

GRANT CONTRACT NO. CW28234
Recycling Project for Downtown FayettevilleSTATE OF NORTH CAROLINA
COUNTY OF WAKEGRANTEE'S FEDERAL
IDENTIFICATION
NUMBER: ****1226****North Carolina Department of Environmental Quality**
Financial Assistance Agreement

This financial assistance agreement is hereby made and entered into by and between the **NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY** (the "Department") and the **CITY OF FAYETTEVILLE** (the "Grantee"¹).

1. **Audit and Other Reporting Requirements of the Local Government Commission.** If subject to the audit and other reporting requirements of the Local Government Commission pursuant to Article 3 of Chapter 159 of the North Carolina General Statutes (Local Government Budget and Fiscal Control Act), the Grantee understands and agrees that the terms, conditions, restrictions and requirements hereinafter set forth shall only apply to the extent not inconsistent with, or superseded by, the audit and other reporting requirements of the Local Government Commission.
2. **Contract Documents.** The agreement between the parties consists of this document (the "Contract Cover") and its attachments, which are identified by name as follows:
 - a. State's General Terms and Conditions (Attachment A)
 - b. Department's Request for Proposals ("RFP") (Attachment B)
 - c. Grantee's Response to RFP, including scope of work, line item budget, budget narrative and, *if applicable*, indirect cost documentation (hereinafter referred to generally as the "Award Proposal") (Attachment C)
 - d. Notice of Certain Reporting and Audit Requirements (Attachment D)

Together, these documents (the "Contract Documents") constitute the entire agreement between the parties (the "Agreement"), superseding all prior oral or written statements or agreements. Modifications to this Contract Cover or to any other Contract Document may only be made through written amendments processed by the Department's Financial Services Division. Any such written amendment must be duly executed by an authorized representative of each party.

3. **Precedence Among Contract Documents.** In the event of a conflict or inconsistency between or among the Contract Documents, the document with the highest relative precedence shall prevail. This Contract Cover shall have the highest precedence. The order of precedence thereafter shall be determined by the order of documents listed in § 2 above, with the first-listed document having the second-highest precedence and the last-listed document having the lowest precedence. If there are multiple contract amendments, the most recent amendment has the highest precedence and the oldest amendment has the lowest precedence.
4. **Contract Period.** This Agreement shall be effective from **the date of the last signature to June 30, 2023**, inclusive of those dates.
5. **Grantee's Duties.** As a condition of the grant award, the Grantee agrees to:
 - a. Undertake and deliver the grant award project, plan or services as described in the Award Proposal (Attachment C), adhering to all budgetary provisions set out therein throughout the course of performance.
 - b. Ensure that all award funds are expended in a manner consistent with the purposes for which they were awarded, as described more fully in the attached Contract Documents.

¹ The contract documents attached hereto may at times use alternative terms to describe the Grantee. Such terms might include, but are not necessarily limited to, the following (in common or proper form): "recipient," "applicant," or "participant."

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- c. Comply with the requirements of 09 NCAC 03M .0101, *et seq.* (Uniform Administration of State Awards of Financial Assistance), including, but not limited to, those provisions relating to audit oversight, access to records, and availability of audit work papers in the possession of any auditor of any recipient of State funding.
 - d. Comply with the applicable provisions of Attachment D, Notice of Certain Reporting and Audit Requirements.
 - e. Maintain all records related to this Agreement (i) for a period of six (6) years following the date on which this Agreement expires or terminates, or (ii) until all audit exceptions have been resolved, whichever is longer.
 - f. Comply with all laws, ordinances, codes, rules, regulations, and licensing requirements applicable to its performance hereunder and/or the conduct of its business generally, including those of Federal, State, and local agencies having jurisdiction and/or authority.
 - g. Obtain written approval from the Department's Contract Administrator (see § 14 below) prior to making any subaward or subgrant not already described in the Award Proposal.
 - h. Ensure that the terms, conditions, restrictions and requirements of this Contract Cover, including those incorporated by reference to other Contract Documents and/or applicable law, are made applicable to, and binding upon, any subgrantee who receives as a subaward or subgrant any portion of the award funds made available to the Grantee hereunder.
 - i. Take reasonable measures to ensure that any subgrantee (i) complies with the terms, conditions, restrictions and requirements set forth in this Contract Cover, including those incorporated by reference to other Contract Documents and/or applicable law, and (ii) provides such information in its possession as may be necessary for the Grantee to comply with such terms, conditions, restrictions and requirements.
- 6. Historically Underutilized Businesses.** Historically Underutilized Businesses (HUBs) consist of minority, women and disabled business firms that are at least fifty-one percent owned and operated by an individual(s) of the categories. Also included in this category are disabled business enterprises and non-profit work centers for the blind and severely disabled.

Pursuant to G.S. 143B-1361(a), 143-48 and 143-128.4, the Department invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled. This includes utilizing subcontractors to perform the required functions in this contract. Any questions concerning NC HUB certification, contact the [North Carolina Office of Historically Underutilized Businesses](#) at (919) 807-2330.

- 7. Department's Duties.** The Department shall pay the Grantee in the manner and amounts specified below and in accordance with the approved budget set forth in the Award Proposal.
- 8. Total Award Amount.** The total amount of award funds paid by the Department to the Grantee under this Agreement shall not exceed **ELEVEN THOUSAND FIVE HUNDRED DOLLARS (\$11,500.00)** (the "Total Award Amount"). This amount consists of:

Funding:

| Type of Funds | Funding Source | CFDA No. |
|----------------|---------------------------------|----------|
| Appropriations | North Carolina General Assembly | N/A |

Account Coding Information:

| Dollars | GL Company | GL Account | GL Center |
|-------------|------------|------------|-----------|
| \$11,500.00 | 1602 | 536962 | 6760 |

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Grantee Matching Information:

- ☐ a. There are no matching requirements from the Grantee.
- ☐ b. There are no matching requirements from the Grantee; however, the Grantee has committed the following match to this project:

| | | |
|--|------------------|----|
| | In-Kind | \$ |
| | Cash | \$ |
| | Cash and In-Kind | \$ |
| | Other / Specify: | \$ |

- ☒ c. The Grantee's matching requirement is **\$2,300.00**, which shall consist of:

| | | |
|---|------------------|------------|
| | In-Kind | \$ |
| X | Cash | \$2,300.00 |
| | Cash and In-Kind | \$ |
| | Other / Specify: | \$ |

- ☐ d. The Grantee is committing to an additional \$ to complete the project or services described in the Award Proposal.

Based on the figures above, the total contract amount is **\$13,800.00**.

9. Invoice and Payment. The award funds shall be disbursed to the Grantee in accordance with the following provisions:

- a. The Grantee shall submit invoices to the Department's Contract Administrator at least quarterly. The final invoice must be received by the Department within forty-five (45) days following the date on which termination or expiration of this Agreement becomes effective. Amended or corrected invoices must be received by the Department's Financial Services Division within six (6) months of such date. Any invoice received thereafter shall be returned without action.
- b. The Department shall reimburse the Grantee for actual allowable expenditures, with the Department retaining a minimum of ten percent (10%) of the Total Award Amount until all grant-related activities are completed and all reports/deliverables are received and accepted by the Department. As used herein, "allowable expenditures" are expenditures associated with work conducted to meet performance obligations under this Agreement, provided such work is carried out in a manner consistent with the Award Proposal. The Department may withhold payment on invoices when performance goals and expectations have not been met or when the manner of performance is inconsistent with Attachment C.

10. Grantee's Fiscal Year. The Grantee represents that its fiscal year is from July 1 to June 30.

11. Availability of Funds. The Grantee understands and agrees that payment of the sums specified herein shall be subject to, and contingent upon, the allocation and appropriation of funds to the Department for the purposes described in this Agreement.

12. Reversion of Unexpended Funds. The Grantee understands and agrees that any unexpended grant funds shall revert to the Department upon termination of this Agreement.

13. Supplantation of Expenditure of Public Funds. The Grantee understands and agrees that funds received pursuant to this Agreement shall be used only to supplement, not to supplant, the total amount of Federal, State and local public funding that the Grantee would otherwise expend to carry out the project or services described in the Award Proposal.

14. Contract Administrators. Each party shall submit notices, questions and correspondence related to this Agreement to the other party's Contract Administrator. The contact information for each party's Contract Administrator is set out below.

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Either party may change its Contract Administrator and/or the associated contact information by giving timely written notice to the other party.

| Grantee Contract Administrator | Department's Contract Administrator |
|--|--|
| David L. Thompson, Solid Waste Manager City of Fayetteville 433 Hay Street Fayetteville NC 28301-5537 Telephone: (910) 433-1984 Email: davidthompson@fayettevilleNC.gov | David Hance North Carolina Department of Environmental Quality, Division of Environmental Assistance and Customer Service 1639 Mail Service Center Raleigh NC 27699-1639 Telephone: (919) 707-8122 Email: david.hance@ncdenr.gov |

- 15. Assignment.** The Grantee may not assign its obligations or its rights to receive payment hereunder.
- 16. Procurement.** The Grantee understands and agrees that all procurement activities undertaken in connection with this Agreement shall be subject to the following provisions:
- None of the work or services to be performed under this Agreement involving the specialized skill or expertise of the Grantee shall be contracted without prior written approval from the Department.
 - In the event the Grantee or any subrecipient of the Grantee contracts for any of the work to be performed hereunder, the Grantee shall not be relieved of any duties or responsibilities herein set forth.
 - The Grantee shall not contract with any vendor who is restricted from contracting with the State of North Carolina pursuant to N.C.G.S. §§ 143-133.3, 143-59.1, 143-59.2 or 147-86.60.
- 17. Subawards.** The Grantee understands and agrees that any subaward or subgrant of any portion of the financial assistance provided hereunder shall not relieve the Grantee of any duties or responsibilities herein set forth.
- 18. Title VI and Other Nondiscrimination Requirements.** Throughout the course of its performance hereunder, the Grantee shall comply with all applicable State and Federal laws, regulations, executive orders and policies relating to nondiscrimination, including, but not limited to:
- Title VI of the Civil Rights Act of 1964, as amended;
 - Civil Rights Restoration Act of 1987, as amended;
 - Section 504 of the Rehabilitation Act of 1973, as amended;
 - Age Discrimination Act of 1975, as amended;
 - Titles II and III of the Americans with Disabilities Act of 1990, as amended;
 - Title IX of the Education Amendments of 1972, as amended;
 - Part III of Executive Order No. 11246 (September 24, 1965), as amended; and
 - Section 13 of the Federal Water Pollution Control Act Amendments of 1972.

In accordance with the above laws and their implementing regulations, the Grantee agrees to ensure that no person in the United States is, on the basis of race, color, national origin, sex, age or disability, excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity for which the Grantee receives Federal

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assistance. For purposes of this provision, "program or activity" shall have the meaning ascribed to that term under Federal law (see 42 U.S.C.S. § 2000d-4a).

The Grantee understands and acknowledges that, in addition to itself, any lower-tier recipient of the financial assistance provided hereunder must also comply with the requirements of this section. Accordingly, the Grantee agrees to include a similar provision in any financial assistance agreement made with any lower-tier recipient of such assistance.

