



MINUTES
Board of County Commissioners Meeting
Monday, July 11, 2022 4:00 PM
Pender County Public Assembly Room

MEMBERS PRESENT:

George Brown
Fred McCoy
Jacqueline A. Newton
David Piepmeyer
David Williams

MEMBERS ABSENT:

OTHERS PRESENT:

Carolyn Moser, **Interim** County Manager
Trey Thurman, County Attorney
Tera Cline, Clerk to the Board
Allen Vann, Assistant County Manager
Other Staff and Members of the Press and Public.

Page

- 1 CALL TO ORDER**
Chairman called the meeting to order at 4:00 PM
- 2 INVOCATION**
Commissioner Williams
- 3 PLEDGE OF ALLEGIANCE**
Commissioner McCoy
- 4 ADOPTION OF AGENDA**
Chairman Piepmeyer publicly acknowledged Commissioner David Williams 20 years of service to the Board of County Commissioners and the citizens of Pender County and presented him with a plaque in his honor.
 - 4.1 Adoption of Agenda

Motion to Adopt agenda

Moved by David Williams, seconded by Jacqueline A. Newton

Motion approved

	For	Against	Abstained	Absent
George Brown	x			
Fred McCoy	x			
Jacqueline A. Newton	x			
David Piepmeyer	x			
David Williams	x			
	5	0	0	0

CARRIED.

5 PUBLIC COMMENT

Lynda Davenport-121 Marcell Lane, Shared with the board her concerns with Surf City Farms and delivery trucks going through the neighborhood. She stated they are not growing there own products and have no animals. She stated that it is a retail shop not a farm.

Randy Lee-166 N Escape Way, Shared with the board his concerns with Surf City Farm. He stated that the Bona Fide farm application was stamped without anyone coming out to look. He states that they do not have the designation to be a farm. Vice Chairman Newton, asked Mr. Lee what his concern was. He stated traffic, and the fact someone stamped the bona fide farm designation.

Brad Case-76 N Escape Way- Stated that Surf City Farms, is a nuisance due increase in traffic and safety. Stated he was ok with the farm at first when he assumed it was going to be a farm. He is concerned that others can get Bona Fide farm status and open a retail center.

6 CONSENT AGENDA

- 6.1 Approval of Purchase Order for GFL for Pender County facilities Solid Waste Disposal & Hauling Services for FY 23
- 6.2 Approval of Tax Releases and Refunds
- 6.3 Approval of Surplus Property Advertisement for Auction - West Hayes Street, Burgaw Parcel ID - 3229-00-6934-0000
- 6.4 Approval of Surplus Property Advertisement for Auction - West Hayes Street, Burgaw Parcel ID - 3229-00-5992-0000
- 6.5 Approval of Surplus Property Advertisement for Auction - Industrial Drive, Burgaw

- 6.6 Approval of FY23 Blanket Purchase Orders for Supplies for Water & Sewer
- 6.7 Consideration of a purchase order for the lease agreement with Burgaw Now, LLC
- 6.8 Approve a Purchase Order for Veterinarian Services to Christy Redfearn-Shelton in the amount of \$72,800
- 6.9 Approval to carryover Purchase Order (PO# 455) for Dana Safety Supply in the amount of \$1455.19.
- 6.10 Approval to carryover Purchase Order (PO# 454) for Ramey Kemp & Associates in the amount of \$7,700.
- 6.11 Approval to carryover Purchase Order (PO# 398) for True IP Solutions in the amount of \$19,235.00.
- 6.12 Approval of a Purchase Order for a Contract Medical Director in the amount of \$45,000
- 6.13 Approval of a Purchase Order for Contract Dental Services in the amount of \$218,920
- 6.14 Approval to carryover Purchase order # 616 for Batteries of NC in the amount of \$21,725.26.
- 6.15 Approval to carry over two (2) Purchase Orders for Fairway Ford in the amount of \$205,774.00.
- 6.16 Approval to carry over Purchase Order (PO# 650) for Willo Products in the amount of \$14,076.
- 6.17 Approval of the Board of Commissioner Meeting Minutes June 20, 2022
- 6.18 Approval of Surplus Property Advertisement for Auction - Various Listed Items
- 6.19 Approval of Budget Amendment and Purchase Order to accept North Carolina Governor's Highway Safety Program Traffic Safety grant award in the amount of \$117,766.
- 6.20 Approval of a Purchase Order to Environmental Chemists for Testing and Sampling of PCU's Water & Sewer Plants and Systems for FY23
- 6.21 Approval of a Purchase Order to Brenntag for Sodium Hydroxide for the Water Treatment Plant for FY23: \$145,000
- 6.22 Approval of a Purchase Order to Amerochem for Ferric Sulfate for the Water Treatment Plant for FY23 \$250,000
- 6.23 Approval of a Purchase Order to Amerochem for Aluminum Sulfate for Wastewater Treatment for FY23

- 6.24 Approval of a Purchase Order for Health Department Contracted Services to the Pender Board of Education in the amount of \$150,000
- 6.25 Approval of Purchase Order for Amerochem for Sodium Hypochlorite for the well system for FY23 for \$10,000
- 6.26 Request Approval to apply for Community Oral Health Transformation (COHT) Initiative in North Carolina Grant
- 6.27 Approval to roll over purchase order (PO # 391) in the amount of \$3454.70 to complete playground repairs.
- 6.28 Approval to roll over purchase order (PO #649) in the amount of \$152,200 for the demolition contract for the old Long Creek School
- 6.29 Motion to approve Consent Agenda

Moved by David Williams, seconded by George Brown

Motion to approve Consent agenda

	For	Against	Abstained	Absent
George Brown	x			
Fred McCoy	x			
Jacqueline A. Newton	x			
David Piepmeyer	x			
David Williams	x			
	5	0	0	0

CARRIED.

7 APPROVALS AND RESOLUTIONS

- 7.1 Approval of Offer & Start of Upset Bid Process for Sale of Surplus Property - 1352 Slocum Trail, Currie

Meg Blue, Finance Director, Recommended to the board that the \$8600 bid from Ariel Russell for parcel number 2266-21-8254-0000 be accepted by the county and the upset bid process begin as of July 11, 2022 The tax value for this property is listed at \$8650.00 and the county acquired it for a total of \$8223.79.

