

**TUESDAY, SEPTEMBER 18, 2018
TOWN OF SAWMILLS REGULAR COUNCIL MEETING
6:00 PM**

COUNCIL PRESENT

Mayor Johnnie Greene
Clay Wilson
Jeff Wilson
Rebecca Johnson
Keith Warren

STAFF PRESENT

Christopher Todd
Terry Taylor
Julie A Good

COUNCIL ABSENT

Joe Norman

CALL TO ORDER: Mayor Johnnie Greene called the meeting to order.

INVOCATION: Councilman Clay Wilson gave the invocation.

PLEDGE OF ALLEGIANCE: Mayor Johnnie Greene led the Pledge of Allegiance.

ADOPT AGENDA: Mayor Johnnie Greene asked for a motion to adopt the September 18, 2018 Agenda.

Keith Warren made a motion, and Clay Wilson seconded, to adopt the September 18, 2018 Agenda. All were in favor.

APPROVE AUGUST 21, 2018 REGULAR MEETING MINUTES: Mayor Johnnie Greene asked for a motion to approve the August 21, 2018 regular meeting minutes.

Rebecca Johnson made a motion, and Clay Wilson seconded, to approve the August 21, 2018 regular meeting minutes. All were in favor.

PUBLIC COMMENT: Mayor Johnnie Greene asked if anyone had any questions or comments at this time.

Fred Lanford, 3512 Moore Acres Dr, wanted to talk about a high water bill.

RECOGNITIONS:

RECYCLE REWARDS WINNER: Mayor Johnnie Greene announced Mrs. Camilla Holsclaw as the September Recycle Rewards winner. A credit of thirty-two dollars (\$32.00) will be added to her sanitation bill.

No Council action was required.

FINANCIAL MATTERS:

UNIFORM GUIDANCE PURCHASING POLICY: Town Administrator Christopher Todd stated that in order to best utilize federal funds, the Town needs to adopt purchasing policies in accordance with the Federal Uniform Purchasing Policy. This policy would impact all federal funding, including, but not limited to, grants and FEMA funding.

Keith Warren made a motion, and Clay Wilson seconded, to adopt the Uniform Guidance Purchasing Policy. All were in favor.

DISCUSSION:

NUISANCE ORDINANCE: Town Administrator Christopher Todd stated that the Town Council received an overview of the town's nuisance ordinances during the August Council meeting. At that time, it was determined that the Town Administrator would come back with possible ordinance amendments to allow for a wider variety of complaint applications.

The current ordinance reads, "The Town Manager, upon notice from any person, on a pre-printed form to be provided by the Town Clerk, of the existence of any the conditions described in 91.01, shall be cause to be made by the appropriate County Health Department Official or Town Official, such investigation as may be necessary..." (91.02 Investigation).

The suggested language would read as follows: "The Town Manager, upon notice from any person, on a standardized form to be provided by the Town Clerk, of the existence of any the conditions described in 91.01, shall be cause to be made by the appropriate County Health Department Official or Town Official, such investigation as may be necessary..." (91.02 Investigation).

Jeff Wilson made a motion, and Clay Wilson seconded, to amended Nuisance Ordinance to read "standardized" form instead of "Pre-printed form". Rebecca Johnson was in favor. Keith Warren opposed.

VIDEO/AUDIO SURVEILLANCE POLICY AND PROCEDURE: Town Administrator Christopher Todd stated that the Town currently uses video/audio surveillance equipment to ensure the safety and security of all those that use the Town facilities. The Town does not

currently have a policy regarding the use of this equipment or the use of any actions seen on these cameras.

The purpose of this Video/Audio Surveillance Policy and Procedure is to implement and regulate the use of video/surveillance system used to monitor and record Town owned and maintained public and restricted areas, when utilized with other security measures, for the purpose of ensuring the security and safety of facilities operated by the Town.

Clay Wilson made a motion, and Rebecca Johnson seconded, to approve the Video/Audio Surveillance Policy and Procedure. All were in favor.

PUBLIC COMMENT:

No one wished to speak.