19. **E-Verify.** To the extent applicable, the Grantee represents that it and each of its subgrantees, contractors and/or subcontractors performing work pursuant to, or in association with, this Agreement are in compliance with Article 2 of Chapter 64 of the North Carolina General Statutes, including, in particular, the requirement that certain employers verify the work authorization of newly hired employees using the Federal E-Verify system.
20. **Termination by Mutual Consent.** This Agreement may be terminated by mutual consent of the parties, provided the consent is documented in writing and duly executed by an authorized representative of each party.
21. **Survival.** Any provision contained in this or any other Contract Document that contemplates performance or observance subsequent to the termination or expiration of this Agreement shall survive the termination or expiration hereof and continue in full force and effect.
22. **Signature Warranty.** The undersigned represent and warrant that they are authorized to bind their principals to the terms and conditions of this Contract Cover and the Agreement generally, including those incorporated by reference to applicable law.

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IN WITNESS WHEREOF, each party has caused this Agreement to be executed by the duly authorized representative in duplicate originals, one of which is retained by each of the Parties.

CITY OF FAYETTEVILLE

DocuSigned by:
By Adam J. Lindsay
B1BDA5E07E524B2
Grantee's Signature

Adam J. Lindsay, Assistant City Manager
Printed Name and Title

City of Fayetteville
Organization

7/26/2022
Date Signed

NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY

DocuSigned by:
By Tommy Kirby
BB6D023B689A466
Signature of Department Head or Authorized Agent

Tommy Kirby, Purchasing Director
Printed Name and Title

Financial Services Division, Purchasing and Contracts Section
Division/Section

7/26/2022
Date Signed

ORIGINAL

**General Terms and Conditions
Governmental Entities****DEFINITIONS**

Unless indicated otherwise from the context, the following terms shall have the following meanings in this Contract. All definitions are from 9 NCAC 3M.0102 unless otherwise noted. If the rule or statute that is the source of the definition is changed by the adopting authority, the change shall be incorporated herein.

- (1) "Agency" (as used in the context of the definitions below) means and includes every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political sub-agency of government. For other purposes in this Contract, "Agency" means the entity identified as one of the parties hereto.
- (2) "Audit" means an examination of records or financial accounts to verify their accuracy.
- (3) "Certification of Compliance" means a report provided by the Agency to the Office of the State Auditor that states that the Grantee has met the reporting requirements established by this Subchapter and included a statement of certification by the Agency and copies of the submitted grantee reporting package.
- (4) "Compliance Supplement" refers to the North Carolina State Compliance Supplement, maintained by the State and Local Government Finance Agency within the North Carolina Department of State Treasurer that has been developed in cooperation with agencies to assist the local auditor in identifying program compliance requirements and audit procedures for testing those requirements.
- (5) "Contract" means a legal instrument that is used to reflect a relationship between the agency, grantee, and sub-grantee.
- (6) "Fiscal Year" means the annual operating year of the non-State entity.
- (7) "Financial Assistance" means assistance that non-State entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance. Financial assistance does not include amounts received as reimbursement for services rendered to individuals for Medicare and Medicaid patient services.
- (8) "Financial Statement" means a report providing financial statistics relative to a given part of an organization's operations or status.
- (9) "Grant" means financial assistance provided by an agency, grantee, or sub-grantee to carry out activities whereby the grantor anticipates no programmatic involvement with the grantee or sub-grantee during the performance of the grant.
- (10) "Grantee" has the meaning in NCGS 143C-6-23(a)(2): a non-State entity that receives a grant of State funds

from a State agency, department, or institution but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. For other purposes in this Contract, "Grantee" shall mean the entity identified as one of the parties hereto. For purposes of this contract, Grantee also includes other State agencies such as universities.

- (11) "Grantor" means an entity that provides resources, generally financial, to another entity in order to achieve a specified goal or objective.
- (12) "Non-State Entity" has the meaning in NCGS 143C-1-1(d)(18): A firm, corporation, partnership, association, county, unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution.
- (13) "Public Authority" has the meaning in NCGS 159-7(10): A municipal corporation that is not a unit of local government or a local governmental authority, board, commission, council, or agency that (i) is not a municipal corporation, (ii) is not subject of the State Budget Act, and (iii) operates on an area, regional, or multiunit basis, and the budgeting and accounting systems of which are not fully a part of the budgeting and accounting systems of a unit of local government.
- (14) "Single Audit" means an audit that includes an examination of an organization's financial statements, internal controls, and compliance with the requirements of Federal or State awards.
- (15) "Special Appropriation" means a legislative act authorizing the expenditure of a designated amount of public funds for a specific purpose.
- (16) "State Funds" means any funds appropriated by the North Carolina General Assembly or collected by the State of North Carolina. State funds include federal financial assistance received by the State and transferred or disbursed to non-State entities. Both Federal and State funds maintain their identity as they are sub-granted to other organizations. Pursuant to NCGS 143C-6-23(a)(1), the terms "State grant funds" and "State grants" do not include any payment made by the Medicaid program, the Teachers' and State Employees' Comprehensive Major Medical Plan, or other similar medical programs.
- (17) "Sub-grantee" has the meaning in NCGS 143C-6-23(a)(4): a non-State entity that receives a grant of State funds from a grantee or from another sub-grantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

- (18) "Unit of Local Government has the meaning in NCGS 159-7(b)(15): A municipal corporation that has the power to levy taxes, including a consolidated city- county as defined by NCGS 160B-2(1), and all boards, agencies, commissions, authorities, and institutions thereof that are not municipal corporations.

Relationships of the Parties

Independent Contractor: The Grantee is and shall be deemed to be an independent contractor in the performance of this Contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Grantee represents that it has, or shall secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with, the Agency.

Subcontracting: To subcontract work to be performed under this contract which involves the specialized skill or expertise of the Grantee or his employees, the Grantee first obtains prior approval of the Agency Contract Administrator. In the event the Grantee subcontracts for any or all of the services or activities covered by this contract: (a) the Grantee is not relieved of any of the duties and responsibilities provided in this contract; (b) the subcontractor agrees to abide by the standards contained herein or to provide such information as to allow the Grantee to comply with these standards, and; (c) the subcontractor agrees to allow state and federal authorized representatives access to any records pertinent to its role as a subcontractor.

Sub-grantees: The Grantee has the responsibility to ensure that all sub-grantees, if any, provide all information necessary to permit the Grantee to comply with the standards set forth in this Contract.

Assignment: The Grantee may not assign the Grantee's obligations or the Grantee's right to receive payment hereunder. However, upon Grantee's written request approved by the issuing purchasing authority, the Agency may:

- (a) Forward the Grantee's payment check(s) directly to any person or entity designated by the Grantee, or
- (b) Include any person or entity designated by Grantee as a joint payee on the Grantee's payment check(s).

Such approval and action does not obligate the State to anyone other than the Grantee and the Grantee remains responsible for fulfillment of all contract obligations.

Beneficiaries: Except as herein specifically provided otherwise, this Contract inures to the benefit of and is binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this Contract, and all rights of action relating to such enforcement, are strictly reserved to the Agency and the named Grantee. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Agency and Grantee that any

third person receiving services or benefits under this Contract is an incidental beneficiary only.

Indemnity

Indemnification: In the event of a claim against either party by a third party arising out of this contract, the party whose actions gave rise to the claim is responsible for the defense of the claim and any resulting liability, provided that a party may not waive the other party's sovereign immunity or similar defenses. The parties agree to consult with each other over the appropriate handling of a claim and, in the event they cannot agree, to consult with the Office of the Attorney General.

Insurance: During the term of the contract, the Grantee at its sole cost and expense provides commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the Grantee provides and maintains the following coverage and limits:

- (a) **Worker's Compensation:** The Grantee provides and maintains Worker's Compensation insurance as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$500,000.00, covering all of Grantee's employees who are engaged in any work under this contract. If any work is sublet, the Grantee requires the subgrantee to provide the same coverage for any of his employees engaged in any work under this contract.
- (b) **Commercial General Liability:** General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$1,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)
- (c) **Automobile:** Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles used in performance of the contract. The minimum combined single limit is \$500,000.00 bodily injury and property damage; \$500,000.00 uninsured/under insured motorist; and \$25,000.00 medical payment.

Providing and maintaining adequate insurance coverage is a material obligation of the Grantee and is of the essence of this contract. The Grantee may meet its requirements of maintaining specified coverage and limits by demonstrating to the Agency that there is in force insurance with equivalent coverage and limits that will offer at least the same protection to the Agency. Grantee obtains insurance that meets all laws of the State of North Carolina. Grantee obtains coverage from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Grantee complies at

all times with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the Grantee do not limit the Grantee's liability and obligations under the contract.

Default and Termination

Termination by Mutual Consent: Either party may terminate this agreement upon sixty (60) days notice in writing from the other party. In that event, all finished or unfinished documents and other materials, at the option of the Agency, be submitted to the Agency. If the contract is terminated as provided herein, the Grantee is paid in an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this agreement; for costs of work performed by subcontractors for the Grantee provided that such subcontracts have been approved as provided herein; or for each full day of services performed where compensation is based on each full day of services performed, less payment of compensation previously made. The Grantee repays to the Agency any compensation the Grantee has received which is in excess of the payment to which he is entitled herein.

Termination for Cause: If, through any cause, the Grantee fails to fulfill in timely and proper manner the obligations under this agreement, the Agency thereupon has the right to terminate this contract by giving written notice to the Grantee of such termination and specifying the reason thereof and the effective date thereof. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Grantee, at the option of the Agency, be submitted to the Agency, and the Grantee is entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials. The Grantee is not relieved of liability to the Agency for damages sustained by the Agency by virtue of any breach of this agreement, and the Agency may withhold payment to the Grantee for the purpose of set off until such time as the exact amount of damages due the Agency from such breach can be determined.

Waiver of Default: Waiver by the Agency of any default or breach in compliance with the terms of this Contract by the Grantee is not a waiver of any subsequent default or breach and is not a modification of the terms of this Contract unless stated to be such in writing, signed by an authorized representative of the Agency and the Grantee and attached to the contract.

Availability of Funds: The parties to this Contract agree and understand that the payment of the sums specified in this Contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Agency.

Force Majeure: Neither party is in default of its obligations hereunder if it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

Survival of Promises: All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

Intellectual Property Rights

Copyrights and Ownership of Deliverables: Any and all copyrights resulting from work under this agreement shall belong to the Grantee. The Grantee hereby grants to the North Carolina Department of Environmental Quality a royalty-free, non-exclusive, paid-up license to use, publish and distribute results of work under this agreement for North Carolina State Government purposes only.

Compliance with Applicable Laws

Compliance with Laws: The Grantee understands and agrees that it is subject to compliance with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

Equal Employment Opportunity: The Grantee understands and agrees that it is subject to compliance with all Federal and State laws relating to equal employment opportunity.

Confidentiality

Confidentiality: As authorized by law, the Grantee keeps confidential any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Grantee under this agreement and does not divulge or make them available to any individual or organization without the prior written approval of the Agency. The Grantee acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information it will safeguard and not further disclose the information except as otherwise provided in this Contract or without the prior written approval of the Agency.

