parties involved can be properly informed.

XVII. VENDOR RELATIONS

Good vendor relations are valuable business assets established through mutual confidence and satisfactory business relationships between buyer and seller. An important contribution toward promoting and preserving these relations is a clear understanding of the method of contract between buyer and seller.

Should a department experience difficulties with or have a complaint with a particular vendor, document your concerns in a memo, and forward to the Purchasing Manager. Be as specific as possible, detailing the circumstances, dates, personnel involved (including

titles) and phone numbers. This information will be helpful in determining if the vendor shall remain on the vendor list.

Departments do not have the authorization to commit in writing, or verbally, future County business to vendors. If a department wishes to add a specific vendor or contractor to the bid list, the Purchasing Manager shall be contacted.

XIII. AFTER THE ORDER

The procurement function is not accomplished by simply placing an order with a supplier. Satisfactory delivery must also be made. To insure delivery will be made when required, follow-up is necessary.

Follow-up or expediting delivery of an order is part of the procurement process and should be handled by the using department.

The Purchasing Manager shall on a regular basis review outstanding purchase orders to determine if vendors are delinquent in shipping the items requested. The Purchasing Manager shall contact the using department with concerns regarding delinquent deliveries.

The using department shall contact vendors concerning invoice discrepancies and shall have any discrepancies resolved before submitting to Accounts Payable for payment. The Chief Financial Officer shall approve or disapprove invoice amounts.

The County Manager has authority to revise this policy and all exhibits for legislative updates, form revisions, and procedural revisions, with approval from the County Attorney.

Previously revised and approved on the 20th day of September, 2011.

REVISED and ADOPTED this 19th day of June 2018 by the Moore County Board of Commissioners. This Policy takes effect upon adoption.

Catherine Graham

Moore County Board of Commissioners

Laura M. Williams

Laura M. Williams,
Clerk to the Board

COUNTY OF MOORE CORPORATE SEAL NORTH CAROLINA

XIX. EXHIBITS

Exhibit A. Uniform Guidance Procurement Policy
Exhibit B. Uniform Guidance Conflict of Interest Policy
Exhibit C Examples of Purchases Not Requiring a Purchase Order
Exhibit D. Purchase Order Change Form
Exhibit E. Purchasing Card Policy
Exhibit F. Sole Source Justification Form
Exhibit G. Minority Participation Policy
Exhibit H. Dispute Resolution Policy
Exhibit I. RFQ Exemption Form

EXHIBIT A

Moore County
Uniform Guidance Procurement Policy

I. Purpose

The purpose of this Policy is to establish guidelines that meet or exceed the procurement requirements for purchases 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.

II. Policy

A. **Application of Policy.** This policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). 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.

B. **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. Moore County will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should Moore County have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.

C. **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.

D. **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.

E. **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 § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.

F. **Contractors' 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.

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

III. General Procurement Standards and Procedures:

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

A. **Necessity.** Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. 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 that have similar needs to consolidate procurements and services to obtain better pricing.

B. **Clear Specifications.** All solicitations must 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.

C. **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 acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.

D. **Compliance by Contractors.** All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.

E. **Fixed Price.** Solicitations must state that 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 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 express written permission of the federal agency or state pass-through agency that awarded the funds.

F. **Use of Brand Names.** When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how the 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.

G. **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.

H. **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.

I. **Documentation.** Documentation must be maintained by the Purchasing Department and/or the Requesting Department detailing the history of all procurements. The documentation should include the 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.

J. **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.

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

L. **Debarment.** No contract shall be awarded to a contractor included on the federally debarred bidder's list.

M. **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.

N. **Open Competition.** Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process 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 requirements that have the effect of restricting competition.

O. **Geographic Preference.** No contract shall be awarded on the basis of a geographic preference.

IV. 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.

A. **Service Contracts** (except for A/E professional services) and **Purchase Contracts costing less than $3,500** shall be procured using the Uniform Guidance "micro-purchase" procedure (2 C.F.R. § 200.320(a)) as follows:
   1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
   2. To the extent practicable, purchases must be distributed among qualified suppliers.

B. **Service Contracts** (except for A/E professional services) and **Purchase Contracts costing $3,500 up to $90,000** shall be procured using the Uniform Guidance "small purchase" procedure (2 C.F.R. § 200.320(b)) as follows:
   1. Obtain price or rate quotes from an "adequate number" of qualified sources (a federal grantor agency might issue guidance interpreting "adequate number," so the Requesting Department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
   2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
   3. Cost or price analysis is not required prior to soliciting bids.

4. Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
5. Award the contract to the lowest responsive, responsible bidder.

C. **Service Contracts** (except for A/E professional services) and **Purchase Contracts <u>costing $90,000 and above</u>** 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) as follows:
   1. Cost or price analysis is required prior to soliciting bids.
   2. Complete specifications or purchase description must be made available to all bidders.
   3. The bid must be formally advertised in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for "sound documented reasons."
   4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
   5. Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
   6. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Governing board approval is required for purchase contracts unless the governing board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for "sound documented reasons."

D. **Service Contracts** (except for A/E professional services) **<u>costing $150,000 and above</u>** may 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 particular type of service being sought. The procedures are as follows:
   1. A Request for Proposals (RFP) must be 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.
   2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
   3. Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
   4. Consider all responses to the publicized RFP to the maximum extent practical.
   5. Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
   6. 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 not required.
   7. Award the contract on a fixed-price or cost-reimbursement basis.

E. **Construction and repair contracts <u>costing less than $3,500</u>** shall be procured using the Uniform Guidance "micro-purchase" procedure (2 C.F.R. § 200.320(a)) as follows:
   1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
   2. To the extent practicable, contracts must be distributed among qualified suppliers.

F. **Construction and repair contracts <u>costing $3,500 up to $150,000</u>** shall be procured using the Uniform Guidance "small purchase" procedure (2 C.F.R. § 200.320(b)) as follows:

1. Obtain price or rate quotes from an "adequate number" of qualified sources (a federal grantor agency might issue guidance interpreting "adequate number," so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
4. Award the contract on a fixed-price or not-to-exceed basis.
5. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required.

G. **Construction and repair contracts <u>costing $150,000 up to $500,000</u>** shall be procured using the Uniform Guidance "sealed bid" procedure (2 C.F.R. § 200.320(c)) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Publically 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.
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders. Performance and payment bonds of 100% of the contract price are required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required. Any and all bids may be rejected only for "sound documented reasons."

H. **Construction and repair contracts <u>costing $500,000 and above</u>** 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) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate should be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Formally advertise the bid in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for "sound documented reasons."
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.

5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of 3 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders (a bid that does not include a bid bond cannot be counted toward the 3-bid minimum requirement). Performance and payment bonds of 100% of the contract price are required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is required and cannot be delegated. The governing board may reject and all bids only for "sound documented reasons."

I. Construction or repair contracts involving a building <u>costing $300,000 and above</u> must comply with the following additional requirements under state law:

1. 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.
2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under G.S. 143-128(a).
3. 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).