Moved by Jacqueline A. Newton, seconded by David Williams

Motion to approve sale of surplus property at 1352 Slocum Trail, Currie

	For	Against	Abstained	Absent
George Brown	x			

Fred McCoy	x			
Jacqueline A. Newton	x			
David Piepmeyer	x			
David Williams	x			
	5	0	0	0

CARRIED.

7.2 Approval of Offer & Start of Upset Bid Process for Sale of Surplus Property - Wards Corner Loop Road Parcel 2278-73-8947-0000, Burgaw/Atkinson

Meg Blue, Finance Director, recommended to the board that the \$15,000 bid from Lyncoya Simpson for parcel number 2278-73-8947-0000 be accepted by the county and the upset bid process begin as of July 11, 2022. The tax value for this property is listed at \$19, 000 but the county acquired it for a total of \$6,029.59.

Moved by Fred McCoy, seconded by David Williams

Motion to approve sale of surplus property at Wards Corner Loop Road

	For	Against	Abstained	Absent
George Brown	x			
Fred McCoy	x			
Jacqueline A. Newton	x			
David Piepmeyer	x			
David Williams	x			
	5	0	0	0

CARRIED.

7.3 Approval of Offer & Start of Upset Bid Process for Sale of Surplus Property - 414 N Sunset St, Atkinson

Meg Blue, Finance Director, recommended to the board that the \$24,500 bid from Regina Walker for parcel number 2248-75-5295-0000 be accepted by the county and the upset bid process begin as of July 11, 2022. The tax value for this property is listed at \$23,571.

Moved by David Williams, seconded by Jacqueline A. Newton

Motion to approve sale of surplus property at Sunset street.

	For	Against	Abstained	Absent
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George Brown	x			
Fred McCoy	x			
Jacqueline A. Newton	x			
David Piepmeyer	x			
David Williams	x			
	5	0	0	0

CARRIED.

7.4 Approval of Offer & Start of Upset Bid Process for Sale of Surplus Property - 148 Peterson Hill Ave, Burgaw

Meg Blue, Finance Director, recommended to the board that the \$13,950 bid from Elosie Fennell for parcel number 3229-58-2734-0000 be accepted by the county and the upset bid process begin as of July 11, 2022. The tax value for this property is listed at \$13,900.00

Moved by Fred McCoy, seconded by George Brown

Motion Approved

	For	Against	Abstained	Absent
George Brown	x			
Fred McCoy	x			
Jacqueline A. Newton	x			
David Piepmeyer	x			
David Williams	x			
	5	0	0	0

CARRIED.

7.5 Proposed School Bond Order Introduction & Resolution Setting Public Hearing & Authorization

17 - 19

Bob Jessup, read the Bond Order Resolution and Resolution for Public Hearing to be scheduled on August 1, 2022.

Moved by David Williams, seconded by Jacqueline A. Newton

Motion to approve Bond Introduction Resolution

	For	Against	Abstained	Absent
George Brown	x			
Fred McCoy	x			
Jacqueline A. Newton	x			

David Piepmeyer	x			
David Williams	x			
	5	0	0	0

CARRIED.

Moved by Fred McCoy, seconded by George Brown

Motion to approve Resolution Setting the Public Hearing for August 1, 2022 at Board of County Commissioner meeting.

	For	Against	Abstained	Absent
George Brown	x			
Fred McCoy	x			
Jacqueline A. Newton	x			
David Piepmeyer	x			
David Williams	x			
	5	0	0	0

CARRIED.

[Proposed School Bond Order for Introduction](#)
[Resolution setting public hearing and authorizing filing of debt statements](#)

7.6 Adoption of updated Uniform Guidance Procurement Policies

21 - 31

Meg Blue, Finance Director, requested approval of the updated Procurement policy. The redline changes were shared with the board and approval of final draft was requested.

Moved by Jacqueline A. Newton, seconded by George Brown

Motion to approve updated procurement policy.

	For	Against	Abstained	Absent
George Brown	x			
Fred McCoy	x			
Jacqueline A. Newton	x			
David Piepmeyer	x			
David Williams	x			
	5	0	0	0

CARRIED.

[Procurement policy](#)

- 7.7 Approval of a Purchase Order to Axon Enterprises, Inc. in the Amount of \$47,438.00 for the Lease of the Tasers. This will be year 4 lease payment.

Moved by Jacqueline A. Newton, seconded by Fred McCoy

Motion Approved

	For	Against	Abstained	Absent
George Brown	x			
Fred McCoy	x			
Jacqueline A. Newton	x			
David Piepmeyer	x			
David Williams	x			
	5	0	0	0

CARRIED.

- 7.8 Approval of Lease Agreement for Maintenance and Operation of Abbey Nature Preserve 33 - 39

Travis Henley, Planning Director, gave a brief overview of the lease agreement and provided a copy.

Moved by Jacqueline A. Newton, seconded by David Williams

Motion to approve Lease Agreement for Abbey Nature Preserve

	For	Against	Abstained	Absent
George Brown	x			
Fred McCoy	x			
Jacqueline A. Newton	x			
David Piepmeyer	x			
David Williams	x			
	5	0	0	0

CARRIED.

[Abby Nature Preserve Lease](#)

- 8 DISCUSSION
- 9 APPOINTMENTS
- 10 MAPLE HILL WATER AND SEWER DISTRICT

11 ROCKY POINT WATER AND SEWER DISTRICT

11.1 Approval of AT&T Easement at Hampstead Tank Site and Payment to RPTWSD

Kenny Keel, Utilities Director, stated to the board that due to the Hampstead Bypass project, AT&T has to move their fiber optic cables further from US17 in Hampstead. They currently have cables in the right-of-way in front of the Hampstead Tank property, but will need to move them outside of the expanded right way per NCDOT requirements. Therefore, AT&T is requesting an easement on this property which is owned by Rocky Point Topsail Water & Sewer District. Of AT&T has offered \$14,553 for the easement (see calculations), which is based on the appraised value that was also used for NCDOT's purchase of right-of-way from RPTWSD on this property. Therefore, the offer seems to be fair and representative of the actual value of the property.