Oversight

Access to Persons and Records: The State Auditor and the using agency's internal auditors shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with NCGS 147-64.7 and Session Law 2010-194, Section 21 (i.e., the State Auditors and internal auditors may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees or performance). The Contractor shall retain all records for a period of six (6) years

following completion of the contract or until any audits begun during this period are completed and findings resolved, whichever is later.

Record Retention: The Grantee may not destroy, purge or dispose of records without the express written consent of the Agency. State basic records retention policy requires all grant records to be retained for a minimum of six (6) years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to Federal policy and regulations, record retention may be longer than six (6) years since records must be retained for a period of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has started before expiration of the six (6) year retention period described above, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular six (6) year period described above, whichever is later.

Time Records: The GRANTEE will maintain records of the time and effort of each employee receiving compensation from this contract, in accordance with the appropriate OMB circular.

Miscellaneous

Choice of Law: The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, are governed by the laws of North Carolina. The Grantee, by signing this Contract, agrees and submits, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this Contract and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

Amendment: This Contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Agency and the Grantee.

Severability: In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Contract shall remain in full force and effect.

Headings: The Section and Paragraph headings in these General Terms and Conditions are not material parts of the agreement and should not be used to construe the meaning thereof.

Time of the Essence: Time is of the essence in the performance of this Contract.

Care of Property: The Grantee agrees that it is responsible for the proper custody and care of any State owned property furnished him for use in connection with the performance of his contract and will reimburse the State for its loss or damage.

Ownership of equipment purchased under this contract rests with the Grantee. As it relates to software development or study results, ownership rests with the Agency. In the event that clarification of ownership is required, the Agency Contract Administrator will make the determination.

Travel Expenses: All travel, lodging, and subsistence costs are included in the contract total and no additional payments will be made in excess of the contract amount indicated in above. Contractor must adhere to the travel, lodging and subsistence rates established in the Budget Manual for the State of North Carolina.

Sales/Use Tax Refunds: If eligible, the Grantee and all sub-grantees shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this Contract, pursuant to NCGS 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

Advertising: The Grantee may not use the award of this Contract as a part of any news release or commercial advertising.

Recycled Paper: The Grantee ensures that all publications produced as a result of this contract are printed double-sided on recycled paper.

Sovereign Immunity: The Agency does not waive its sovereign immunity by entering into this contract and fully retains all immunities and defenses provided by law with respect to any action based on this contract.

Gratuities, Kickbacks or Contingency Fee(s): The parties certify and warrant that no gratuities, kickbacks or contingency fee(s) are paid in connection with this contract, nor are any fees, commissions, gifts or other considerations made contingent upon the award of this contract.

Lobbying: The Grantee certifies that it (a) has neither used nor will use any appropriated funds for payments to lobbyist; (b) will disclose the name, address, payment details, and purpose of any agreement with lobbyists whom the Grantee or its sub-tier contractor(s) or sub-grantee(s) will pay with profits or non-appropriated funds on or after December 22, 1989; and (c) will file quarterly updates about the use of lobbyists if material changes occur in their use.

By Executive Order 24, issued by Governor Perdue, and

NCGS § 133-32: It is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Natural and Cultural Resources, Environmental Quality, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

- (1) have a contract with a governmental agency; or
- (2) have performed under such a contract within the past year; or
- (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and NCGS Sec. 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24."

2022 Community Waste Reduction and Recycling Grant Program

REQUEST FOR PROPOSALS

N.C. Department of Environmental Quality
Division of Environmental Assistance and Customer Service

The purpose of this grant program is to assist local governments with the implementation, expansion, and improvement of waste reduction and recycling programs in North Carolina. The Division of Environmental Assistance and Customer Service (DEACS) administers the Community Waste Reduction and Recycling Grant program through the Solid Waste Management Outreach Program.

With the release of this Request for Proposals (RFP), DEACS is seeking proposals that request grant funding to help initiate or expand public waste reduction programs within the state. **Applicants should carefully read this entire RFP prior to submitting a proposal. Proposals must be received by DEACS by 5:00 p.m. on Thursday, February 17, 2022.** Please address any questions about this grant program to Sandy Skolochenko at (919) 707-8147, sandy.skolochenko@ncdenr.gov.

Community Waste Reduction and Recycling Grant Program Parameters:

The 2022 Community Waste Reduction and Recycling (CWRAR) Grant Program seeks to fund projects that help communities build lasting capacity to divert materials from the waste stream and / or that increase public awareness of waste reduction and recycling. There are two categories of CWRAR Grants for 2022: Priority Project Grants and Standard Project Grants. Different levels of grant funding are available for each project category.

Available Funding:

- Priority Project: Applicants are eligible for a Priority Project grant award of up to **\$40,000**.
- Standard Project: Applicants are eligible for a Standard Project grant award of up to **\$30,000**.

Priority Project Grants:

Priority Project Grants support investments in public recycling program areas that have been determined by the state recycling program to be of particular importance to growing and expanding efficient and effective waste reduction and recycling services throughout North Carolina.

2022 CWRAR priorities include:

- Projects that fund outreach enforcement efforts (e.g., tagging program) to reduce contamination in the recycling stream and improve material quality. If seeking funding for educational enforcement efforts, please see additional provisions in the Special Requirements section.
- Projects that divert food waste from landfill disposal by implementing or expanding collection, management, and recycling of food waste from residential or commercial sources.
- Projects that establish or expand glass recycling collection. To qualify as a Priority Project, the community must collect glass to be recycled by a downstream glass recycling processor, not to be sent for end-use applications such as aggregate or daily cover.
- Projects that implement new permanent Household Hazardous Waste (HHW) programs or that expand existing permanent HHW programs. To qualify as a Priority Project, a newly established permanent HHW program must be open to collect HHW from the public at least four (4) separate days during any given fiscal year and an existing HHW program must significantly increase the number of days or hours of operation so that citizens have improved access to HHW services.

Standard Project Grants:

Standard Project Grants include any projects that increase and / or enhance public waste reduction and recycling but fall outside of the 2022 priorities. Standard Projects may include but are not limited to:

- Projects that significantly increase a community's overall diversion of materials from the solid waste stream.
- Projects that improve recycling program efficiency and/or cost effectiveness.
- Projects that implement new or expand existing curbside recycling programs or that help transition a curbside recycling program from collection using bins or blue-bags to a cart-based collection system.
- Projects that increase the diversion of materials that are banned from disposal in North Carolina.
- Projects that implement recycling programs for special wastes such as fluorescent bulbs, used motor oil or filters, used cooking oil, antifreeze, pesticide containers, batteries or latex paint.
- Projects that implement or expand construction and demolition recycling efforts to divert materials such as concrete, unpainted/untreated wood, asphalt (from roads and shingles), gypsum, metals, brick, glass, plastics, carpet, or salvaged building materials from landfill disposal.
- Projects that implement education and outreach to reduce contamination in the recycling stream and improve material quality. If seeking funding for recycling education, please see additional provisions in the Special Requirements section.
- Projects that implement or expand public school recycling programs. If seeking funding for public school recycling, please see additional provisions in the Special Requirements section.
- Projects that increase the efficiency or effectiveness of public electronics recycling programs. If seeking funding for electronics recycling, please see additional provisions in the Special Requirements section.
- Projects that create or expand away-from-home recycling opportunities such as recycling infrastructure for parks, sports fields, streetscape / pedestrian recycling, and / or recycling at public venues. If seeking funding for away-from-home recycling, please see additional provisions in the Special Requirements section.

Communities preparing proposals for a 2022 CWRAR Grant are strongly encouraged to contact Sandy Skolochenko at (919) 707-8147, sandy.skolochenko@ncdenr.gov or Mel Gilles (for education and outreach projects) at (919) 707-8127, mel.gilles@ncdenr.gov. These staff are available to discuss potential grant projects and provide technical assistance and advice prior to submitting a grant proposal.

Cash Match Requirement:

Required Cash Match: CWRAR grant winners must provide a cash match equal to or exceeding 20 percent of the requested grant funding. For example, a grantee requesting a \$20,000 grant must match at least \$4,000 with local funds for a total project cost of \$24,000.

Calculating Cash Match: To determine the necessary cash match for any grant project, first determine the total budget associated with the project and then use the following equation: $\text{total project budget} \div 6 = \text{required cash match}$.

Distributions from the \$2 per ton Solid Waste Disposal Tax may be used to cover cash match requirements. In-kind contributions will not be accepted in lieu of cash match.

Grant Project Planning:

Available funding is limited, and it is anticipated that the 2022 CWRAR Grant Round will be highly competitive. For this reason, it is important that projects seeking grant funding be well thought out and well planned, and that applicants follow the instructions in this RFP when preparing proposals by providing all information as outlined in the Required Proposal Format section. Proposals that seek grant funds for the replacement of existing equipment will be scored substantially lower than projects that implement new recycling services or projects that expand existing recycling services.

Use of Grant Funds:

Examples of **approved uses** of CWRAR Grant funds include site development costs, construction of facilities to handle recyclable materials, equipment purchases, equipment installation costs, key recycling program components, public awareness programs and materials that support public education such as signs or brochures.

Grant funds **MAY NOT** be used for employee salaries, land acquisition costs, administrative expenses such as overhead, utility costs, studies or work performed by consultants, contracted collection costs, and / or payment for other contracted recycling services such as payment to a vendor for operating a household hazardous waste collection event.

If you have questions about eligible uses of grant funds, please contact Sandy Skolochenko at (919)-707-8147 or sandy.skolochenko@ncdenr.gov for more information.

Eligible Entities:

- Local governments, defined as counties, municipalities, councils of governments and solid waste authorities in North Carolina, are eligible to apply for funding from the CWRAR Grant Program.
- Former CWRAR grantees are eligible to apply. Applicants with an **open 2021 CWRAR Grant contract** must have invoiced for 90% of eligible grant funds by the proposal due date (February 17, 2022). Proposals **will not** be accepted from applicants with an open CWRAR Grant from cycles prior to 2021. Applicants with open grants from other programs (e.g., Abandoned Manufactured Home Grants) are eligible to apply.
- Federal and state agencies **are not eligible** for funding through this grant program.
- Public universities, community colleges and private colleges and universities **are not eligible** for funding through this grant program.
- Not-for-profit entities **are not eligible** for funding through this grant program; however, these entities are eligible for funding through the Recycling Business Development Grant Round. Contact Sandy Skolochenko at (919) 707-8147 or sandy.skolochenko@ncdenr.gov for more information.
- Public school systems and individual public schools **are not eligible** to apply directly for funding through this grant program. **However**, local governments (counties or municipalities) may apply for funding to support public school recycling projects - see Special Requirements section below.

Conditions on Submittals:

- **ONLY ONE PROPOSAL PER ELIGIBLE ENTITY WILL BE ACCEPTED.** Grant proposals may combine funding requests for multiple types of projects into one proposal. The available funding limits still apply, and total request may not exceed the grant award amounts noted in the Available Funding section.
- Multi-party initiatives such as joint projects involving two or more local governments where each local government contributes towards project funding are strongly encouraged. Any group participating in a regional or multi-party project proposal may not submit additional proposals.
- Applications will not be accepted from local governments that have not submitted the required Solid Waste and Materials Management Annual Report for the most recent fiscal year.