J. Contracts for Architectural and Engineering Services costing <u>under $150,000</u> shall be procured using the state "Mini-Brooks Act" requirements (G.S. 143-64.31) as follows:

1. Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.
3. Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department.
4. 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.
5. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
6. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

K. Contracts for Architectural and Engineering Services costing <u>$150,000 or more</u> shall be procured using the Uniform Guidance "competitive proposal" procedure (2 C.F.R. § 200.320(d)(5)) as follows:

1. Publically advertise a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ.
4. Proposals must be solicited from an "adequate number of qualified sources" (an individual federal grantor agency may issue guidance interpreting "adequate number").
5. Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.

6. Consider all responses to the publicized RFQ to the maximum extent practical.
7. Evaluate qualifications of respondents to rank respondents 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.
8. Price cannot be a factor in the initial selection of the most qualified firm.
9. Once the most qualified firm is selected, negotiate fair and reasonable compensation. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
10. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

V. 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:

A. 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.

B. 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.

C. 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.

D. 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.

E. 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.

ADOPTED AND EFFECTIVE, this 19th day of June, 2018.

Catherine Graham, Madam Chair
Moore County Board of Commissioners

6/19/2018
Date

COUNTY OF MOORE CORPORATE SEAL NORTH CAROLINA

Laura M. Williams
Clerk to the Board

EXHIBIT B

Moore County
Uniform Guidance Conflict of Interst Policy

I. Purpose

The purpose of this policy is to establish conflicts of interest guidelines that meet or exceed the requirements under state law and local policy when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects paid for in part or whole by federal funds and required under 2 C.F.R. § 200.318(c)(1).

II. Policy

This policy applies when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects funded in part or whole with federal financial assistance (direct or reimbursed). This policy also applies to any sub recipient of the funds.

The employee responsible for managing the federal financial assistance award shall review the notice of award to identify any additional conflicts of interest prohibitions or requirements associated with the award, and shall notify all employees, officers, and agents, including sub recipients, of the requirements of this policy and any additional prohibitions or requirements.

A. Conflicts of Interest. In addition to the prohibition against self-benefiting from a public contract under G.S. 14-234, no officer, employee, or agent of Moore County may participate directly or indirectly in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. A real or apparent conflict exists when any of the following parties has a financial or other interest in or receives a tangible personal benefit from a firm considered for award of a contract:

1. the employee, officer, or agent involved in the selection, award, or administration of a contract;
2. any member of his or her immediate family;
3. his or her partner; or
4. an organization which employs or is about to employ any of these parties.

Any officer, employee, or agent with an actual, apparent, or potential conflict of interest as defined in this policy shall report the conflict to his or her immediate supervisor. Any such conflict shall be disclosed in writing to the federal award agency or pass-through entity in accordance with applicable Federal awarding agency policy.

B. Gifts. In addition to the prohibition against accepting gifts and favors from vendors and contractors under G.S. 133-32, officers, employees, and agents of Moore County

are prohibited from accepting or soliciting gifts, gratuities, favors, or anything of monetary value from contractors, suppliers, or parties to subcontracts. Items of nominal value which fall into one of the following categories may be accepted:

1. promotional items;
2. honorariums for participation in meetings; or
3. meals furnished at banquets.

Any officer, employee or agent who knowingly accepts an item of nominal value allowed under this policy shall report the item to his or her immediate supervisor.

III. Violation

Employees violating this policy will be subject to discipline up to and including termination. Contractors violating this policy will result in termination of the contract and may not be eligible for future contract awards.

ADOPTED AND EFFECTIVE, this 19th day of June, 2018.

Catherine Graham

Catherine Graham, Madam Chair
Moore County Board of Commissioners

6/19/2018
Date

Laura M. Williams

Laura M. Williams
Clerk to the Board

COUNTY OF MOORE
CORPORATE
SEAL
NORTH CAROLINA

EXHIBIT C

PURCHASES AND/OR SERVICES THAT DO NOT REQUIRE A PURCHASE REQUISITION FORM

This list is not all inclusive and could require a Request for Check form to be completed.

Advertising (legal ads, radio announcements, etc.)
Annual dues
Bank Fees
Claim payments
Courier Service
Damage Claim Payment
Insurance premiums
Land purchases
Legal Fees
Medical examinations
Memberships
Permits
Petty cash - replenishment of funds
Postage permits and expenses
Refunds
Register of Deed fees
Rental of buildings
Subscriptions
Tuition fees for educational purposes
Utilities

Finance Officer/Designee has authority to approve exemption up to $1,000.

EXHIBIT D

PURCHASE ORDER CHANGE FORM

PURCHASE ORDER NO.	ACCOUNT NUMBER	ITEM NO.	VENDOR	CHANGE (ACCT#/QTY/VENDOR/INCR-DECR AMT)

EXPLANATION: _____

_____

_____

DEPARTMENT: _____

DEPARTMENT HEAD SIGNATURE: _____

DATE: _____

EXHIBIT E

PURCHASING CARD POLICY

INTRODUCTION:

The Procurement Card is a Visa Card issued by Bank of America. The Card provides an extremely efficient and effective method for purchasing and paying for small dollar non-capital items. The Card is to be used ONLY for official County business.

The Visa Procurement Card will enable you to purchase non-restricted commodities, by telephone, fax, Internet, or in person directly from suppliers. It will significantly reduce the need for issuing small dollar purchase orders, and the use of many requests for payments.

The Procurement Card will be issued in the employee's name clearly indicated on the Card. The Procurement Card is a privilege and is not mandatory.

PARTIES INVOLVED

Card Issuer – Bank of America's services include issuing Visa Procurement Cards to the County of Moore employees, and billing the County of Moore employees for all purchases made on the Cards.

County of Moore – Arranges with the Card issuer, Bank of America, to have Procurement Cards issued to approved employees and agrees to accept liability for the employees' use of the Cards.

Department Director or Designee – The County of Moore official who approves an employee's request for a Procurement Card. Department Director approval delegates transaction authority to the Cardholder. He/she is also responsible for reviewing and approving transactions of individual Cardholders to ensure the transactions are legitimate business expenses, classified appropriately, and in compliance with the County's Policies and Procedures. The Chief Finance Officer or his/her Designee is the final approver for any new procurement cards, and/or any increases or decreases to existing procurement cards.

Procurement Administrator – The central administrator located in the County of Moore's Financial Services department who coordinates the Procurement Card Program for the County of Moore and acts as the County's intermediary in correspondence with the Bank of America. The Card Administrator will notify the department when the card is available for the employee to pick-up and will go over all policies and procedures of the Card at the time of pick-up.

Cardholder - An employee of the County of Moore who is approved by the responsible Department Director or Designee to use the Procurement Card to execute purchases on behalf of the County of Moore.

Supplier – The merchant from whom a Cardholder is making a purchase.