Moved by David Williams, seconded by George Brown

Motion to approve

	For	Against	Abstained	Absent
George Brown	x			
Fred McCoy	x			
Jacqueline A. Newton	x			
David Piepmeyer	x			
David Williams	x			
	5	0	0	0

CARRIED.

12 SCOTTS HILL WATER AND SEWER DISTRICT

12.1 Approve Resolution of Tentative Award of Contract for Construction of SHWSD Elevated Tank & Wells Project to The Harper Corporation

Kenny Keel, Utilities Director, stated in order to attain NCDEQ Division of Water Infrastructure (DWI) final approval for funding of the project, tentative award of the project by Pender County is required. The Board approved submittal of an application for additional funding on June 20th, which is currently being processed. The SHWSD received a "Letter of Intent to Fund" document for the project from DWI for \$7,940,000 on August 3, 2020. Since that time, construction prices have escalated greatly. In early 2022, DWI indicated they might have additional funds available for this and other projects, and requested documentation of

our interest in additional financing. On February 9, 2022, PCU submitted a letter requesting up to \$9,940,000 (an additional \$2 million) for the project, which at that time seemed to be a fair estimate of the escalated project cost. That request has been on hold at the LGC due to the previous delay of our FY21 Audit. DWI has indicated that they do sufficient funds on hand to fully fund this project. have With the approval of this resolution, DWI will be able to issue their final funding approval following LGC approval (anticipated for early August). The bids are only good for 90 days, which gives us until August 31st to enter into a construction contract. At the August 15th Board meeting, I will request a purchase order and budget ordinance amendment to finalize the project funding by Pender County. The project construction account is Fund/Org # 61.

Moved by Fred McCoy, seconded by George Brown

Motion to approve

	For	Against	Abstained	Absent
George Brown	x			
Fred McCoy	x			
Jacqueline A. Newton	x			
David Piepmeyer	x			
David Williams	x			
	5	0	0	0

CARRIED.

13 MOORES CREEK WATER AND SEWER DISTRICT

14 CENTRAL PENDER WATER AND SEWER DISTRICT

15 PENDER COUNTY BOARD OF HEALTH

16 SOCIAL SERVICES BOARD

17 ITEMS FROM THE COUNTY ATTORNEY, COUNTY MANAGER, ASSISTANT COUNTY MANAGERS, & COUNTY COMMISSIONERS

Trey Thurman, County Attorney, Items for closed session as follows:

- Item 3 Attorney Client
- Item 5 Land Acquisition
- Item 6 Personnel

Allen Vann, Assistant County Manager, Items from Parks and Rec as follows:

- Summer Camp program continues at Topsail Elementary operates daily from 7 am to 6 pm
- Summer on the square concert is Thursday 7-14-22 featuring the Cat5 Band
- Hampstead Alive after Five concert is Friday 7-15-22 featuring Big City
- Teddy Bear Picnic day Hampstead Kiwanis park from 10 am to 11 am
- Topsail Sounds concert will be Tuesday 7/26/22 featuring Heart Stop.
- The main library in Burgaw is partnering with the town of Burgaw to present a new StoryWalk on the Osgood Canal Greenway.
- The NC Aquarium at Fort Fisher will be at both library locations on Thursday July 14th.

Carolyn Moser, Interim County Manager, informed the board that catalytic converters were stolen over the weekend from county vehicles.

Vice Chairwoman Newton, brought up the Opioid settlement money and where we needed to start with using the funds appropriately. She also discussed the intersection at Malpass Corner Rd and 421 and we need to address getting something done sooner than later.

Commissioner Williams, expressed his concerns with the path the board is taking with the hospital. He expressed his gratitude for being able to serve on the board.

Commissioner McCoy, stated he attended the Willard/Union fireworks celebration and it was very well attended and very nice.

Chairman Piepmeyer, stated he attended a WMPO meeting and explained the process of swapping projects between MPO and RPO etc. He also explained the bidding process that will be taking place with Pender Memorial Hospital.

Commissioner Brown made a motion to excuse Commissioner Williams from the meeting and Commissioner McCoy second. All in favor.

18 CLOSED SESSION (IF APPLICABLE).

Commissioner Brown made a motion to enter closed session at 5:38 PM pursuant to G.S. 143-318.11: 3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed

session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time; 5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment. 6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy matters may not be considered in a closed session.

18.1 Motion to add approval of new county manager to the agenda.

Moved by Fred McCoy, seconded by Jacqueline A. Newton

Motion Approved

	For	Against	Abstained	Absent
George Brown	x			
Fred McCoy	x			
Jacqueline A. Newton	x			
David Piepmeyer	x			
David Williams				x
	4	0	0	1

CARRIED.

18.2 Motion to approve David Andrews as the new Pender County Manager.

Moved by Jacqueline A. Newton, seconded by Fred McCoy

Motion Approved

	For	Against	Abstained	Absent
George Brown	x			
Fred McCoy	x			

Jacqueline A. Newton	x			
David Piepmeyer	x			
David Williams				x
	4	0	0	1

CARRIED.

19 7PM PUBLIC HEARINGS: SPECIAL USE PERMITS/ZONING MAP AMENDMENTS/ RESOLUTIONS

19.1 General Use Rezoning 2022-31

Chris Hatcher, Current Planner, presented on behalf of the applicant Ben Burgess, on behalf of B Squared LLC. They are requesting the approval of a Zoning Map Amendment to rezone one tract totaling approximately 303 acres of land from RP, Residential Performance zoning district to RA, Rural Agriculture zoning district. The subject property is located on the east side of Interstate 40, approximately 1,440 feet east of the intersection of Ashton Road and McCrary Road.

Vince Burgess, 11763 Ashton Rd, stated to the board that the applicant is requesting the rezoning to keep the property from being developed. They would like to possibly have a sod farm, or some other agricultural use of the property.