General Requirements:

General requirements for all applicants:

- Usage of N.C. Solid Waste Disposal Tax proceeds: Solid Waste Disposal Tax proceeds are distributed to eligible local governments on a quarterly basis by the Department of Revenue. According to G.S. § 105-187.63, these funds must be used by a city or county solely for solid waste management programs and services. CWRAR Grant applicants must certify in writing that all disposal tax proceeds are used only for the purpose of providing solid waste and recycling services.

In addition to this written certification, applicants should describe how disposal tax funds are utilized and whether proceeds will be used to supply matching funds.

- **Public Building Recycling Services:** CWRAR Grants will not be awarded to applicants that do not have recycling services for cans, bottles and paper available at their government buildings. As part of the grant proposal, all applicants must indicate that employees in the key government buildings operated by the applicant have reasonable access to recycling services and are able and encouraged to recycle materials generated in the course of government business. Please include a list of the materials collected for recycling at these facilities.
- **Mercury Product Recycling:** G.S. § 130A-310.60 requires that any public agency using state funds for the construction or operation of public buildings shall establish a program for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in public buildings. As part of the grant proposal, all applicants must indicate that they have a program in place for the collection of fluorescent lights and mercury thermostats from their public buildings. If the applicant does not have a program in place for the collection of these materials, then as a precondition of any grant award the applicant must initiate such services. For more information about these requirements and / or for assistance implementing a mercury products recycling program please contact Sandy Skolochenko at 919-707-8147, sandy.skolochenko@ncdenr.gov

Special Requirements:

Applicants seeking funding for recycling education, public school recycling, away-from-home recycling and/or electronics recycling **MUST** address the following Special Requirement(s) in their submitted proposal.

- **Special Requirements for Recycling Education/Enforcement Projects:** Applicants should contact Mel Gilles at (919) 707-8127, mel.gilles@ncdenr.gov or Sandy Skolochenko at (919) 707-8147, sandy.skolochenko@ncdenr.gov, to discuss a project before applying.
 1. Provide a list of the recyclable materials accepted by the program and indicate how the materials are to be collected (single stream, dual stream, source separated). If the grant application is for regional outreach materials, all local governments or entities participating must agree on a common list of materials for recycling and provide that common accepted list with the grant application.
 2. If the grant application is for regional outreach materials, a letter of agreement and support must be provided by each local government or entity participating in the proposed grant project. Each participating entity should establish and provide a designated recycling contact for project coordination.
 3. Identify the primary message of the outreach effort.
 4. Indicate whether you will be using your own design or if you will be using DEACS customizable design services. <https://deq.nc.gov/conservation/recycling/general-recycling-information/customized-outreach-materials>
 5. Supply mock-ups or example graphics for the outreach materials, enforcement tags, or ads. Are your materials dependent on words or images?
 6. If the grant is awarded:
 - Discuss the material design with your assigned DEACS grant manager as soon as possible to ensure clear communication about the project content and timing.
 - Documents must be submitted for review prior to printing or execution. Reviews may take up to two weeks, so plan accordingly and submit well in advance of printing (not days before going to print). It is often helpful to submit an initial draft for early feedback.
 - Post your community's accepted recyclables list online.
 - Program changes can affect the grant and messaging. Inform DEACS immediately if program changes occur to determine if a contract amendment is needed.

- **Special Requirements for Public School Recycling Projects:** Local governments may apply for funding to support public school recycling projects, but **must** provide the supplemental information outlined below to ensure that all necessary school recycling program elements are addressed and to help demonstrate project planning. This is a competitive grant program and projects that institute or expand a system-wide school recycling program will compete better than projects that only serve an individual school. Eligible grant projects may seek funding for equipment (such as bins and roll carts) and/or education materials. As with other CWRAR projects, administrative expenses, staff salaries and contract collection costs are not eligible for grant funding nor can they be used as matching funds. If a public school system will be contributing funds towards the implementation of a recycling grant project, these funds should be paid to the state grantee in order to ensure that the state grantee makes the purchases associated with the grant project. All purchases associated with a grant project must be made by the grantee. Purchases made directly by a public school system shall not be eligible for reimbursement. Please contact Mel Gilles at 919-707-8127, mel.gilles@ncdenr.gov or Sandy Skolochenko at 919-707-8147, sandy.skolochenko@ncdenr.gov for information or assistance with public school recycling projects.

School Recycling Supplemental Requirements:

1. Describe the existing school recycling program (if any) that is available in the school system associated with the grant project. The description should include the following items:
 - Indicate whether recycling service is available to *all* schools within the district or only to certain schools within the district.
 - If recycling collection presently exists or if this project implements a new school recycling service, then please indicate the recycling service provider (e.g. indicate whether the collection of recyclables is provided by public school system employees, by a specific local government, or through a contracted or third-party service provider).
 - Provide a list of the recyclable materials accepted by the program and indicate how the materials are to be collected (single stream, dual stream, source separated).
 - Indicate where the recyclables are going after they are collected (provide the name of the materials processor).
2. List all of the public agencies and/or departments that collaborate to assist with or operate the school recycling program and list the role of each entity. Examples could include the local educational authority (school district), municipal and/or county solid waste management departments. Ideally, a holistic school system recycling program should include cooperation between the community's public recycling program and the public school system.
3. If a system-wide school recycling program is in place, explain if and how this grant will expand recycling throughout the school system and note whether this grant project is part of a phased plan.
4. A designated recycling contact should be established for each school facility participating in the recycling program. Examples of designated contacts might include school facility manager, head custodian, the faculty coordinator or leader of a group or club, the principal, or school administrator. Please provide a list of schools to be served by this project and the designated recycling contact for each school including the name and title of the designated contact.
5. Indicate the locations where recycling containers are or will be placed at the school facilities (e.g. classrooms, cafeterias, hallways, athletic fields, administrative offices, library, copy rooms, etc.).
6. Indicate who will be responsible for emptying the recycling containers (e.g. custodian / cleaning staff, teachers, students, student groups, etc.).
7. Provide a plan for promoting recycling within the schools impacted by the grant project as well as a plan for educating staff and students about the program.

- **Electronics Recycling Projects:** Any community seeking grant funds related to an electronics recycling related project must indicate in their proposal whether the local government has ever received funds distributed from the State's Electronics Management Program. For more information on eligibility for Electronics Management Program Funds see this web site: <http://deq.nc.gov/about/divisions/waste-management/solid-waste-section/electronics-management/nc-local-governments-info-page>. If the local government has received Electronics Management Fund distributions in the past, then the applicant must include information in its proposal about how those funds have been used and how the community intends to use the funds that will be distributed in February 2022 and February 2023.

Successful **county** applicants seeking grant funds to support an electronics recycling related project that **have not** previously been eligible for distributions from the State's Electronics Management Program will be required to become eligible for Electronics Management Funds on or before December 31, 2022 as a precondition of receipt of CWRAR Grant funds.

Successful **municipal** applicants seeking grant funds to support an electronics recycling related project that **have not** previously been eligible for distributions from the State's Electronics Management Program must decide whether or not to make themselves eligible for Electronics Management Funds prior to the December 31, 2022 eligibility deadline. This decision should be made in consultation with the county where the municipality is located and should be based on how the distribution of funds can best serve the advancement of electronics recycling within the community. If it is determined that the municipality should seek Electronics Management Funds, the municipality should take action to become eligible for funds on or before December 31, 2022.

- **Away-From-Home Recycling Projects:** Grant funds for away-from-home recycling projects can only be used for recycling related purchases and cannot be used to pay for the purchase of away-from-home receptacles for the collection of waste (garbage). If a proposal includes the purchase of away-from-home receptacles that collect BOTH waste and recyclables, then the standard cash matching fund requirement will be adjusted so that the applicant (grantee) covers the full cost of the waste portion of the container with their matching funds. For example, if a community seeks to purchase a combo waste / recycling station that has one slot for garbage and one for recyclables and the receptacle costs \$1,000 then the applicant will be expected to provide a cash match equal to one half of the purchase price, or \$500. If seeking funding for an away-from-home recycling project, please indicate in the Special Requirements section of the proposal whether any of the equipment to be purchased will be used to collect waste materials that are intended to be disposed of in a landfill.

Applicants for away-from-home related grant projects are strongly encouraged to specify which particular recycling receptacles are being considered for purchase as a part of their proposal. For guidance on the selection of recycling receptacles, please contact Mel Gilles at (919) 707-8127, mel.gilles@ncdenr.gov or Sandy Skolochenko at (919) 707-8147, sandy.skolochenko@ncdenr.gov.

Grant Project Period / Funding Period:

Successful grant applicants will be required to enter into a grant contract with the N.C. Department of Environmental Quality (DEQ). The resultant grant contract period is intended to align with the local government fiscal year and will generally have a one (1) year contract long term. Grantees must expend funds within the year-long contract period unless the grant contract end date is extended by written agreement between the applicant and the DEQ. Extensions are possible but not guaranteed. It is anticipated that grant contracts resulting from this grant cycle will begin on July 1, 2022 and end on June 30, 2023. **All purchases must be made within the grant contract period. Any purchases made prior to the start of the grant contract or after the end date of the grant contract will not be eligible for reimbursement.**

Proposal Due Date:

Proposals **MUST** be received by DEACS by **5:00 p.m. on Thursday, February 17, 2022**. Any proposals received after the deadline will not be considered. Local governments requiring board approval to apply for grant funds should plan to procure that approval before the submittal deadline. **Late proposals will not be accepted.**

How to Submit Proposals:

One electronic copy of the proposal must be submitted by email to sandy.skolochenko@ncdenr.gov. Receipt of all acceptable proposals will be acknowledged by e-mail. ***If you do not receive a confirmation, contact Sandy Skolochenko at sandy.skolochenko@ncdenr.gov or 919-707-8147 as soon as possible.*** It is the responsibility of anyone submitting a proposal to contact DEACS if they do not receive a confirmation. No arrangements will be made for lost applications after the due date. Please submit electronic versions of proposals as Microsoft Word (preferred) or Adobe (PDF) files. If submittal of an electronic version of a grant proposal presents a hardship, please contact Sandy Skolochenko to discuss submittal options.

Required Proposal Format:

The following outline indicates what applicants **must** include in their proposal for their application to be considered complete. Proposals that fail to provide all of the required information or that fail to follow the following format may not compete well and may not be considered for funding.