CARDHOLDER ELIGIBILITY

The Cardholder must use the Procurement Card for **OFFICIAL COUNTY BUSINESS PURPOSES ONLY.** Misuse of the Card will subject Cardholder to disciplinary action in accordance with the County of Moore Policies and Procedures relating to disciplinary action, up to and including termination. The Cardholder must:

1. Ensure the Procurement Card is used for legitimate small dollar, non-capital business purposes only.
2. Maintain the Procurement Card in a secure location at all times.
3. **Do Not** allow other individuals to use your Procurement Card.
4. **Purchases may NOT be split by one vendor to accommodate the transaction limit.**
5. Have the Card Holder sign the Procurement Card Statement and attach it in the software module.
6. All Cardholders who are Department Directors must sign their Procurement Card Statement.
7. Obtain prior approval from the Director of Information Technology for hardware and software purchases. This includes items such as printers, monitors, phone devices, voice, data, video purchases, equipment and anything IT related that would be maintained by the IT Department. Attach the approval email from IT to the transactions in the software module.
8. Obtain prior approval from any Department Director where a charge will be made to an account in another department. Follow the same protocol as in number 7 above with any approval email from the approving department and attaching this information in the software module.
9. All work clothing or uniform purchases must be pre-approved by the County Manager, Assistant County Manager or Internal Auditor or their designee due to IRS regulations. Certain work clothing is taxable and must be paid by the employee. For example, T-shirts or golf shirts worn by county employees is considered a fringe benefit and is taxable to the employee.
10. Adhere to the purchase limits and restriction of the Procurement Card.
11. Ensure the total transaction amount of any single transaction does not exceed the approved individual transaction limit.
12. Ensure that sales tax is included on all taxable purchases from suppliers located in North Carolina.
13. Obtain and reconcile all sales slips, register receipts, and/or Procurement Card slips to Bank of America's Cardholder statement each month.
14. Input the monthly statement and transaction receipt details into the software module each month. All transactions must be keyed, as well as any backup for clarification and approvals, into the software module no later than the date set by Finance on a monthly basis. Provide as much backup detail as needed for approvals. Backup detail consists of invoices, charge slips, travel approval forms, email receipts, register receipts, and/or any other type of backup that shows proof of purchase and approval. All purchases must be justified.
15. All training for the software module entry will be provided by the Finance Department.

16. Attempt to resolve disputes or billing errors directly with the supplier and notify the Procurement Card Administrator if the dispute or billing error is not satisfactorily resolved.
17. Ensure that an appropriate credit for the reported disputed item or billing error appears on a subsequent Cardholder statement.
18. **Do not accept cash in lieu of a credit to the Procurement Card account.**
19. Immediately report a lost or stolen Card to the Card Administrator and Bank of America at 1-888-449-2273 (24 hours a day, 365 days a year).
20. Return the Procurement Card to the Card Administrator if requested to do so for any reason, upon terminating employment with the County of Moore, or transferring to another department within the County of Moore.
21. Contact the Card Administrator if a supplier does not accept Visa or the Card does not work. The Card Administrator will work with Bank of America to encourage the supplier's participation in the program.

DEPARTMENT DIRECTOR OR DESIGNEE RESPONSIBILITIES

Each Department Director or Designee should:

1. Make sure purchases are encumbered before a purchase can be made in the software module.
2. Review supplier receipts and ensure that receipts match the Procurement Card Statement.
3. Ensure all transactions and approvals have been entered into the software module by the date designated by Finance.
4. Maintain all original charge slips, approval emails, register receipts and monthly Procurement Statements in a safe and secure location for auditor review for a period of time based on the County approved Retention Schedule and/or any restrictive schedules that apply to your department.
5. Request the Procurement Card Administrator cancel a Cardholder's Card (e.g. terminated employees, transferring departments, loss of Procurement Card privileges) as approved by the Department Director/Designee.
6. Collect cancelled Cards from Cardholder and forward to the Procurement Card Administrator.

PROCUREMENT CARD ADMINISTRAOR RESPONSISIBILITIES

The Financial Services department has assigned a Procurement Card Administrator who will be responsible for the over-all Procurement Card Program. Responsibilities include:

1. Serving as the County of Moore liaison with Bank of America.
2. Reviewing Department Director approved requests for a new Procurement Card and any changes to existing Procurement Cards.
3. Submitting electronic requests to Bank of America and receiving Procurement Cards from Bank of America.
4. Training individuals before releasing Procurement Cards.
5. Having Cardholder sign the Cardholder's Agreement (Attachment 1), signifying agreement with the terms of the Procurement Card Program.

6. Handling disputed charges/discrepancies not resolved by Cardholder.
7. Securing revoked Procurement Cards and submitting information to Bank of America.
8. Reviewing usage of Procurement Card data for appropriateness.
9. Ensuring that lost/stolen Cards have been blocked by Bank of America.
10. Forwarding supplier set up requests to Bank of America.
11. Assisting Departments with errors and emergency transactions.
12. Provide receipt to Cardholder upon request when card is returned.
13. Create monthly journal entry to post to the General Ledger.
14. Notifying the Department Director or Designee when the Cardholder does not submit reconciliation by the due date set by Finance.
15. Review all procurement card transactions, sales tax and attachments to verify accuracy.

TRAVEL PROCUREMENT CARD

Each County Department that requests a travel procurement card will be issued a separate Travel Procurement Card to be used for travel expenses while on out of town travel. This special Travel Procurement Card will be issued to each County department and the name of the department will be printed on the Card. One person in each department will have the responsibility of maintaining and reconciling the Card and all backup for anyone who uses the Card in their department. This person will also be responsible for issuing and maintaining the Card in a secure location within their department.

The Travel Procurement Card can be used for air travel, lodging, registration fees and gasoline purchases in COUNTY VEHICLES ONLY. The Card cannot be used for gasoline purchases in personal vehicles. **NO MEALS** will be permitted to be charged to the Travel Procurement Card. All policies and procedures will apply to the Travel Procurement Card as with the regular Procurement Card as established herein.

PROCUREMENT CARD POLICIES AND PROCEDURES

1. Requirements for Receiving a Procurement Card

Before receiving a Procurement Card, you are required to sign a Cardholder Agreement. By signing this agreement, you indicate that you understand the intent of the Program, and will comply with all guidelines of these Policies and Procedures as well as the County of Moore Policies and Procedures relating to the expenditure of funds.

2. Procurement Card Use

The Card works just like your personal credit card, except all charges are paid by the County of Moore. Its primary purpose is for the purchase of small dollar, non-capital items used for official County business. The County of Moore's spending parameters for the purchase of materials, supplies, equipment not to exceed $1,000 per transaction per Card unless specifically authorized by the Finance Director or Designee. The $1,000 limit includes sales tax. The County of Moore requires that certain types of suppliers be blocked from Procurement Card use. The Card cannot be used for travel, lodging, entertainment, donations, gift cards, gift certificates, or gasoline purchases unless prior

approval is given by the County Manager or his/her designee. You must get prior approval for any of these unauthorized uses listed above from the County Manager, Assistant County Manager or his/her Designee. Proof of approval (by email) must be attached to any receipt transactions in the software module.

3. Procurement Card/Account Number Security and Storage

Cardholders should always treat the County of Moore Procurement Card with at least the same level of care as one does their own personal credit cards. The card should be maintained in a secure location and the Card account number should be carefully guarded. The only person entitled to use the card is the person whose name appears on the face of the Card. The Card may NOT be loaned to another person for any reason.

Maintain all charge slips, monthly procurement statements, register receipts, and any backup with all transactions in a safe and secure location for auditor review. All records must be kept based on the County Record Retention Policy.