Moved by George Brown, seconded by Fred McCoy

Motion Approved

	For	Against	Abstained	Absent
George Brown	x			
Fred McCoy	x			
Jacqueline A. Newton	x			
David Piepmeyer	x			
David Williams				x
	4	0	0	1

CARRIED.

19.2 General Use Rezoning 2022-32

Daniel Adams, Flood Plain Administrator, presented on behalf of Michael Afify, applicant on behalf of Share the Table, Inc., owner, is requesting approval of a Zoning Map Amendment to rezone one tract

totaling approximately 0.6 acres of land from the RP, Residential Performance zoning district to the GB, General Business zoning district. The subject property is located on Perkins Drive, approximately 300 feet east of US Highway 17. The proposed Zoning Map Amendment is supported by two policies within the Pender 2.0 Comprehensive Land Use Plan that encourage low intensity commercial development that minimize impacts on existing residential uses. Although the proposed GB, General Business zoning district rezoning request is inconsistent with the Future Land Use Map, the size of the parcel and its proximity to commercially zoned property indicates that the inconsistencies are minimal. Therefore, Planning staff respectfully recommends approval of the Zoning Map Amendment as detailed in this report.

Moved by Fred McCoy, seconded by Jacqueline A. Newton

Motion Approved

	For	Against	Abstained	Absent
George Brown	x			
Fred McCoy	x			
Jacqueline A. Newton	x			
David Piepmeyer	x			
David Williams				x
	4	0	0	1

CARRIED.

19.3 Special Use Permit 2022-33

Greg Feldman, Current Planner, Booth & Associates, on behalf of Four County Electric Membership Corporation (FCEMC), owner, is requesting approval of a Special Use Permit for the construction of a utility substation facility with associated equipment. The subject property is located on the south side of Island Creek Road in the Topsail Township and may further be identified by Pender County PIN 3262-78-4633-0000. The applicant is seeking to obtain a Special Use Permit for Electric Bulk Power Transmission & Control to construct a substation facility within a 265' by 260' project boundary area. According to the applicant's submitted narrative, the facility would consist of steel structure members, transmission and distribution power poles, and various high-voltage equipment needed for the function of the substation as shown on the site plan below, the proposed substation would be adjacent to an existing transmission line.

Briana Eddy, Booth and Associates, confirmed with the board that Four County does own the 8 acres. She stated on the northern side there is a 30 feet setback and along the sides there is a 10 foot setback. For security reasons she stated there would need to be a chain link fence in place therefore it's not possible to have a natural buffer. Ms. Eddy also stated that any dangerous trees would need to be cleared to keep the station safe.

Chairman Piepmeyer asked staff if the hardships presented by four county have been addressed.

Travis Henley, Planning Director, stated that it would have to be decided upon via the variance process.

Briana Eddy, confirmed the fence would be around 6 feet tall with a 1 foot of barbed wire on the top.

Gregg Cohn, Four County, explained why there are Duke lines there as well the approximate size of the station.

Moved by George Brown, seconded by Fred McCoy

Motion Approved with the following condition: In lieu of buffer requirements, the applicant shall be required to provide a six foot chain link fence with slats to provide full visual opacity.

	For	Against	Abstained	Absent
George Brown	x			
Fred McCoy	x			
Jacqueline A. Newton	x			
David Piepmeyer	x			
David Williams				x
	4	0	0	1

CARRIED.

20 ADJOURNMENT

Commissioner Brown made motion to adjourn at 7:40 pm with Vice-chairwoman Newton second.

**Proposed School Bond Order for
Introduction**

**Bond Order Authorizing the Issuance of Pender County
General Obligation School Bonds in the Maximum Amount of
\$178,000,000, Subject to Voter Approval**

WHEREAS --

The Board of Commissioners of Pender County, North Carolina, has stated its proposal to issue general obligation bonds to pay capital costs of providing school facilities.

The County has applied to the North Carolina Local Government Commission for its approval of these bonds, and the Commission has accepted the County's application.

BE IT ORDERED by the Board of Commissioners of Pender County, North Carolina, as follows:

1. There are hereby ordered to be issued general obligation school bonds of the County to pay capital costs of providing school facilities, together with related financing and other necessary or incidental costs.
2. The maximum aggregate principal amount of the bonds issued for such purpose will be \$178,000,000.
3. Taxes will be levied in an amount sufficient to pay the principal of and interest on the bonds so issued.
4. A sworn statement of debt prepared by the County's Finance Officer has been filed with the Clerk to this Board and is open to public inspection.
5. This Bond Order will take effect when approved by the County's voters in the manner provided by law.

**Resolution setting public hearing and
authorizing filing of debt statements**

WHEREAS, there has been introduced at this meeting a Bond Order entitled as follows:

**Bond Order Authorizing the Issuance of Pender County General
Obligation School Bonds in the Maximum Amount of \$178,000,000,
Subject to Voter Approval**

AND WHEREAS, Section 159-57 of the General Statutes requires that a public hearing be held on the bond order prior to its adoption, Section 159-56 of the General Statutes requires publication of a notice of the hearing, and Section 159-55 of the General Statutes requires the filing of statements of debt and estimated interest prior to the public hearing;

BE IT THEREFORE RESOLVED by the Board of Commissioners of Pender County, North Carolina, that the County's Finance Officer is directed to prepare and file, prior to the publication of the notice of public hearing, a sworn statement of the County's net debt and a statement of estimated interest in the forms prescribed by statute;

AND BE IT FURTHER RESOLVED (1) that a public hearing on the bond order will be held at 4:00 p.m. (or as soon thereafter as the matter may be heard) on August 1, 2022, in the Board's regular meeting room, Pender County Administration Building, 805 S. Walker Street, Burgaw, North Carolina, and (2) that the Clerk to this Board is directed to publish a notice of the public hearing, in the form provided for in Section 159-56 of the General Statutes, one time, not less than six days prior to the hearing date, in a newspaper having general circulation in the County.