- Project Title
- Applicant Contact Information: to include the following:
 - ✓ Name and title of main contact
 - ✓ Organization
 - ✓ Address
 - ✓ Phone number
 - ✓ E-mail address
- Date of Proposal Submittal: this should be the date the proposal is submitted to DEACS
- General Requirements: (see General Requirements section for more information)
 - ✓ Written statement certifying that Solid Waste Disposal Tax Proceeds are used only for solid waste management purposes and a description of how proceeds are used.
 - ✓ Written statement indicating that the applicant has recycling services for cans, bottles and paper available at the key government buildings and a list of the materials collected.
 - ✓ Written statement indicating that the applicant has established a program for the collection and recycling of fluorescent lights and mercury containing thermostats from public buildings owned by the applicant.
- Project Description: Provide responses to each of the following prompts below. Applicants are encouraged to provide a clear project description and consider the Award Criteria as they describe the project elements.
 1. Describe the proposed project and identify specifically what items (and how many) you intend to purchase with grant funds.
(Planning: 0-20 points; Priority Project: 0-10 points)
 2. What is the anticipated service life for the items or materials to be purchased with grant funds? Estimate how long the project will continue to serve the community and how you will sustain the project after the grant ends.
(Planning: 0-20 points; Efficiency/Cost Effectiveness: 0-20 points)
 3. How does the proposed project address a specific recycling need for the community? Will the grant project create a new service, enhance or expand an existing service, or support an existing recycling service without expanding that service?
(Demonstration of Need: 0-20 points)

4. How many households or businesses will be impacted by or have access to the recycling services associated with the proposed project?
(Demonstration of Need: 0-20 points; Efficiency/Cost Effectiveness: 0-20 points)
 5. Estimate the number of tons of waste expected to be reduced annually as a result of the proposed project. Please explain how you came up with the estimate.
(Waste Reduction Impact: 0-25 points)
 6. Describe any partnerships associated with the proposed project. Please include documentation of support from any partner entities.
(Joint Effort: 0-5 points)
- **Special Requirements:** Proposals for recycling education, school recycling, electronics recycling or away-from-home recycling must include additional information as stipulated in the Special Requirements section.
 - **Project Timeline:** Simple bulleted list showing approximate dates for major project milestones. Timeline must begin on or after July 1, 2022 and project must be complete by June 30, 2023. Please follow the example below:
 - ✓ November 1, 2022: Carts and educational materials purchased, and commercial recycling program launched *(adjust based on proposed project)*
 - ✓ May 31, 2023: Submit all invoices and draft Final Report to DEACS *(required)*
 - ✓ June 30, 2023: Submit Final Report to DEACS *(required)*
 - **Project Budget:** to include the following:
 - ✓ Itemized list of intended expenditures and estimated costs;
 - ✓ Total project cost with breakdown of grant funding requested from the state and amount of matching funds to be provided by the applicant (see Cash Match Requirements);
 - ✓ Please submit in a table following the example below:

| Project Elements | Estimated Cost | | |
|--|---------------------------|--------------------------|-----------------------------|
| Recycling Carts for Commercial Recycling Program | \$ 10,500 | | |
| Labels for Carts and Signs for Recycling Sites | \$ 900 | | |
| Program Brochures (Printing) | \$ 600 | | |
| Project Budget | Total Project Cost | State Grant Award | Applicant Cash Match |
| Total | \$ 12,000 | \$ 10,000 | \$ 2,000 |

* Note about Project Budgets: state and local sales taxes **are not** reimbursable expenditures and should not be included as part of grant budgets.

Grant Selection Process:

A selection committee will use the pre-established Award Criteria identified below to rank proposals and make award decisions. The review process is expected to be completed and preliminary award announcements should be made by April 2022.

Award Criteria:

Applicants are encouraged to consider the following Award Criteria as they develop their grant proposals.

1. **Demonstration of Need (0-20 points):** Does the proposed project address a specific equipment, educational, or infrastructure need for the community?
2. **Planning (0-20 points):** Did the Project Description include all necessary elements as outlined in the Required Proposal Format? Is the proposal well thought out, well researched and backed by valid facts and assumptions? Is the project consistent with recycling industry best management practices?
3. **Waste Reduction Impact (0-25 points):** Will the project contribute substantially toward reduction of the local waste stream or will it substantially increase tonnage recovered through recycling services? Will the project improve the material quality in the recycling stream by reducing contaminants?
4. **Efficiency / Cost-effectiveness (0-20 points):** Will the project improve the efficiency or cost-effectiveness of the local waste reduction program? Does the project increase the efficiency or effectiveness of an existing recycling service? Does the project reduce the operating cost of a current recycling service or does it adopt practices proven to be cost effective in other communities? Does the project make investments that will continue to serve the community for years to come?
5. **Joint Effort (0 or 5 points):** One-party proposals will receive zero (0) points; multi-party proposals (involving cash match from all participants) will receive five (5) points.
6. **Priority Project★ (0-10 points):** Is the project seeking funding for a Priority Project Grant? To what extent does the project support investments in one of the Priority Project Grant categories?

If a Proposal is Selected for Funding:

DEACS anticipates that applicants selected to receive grant funding will be notified by the end of April 2022. DEACS will notify the applicant with a formal offer by e-mail. The applicant must accept or decline the offer. The following will occur once the offer of grant funding is accepted:

- DEACS may work with applicants to revise initially submitted proposals before entering into a grant contract. Any changes to initial proposals must be approved by DEACS and the applicant and the resultant Final CWRAR Proposal will become an attachment to the grant contract.
- The annual CWRAR Grant cycle typically receives funding requests that exceed available funds. However, it is a priority for DEACS to support as many qualifying projects as possible. After close examination of funding requests and subject to agreement with the applicant, DEACS may award grant amounts lower than the original request.
- Successful applicants will be required to:
 - Provide their federal tax ID number.
 - Register with the state's e-procurement system using the same address provided in the applicant's proposal. To register in the state's e-procurement system or confirm/update your existing registration, please visit the following link: <http://eprocurement.nc.gov/>.
 - Submit a Conflict of Interest Policy using the following template or submitting a copy of your organization's existing policy: <https://deq.nc.gov/conservation/recycling/programs-offered/grants-local-governments#Forms>
- All applicants selected for funding will undergo a compliance review to ensure that they do not have an outstanding Notice of Violation (NOV) related to North Carolina solid waste statutes and rules. Any outstanding NOV's must be corrected to the satisfaction of the N.C. Division of Waste Management (DWM) prior to any grant being awarded. Applicants with outstanding NOV's are responsible for providing DEACS with information from DWM indicating that the community is in compliance and that the NOV's have been corrected before a grant contract can be initiated.
- DEACS will submit a request through the DEQ contract processing system for a grant contract. Grantees must act to execute the resultant grant contract without excessive delay.

NOTE: Successful applicants that make purchases before a grant contract is signed by both DEQ and the grant recipient will not be reimbursed.

Other General Terms and Conditions:

All grantees are subject to the following terms and conditions. Most of these terms and conditions will be outlined in the grant contract.

- **Publications:** all documents and publications associated with a grant contract should be printed on recycled paper containing at least 30 percent post-consumer content.
- **Final reports:** a draft final report is required to be submitted to DEACS at least 30 days prior to the contract end date and a final report is required to be submitted by the contract end date. Final reports and drafts should be submitted electronically. All applicants are strongly encouraged to visit the following web site to review the final reporting format and guidelines:
<https://deq.nc.gov/conservation/recycling/programs-offered/grants-local-governments>.
- **Extensions / Amendments:** no-cost time extensions are possible but not guaranteed for grant contracts. Grantees seeking no-cost time extensions should submit a request for a time extension at least sixty (60) days prior to the contract end date.
- **Reimbursement:** distribution of DEACS grant funds is on a reimbursement basis. Requests for reimbursement can only be made after the grantee has completed purchases associated with the grant project. Reimbursement requests must be submitted on letterhead, must include copies of invoices, and must include proof that the grantee has made payment. Proof of payment may include copies of canceled checks or other financial reports showing that funds were spent. **State and local sales taxes are not reimbursable, may not be counted towards expenditure requirements, and should be excluded from reimbursement requests.** The amount of actual grant payments may be prorated for projects and / or project elements that come in under budget.
- **Final 10 Percent of Funds:** DEACS will continue to reimburse grantees until 90 percent of the grant award amount has been expended. The final 10 percent of grant funds will be held until an acceptable final report has been received by DEACS. The final report must be received and approved prior to the end date of the contract.

A Final Word on Grant Writing:

Proposals may receive low scores or even be rejected because applicants fail to follow the instructions outlined in this document. Applicants stand a better chance of success if they include all of the required components of a proposal and if they follow the Required Proposal Format. Project Descriptions should be clear, concise, and should demonstrate thoughtful planning. Poorly prepared proposals create uncertainty about the project goals and intended results. Clear details will provide grant proposal reviewers confidence about the viability and feasibility of a proposal. Applicants with questions are encouraged to contact DEACS for more information.

Project Title:**Recycling Project for Downtown Fayetteville****Applicant Contact Information:**

Brook M. Redding
Assistant to the City Manager
City Manager's Office, City of Fayetteville
433 Hay Street, Fayetteville, NC 28301
910-433-1475
brookredding@FayettevilleNC.gov

Date of Proposal Submittal:

January 27, 2022

General Requirements:

- Solid Waste Disposal Tax Proceeds make up a portion of the revenue stream for the City of Fayetteville Solid Waste Services, which was around \$155,000 in FY21. This revenue is used as a portion of the funding for the entire solid waste management system, including for the City's contract with the material recovery facility and recycling hauler. It is not used for any purpose outside of solid waste functions. Funds may be used toward the matching portion of this grant.
- The City of Fayetteville has recycling services for at government buildings for the following items:
 - Cans
 - Plastic bottles, tubs, jugs, and jars
 - Paper
 - Cardboard
- The City of Fayetteville has established a program to collect and recycle fluorescent lights and mercury-containing thermostats from public buildings owned by the City.

Project Description:

This project is designed to address the need for an away-from-home recycling program in the Cool Springs Downtown district. In a recent survey of residents of the City of Fayetteville, many respondents wrote in a request for outdoor recycling bins and additional educational materials about what can be recycled. This project is designed to fulfill both of those needs. If funded, this project could result in an additional 36 lbs of recycling diverted from the landfill each week, or about 1,872 lbs per year. This estimate was calculated based on the weekly amount of trash currently collected from outdoor trash cans downtown. Fayetteville residents recycled 10% of their waste last year. We estimate that they will recycle 10% of the waste that would typically be put in 12 trash cans in the downtown area (the trash currently collected from 12 cans was measured to be roughly 356 lbs/week).

With funds from the Community Waste Reduction and Recycling Grant, the City of Fayetteville plans to install an outdoor recycling bin next to 12 of the trash cans located in the Cool Springs

Downtown District (Exhibit B). The Downtown Fayetteville area encompasses 0.55 square miles and is home to the arts and entertainment district. Twenty foot wide sidewalks and crosswalks make the district the most walkable place in Fayetteville. It is also the location of the baseball stadium and over 100 businesses, including award-winning restaurants and local shops. Annual outdoor events downtown draw a total of around 495,000 visitors. Currently, there are no outdoor recycling bins in the City of Fayetteville, except at special events.

The downtown recycling bins would have distinctive coloring and labeling, as well as a restrictive opening. To match the downtown aesthetic, the grant team has worked with a waste receptacle company to design a blue band to encircle the black bin. The band would have the words “Recycling • Bottles • Paper • Cans” with the city logo repeated around the entire can. The recycling bins would have a custom lid with a slit and a larger hole in the center, allowing only paper, cardboard, cans, and bottles to pass through easily. This custom lid will help decrease contamination of the recycling stream. The bins would be made from long-lasting steel and come with a 20-year limited warranty and a one-year warranty on the paint. They will also be made with 83.97% post-consumer recycled content. The bins are intended to last for 20 years, and as needed, they will be maintained and replaced by the City of Fayetteville.