4. Procurement Card Maintenance and Closure

All contact with Bank of America for Card set up, maintenance and closure (except for reporting lost or stolen cards) will be handled by the Procurement Card Administrator. The employee is responsible for calling to cancel their Card if they realize it has been lost or stolen over the weekend. During work days the employee can contact the Procurement Card Administrator in Financial Services to report a lost or stolen card, which in turn will be reported to Bank of America.

The Procurement Card Administrator is required to close an account if a Cardholder: (a) moves to a new job in which a Procurement Card is not required; (b) terminates employment; or (c) for any of the following reasons (which will also subject Cardholder to disciplinary action in accordance with County of Moore Policies and Procedures relating to disciplinary action, up to and including termination):

a) The Procurement card is used for personal or non-work related purchases such as; the purchase of alcoholic beverages or any substance, material, or service which violates policy, law or regulation pertaining to the County of Moore.
b) Purchase of software or hardware equipment without the prior approval of the Information Technology Director.
c) The Cardholder allows the Card to be used by another individual.
d) The Cardholder splits a purchase to circumvent the limitations of the Procurement Card or County Policies and Procedures.
e) The Cardholder uses another Cardholder's Card to circumvent the purchase limit assigned to either Cardholder or the limitations of the Procurement Card.
f) The Cardholder fails to keep receipts to reconcile their monthly statement.
g) The Cardholder fails to provide, when requested, information about any specific purchase.
h) The Cardholder does not adhere to the Procurement Card Policy.

i) From time to time a Cardholder may, in error, use the Procurement Card for a personal purchase and be required to reimburse the County of Moore for their personal expense. Immediate reimbursement MUST be made along with a memo from the employee to the Department Director stating how/why this happened with a check or cash reimbursing payment to the County. If this happens more than **once** in a fiscal year, the employee will be subject to cancellation of their Procurement Card by the Chief Finance Officer and may not be allowed to continue to participate in the Procurement Card Program.

A request for closing a Cardholder account will be submitted to Bank of America by the Procurement Card Administrator. *The Procurement Card must be returned to the Procurement Card Administrator immediately.*

5. Cardholder Liability

The Procurement Card will not affect your personal credit. It is your responsibility to ensure that the Card is used within this Policy and all Procedure Guidelines. Failure to comply with the Program guidelines may result in permanent revocation of the Card, notification of the situation to management, and disciplinary action in accordance with the County of Moore Policies and Procedures relating to disciplinary action, up to and including termination.

6. Lost, Misplaced or Stolen Procurement Cards

Report any lost or stolen Procurement Card immediately to Bank of America toll-free at 1-888-449-2273. Bank of America representatives are available to assist you 24 hours a day, 365 days a year. Be sure to notify your Procurement Card Administrator about the lost or stolen card at the first opportunity during normal business hours.

7. Invoice Charges different from Monthly Billing Statement

At times the invoice amount may be different from the monthly billing statement from Bank of America. This is usually due to rounding of the sales tax amount and the total invoice may be a penny difference.

For example, you have an invoice from Quill for $102.52 and when you receive your monthly billing statement from Bank of America it shows a charge from Quill of $102.55. This is a .03 cent charge difference. For any amounts up to $1.00 in billing differences, either way, there is no need to research. Always go by the billing amount on the **monthly billing statement from Bank of America and be sure the total on the statement equals the total keyed into the software module.** You may make a notation on the actual invoice (backup documentation) before you scan it into the software module so a record is kept. If you feel an error has been made in the invoice charge you should contact the vendor for a credit to your account. If you cannot get the amount corrected please contact the Procurement Card Administrator.

Follow these general guidelines when using your Card or account number to make a purchase:

a) Determine if the intended purchase is within the established Procurement Card Policies. (i.e. transaction limits)
b) Purchases may be made in person, by phone, fax or Internet.
c) Obtain a copy of the charge slip, sales receipt and/or packing slips and reconcile to the Bank of America Cardholder Statement. For purchases made by phone or fax, have the vendor provide you a copy of the receipt. For Internet purchases, print a copy of the confirmation or receipt before exiting the site.
d) Get any prior approvals as needed from Department Directors such as Information Technology or Property Management maintained items.

NOTE: During the last quarter of the fiscal year, purchases will be restricted to facilitate Fiscal Year end closing. It is imperative that careful planning is done to ensure that appropriate levels of supplies are on hand to last until the beginning of the new Fiscal Year.

8. Erroneous Declines

There may be certain situations when a supplier receives a decline message when processing your Procurement Card transaction. If you do not know the reason for the decline, contact the Bank of America at 1-888-449-2273 for an explanation. If the decline was in error, the Cardholder should immediately contact the Procurement Card Administrator for assistance. If a purchase is being made outside of normal business hours, the employee must find an alternate payment method or terminate the purchase and contact the Procurement Card Administrator during normal business hours.

9. Emergency Transactions

The County Manager, Assistant County Manager, and/or the Chief Finance Officer or their Designee must approve emergency transactions costing more than $1,000. Before the transaction can be approved, the employee must submit a detailed explanation of the emergency to one of the persons listed above for approval. The employee, and the Department Director or Designee must approve & sign off on the explanation prior to submitting to the Chief Finance Officer for final approval.

10. Credits

The supplier should issue a credit to your Card account for any item they have agreed to accept for return. This credit will appear on a subsequent statement. *Under no circumstances should an employee accept cash in lieu of a credit to the Procurement Card account.*

11. Disputes and Billing Errors

You should always attempt to resolve any disputes or billing errors directly with the supplier. In most cases, the supplier will issue a credit to the Card account. Nearly all

issues can be resolved in this manner. If an agreement cannot be reached with the supplier, you should contact the Procurement Card Administrator. The total amount billed by the Bank of America will be charged to the individual departmental accounts and credits for disputed transactions will be posted to departmental accounts when the credit appears on the Bank of America billing statement.

12. Sales and Use Tax

Purchases from Suppliers located in North Carolina – The County of Moore is NOT exempt from paying North Carolina Sales Tax, therefore, as you place an order with the supplier, you should emphasize that the purchase must include sales tax for all taxable items. Make sure that sales tax is included on all taxable transactions. A company may not be exempt from paying North Carolina Sales Tax.

Purchases from Suppliers located outside North Carolina – Some suppliers located outside North Carolina collect sales tax and remit this tax directly to the State. The individual receipt provided by the supplier should indicate whether any out-of-state sales tax has been collected at the point of sale. Some out of state suppliers do not charge North Carolina Sales Tax. Check with the Program Administrator if you have any questions.

13. Supplier Participation

If a supplier frequently used by the County of Moore employees does not accept the Visa Card, Bank of America will assist in recruiting the supplier to take the necessary steps to begin acceptance of the Card. Cardholders should contact the Procurement Card Administrator when encountering suppliers who do not accept the Card.

14. Audit Assistance

The Procurement Card Administrator will review monthly entries and purchases to insure compliance with this Policy. The Internal Auditor will conduct periodic audits on your purchases to ensure compliance with the guidelines of the Procurement Card Program relating to the expenditure of funds, as well as Cardholder statements and other required documentation.