Pender County Government
Finance Department
PROCUREMENT POLICY

SUBJECT: Pender County Procurement Policy	Effective Date: 7.11.2022
Prepared by: Margaret Blue, Finance Director	
Approved by: Pender County Board of Commissioners	Approval Date:
Chairman's Signature: 	# of Pages: 11

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, State, and/or local funds are being used in whole or in part to pay for the cost of the contract.

II. Policy & General Procurement Standards

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

A. Application of Policy. This policy applies to contracts for purchases, services, and construction or repair work funded with Federal and/or State financial assistance (direct or reimbursed) as well as local funds. The requirements of this Policy also apply to any subrecipient 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. Necessity. Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing. Purchasing Department and/or Requesting Department is encouraged to consider surplus or buying used when feasible. When expending Federal funds, Pender County should check with the federal surplus property agency prior to buying new items when feasible and less expensive.

C. Compliance with Applicable Laws. 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 and/or state pass-through agency that awarded the funds. Pender County will follow all applicable local, state, and federal procurement requirements when expending respective funds. The most restrictive applicable policy provisions will be applied based on funding source.

All bid solicitations must indicate 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. No Evasion. No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or applicable State and Federal laws.

E. Minority/Women-owned Business Enterprise (M/WBE) Participation. Pender County will make every effort to solicit price quotes from M/WBE vendors and suppliers when feasible. For Federally funded contracts, Pender County will take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.

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.

F. Cost Analysis. For all procurements costing \$90,000 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.

G. Complete and 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. All other factors to be used in evaluating bids or proposals should be specified within the solicitation. Technical requirements must not contain features that restrict competition.

- H. 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 bonding, brand name specification, or other requirements that have the effect of restricting competition.
- I. Vendor Prequalification.** Only in accordance with N.C. G.S. 143-135.8, Pender County Governing Board reserves the right to require vendor prequalification for construction and repair projects when expressly indicated in advance of solicitation. Prequalification decisions will be promptly communicated in writing. Solicitation must explicitly establish means by which a bidder shall prequalify and, if applicable, protest of any prequalification decisions with sufficient time prior to the opening of bids for the bidder to obtain subsequent prequalification. If invoked, bids provided by any bidder not prequalified shall be deemed nonresponsive.
- J. 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. It is preferred that when a brand name is used as reference, it includes "or equal" whenever possible. Brand names may only be specified when the use of an alternative is impractical, uneconomical or creates a significant hardship.
- K. 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. All lease decisions must be thoroughly vetted by Finance.
- L. Geographic Preference.** No contract shall be awarded on the basis of a geographic preference.
- M. Formal/Sealed Bid Advertising & Opening.** For contracts valued at \$90,000 and above, 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."
- 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.
- N. Rejecting Bids.** Any and all bids may be rejected only for "sound documented reasons."

- O. Contract Award.** All Purchase, Construction and Repair, and Federally Funded Service Contracts shall be awarded to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract. In determining if a vendor is "responsible", Pender County may consider factors such as skills, abilities, and resources (ex: past performance, financial conditions, etc). All other contracts (unless federally funded) will be awarded to the best overall value for Pender County based on above, as well as response time, ability to meet demand, as well as other criteria specified in respective RFP/RFQ. Note that past performance may only be strongly considered when cost benefit analysis indicates justification.
- P. Contract Pricing.** 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.
- Q. Contract Requirements.** All contracts shall be in writing and the written contract must include or incorporate by reference the provisions required based on funding source. Federally funded contracts must include provisions required under 2 C.F.R § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II. Contracts are only authorized to be executed by the Chairman of the Governing Board or the County Manager.
- R. Suspension and Debarment.** No contract shall be awarded to a contractor currently included on the Federal or State listing of suspended or debarred vendors.
- S. Contractor Oversight.** The Requesting Department must maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.
- T. Documentation.** Documentation must be maintained within Finance specified centralized content management system 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, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract as applicable. All documentation relating to the award of any contract must be made available to the granting agency upon request.
- U. Approval by Governing Board.** Governing Board approval is required for any and all contracts greater than \$30,000 in the aggregate. The Governing Board has officially authorized the County Manager to execute contracts less than \$30,000 in the aggregate.

V. Adoption and Modification. The administrative procedures contained in this Policy have been formally adopted by the Governing Board of Pender County and may be implemented as necessary at the staff level to comply with Federal and State law. Official change of these policies must be formally adopted by the Governing Board of Pender County.

III. Exceptions

Non-competitive contracts are allowed **only** under the following conditions:

- A. Routine Expenditures.** A comprehensive listing of routine expenditures is defined in the annual budget ordinance.
- B. Sole Source.** A contract may be awarded without competitive bidding when the item is available from only one source, in the event of a proprietary maintenance contract, or when the vendor has an assigned territory. The Purchasing Department and/or Requesting Department shall document the justification for and lack of available competition for the item. In accordance with NC Procedure of Public Contracts (N.C. G.S. 143-129 (e) 6), all sole source Purchases must be approved by the Governing Board. Service contracts under \$5,000 can be considered sole source without Governing Board approval.
- C. 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. Public exigency circumstances must be authorized by the County Manager or Finance Director and thoroughly documented.
- D. Federal or State Contract.** A contract may be awarded without competitive bidding when the purchase is made from a Federal or State contract available on the U.S. General Services Administration or N.C. Department of Administration schedules of contracts.
- E. Authorized Cooperative Purchasing Agreement.** A contract may be awarded without competitive bidding when the purchase is made from an authorized Cooperative Purchasing Agreement. Authorized means approved in writing from the Pender County Finance/Procurement Office. Finance/Procurement will verify Cooperative Purchasing Agreement compliance with applicable Federal and State guidelines.
- F. Awarding Agency Approval.** A contract may be awarded without competitive bidding with the express written authorization of the Federal or State agency that awarded the funds so long as awarding the contract without competition is consistent with applicable laws. Note that per State law, local governments can only "piggy-back" on purchases in the formal procurement range.

- G. Sale of Personal Property less than \$30,000.** The County Manager is authorized to negotiate and conduct private sales of personal property valued at less than \$30,000, without board approval, upon the condition that the property is sold at fair market value. The County Manager must keep a record of all property sold and the sale price.