Partnerships:

- *Sustainable Sandhills (SSH)* is a 501(c) 3 nonprofit organization that serves nine counties: Cumberland, Harnett, Hoke, Lee, Montgomery, Moore, Richmond, Robeson, and Scotland Counties. The City of Fayetteville has a contracted public/nonprofit partnership that funds the Sustainability Project Coordinator (SPC) position. The SPC position enhances the City’s sustainability capacity by performing duties that include; public participation in sustainability, volunteerism, partnership, and relationship building with inter-governmental, private, and nonprofit organizations in and around the community.
- *Cool Spring Downtown District* is a charitable, nonprofit corporation formed in 2017 to create and sustain an arts and entertainment district located in downtown Fayetteville, North Carolina, as a vibrant center of artistic, cultural, civic, and commercial activity. The organization provided data and advocated for the addition of outdoor recycling receptacles, as requested in this proposal.

Project Timeline:

- ✓ July 1, 2022 – July 31, 2022
 - Outdoor recycling bins will be ordered for the downtown area.
- ✓ August 1, 2022 – October 31, 2022
 - Recycling bins will be installed in the downtown “Cool Springs District” of Fayetteville by Parks and Recreation staff.
- ✓ November 1, 2022
 - Submit all invoices to DEACS
- ✓ April 30, 2023
 - Submit a draft report to DEACS
- ✓ June 30, 2023
 - Submit final report to DEACS

Project Budget:

| Project Elements | Estimated Cost | | |
|------------------------------|---------------------|-------------------|----------------------|
| Outdoor recycling containers | \$13,800 | | |
| Project Budget | Total Project Cost: | State Grant Award | Applicant Cash Match |
| Total | \$13,800 | \$11,500 | \$2,300 |

Special Requirements:

- List of recyclable material for downtown area and schools (single stream)
 - Plastic (bottles, tubs, jugs, and jars)
 - Aluminum and steel cans
 - Glass bottles and jars
 - Paper, cartons, and cardboard
- None of the equipment to be purchased will be used to collect waste materials intended to be disposed of in a landfill.

Away-From-Home Recycling in Downtown Fayetteville

- Recycling signage will include a blue band around the metal bin that says “Recycling • Bottles • Cans • Glass” with the City of Fayetteville logo.

Exhibit A: A band that is similar to the one requested for Fayetteville, created for the city of Arlington, VA (the company is not able to provide a mock-up for Fayetteville until the order is placed)



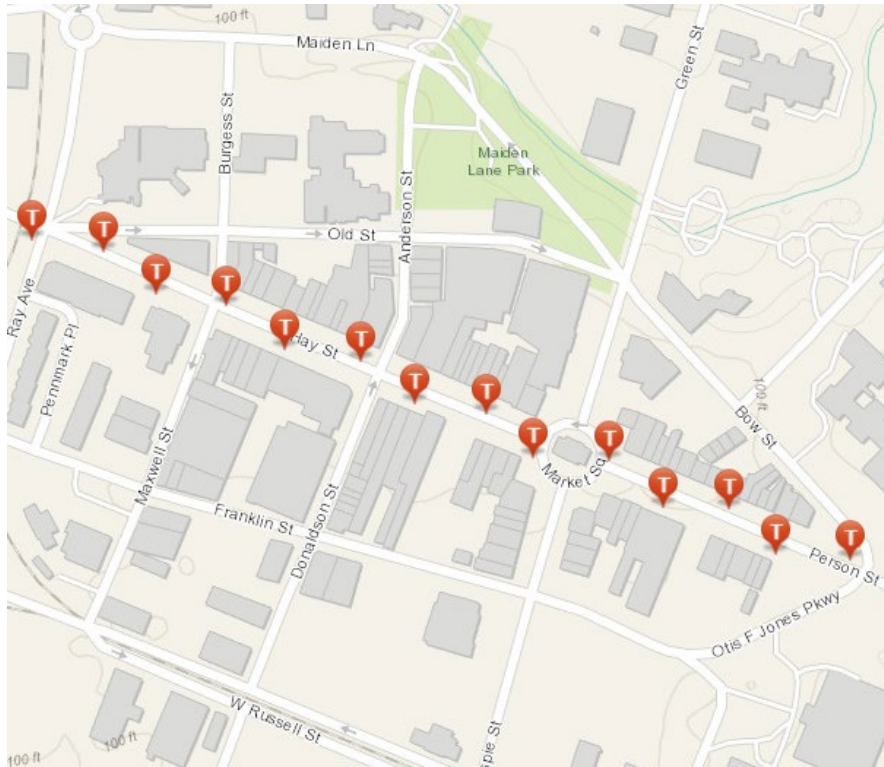
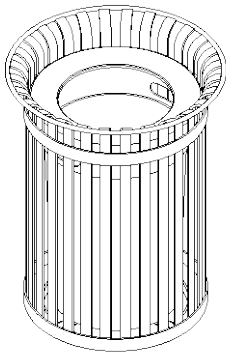
Exhibit B: City of Fayetteville – Downtown District – Waste and Recycling locations**Exhibit C: Recycling Bin Design**

Figure 1. SiteScapes Inc. would design a custom recycling can with a blue wrap around the band circling the top part of the bin. The band would have the City of Fayetteville logo and the words “Recycling • Bottles • Paper • Cans” in white.

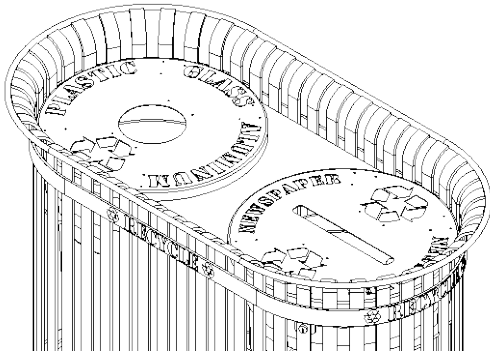


Figure 2. The company has agreed to make a custom lid for the bin that is restrictive for recyclables. This lid would be a combination of the two lid styles above: a hole that allows for cans/bottles with a slit that allows for paper/cardboard.



Figure 3. The recycling bins would match outdoor trash receptacles currently located in the downtown area.

Exhibit D: Letters of Support

Cool Spring Downtown District, Inc.
222 Hay Street
Fayetteville, NC 28301
Info@CoolSpringFAY.org



December 6, 2021

Ms. Sandy Skolochenko
North Carolina Department of Environmental Quality
1639 Mail Service Center, Raleigh, NC 27699-1639

Dear Ms. Skolochenko and members of the selection committee:

The Cool Spring Downtown District, a 501-C-3, serves as the managing partner for the Arts and Entertainment district in Downtown Fayetteville. As the Chief Executive Officer of the entity, I am excited to offer my support for the Recycling Project for Cumberland County Schools and Downtown Fayetteville.

Our mission is to use Arts and Entertainment to inspire investment and visitation in the urban core. As such, by introducing street-level recycling we believe this project will greatly benefit residents and visitors, alike. There are numerous reasons why we support citizen-led recycling in the urban core. They include a broad range of environmental stewardship concerns, as well as practical interest in local economic opportunities and development, including: cost savings, extended landfill life spans, resource conservation, energy conservation, economic development, pollution prevention, greenhouse gas emissions reductions, and fostering a sense of community involvement and responsibility.

The final point, "fostering a sense of community involvement and responsibility," inspires me the most. When we engage our citizens and visitors to take joint responsibility for the public realm, community connectivity increases and the emotional awareness of place soars. We believe such direct action leads to a love of place.

Our organization is committed to using our various communication platforms to inform visitors, residents, and downtown stakeholders about the Recycling Program. We are committed to supporting the project from start to finish and look forward to your favorable response.

If I can answer any questions, please feel free to contact me at 910-223-1089 or bianca@coolspringfay.org

Sincerely,

A handwritten signature in black ink that reads "Bianca G. Shoneman".

Bianca Shoneman
CEO

Downtown Fayetteville's Arts + Entertainment District

visitdowntownfayetteville.com

Exhibit E: Price Quotes**SITESCAPES**

P.O. Box 22326
Lincoln Nebraska, 68542
Tel: 888.331.9464 Fax: 402.421.9479
info@sitescapesonline.com
www.SiteScapesOnline.com

Quote

| | |
|-------------|--------------|
| Date Issued | Quote Num |
| 11/18/2021 | 75597 |

To:
Sustainable Sandhills
c/o Estimating Dept.
Tel: 910.484.9098

From:
SiteScapes, Inc.
c/o Hannah Jacobs
P.O. Box 22326
Lincoln, NE 68542
Tel: 888.331.9464
Fax: ..
Email: hannah@sitescapesonline.com

Project Name:
Community Recycling

Standard lead time is 175 to 195 days.**Pricing good for thirty days.**

Comments:

| product | description | price | qty | amount |
|-----------------------------------|--|------------|-----|-------------|
| Surcharge | Steel/Aluminum Tariff 113.38% Material Surcharge, NA | \$2,677.46 | 1 | \$2,677.46 |
| CV2-1000R-FV-PF | 40 Gallon Round Litter Container, Flat Top with Special Hole, Powder Coat Finish, To be determined | \$875.00 | 27 | \$23,625.00 |
| freight to zip code 28301 | | | | \$2,000.00 |
| total | | | | \$28,302.46 |
| less 2% prox 10 | | | | |
| 50% deposit due at time of order. | | | | |

***Purchaser is responsible for confirming options, materials, quantities, etc., for completeness and conformity to plans and specifications

***Consignee responsible for off -loading, lift gates, pallet jacks or other services. Special services must be requested in advance and are subject to additional charges

***Refused deliveries and re-routes are subject to additional charges

www.SiteScapesOnline.com :: info@sitescapesonline.com :: p 888.331.9464 :: f 402.421.9479

* If we are not included on your Invitation to Bid list, please add us under 2870 or 129300 - Site Furnishings.

PART II - CODE OF ORDINANCES

CHAPTER 2 - ADMINISTRATION

Article IV. - Code of Ethics

Sec. 2-91. Policy.

- a. The public judges its government by the way public officials and employees conduct themselves in the posts to which they are elected or appointed.
- b. The people have a right to expect that every public official and employee will conduct himself in a manner that will tend to preserve public confidence in and respect for the government he represents.
- c. Such confidence and respect can best be promoted if every official and employee as hereinafter defined will:
 1. Obey all applicable laws regarding official actions taken as a board member;
 2. Uphold the integrity and independence of the board member's office;
 3. Avoid impropriety in the exercise of the board member's official duties;
 4. Faithfully perform the duties of the office; and
 5. Conduct the affairs of the governing board in an open and public manner, including complying with all applicable laws governing open meetings and public records.

(Ord. No. S2010-011, § 1, 11-8-2010)

Effective on: 11/18/2013

Sec. 2-92. Definitions.

The terms used in this code of ethics are hereby defined as follows:

Advisory Opinion means an opinion issued by the ethics commission regarding whether the past, present or proposed conduct by an elected or appointed official or employee of the city violates or would violate the provisions of section 2-94.

Effective on: 11/18/2013

Appointed Official shall mean any person appointed to any board or commission of the city.

Effective on: 11/18/2013

Business and Transaction mean any purchase of supplies or services, or the construction of any public facility or project by a public body.

Effective on: 11/18/2013

Complaint means a written request under oath seeking an investigation by the ethics commission into the past or present conduct of an elected or appointed official or employee on a form approved by the ethics commission. At a minimum, the form shall contain the name(s) and home address(es) of the person(s) seeking such an investigation; the name(s) of the person(s) who is(are) the subject of the investigation; a detailed statement of the facts and reasons why the subject(s) should be investigated; a description of the City Code provision which may have been violated; and a statement that the person(s) requesting such an investigation knows and/or believes such information is true.