15. Customer Service

Bank of America Customer Service is available 24 hours a day, 365 days a year at 1-888-449-2273 for:

a) Reporting a lost or stolen Card
b) Checking Account Balance
c) Erroneous Decline

For all other questions or issues, please contact the Procurement Card Administrator in the Financial Services Department.

Previously approved on the 20th day of September, 2011.

REVISED, APPROVED and EFFECTIVE on this 19th day of June, 2018.

Catherine Graham, Madam Chair
Moore County Board of Commissioners

6/19/2018
Date

Laura M. Williams
Clerk to the Board

COUNTY OF MOORE
CORPORATE
SEAL
NORTH CAROLINA

EXHIBIT F

SOLE SOURCE JUSTIFICATION FORM

(for items costing $5,000.00 or more)

Vendor: _____

Item: _____

Estimated expenditure for the Above Item: $ _____

INITIAL ALL ENTRIES BELOW THAT APPLY TO THE PROPOSED PURCHASE. ATTACH A MEMO CONTAINING JUSTIFICATION AND SUPPORT DOCUMENTATION.

1._____ Sole source is for the original manufacturer or provider, there are no area distributors.

2._____ The parts/equipment are not interchangeable with similar parts of another manufacturer.

3._____ This is the only known item or service that will meet the specialized needs of this department or perform the intended function.

4._____ The parts/equipment are required from this source to permit standardization.

5._____ None of the above apply. A detailed explanation and justification for this sole source is contained in the attached memo.

The undersigned requests that competitive procurement be waived and that the vendor identified as the supplier of the material or service described in this sole source justification be authorized as a sole source for the material or service.

_____
County Manager/designee ($5,000 - up to $30,000)
Board of Commissioners ($30,000 and up)

_____
Department

_____
Date

EXHIBIT G

Moore County's Minority Business/Historically Underutilized Business Participation Outreach Plan and Guidelines

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OUTREACH PLAN AND GUIDELINES FOR RECRUITMENT AND SELECTION OF MINORITY BUSINESSES FOR PARTICIPATION IN MOORE COUNTY BUILDING CONTRACTS

G.S. 143-128.2 requires that a local government unit or other public or private entity that receives State appropriations for a building project or other State grant funds for a building project, including a building project done by a private entity on a facility to be leased or purchased by the local government unit, where the project cost is one hundred thousand dollars ($100,000) or more, shall have a verifiable ten percent (10%) goal for participation by minority businesses in the total value of the work; provided, however, a local government unit may apply a different verifiable goal that was adopted prior to December 1, 2001, if the local government unit had and continues to have a sufficiently strong basis in evidence to justify the use of that goal. A verifiable percentage goal is also required for building projects costing $300,000 or more when no state funds are involved. The Outreach Plan shall also be applicable to the selection process of architectural, engineering and construction manager at risk services.

Moore County has a current verifiable goal of ten (10%) for minority participation for public building projects. The overall goal will be reviewed annually or as soon as relevant data is available.

SECTION A: INTENT

The intent of these guidelines is that Moore County, as awarding authority for building projects, and the contractors and subcontractors performing the building contracts awarded shall cooperate and in good faith do all things, legal, proper and reasonable to achieve the statutory goal of ten percent (10%) for participation by minority businesses in each construction project as mandated by GS 143-128.2. Nothing in these guidelines shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from minority business contractors or minority business subcontractors who do not submit the lowest responsible responsive bid or bids.

SECTION B: DEFINITIONS

1. **Minority Business Participation/Historically Underutilized Business** – G.S. 143-128.4. Historically underutilized business defined; statewide uniform certification.

(a) As used in this Chapter, the term "historically underutilized business" means a business that meets all of the following conditions:

(1) At least fifty-one percent (51%) of the business is owned by one or more persons who are members of at least one of the groups set forth in subsection (b) of this section, or in the case of a corporation, at least fifty-one percent (51%) of the stock is owned by one or more persons who are members of at least one of the groups set forth in subsection (b) of this section.

(2) The management and daily business operations are controlled by one or more owners of the business who are members of at least one of the groups set forth in subsection (b) of this section.

(a1) As used in this Chapter, the term "minority business" means a historically underutilized business.

(b) To qualify as a historically underutilized business under this section, a business must be owned and controlled as set forth in subsection (a) of this section by one or more citizens or lawful permanent residents of the United States who are members of one or more of the following groups:

(1) Black. - A person having origins in any of the black racial groups of Africa.

(2) Hispanic. - A person of Spanish or Portuguese culture having origins in Mexico, South or Central America, or the Caribbean islands, regardless of race.

(3) Asian American. - A person having origins in any of the original peoples of the Far East, Southeast Asia, Asia, Indian continent, or Pacific islands.

(4) American Indian. - A person having origins in any of the original Indian peoples of North America.

(5) Female.

(6) Disabled. - A person with a disability as defined in G.S. 168-1 or G.S. 168A-3.

(7) Disadvantaged. - A person who is socially and economically disadvantaged as defined in 15 U.S.C. § 637.

(c) In addition to the powers and duties provided in G.S. 143-49, the Secretary of Administration shall have the power, authority, and duty to:

(1) Develop and administer a statewide uniform program for: (i) the certification of a historically underutilized business, as defined in this section, for use by State departments, agencies, and institutions, and political subdivisions of the State; and (ii) the creation and maintenance of a database of the businesses certified as historically underutilized businesses.

(2) Adopt rules and procedures for the statewide uniform certification of historically underutilized businesses.

(3) Provide for the certification of all businesses designated as historically underutilized businesses to be used by State departments, agencies, and institutions, and political subdivisions of the State.

(d) The Secretary of Administration shall seek input from State departments, agencies, and institutions, political subdivisions of the State, and any other entity deemed appropriate to

determine the qualifications and criteria for statewide uniform certification of historically underutilized businesses.

(e) Only businesses certified in accordance with this section shall be considered by State departments, agencies, and institutions, and political subdivisions of the State as historically underutilized businesses for minority business participation purposes under this Chapter. (2005-270, s. 3; 2007-392, s. 4; 2009-243, s. 3.)

2. **Disability** – defined in G.S. 168A-3 (G.S.168-1 doesn't have its own definition – it refers back to the definition in G.S. 168-A-3) is: "any person who (i) has a physical or mental impairment which substantially limits one or more major life activities; (ii) has a record of such an impairment; or (iii) is regarded as having such an impairment. As used in this subdivision, the term:

a. "Physical or mental impairment" means (i) any physiological disorder or abnormal condition, cosmetic disfigurement, or anatomical loss, caused by bodily injury, birth defect or illness, affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental disorder, such as mental retardation, organic brain syndrome, mental illness, specific learning disabilities, and other developmental disabilities, but (iii) excludes (A) sexual preferences; (B) active alcoholism or drug addiction or abuse; and (C) any disorder, condition or disfigurement which is temporary in nature leaving no residual impairment.

b. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

c. "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits major life activities.

d. "Is regarded as having an impairment" means (i) has a physical or mental impairment that does not substantially limit major life activities but that is treated as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities because of the attitudes of others; or (iii) has none of the impairments defined in paragraph a. of this subdivision but is treated as having such an impairment.

3. **Socially disadvantaged individual** – defined in 15 U.S.C. § 637 is someone who has "been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities."