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. All Pender County Policies & General Procurement Standards apply unless otherwise stated.

- A. Service Contracts** (except for A/E professional services), **Construction and Repair Contracts**, and **Purchase Contracts costing less than \$5,000** 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 determined to be fair and reasonable as authorized by the Finance Department.
2. To the extent practicable, purchases must be distributed among qualified suppliers.
3. In accordance with NC Procedure of Public Contracts (N.C. G.S. 143-129 (e) 6), all sole source purchases must be approved by the Governing Board.

- B. Service Contracts** (except for A/E professional services), **Construction and Repair Contracts**, and **Purchase Contracts costing \$5,000 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). For Pender County policy "adequate number" is determined to be three or more whenever possible, unless otherwise documented.
2. **M/WBE Participation** efforts apply.
3. Contracts greater than \$30,000 require Governing Board approval. Contracts less than \$30,000 in the aggregate do not require Governing Board approval unless sole source exception applied. Contracts under \$30,000 must be authorized by County Manager.

C. Service Contracts (except for A/E professional services) costing \$90,000 up to \$250,000, Construction and Repair Contracts costing \$90,000 up to \$300,000 and Purchase Contracts costing \$90,000 and above shall be procured using a combination of the most restrictive requirements of the Uniform Guidance "sealed bid" procedure (2 C.F.R. § 200.320(c)) and State "formal bidding" procedures (N.C. G.S. 143-129) as follows:

1. **M/WBE Participation** efforts apply.
2. **Cost Analysis** (Section II, Part F) is required prior to soliciting bids.
3. **Complete and Clear Specifications** (Section II Part G) must be made available to all bidders.
4. **Formal/Sealed Bid Advertising & Opening** (Section II, Part L) procedures must be followed.
5. For Construction and Repair Contracts, a separately sealed 5% bid bond is required of all bidders to count towards minimum. Performance and payment bonds of 100% of the contract price is required of the winning bidder.
6. Contracts greater than \$30,000 require Governing Board approval.

D. Service Contracts (except for A/E professional services) costing \$250,000 and above 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. This determination is made only by the Finance Department. 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 an "adequate number" of qualified bids. For Pender County policy "adequate number" is determined to be three or more whenever possible, unless otherwise documented.
2. **M/WBE Participation** efforts apply.
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 awarding the winning bid.
6. Contracts greater than \$30,000 require Governing Board approval.

- E. Construction or repair contracts involving a building costing \$300,000 and above must comply with the following additional requirements under state law:**
1. Formal HUB (historically underutilized business) participation required under N.C. 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 N.C. 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 N.C. G.S. 143-129(a1).
- F. Construction and repair contracts costing \$500,000 and above shall be procured using a combination of the most restrictive requirements of the Uniform Guidance "sealed bid" procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (N.C. G.S. 143-129) as follows (for buildings, these items are in addition to Item H above):**
1. **M/WBE Participation** efforts apply.
 2. **Cost Analysis** (Section II, Part F) is required prior to soliciting bids.
 3. **Complete and Clear Specifications** (Section II Part G) must be made available to all bidders.
 4. **Formal/Sealed Bid Advertising & Opening** (Section II, Part L) procedures must be followed. NOTE a minimum of 3 bids must be received in order to open all sealed bids. If 3 are not received, project must rebid and at that time any bid can be considered regardless of the number received.
 5. For Construction and Repair Contracts, a separately sealed 5% bid bond is required of all bidders to count towards minimum. Performance and payment bonds of 100% of the contract price is required of the winning bidder.

G. Contracts for Architectural and Engineering Services using the Qualifications Based Selection Process shall be procured using the state "Mini-Brooks Act" requirements (N.C. 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. **M/WBE Participation** efforts apply.
3. Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ. Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department.
4. Proposals must be solicited from an "adequate number of qualified sources" (an "adequate number" is considered three or more unless express written authorization obtained from County Manager or Finance/Procurement Office).
5. Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm. Price cannot be a factor in the initial selection of the most qualified firm.
6. Consider all responses to the publicized RFQ to the maximum extent practical.
7. Rank respondents based on qualifications and select the best qualified firm.
8. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
9. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing Board approval is required unless the Governing Board has delegated award authority to an individual official or employee.
10. For State and Locally funded projects, the County Manager is authorized to exempt the County from the requirements of N.C. G.S. 143-64.32 (commonly referred to as the Mini- Brooks Act). This exemption provides the county with the ability to select an architect, engineer, surveyor, or alternative construction delivery method firm by whatever method it chooses (or no method at all). This exemption is capped at \$50,000, meaning the estimated cost of the contract cannot exceed this amount. Contracts with an estimated cost of \$50,000 must be procured via Qualification Based Selection (QBS). This exemption does not preclude or waiver any other county, state, or federal procurement requirement. Regardless of means of selection of services, all expenditures over the purchase order limit of \$30,000 must obtain Governing Board approval and have an executed agreement signed by the County Manager.

V. Conflicts of Interest and Gifts

This provision is to establish conflicts of interest guidelines that meet or exceed those required under 2 C.F.R. § 200.318(c)(1). This applies when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects funded in part or whole with federal or State financial assistance (direct or reimbursed). This policy also applies to any subrecipient of the funds.

The employee responsible for managing a federal or State 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 officers, employees, elected officials, governing body members, and agents, including subrecipients, 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 N.C. G.S. 14-234, no officer, employee, elected official, governing body member, or agent of Pender County may participate directly or indirectly in the selection, award, or administration of a contract supported by a federal or State award if he or she has a real or perceived conflict of interest. A real or perceived conflict exists when any of the following parties has a financial or other interest in or receives a tangible personal benefit from award of a contract:

1. the officer, employee, elected official, governing body member, or agent involved in the selection, award, or administration of a contract;
2. any member of his or her immediate family (as defined in Personnel Policy);
3. his or her partner; or
4. an organization which employs or is about to employ any of these parties.