Effective on: 11/18/2013

Confidential Information means any drawings, specifications, cost estimates, oral communications or other documents or information relative to a business or transaction not available to the general public.

Effective on: 11/18/2013

Elected Official shall mean the mayor and members of the Fayetteville City Council.

Effective on: 11/18/2013

Employee shall mean a full-time or part-time employee of the City of Fayetteville.

Effective on: 11/18/2013

Ethics Commission means the members of the ethics commission appointed by the mayor and city council.

Effective on: 11/18/2013

Ethics Commission's Purview means those provisions of the Fayetteville City Code contained in sections 2-91 through 2-94.

Effective on: 11/18/2013

Financial Interest means an interest which shall yield, directly or indirectly, a monetary or other material benefit (other than the duly authorized salary or compensation for his services to the city) to the elected or appointed official or employee, or to any person employing or retaining the services of the elected or appointed official or employee.

Effective on: 11/18/2013

Inquiry means a written request under oath for an advisory opinion which shall be submitted on a form approved by the ethics commission. At a minimum, the form shall contain the name(s) and home address(es) of the person(s) seeking the inquiry; a detailed statement of the facts and reasons why the advisory opinion is being requested; a description of the City Code provision, if any, which may be violated based on the facts submitted; and a statement that the person(s) requesting such an investigation knows and/or believes such information is true.

Effective on: 11/18/2013

Personal Interest means any interest arising from blood or marriage relationship or any financial interest.

Effective on: 11/18/2013

Public Body means the City Council, or any agency, board, body, commission, committee, department or office of the city.

Effective on: 11/18/2013

(Ord. No. S2010-011, § 1, 11-8-2010)

Cross reference— Definitions generally, § 1-2.

Effective on: 11/18/2013

Sec. 2-93. Fair and Equal Treatment.

No elected or appointed official or employee shall grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or to make available to the public at large.

(Ord. No. S2010-011, § 1, 11-8-2010)

Effective on: 11/18/2013

Sec. 2-94. Conflict of Interest.

a. *Participation in business transaction involving public funds.* No appointed official or employee shall become an undertaker, or make any contract for his own benefit, under such authority, or be in any manner concerned or interested in making such contract, or in the profits thereof, either privately or openly, singly or jointly with another, unless the contract is authorized pursuant to [G.S. 14-234](#), and the following conditions are met:

1. The appointed official or employee has not been privileged to any confidential information relating to the business or transaction;
2. The appointed official or employee shall make a public disclosure of their financial interest and not participate in any deliberations or voting on such business or transaction;
3. The public body on which the appointed official or employee works or serves is not the initiator, recipient, user of the supply or service, or public body involved with the purchase, implementation, construction or management of the public project or facility.

If an elected or appointed official or employee no longer serves or works for the public body, the business or transaction cannot be one for which such official or employee had voted upon or been privilege to confidential information while in office or employed by the public body.

- b. *Voting.* No elected or appointed official shall be excused from voting except upon matters involving the consideration of his own financial interest or official conduct. On all other cases, failure to vote by a member who was physically present at a meeting, or who has withdrawn without being excused by a majority of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and allowance of members of the board or commission is not a matter involving a member's own financial interest or official conduct.
- c. *Incompatible employment.* No elected or appointed official or employee shall engage in private employment with, or render services for, any private person, firm, or corporation who has business transactions with any public body unless the same is permitted by [G.S. 14-234](#), and he/she shall first make full public disclosure of the nature and extent of such employment or services.
- d. *Representation of private persons.* No elected or appointed official or employee shall appear as an advocate or agent of any person, other than himself, before any public body in the city. This shall not preclude a member of the governing body from participating in deliberations or voting on a matter where that member has first brought the matter to the attention of the public body and but for this limited involvement has no other interest in the matter for which other provisions of this Code would require disclosure.
- e. *Gifts and favors.* No elected or appointed official or employee shall knowingly accept from any person, firm, or corporation, a gift whether in the form of money, things, favor, loan or promise that would not be offered or given to such elected or appointed official or employee if they were not an elected or appointed official or employee. This section is not intended to prevent the gift and receipt of the following by an elected or appointed official or employee:
 1. Honorariums in an amount not to exceed \$50.00, or expenses to include meals, travel and lodging for participating at meetings, seminars, conferences, grand openings, or anniversary celebrations of businesses, or other similar activities where the elected or appointed official or employee is either a speaker, participant or invited in his official capacity;
 2. Nominal advertising items or souvenirs of \$25.00 or less in value, or meals furnished at banquets;
 3. Customary gifts or favors received from their friends, relatives or employer where it is clear that it is the relationship of the donor which is the motivating factor for the gift or favor;
 4. Discounts offered by retail merchants, places of entertainment or similar commercial enterprises where the discount is offered to all elected or appointed officials or employees or similar categories of elected or appointed officials or employees of other units of government;
 5. Gift certificates, merchandise or services not to exceed an amount of \$200.00 per donor to be offered as prizes at the annual city employee picnic;
 6. Gifts to nonsupervisory employees no more than once a year not to exceed a value of \$25.00.
All such gifts knowingly made or received as permitted in this section and made by a contractor, subcontractor or supplier currently doing business directly or indirectly with the city shall be reported to the city manager or the city council as appropriate within ten days of receipt.
- f. *Confidential information.* Unless required or permitted by law, no elected or appointed official or employee shall, without prior formal authorization of the public body having jurisdiction, disclose any confidential

information concerning any other elected or appointed official or employee, or any other person, or any property or governmental affairs of the city. Whether or not it shall involve disclosure, no elected or appointed official or employee shall use or permit the use of any such confidential information to advance the financial or personal interest of himself or any other person.

- g. *Nepotism.* No elected or appointed official or employee shall appoint or vote for appointment of any person related to him by blood or marriage to any clerkship, office, position, employment or duty when the salary, wages, pay or compensation is to be paid out of public funds.

(Ord. No. S2010-011, § 1, 11-8-2010)

Effective on: 11/18/2013

Sec. 2-95. Ethics Commission.

- a. *Creation and organization.* There is hereby created an ethics commission to consist of five members, all of whom shall be known for their personal integrity and all of whom shall be residents of the City of Fayetteville.
- b. *Membership.* The ethics commission shall be composed of:
1. One member selected by the Cumberland County Bar Association, chosen from the attorney members of the association;
 2. One member selected by the Sandhill Chapter of Certified Public Accountants, chosen from the members of the organization;
 3. One member selected from among the universities/colleges of Fayetteville State University, Methodist University, and Fayetteville Technical Community College; and
 4. Two members selected by the city council from the general citizenry.
- c. *Terms of members.* Each member shall serve for a term of three years; however the initial terms of the Cumberland County Bar Association and Sandhill Chapter of Certified Public Accountants shall be for three years and the initial terms of the first appointee from the universities/colleges and the two members appointed by the city council from the general citizenry shall be for two years. The members shall serve without compensation.
- d. *Election of chair and vice chair.* The ethics commission shall elect:
1. *A chair by majority vote of the serving members.* Each chair will serve a one-year term and shall be eligible to serve as chair in successive years.
 2. *A vice chair to preside in the absence of the chair.* The vice chair will serve a one-year term and shall be eligible to serve as vice chair in successive years. The chair shall preside at the meetings and decide all points of order, procedure and evidence.
- e. *Meetings and minutes.* All meetings of the ethics commission shall be conducted in accordance with the Open Meetings Law, [G.S. 143-318.9](#), et seq. Rules of procedure for consideration of a complaint or an inquiry shall be as established by the ethics commission; otherwise, the meetings of the ethics commission will be governed by the Parliamentary Rules of Procedure for City Council, as prescribed in section 2-4 of this Code of Ordinances. Written minutes of all ethics commission meetings shall be taken by the city clerk and after approval, filed with the city clerk.
- f. *Quorum and decisions; vacancies.* The ethics commission shall conduct its business only with a quorum. Any hearing pursuant to subsection 2-95(i), shall require a quorum of at least four members of the ethics commission. Otherwise, a quorum shall be the majority of the actual members of the ethics commission, excluding vacant seats. A majority opinion of the members sitting at any hearing shall govern as to decisions of the ethics commission. Vacancies shall be filled as soon as is practicable, in accordance with the procedure for appointment of members under subsection (b) of this section.
- g. *Political activities.* The members of the ethics commission shall be prohibited from engaging in any city election political activities and from making campaign contributions to candidates in city elections during their terms as commission members. Violations of this subsection shall result in removal from board membership.

h. *Intake and screening of inquiries.* Any person, elected or appointed official, or employee may file an inquiry to obtain an advisory opinion as follows:

1. Inquiries to the ethics commission must be submitted to the city clerk or the city's human resources development department.
2. All inquiries to the ethics commission shall initially be reviewed by one or more designees from the city's human resources development department within three business days of receipt by the human resources development director.
3. A record shall be made and kept of all such inquiries.
4. Inquiries that fall within the ethics commission's purview to any degree shall be forwarded to the ethics commission and placed upon the agenda for consideration at the next regularly scheduled meeting. If the subject matter of the inquiry appears to be a violation of a criminal statute, the matter shall be referred to the appropriate law enforcement agency or the district attorney.
5. Inquiries deemed not to fall within the ethics commission's purview shall be forwarded to such other departments within the city or other authorities as is appropriate. Summaries outlining the substance of these inquiries shall be prepared by designees from the city's human resources development department. These summaries shall be presented to the ethics commission and placed upon the agenda for review at the next regularly scheduled meeting. The ethics commission may, however, review any inquiry in its entirety. At the ethics commission's request, any matter presented in summary fashion shall be presented in its entirety and placed upon the agenda for the next regularly scheduled meeting.
6. The inquiry shall be submitted to the city clerk or the human resources development department. The inquiry will be deemed "received" by the ethics commission when it is first reviewed by the ethics commission pursuant to subsection 2-95(h).
7. The ethics commission or its designee may request any additional information deemed necessary to render an advisory opinion. If it deems necessary, the ethics commission may conduct a fact-finding hearing to assist in rendering an advisory opinion.
8. The ethics commission shall render an advisory opinion in writing no later than six weeks from the time it receives the request, unless the person who requests the opinion has withdrawn the request in writing, or unless the requested additional information has not been received by the ethics commission, or unless the ethics commission has given written notice to the requestor explaining the reason for the delay and stating an expected issuance date. The advisory opinion will be issued to the person who requests the opinion.
9. The ethics commission may publish advisory opinions with such deletions as may be lawful and necessary to prevent disclosure of records which are exempt pursuant to the North Carolina Public Records Act or confidential pursuant to [G.S. 160A-168](#). The ethics commission may also publish guidelines based on an advisory opinion if the subject of the opinion may be of general interest and guidance.
10. All ethics commission advisory opinions shall be forwarded in writing to the individual who requested the advisory opinion and the city manager or city council, as deemed appropriate by the ethics commission, and if permitted by law, the city manager or city council shall report any action taken as a result of said advisory opinion.

i. *Complaints.*

1. Any person, elected or appointed official, or employee may file a complaint with the city clerk or the human resources development department.
2. Complaints will be deemed "filed" when they are received by the city clerk in writing or when received by the city's human resources development department. Complaints will be deemed "received" by the ethics commission when they are first reviewed by the ethics commission.
3. The ethics commission or its designee may request any additional information deemed necessary to screen the complaint or to render a decision.