4. **Economically disadvantaged individual** – defined in 15 U.S.C. § 637 is a socially disadvantaged person (see above) "whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged."

5. **Public Entity** – State and all public subdivisions and local government units.

6. **Owner** – Moore County.

7. **Designer** – Any person, firm, partnership, or corporation, which has contracted with Moore County to perform architectural or engineering work.

8. **Bidder** – Any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.

9. **Contract** – A mutually binding legal relationship, or any modification thereof, obligating the seller to furnish equipment, materials or services, including construction, and obligating the buyer to pay for them.

10. **Contractor** – Any person, firm, partnership, corporation, association, or joint venture which has contracted with Moore County to perform construction work or repair.

11. **Subcontractor** – A firm under contract with the prime contractor or construction manager at risk for supplying materials or labor and materials and/or installation. The subcontractor may or may not provide materials in the subcontract.

SECTION C: MINORITY OUTREACH PLAN AND GUIDELINES

Owner

Moore County will employ the following strategies to encourage participation from HUBs.

1. Place emphasis on the importance of soliciting certified HUB firms for subcontracting opportunities at pre-bid conferences and in the bid documents. Examine specifications to identify special subcontracting opportunities and strongly encourage prime contractors to solicit bids for subcontracts from HUB firms.

3. Provide detailed information to majority contractors concerning the bidding and good faith efforts requirements by holding meetings with the contractors.

4. Assess the effectiveness of the HUB Program, and identify opportunities to enhance it, by evaluating HUB participation and compliance and reviewing the good faith efforts provided in bid packages.

5. Identify subcontracting opportunities unique to each construction contract and project and concentrate heavily on targeting certified HUB firms and small businesses that have expressed an interest in Moore County projects. Identify these opportunities and contact interested businesses no later than ten (10) days prior to the bid opening and provide a list of prime contractors who plan to participate in the project.

6. Participate in educational opportunities throughout the community as they become available.

7. Be visible through participation in trade shows and business organizations of interest to HUB firms, majority contractors and small businesses, and provide information to the general public about the HUB Program and continue outreach efforts to the business community.

8. Make available to minority-focused agencies, a list of subcontracting opportunities when they are identified, no later than ten (10) days prior to the bid opening and a list of prime bidders that subcontractors may wish to contact for subcontracting consideration.

9. Work with architects and engineers to make subcontracting opportunities more noticeable and more easily understood by potential contractors and subcontractors.

Designer

Under the single-prime bidding, separate prime bidding, construction manager at risk, or alternative contracting method, the designer will:

1. Attend the scheduled pre-bid conference to explain minority business requirements to the prospective bidders.
2. Assist the owner to identify and notify prospective minority business prime and subcontractors of potential contracting opportunities.
3. Maintain documentation of any contacts, correspondence, or conversations with minority business firms made in an attempt to meet the goals.
4. Review jointly with the owner, all requirements of G.S. 143-128.2(c) and G.S. 143-128.2(f) – (i.e. bidders' proposal for identification of the minority businesses that will be utilized with corresponding dollar value of the bid and affidavit listing good faith efforts or affidavit of self-performance of work, if the contractor will perform work under contract by its own workforce) – prior to recommendation of an award.
5. During the construction phase of the project, review documentation for contract payment to HUBs (e.g. state form "Appendix E: HUB Documentation for Contract Payment") for compliance with minority business utilization commitments. Submit this form with monthly pay applications to the Owner.

Prime Contractor(s) Construction Manager at Risk, and Its First-Tier Subcontractors
Under the single-prime bidding, the separate-prime bidding, construction manager at risk, and alternative contracting methods, contractor(s) will:

1. Attend the scheduled pre-bid conference.
2. Identify or determine those work areas of a subcontract where minority businesses may have an interest in performing subcontract work.
3. During the bidding process, comply with the owner's requirements listed in the proposal for minority participation.
4. Identify on the bid the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and affidavit listing good faith efforts as required by G.S. 143-128.2(c) and G.S. 143-128.2(f) or Intent to Perform Contract With Own Workforce affidavit.
5. Make documentation showing evidence of implementation of Prime Contractor, Construction Manager-at-Risk and First Tier Subcontractor responsibilities available for review by Moore County upon request.
6. Provide one of the following upon being named the apparent low bidder: (1) an affidavit that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal. This affidavit shall give rise to a presumption that the bidder has made the required good faith effort; or (2) if the percentage is not equal to the applicable goal, then documentation of all good faith efforts taken to meet the goal. The documentation must include evidence of all good faith efforts that were implemented, including any advertisements, solicitations, and evidence of other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract. Failure to comply with these requirements is grounds for rejection of the bid and award to the next lowest responsible and responsive bidder.
7. Identify the name(s) of minority business subcontractor(s) and corresponding dollar amount of work on the schedule of values.
8. Submit with each monthly pay requests(s) and final payment(s), "HUB Documentation for Contract Payment" for designer's review.
9. If at any time during the construction of a project, it becomes necessary to replace a minority business subcontractor, immediately advise the owner in writing of the circumstances involved. The prime contractor shall make a good faith effort to replace a minority business subcontractor with another minority business subcontractor.
10. Make a good faith effort to solicit sub-bids from minority businesses during the construction of a project if additional subcontracting opportunities become available.

Minority Business Responsibilities
Moore County does not certify minority businesses. Moore County requires certification for minority businesses. Pursuant to G.S. 143-128.4 (e) only businesses certified in accordance with this section shall be considered by State departments, agencies, and institutions and political subdivisions of the State as historically underutilized businesses for minority business participation purposes under this Chapter. Any business which desires to participate as an HUB will be required to complete and submit for certification, documents required by the agencies listed below. Only those firms holding current certification through at least one of the following agencies will be considered eligible for inclusion in meeting the HUB participation percentage goals:

- North Carolina Administration Department Historically Underutilized Business (HUB) certification
- North Carolina Department of Transportation Disadvantaged Business Enterprise (DBE)
- North Carolina Department of Transportation Minority Business Enterprise (MBE)
- North Carolina Department of Transportation Women Business Enterprise (WBE) Business certification
- Small Business Administration 8(a) certification
- Other governmental agencies on a case-by-case basis.

A copy of these guidelines will be issued with each bid package for Moore County building construction projects. These guidelines shall apply to all contractors regardless of ownership.

Other Responsibilities
Minority businesses that are contacted by owners or bidders must respond promptly whether or not they wish to submit a bid.

SECTION D. MINIMUM COMPLIANCE REQUIREMENTS

All written statements, affidavits or intentions made by the Bidder shall become a part of the agreement between the Contractor and Moore County for the performance of the contract. Failure to comply with any of these statements, affidavits or with the minority business guidelines shall constitute a breach of the contract. A finding by Moore County that any information, submitted either prior to award of the contract or during the performance of the contract is inaccurate, false or incomplete, shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of Moore County whether to terminate the contract for breach.