Any officer, employee, elected official, governing body member, 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. The County Manager and elected officials should report any conflict of interest directly to the Governing Board via the Chairman of the Board. Any such conflict shall be disclosed in writing to the federal or State award agency or pass-through entity in accordance with applicable Federal or State awarding agency policy.

Contractors that are related to County personnel having any influence over the decisions to consider or award a contract are strictly prohibited from bidding or accepting award of County contracts.

- B. Gifts or Favors.** In addition to the prohibition against accepting gifts and favors from vendors and contractors under N.C. G.S. 133-32, officers, employees, elected officials, governing body members, and agents of Pender County are prohibited from accepting or soliciting gifts, gratuities, favors, or anything of monetary value from contractors, suppliers, or parties to subcontracts. Exceptions include but are not limited to: honoraria, souvenirs/promotional items of nominal value (less than \$25), meals at banquets, gifts to professional organizations, and non-business customary gifts from family and friends.
- C. Violations.** 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.

LEASE AGREEMENT
Pender County, North Carolina

THIS LEASE AGREEMENT (this "Lease") is made this 11th day of JULY, 2022, by and between **Clayton Properties Group, Inc., d/b/a Mungo Homes**, a Tennessee corporation (the "Lessor"), and **Pender County**, a political body (the "Lessee"). Lessor and Lessee each may be referred herein as a "Party" or, collectively, as the "Parties".

RECITALS

A. Lessor is the owner of certain real property located in Pender County, North Carolina, and more particularly described on Exhibit A attached hereto and incorporated herein (the "Leased Premises").

B. Lessee is desirous of leasing the Leased Premises from Lessor, and Lessor desires to lease the Leased Premises to Lessee on the terms, covenants and conditions more fully set forth herein this Lease.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Lease. Lessor does hereby let, lease and demise the Leased Premises unto Lessee, and Lessee does hereby lease the Leased Premises from Lessor.

2. Conservation Easements. Lessee acknowledges that the Leased Premises is subject to the following conservation easements (collectively, the "Conservation Easements"): (i) Upland Conservation Easement by and between Foy Family Limited Partnership and North Carolina Coastal Land Trust dated August 30, 2007 and recorded August 31, 2007 in Book 3307 at Page 244, records of Pender County, North Carolina, and (ii) Water Quality Conservation Easement by and between Foy Family Limited Partnership and North Carolina Coastal Land Trust dated August 30, 2007 and recorded August 31, 2007 in Book 3307 at Page 220, records of Pender County, North Carolina. Lessee acknowledges that it has had the opportunity to review the terms, conditions, requirements and prohibitions of the Conservation Easements and warrants to Lessor that it shall comply with the terms, conditions, requirements and prohibitions of the Conservation Easements, as Lessor is entering into this Lease in reliance thereon. Lessor has (1) the right to enter upon the Leased Premises from time to time as Lessor deems necessary to monitor for compliance with the terms of the Conservation Easements, and (2) the right, but not the obligation, to undertake any work which may be required to ensure compliance with the Conservation Easements.

3. Term. The primary term of this Lease shall be the period commencing on the 11th day of JULY, 2022, and terminating on the date the Leased Premises is conveyed by Lessor to Lessee pursuant to Section 6 herein (the "Term"), unless earlier terminated pursuant to the terms of this Lease. Lessor or Lessee may agree to terminate this Lease by written notice to the other Party at least thirty (30) days prior to the termination of the Term. Upon the expiration or other termination of this Lease, Lessee shall surrender the Leased Premises in as good condition as when delivered, reasonable wear and tear excepted.

4. Rent. For the Term of the Lease, Lessee shall pay to Lessor, without notice, demand or offset, a yearly rent in the amount of Five and 0/100 (\$5.00) Dollars ("Rent"). Rent shall be due on or before the 15th day of July every year during the Term of this Lease.

5. Use. Lessee shall use the Leased Premises solely for the purpose of operating a nature park pursuant to the terms of the Conservation Easements.

6. Conveyance of Leased Premises. At such time that Lessor is prepared to convey the Leased Premises to Lessee, Lessor shall provide written notice of such intent to Lessee. Lessor shall thereafter convey the Leased Premises to Lessee by limited warranty deed within ten (10) days after providing such notice, and Lessee is committed to the potential future conveyance of the Leased Premises by the Lessor. Upon such conveyance, this Lease will automatically terminate.

7. Assignment and Subletting. Lessee shall not have the right to assign this Lease or sublet the Leased Premises or any portion thereof.

8. Improvements. Lessee may make improvements to the Leased Premises, provided, however, that any such improvements shall not be in contravention to the terms of the Conservation Easements. Lessee shall not allow nor permit waste of the Leased Premises.

9. Hazardous Substances. Lessee shall at all times, at its own cost and expense, comply with all federal, state and local laws, ordinances, regulations and standards ("Hazardous Substance Laws") relating to the use, analysis, production, storage, sale, disposal or transportation of any hazardous materials, including oil or petroleum products or their derivatives, solvents, PCB's, explosive substances, asbestos, radioactive materials or waste, and any other toxic, ignitable, reactive, corrosive, contaminating or pollution materials ("Hazardous Substances") which are now or in the future subject to any governmental regulation. Lessee shall not place or allow any Hazardous Substances upon the Leased Premises.

10. Taxes. Lessor shall pay all taxes, assessments, and other charges which may be levied, assessed or charged against the Leased Premises.

11. Utilities. Lessor shall be responsible for payment for all utility services required on the Leased Premises.

12. Repairs and Maintenance. Lessee shall, at all times during the Term, at its own cost and expense, put, keep and maintain the Leased Premises and all fixtures and personalty located on it in good order and condition, normal wear and tear excepted. Lessee shall make all necessary repairs, restorations and replacements thereof, structural and nonstructural (hereinafter collectively called "Repairs"), and shall use all reasonable precaution to prevent waste, damage or injury.

13. Inspection. Lessor or its representatives shall have the right to enter the Leased Premises, with reasonable prior notice, to ascertain if the Leased Premises are in proper repair and condition; provided, however Lessee's business operations being conducted in the Leased Premises shall not be unreasonably disturbed or interfered with during such entry.