4. No complaints shall be accepted or considered which relate to actions that took place more than one year prior to the date of filing unless recurring benefits or consequences attributable to such actions are apparent.
5. The ethics commission's designee must notify the person who is the subject of the complaint no more than three business days from the day the complaint was filed. The notification shall include a copy of the full complaint; and a copy of any portion of the code of ethics that may have been or that may be violated.
6. The ethics commission shall provide the subject of the complaint with a copy of the complaint before it provides copies to any other parties.
7. Screening pursuant to subsection 2-95(h)(2) shall occur no more than five business days from the date a complaint is filed. If the complaint is deemed to fall within the purview of the ethics commission, the ethics commission shall convene to review the complaint at a properly noticed meeting under the Open Meetings Law. If the subject matter of the complaint appears to be a violation of a criminal statute, the matter shall be referred to the appropriate law enforcement agency or the district attorney.
8. The ethics commission may immediately dismiss a complaint at any time if:
 - a. The ethics commission has no jurisdiction over the subject matter or the alleged violator;
 - b. The alleged violation, if true, would not constitute a violation of the code of ethics;
 - c. The alleged violation is de minimis;
 - d. The complaint is, on its face, frivolous, groundless, or brought for purposes of harassment;
 - e. The matter has become moot because the person who is the subject of the complaint is no longer an official or employee. If the ethics commission determines that the public interest would be served by publishing an advisory opinion, it shall subsequently issue an opinion.
 - f. The person who is the subject of the complaint had obtained an advisory opinion under section 2-95 permitting the conduct; or
 - g. The ethics commission deems the supervisor or department head has already dealt satisfactorily with the allegation which is the subject of the complaint.

All dismissals shall be in writing, contain the reason for the dismissal, and be made available to the public.

9. If, after initial review by the ethics commission, the complaint has not been dismissed pursuant to subsection 2-95(i), the commission shall prepare and issue a notice of hearing, which shall set forth in reasonable detail the alleged violations of the code of ethics and the facts supporting the allegations. The notice of hearing shall be mailed to the person filing the complaint (complainant) and to the subject of the complaint (complaint subject) within five days of its approval by the chair of the ethics commission. The notice shall provide the complaint subject an opportunity to prepare and file an answer to the notice of hearing within ten days, unless an extension is granted for good cause. When received by the ethics commission, the answer shall be promptly mailed to the complainant.
10. Within ten days of the receipt of the answer, the city clerk shall issue a notice setting forth a date and place for the hearing. The ethics commission will attempt to accommodate the parties in selecting a date that is mutually agreeable.
11. The ethics commission shall stay the inquiry and refer the entire matter to the appropriate law enforcement agency when credible evidence of a crime is discovered.
12. At least ten days before the hearing, the parties or their representatives shall submit to the ethics commission a proposed list of witnesses and a list of possible documentary evidence to be introduced at the hearing, as well as an estimate of the length of time needed to present the testimony and evidence.
13. The ethics commission may request its attorney to subpoena witnesses and documents after having made a written request to appear or provide the records. Subpoenas shall be issued pursuant to North Carolina State Law. Persons who are subpoenaed or whose records are subpoenaed may object to testimony or the

production of documents on the grounds that such information is privileged under North Carolina State Law.

14. Any elected or appointed official or employee of the City of Fayetteville who is called before the ethics commission for a hearing shall be required to participate in providing information that is in their custody unless such information is protected by a privilege under North Carolina State Law.
15. After the notice of hearing has been issued, none of the parties or their representatives may communicate with the ethics commission or any ethics commission member on any matter pertaining to the inquiry. All communications pertaining to the inquiry shall be sent to the commission's attorney.
16. At any time after the issuance of the notice of hearing, the ethics commission, at its discretion, may make a finding solely on the basis of written arguments without holding a public hearing if it determines that there is no significant discrepancy in the facts. However, the complaint subject shall have the right to demand a hearing which may be open to the public.
17. At any time after the issuance of the notice of hearing, the ethics commission may dismiss a complaint without a finding for or against the complaint subject if it finds that the person committed the violation due to oversight and comes into voluntary compliance.
18. The ethics commission may dismiss a complaint if the complainant does not appear at the hearing and if, in the opinion of the ethics commission, it would be unfair to the subject of the complaint not to have the opportunity to examine the complainant. Nothing herein shall prevent the ethics commission from conducting the hearing where there is reason to believe that the code of ethics has been violated.
19. At the hearing, the complainant or the complainant's representative will be provided the opportunity to make an opening statement and presentation of the evidence in support of the allegations set forth in the notice of hearing. The inquiry subject or their representative shall be entitled to cross-examine witnesses called by the complainant or the commission's attorney.
20. At the conclusion of the evidence offered by the complainant or the complainant's representative, the subject of the complaint or their representative shall have the opportunity to make an opening statement and present evidence. The complainant or their representative shall have the opportunity to cross-examine witnesses called by the complaint subject. Either party shall be allowed sufficient time to examine and respond to any evidence not presented to them in advance of the hearing. At the conclusion of the evidence, the parties may make closing statements or, with the consent of the ethics commission, submit written summaries of their respective positions.
21. The chair of the ethics commission and, in the absence of the chair, the vice chair shall preside at the hearing, administer oaths or accept affirmations from witnesses, and decide all points of order, procedure and evidence. The hearing need not be conducted according to technical rules of evidence, and any relevant evidence, including hearsay, of probative value shall be admitted at the discretion of the chair. Incompetent, immaterial, or unduly repetitious evidence may be excluded.
22. An electronic or stenographic record of the hearing shall be made and kept by the city clerk.
23. At the conclusion of the hearing, the ethics commission shall deliberate towards a decision. Upon a majority vote of the members present for the hearing, the matter shall be decided. The ethics commission shall then direct its attorney to draft findings, conclusions and recommendations for approval at the following regularly scheduled meeting.
24. The ethics commission shall conduct a hearing of all complaints within 90 days of receipt of the complaint by the ethics commission. Procedural delays caused by the subject of the inquiry shall toll the 90-day time limit.
25. Within 30 days of the conclusion of deliberations, the ethics commission shall issue and publish its decision to include findings, conclusions and recommendations. In the alternative, the ethics commission where it deems appropriate may issue an advisory opinion in lieu of making findings and recommendations.

26. The commission's attorney shall send a written copy of the ethics commission's findings and recommendations to the inquiry subject and the complainant and, unless provided otherwise in these rules, in the code of ethics, or in state law, shall make the findings and recommendations public.

27. The complaint subject shall have the right to be represented by legal counsel in the hearing or any other proceeding, before the ethics commission.

j. *Conflict of interest questionnaire.* All elected officials, members of the city senior management team, and a random sample of city employees shall be required to complete the conflict of interest questionnaire sent by the city's internal auditor and certify that they have read the City of Fayetteville Code of Ethics.

k. *Conflict of laws.* Nothing in this section is intended to circumvent, repeal, or otherwise supersede other provisions of the Fayetteville City Code. To the extent that there is a conflict between the provisions of this section and other sections of the Fayetteville City Code, the North Carolina General Statutes, the North Carolina Constitution, or the Constitution of the United States, those provisions will control.

l. *Public record.* No inquiry or complaint may be released to the public in violation of [G.S. 160A-168](#), or it if is protected from public disclosure by Chapter 132 of the North Carolina General Statutes.

(Ord. No. S2010-011, § 1, 11-8-2010)

Effective on: 11/18/2013

Sec. 2-96. Violations; Appeals.

a. If a decision of the ethics commission finds the person to be in violation of this article or failing to comply with an opinion rendered by the ethics commission, and the person is:

1. An elected official, the matter shall be referred to the city council for consideration of censure;
2. An appointed official, he/she may be subject to public reprimand by the ethics commission, and/or may be referred by the ethics commission to the city council for consideration of removal; and
3. An employee, the ethics commission may recommend disciplinary action to the employee's supervisor, department head and city manager.

b. The decision of the ethics commission after a hearing shall be final. Any appeal shall be made within ten days and shall be taken to superior court and subject to review by writ of certiorari.

(Ord. No. S2010-011, § 1, 11-8-2010)

Effective on: 11/18/2013

Secs. 2-97—2-120. Reserved.

Effective on: 11/18/2013

Article Footnote(s)

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Editor's note— Ord. No. S2010-011, § 1, adopted Nov. 8, 2010, amended art. IV in its entirety to read as herein set out. Former art. IV, §§ 2-91—2-96, pertained to similar subject matter and derived from: Code 1961, §§ 2-50—2-55; and Ord. No. S2009-008, §§ 1—3, adopted Sept. 28, 2009.

State Law reference— Conflicts of interest involving public funds, [G.S. 14-234](#).

Effective on: 11/18/2013

Notice of Certain Reporting and Audit Requirements

A recipient or subrecipient shall comply with the all rules and reporting requirements established by statute or administrative rules found in 09 NCAC Subchapter 3M. For convenience, the requirements of 09 NCAC Subchapter 3M.0205 are set forth in this Attachment.

Reporting Thresholds.

There are three reporting thresholds established for recipients and subrecipients receiving State awards of financial assistance. The reporting thresholds are:

- (1) Less than \$25,000 – A recipient or subrecipient that receives, hold, uses, or expends State financial assistance in an amount less than twenty-five thousand dollars (\$25,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
 - (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
 - (B) An accounting of all State financial assistance received, held, used, or expended.
- (2) \$25,000 up to \$500,000 -A recipient or subrecipient that receives, holds uses, or expends State financial assistance in an amount of at least twenty-five thousand (\$25,000) but less than five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
 - (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
 - (B) An accounting of all State financial assistance received, held, used, or expended.
 - (C) A description of activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.
- (3) Greater than \$500,000 – A recipient or subrecipient that receives, holds, uses, or expends State financial assistance in the amount equal to or greater than five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
 - (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
 - (B) An accounting of all State financial assistance received, held, used, or expended.
 - (C) A description of activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.
 - (D) A single or program-specific audit prepared and completed in accordance with Generally Accepted Government Auditing Standards, also known as the Yellow Book.

Other Provisions:

1. All reports shall be filed with the disbursing agency in the format and method specified by the agency no later than three (3) months after the end of the recipient's fiscal year, unless the same information is already required through more frequent reporting. Audits must be provided to the funding agency no later than nine (9) months after the end of the recipient's fiscal year.
2. Unless prohibited by law, the costs of audits made in accordance with the provisions of 09 NCAC 03M .0205 shall be allowable charges to State and Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with cost principles outlined in the Code of Federal Regulations, 2CFR Part 200. The cost of any audit not conducted in accordance with this Subchapter shall not be charged to State awards.
3. Notwithstanding the provisions of 09 NCAC 03M .0205, a recipient may satisfy the reporting requirements of Part (3)(D) of this Rule by submitting a copy of the report required under the federal law with respect to the same funds.
4. Agency-established reporting requirements to meet the standards set forth in this Subchapter shall be specified in each recipient's contract.