In determining whether a contractor has made good faith efforts, Moore County will evaluate all efforts made by the Contractor and will determine compliance in regard to quantity, diligence, and results of these efforts. Contractors are required to earn at least 50 points. Failure to file a required affidavit or documentation demonstrating that the Contractor made the required good faith effort is grounds for rejection of the bid. Good faith efforts include:

1. Contacting minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor or available on State or local government maintained lists at least 10 days before the bid or proposal date and notifying them of the nature and scope of the work to be performed. (10 points)

2. Making the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bid or proposals are due. (10 points)

3. Breaking down or combining elements of work in economically feasible units to facilitate minority participation. (15 points)

4. Working with minority trade, community, or contractor organizations identified by the Office for Historically Underutilized Businesses and included in bid documents that provide assistance in recruitment of minority businesses. (10 points)

5. Attending any pre-bid meetings scheduled by the public owner. (10 points)

6. Providing assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors. (20 points)

7. Negotiating in good faith with interested minority businesses and not rejecting them as unqualified without sound reasons based on their capabilities. Reasons for rejection of a minority business based on lack of qualification should be documented in writing. (15 points)

8. Providing assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisting minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit. (25 points)

9. Negotiating joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public building construction or repair project when possible. (20 points)

10. Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands. (20 points)

SECTION E. DISPUTE RESOLUTION PROCEDURES

Pursuant to G.S. 143-128(f1), all disputes involving contractors on a building construction or repair project with Moore County shall be resolved pursuant to County of Moore Rules for Implementing Mediated Settlement Conferences in the Building Projects (Exhibit G).

SECTION F. BID PACKAGE PROVISIONS

In addition to these guidelines, there will be issued with each building bid package provisions for providing minority business participation in the Moore County projects.

SECTION G. INFORMAL BIDDING STATUTE

All public entities shall solicit minority participation in contracts for the erection, construction, alteration or repair of any building awarded pursuant to this section. The public entity shall maintain a record of contractors solicited and shall document efforts to recruit minority business participation in those contracts. Nothing in this section shall be construed to require formal advertisement of bids. All data, including the type of project, total dollar value of the project, dollar value of minority business participation on each project, and documentation of efforts to recruit minority participation shall be reported to the Department of Administration, Office for Historically Underutilized Business, upon the completion of the project.

Previously approved on the 20th day of September, 2011.

REVISED, APPROVED and EFFECTIVE on this 19th day of June, 2018.

Catherine Graham

Catherine Graham, Madam Chair
Moore County Board of Commissioners

6/19/2018
Date

Laura M. Williams

Laura M. Williams
Clerk to the Board

COUNTY OF MOORE
CORPORATE
SEAL
NORTH CAROLINA

EXHIBIT H

COUNTY OF MOORE
RULES FOR IMPLEMENTING MEDIATED SETTLEMENT CONFERENCES IN NORTH CAROLINA PUBLIC BUILDING PROJECTS

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RULE 1. INITIATING MEDIATED SETTLEMENT CONFERENCES

A. Purpose of Mandatory Settlement Conferences. Pursuant to N.C.G.S. 143-128(f1), (g) and

143-135.26(11), these Rules are promulgated to implement a system of settlement events, which are designated to focus the parties' attention on settlement rather than on claim preparation and to provide a structured opportunity for settlement negotiations to take place. Nothing herein is intended to limit or prevent the parties from engaging in settlement procedures voluntarily at any time prior to or during commencement of the dispute resolution process.

B. Initiating the Dispute Resolution Process

I. Any party to a public building contract governed by Article 8, Ch. 143 of the General Statutes and identified in G.S. 143-128(f1), (g) and who is a party to a dispute arising out of the building process in which the amount in controversy is at least $15,000 may submit a written request to the County of Moore owner for mediation of the dispute.

2. Prior to submission of a written request for mediation to the County of Moore owner, the parties requesting mediation,

a. If a prime contractor, must have first submitted its claim to the Project Designer for review. If the dispute is not resolved through the Project Designer's instructions, then the dispute is eligible for mediation in the Formal Dispute Resolution Process, and the party may submit their written request for mediation to the County of Moore.

b. If the party requesting mediation is a subcontractor, it must first have submitted its claim for mediation to the prime contractor with whom it has a contract. If the dispute is not resolved through the Prime Contractor's involvement, then the dispute is eligible for mediation in the Formal Dispute Resolution Process, and the party may submit its written request for mediation to the County of Moore.

c. If the party requesting mediation is the Project Designer, then it must first submit its claim to the County of Moore to resolve. If the dispute is not resolved with the County of Moore's involvement, then the Project Designers' dispute is eligible for mediation in the Formal Dispute Resolution Process, and the Project Designer may submit its written request to the County of Moore for mediation.

RULE 2. SELECTION OF MEDIATOR

A. Selection of Certified Mediator by Agreement of the Parties. The parties may select a certified mediator pursuant to the Rules by agreement within 21 days of requesting mediation. The requesting party shall file with the County of Moore a Notice of Selection of Mediator by Agreement within 10 days of the request; however, any party may file the notice. Such notice shall state the name, address and telephone number of the mediator selected; state the rate of compensation of the mediator; state that the mediator and opposing counsel have agreed upon the selection and rate of compensation; and state that the mediator is certified pursuant to these Rules.

B. **Nomination and the County of Moore Approval of a Non-Certified Mediator**. The parties may select a mediator who does not meet the certification requirements of these Rules but who, in the opinion of the parties and the County of Moore, is otherwise qualified by training or experience to mediate the action.

If the parties select a non-certified mediator, the requesting party shall file with the COUNTY OF MOORE a Nomination of Non-Certified Mediator within 10 days of the request. Such nomination shall state the name, address and telephone number of the mediator; state the training, experience or other qualifications of the mediator; state the rate of compensation of the mediator; and state that the mediator and opposing counsel have agreed upon the selection and rate of compensation.

The County of Moore shall rule on said nomination, shall approve or disapprove of the parties' nomination and shall notify the parties of its decision.

C. **Appointment of Mediator by the COUNTY OF MOORE**. If the parties cannot agree upon the selection of a mediator, the party or party's attorney shall notify the County of Moore and request, on behalf of the parties, that the County of Moore appoint a mediator. The request for appointment must be filed within 10 days after request to mediate and shall state that the parties have had a full and frank discussion concerning the selection of a mediator and have been unable to agree. The request shall state whether any party prefers a certified attorney mediator, and if so, the County of Moore shall appoint a certified attorney mediator. If no preference is expressed, the County of Moore may appoint a certified attorney mediator or a certified non-attorney mediator.

D. **Mediator Information Directory**. To assist the parties in the selection of a mediator by agreement, the parties are free to utilize the list of certified mediators maintained in any county participating in the Superior Court Mediation Settlement Conference Program.

E. **Disqualification of Mediator**. Any party may request replacement of the mediator by the County of Moore for good cause. Nothing in this provision shall preclude mediators from disqualifying themselves.

RULE 3. THE MEDIATED SETTLEMENT CONFERENCE

A. **Where Conference is to be Held**. Unless all parties and the mediator otherwise agree, the mediated settlement conference shall be held in the County of Moore. The mediator shall be responsible for reserving a place and making arrangements for the conference and for giving timely notice of the time and location of the conference to all attorneys, unrepresented parties and other persons and entities required to attend.

B. **When Conference is to be Held**. The deadline for completion of the mediation shall be not less than 30 days nor more than 60 days after the naming of the mediator.