14. Notices. Any notice that may be required under this Lease shall be addressed to the party to whom it is intended and delivered (i) personally, (ii) by certified mail, return receipt requested, or (iii)

by nationally recognized overnight courier. Notices shall be deemed delivered (a) when handed to a known agent of a party, if delivered personally, (b) three (3) business days after deposit in a valid receptacle of the United States mail, or (c) the date following deposit with a nationally recognized overnight courier for next day delivery.

To Lessor to:

Attn: _____
Telephone: _____
E-mail: _____

To Lessee to:

Attn: _____
Telephone: _____
E-mail: _____

15. Quiet Enjoyment: Lessee shall have quiet and peaceful possession of the Leased Premises during the term of this Lease as against the acts of Lessor.

16. Insurance. Lessee shall maintain Commercial General Liability Insurance applicable to the Leased Premises and its appurtenances of at least \$2,000,000 per occurrence ("Lessee's Insurance"). Lessee's Insurance shall: (i) be written by insurance companies duly licensed in the State of North Carolina, and having a "General Policyholders Rating" of at least A, VII, as set forth in the most current issue of "Best's Insurance Guide," (ii) be primary and non-contributing with any other insurance available to, or carried by, Lessor; and (iii) with respect to Commercial General Liability Insurance, shall name Lessor as an additional insured.

On or before the Commencement Date, and again at least ten (10) days before any insurance policy required of Lessee hereunder or otherwise maintained by Lessee shall expire, Lessee will deliver to Lessor an original certificate of all such insurance (or, as the case may be, certificate evidencing the renewal of all such insurance) and such other evidence satisfactory to Lessor of the maintenance of all insurance coverages required of Lessee hereunder

17. Intentionally deleted.

18. Enforcement/Attorneys' Fees. If any action at or in equity shall be brought to recover any rent under this Lease, on account of any breach, of, or to enforce or interpret any of the covenants, terms, or conditions of this Lease Agreement, or for the recovery of the possession of the Leased Premises, the prevailing party shall be entitled to recover from the other party as part of the prevailing party's cost, a reasonable attorneys' fee, the amount of which shall be fixed by the court and shall be made a part of any judgment rendered.

19. General Provisions.

a. Authority. Each Party hereby represents and warrants to the other Parties that it has the full power and authority to enter into and to execute this Lease, and that all necessary corporate or company action has been taken to duly authorize the execution, delivery and performance of this Lease.

b. Binding Effect. This Lease shall be binding upon and inure to the benefit of the parties, and their respective successors and assigns.

c. Severability. If any provision of this Lease or the application of any provision of this Lease to any person or circumstance is, to any extent, held to be invalid or unenforceable, the remainder of this Lease or the application of that provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected, and each provision of this Lease will be valid and be enforced to the fullest extent permitted by law.

d. Captions. Headings and captions to the sections in this Lease are included for convenience only and do not modify any of the terms of this Lease.

e. Further Assurances. Each party to this Lease will, at its own cost and expense, execute and deliver such further documents and instruments and will take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Lease.

f. No Partnership. Nothing contained in this Lease shall be construed to make the Parties hereto partners or joint venturers or render any of said Parties liable for the debts or obligations of the other.

g. No Waiver. No term, covenant, representation, warranty or condition of this Lease may be waived without the execution of a written instrument signed by the Lessor. The failure of Lessor at any time to require performance of any provision under this Lease, or to exercise any remedy available to it hereunder or at law, shall in no manner affect the right of Lessor to enforce or exercise the same at any later date. Furthermore, no waiver by Lessor of any condition, term, covenant, representation, remedy or warranty contained in this Lease or available at law, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of the same.

h. Governing Law and Venue. This Lease shall be exclusively governed by and construed in accordance with the laws of the State of North Carolina. Any action brought by any party hereto shall be brought within the State Court of Pender County.

i. Counterparts. This Lease may be executed in multiple counterparts, the signatures pages of which may be compiled to constitute an original document.

j. Entire Agreement. This Lease and any attached addenda constitute the entire agreement between the Parties, and no oral statement or amendment not reduced to writing and signed by all Parties shall be binding.

[Signature pages follow]

IN WITNESS WHEREOF, the Parties have caused this instrument to be duly executed, the day and year first above written.

LESSOR

CLAYTON PROPERTIES GROUP, INC.
A Tennessee Corporation

By: [Signature]
Name: James Lee McLoud
Its: Assistant Secretary

STATE OF South Carolina

COUNTY OF Charleston
(County where acknowledgment taken)

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purposes stated therein and in the capacity(ies) indicated above: James Lee McLoud

Date: 7/11/2020

Official Signature of Notary: Jessica Bullock
[As name appears on seal]

Printed Name of Notary: Jessica Bullock
[As name appears on seal]

My commission expires: 10/21/2025

[AFFIX OFFICIAL SEAL]



IN WITNESS WHEREOF, the Parties have caused this instrument to be duly executed, the day and year first above written.

LESSEE

PENDER COUNTY

By:

Name:

Its:

David Piepmeyer
David Piepmeyer
Chairman Pender Co. Board of County Commissioners

STATE OF

North Carolina

COUNTY OF

Pender

(County where acknowledgment taken)

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purposes stated therein and in the capacity(ies) indicated above: David Piepmeyer

Date: 7-11-2022

Official Signature of Notary:

Tera C Cline
[As name appears on seal]

Printed Name of Notary:

Tera C Cline
[As name appears on seal]

TERA C CLINE
Notary Public, North Carolina
Pender County
My Commission Expires
February 02, 2026

My commission expires:

2/2/2026

[AFFIX OFFICIAL SEAL]

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

Margaret C. Blue
Finance Officer

EXHIBIT A

Leased property includes all of Clean Water Easement Tract 31.64 acres, Upland Conservation Easement 31.07 acres, along with Abbey Nature Preserve entrance off Hwy 17, Farm Road, parking and trails within Tract 1 as recorded 6/29/22 Plat Blk 70, PG 63 and represented in the drawings below. Drawing is not to scale and there may be trails outside the red lines which are included in the leased area.