C. **Request to Extend Deadline for Completion**. A party, or the mediator, may request the County of Moore to extend the deadline for completion of the conference. Such request shall state the reasons the extension is sought and shall be served by the moving party upon the other parties and the mediator. If any party does not consent to the request, said party shall promptly communicate its objection to the County of Moore.

The County of Moore may grant the request by setting a new deadline for completion of the conference.

D. **Recesses**. The mediator may recess the conference at any time and may set times for reconvening. If the time for reconvening is set before the conference is recessed, no further notification is required for persons present at the conference.

E. **The mediated settlement conference shall not be cause for the delay of the building project which is the focus of the dispute.**

RULE 4. DUTIES OF PARTIES AND OTHER PARTICIPANTS IN FORMAL DISPUTE RESOLUTION PROCESS

A. Attendance.

1. All parties to the dispute originally presented to the Designer or Prime Contractor for initial resolution must attend the mediation. Failure of a party to a construction contract to attend the mediation will result in the County of Moore's withholding of monthly payment to that party until such party attends the mediation.

2. Attendance shall constitute physical attendance, not by telephone or other electronic means. Any attendee on behalf of a party must have authority from that party to bind it to any agreement reached as a result of the mediation.

3. Attorneys on behalf of parties may attend the mediation but are not required to do so.

4. Sureties or insurance company representatives are not required to attend the mediation unless any monies paid or to be paid as a result of any agreement reached as a result of mediation require their presence or acquiescence. If such agreement or presence is required, then authorized representatives of the surety or insurance company must attend the mediation.

B. **Finalizing Agreement**. If an agreement is reached in the conference, parties to the agreement shall reduce the terms to writing and sign it along with their counsel.

C. **Mediation Fee**. The mediation fee shall be paid in accordance with N.C.G.S. 143-128(f1), (g).

D. **Failure to Compensate Mediator**. Any party's failure to compensate the mediators in accordance with N.C.G.S. 143-128.1(f1), (g) shall subject that party to a withholding of said amount of money from the party's monthly payment by the County of Moore.

RULE 5. AUTHORITY AND DUTIES OF MEDIATORS

A. **Authority of Mediator**.

1. **Control of Conference**. The mediator shall at all times be in control of the conference and the procedures to be followed.

2. **Private Consultation**. The mediator may communicate privately with any participant or counsel prior to and during the conference. The fact that private communications have occurred with a participant shall be disclosed to all other participants at the beginning of the conference.

3. **Scheduling the Conference**. The mediator shall make a good faith effort to schedule the conference at a time that is convenient with the participants, attorneys and mediator. In the absence of agreement, the mediator shall select the date for the conference.

B. Duties of Mediator

1. The mediator shall define and describe the following at the beginning of the conference:

   a. The process of mediation;

   b. The difference between mediation and other forms of conflict resolution;

   c. The costs of the mediated settlement conference;

   d. That the mediated settlement conference is not a trial, the mediator is not a judge, and the parties retain their legal rights if they do not reach settlement;

   e. The circumstances under which the mediator may meet and communicate privately with any of the parties or with any other person;

   f. Whether and under what conditions communications with the mediator will be held in confidence during the conference;

   g. The inadmissibility of conduct and statements as provided by N.C.G.S. 7A-38.1;

   h. The duties and responsibilities of the mediator and the participants; and

   i. That any agreement reached will be reached by mutual consent.

2. **Disclosure**. The mediator has a duty to be impartial and to advise all participants of any circumstance bearing on possible bias, prejudice or partiality.

3. **Declaring Impasse**. It is the duty of the mediator to timely determine that an impasse exists and that the conference should end.

4. **Reporting Results of Conference**. The mediator shall report to the County of Moore within 10 days of the conference whether or not an agreement was reached by the parties. If an agreement was reached, the report shall state the nature of said agreement. The mediator's report shall inform the County of Moore of the absence of any party known to the mediator to have been absent from the mediated settlement conference without permission. The County of Moore may require the mediator to provide statistical data for evaluation of the mediated settlement conference program.

5. **Scheduling and Holding the Conference**. It is the duty of the mediator to schedule the conference and conduct it prior to the deadline of completion set by the Rules. Deadlines for completion of the conference shall be strictly observed by the mediator unless said time limit is changed by a written order from the County of Moore.

RULE 6. COMPENSATION OF THE MEDIATOR

A. **By Agreement**. When the mediator is stipulated by the parties, compensation shall be as agreed

upon between the parties and the mediator provided that the provision of N.C.G.S. 7A-38.l(k) are observed.

B. **By Appointment**. When the mediator is appointed by the County of Moore, the parties shall compensate the mediator for mediation services at the rate in accordance with the rate charged for Superior Court mediation. The parties shall also pay to the mediator a one-time per case administrative rate in accordance with the rate charged for Superior Court mediation, which is due upon appointment.

RULE 7. MEDIATOR CERTIFICATION

All mediators certified in the Formal Dispute Resolution Program shall be properly certified in accordance with the rules certifying mediators in Superior Court in North Carolina. (Except when otherwise allowed by the County of Moore upon the request of the parties to the mediation.) When selecting mediators, the parties may designate a preference for mediators with a background in construction law or public construction contracting. Such requirements, while preferred, are not mandatory under these Rules.

All mediators chosen must either demonstrate they are certified in accordance with the Rules Implementing Scheduled Mediated Settlement Conference in Superior Court or must gain the consent of the County of Moore to mediate any dispute in accordance with these Rules.

RULE 8. RULE MAKING

These Rules are subject to amendment by the County of Moore at any time the County deems it appropriate.

RULE 9. TIME LIMITS

Any time limit provided for by these Rules may be waived or extended by the mediator it appoints for good cause shown. If the mediator has not yet been appointed, the Designer of Record shall decide all waivers or extensions of time for good cause shown.

Previously Adopted on the 20th day of September, 2011.

REVISED, APPROVED and EFFECTIVE this 19th day of June, 2018.

Catherine Graham, Madam Chair
Moore County Board of Commissioners

6/19/2018
Date

COUNTY OF MOORE CORPORATE SEAL NORTH CAROLINA

Laura M. Williams
Clerk to the Board

EXHIBIT I

Exemption from Architectural, Engineering and Surveying Qualification-Based Selection Process for fees less than $50,000.00

Name of Project: _____

Responsible Department: _____

Vendor: _____

Amount: _____ Contract # _____

G.S. 143-64.31 requires the initial solicitation and evaluation of firms to perform architectural, engineering, surveying, construction management-at-risk services, and design-build services (collectively "design services") to be based on qualifications and without regard to fee; the qualification based selection process must be "announced" and good faith efforts must be made to notify minority firms.

And

G.S. 143-64.32 authorizes units of local government to exempt contracts for services from the qualifications-based selection requirements of G.S. 143-64.31 if the estimated fee is less than $50,000; and the estimated professional fee for services for the above-described project is less than $50,000.

Moore County proposes to enter into a contract for services for work on the above described project.

The above described project is hereby made exempt from the provisions of G.S. 143-64.31.

_____	_____
Terra Vuncannon Purchasing Manager	Wayne Vest County Manager
_____	_____
Date	Date