SEPTEMBER CODE ENFORCEMENT REPORT: There are fifteen (15) code enforcement cases open:

- Teresa Annas Compton is the owner of a dilapidated house located at 4476 Sawmills School Road. Town Planner Becca Bleich stated that there was a hearing held on September 6, 2018. Owner did not show. Town can proceed with abatement;
- Carolyn Bray/Robyn Brittan, owner of abandoned mobile home located at 2570 Baker Circle. Town Planner Becca Bleich stated that an Attorney has been appointed to the estate and Terry Taylor with work with attorney;
- John "Jody" McRary, owner of 1956 Jody Drive. Freight container as storage structure. Town Planner Becca Bleich stated that Town Administrator and owner have agreed on a place for relocating the shipping container. The Town has determined which transport service will be utilized. Town Administrator can give a timeframe for relocation;
- Jose Montes, owner 4321 Cherokee Court. High grass/junk vehicles. Town Planner Becca Bleich stated that she spot checked property on June 14, 2018. Still no proper driveway has ever been installed. Town Planner Becca Bleich stated that a letter was sent giving the owner thirty (30) days to install a driveway. The thirty (30) days are up on July 14, 2018, and homeowner will start to accrue fines if not compliant from that date. Town Planner Becca Bleich stated that another letter was sent on August 28, 2018, giving the home owner ten (10) more days. Town Planner Becca Bleich stated that she spot checked the property on September 11 and the homeowner was not in compliance. A letter outlining fees was sent to homeowner on September 11, 2018;
- Janice Griffin, Trustee of Iona Griffin, 2148 Oaktree Ln. Abandoned, partially burned apartment building. Town Planner Becca Bleich stated that the former Town Planner Leslie M. Meadows spoke with lead contractor Lewis Miller, of Lewis Miller Construction on March 8, 2018. Mr. Miller stated that he is still waiting for the report from the structural engineer to determine what's salvageable of what remains of the

burnt structure. Once cleared to begin reconstruction, Mr. Miller anticipates six (6) to eight (8) months for completion. Town Planner Becca Bleich stated that she spot checked the buildings on August 21, 2018 and no progress seems to have been made. Town Planner Becca Bleich stated that she has called and left a message for Caldwell County Building Inspections to see if a permit has been administered;

- Midland IRA, owner of 5711 Dream View Point. Nonconforming accessory structure. Town Planner Becca Bleich stated that she spot checked property in April. An accessory structure has been placed on the property before the principal structure has been constructed. Letter was sent on May 23, 2018 with a deadline to remove structure by June 7, 2018;
- Chun Walker, owner of 4125 Shoun Dr. Overgrown vegetation. Town Planner Becca Bleich stated that she spot checked property on August 9, 2018. Town Planner Becca Bleich stated that the property is a little overgrown but not terrible. Town Planner Becca Bleich stated that she will continue to monitor the property;
- Sandra Parlier, daughter of the owner of 4380 Sawmills School Rd. Overgrown vegetation. Sandra contacted Town Planner Becca Bleich requesting extension on foreclosure process. Town Planner Becca Bleich stated that a letter was sent on August 7, 2018, explaining the foreclosure process was initiated by Caldwell County but the nuisance violations would need to be abated within fifteen (15) days. Deadline is August 22, 2018. The owner did not comply and another letter outlining fees was sent with a deadline of September 21, 2018;
- Chaney Carter, owner of 4361 Sawmills School Rd. Overgrown vegetation. Town Planner Becca Bleich stated that a letter was sent on July 19, 2018, with a deadline of August 3, 2018. Town Planner stated that the nuisance was abated by the Town on August 10, 2018. Town Planner Becca Bleich stated that a lien will be placed on the property for the cost of the mowing. Town Planner Becca Bleich stated that a hearing was held on September 6, 2018. The homeowner did not show so the Town can proceed to demolish house;
- Timberline Lumber Company, Inc., owner of 4219 US Highway 321A. Overgrown vegetation. Town Planner Becca Bleich stated that a NOV letter was sent on July 19, 2018, with a deadline of August 3, 2018. Town Planner Becca Bleich also stated that an additional letter was sent by Town Attorney Terry Taylor on August 2, 2018 with a deadline of August 17, 2018. The owner did not comply. Town Planner Becca Bleich stated that she is working with Town Attorney Terry Taylor to determine what steps to take next;
- Andrew and Bridget Dehart, owners of 4036 US Highway 321A. Rubbish. Town Planner Becca Bleich stated that a letter was sent on July 24, 2018, with a deadline of August 8, 2018. Town Planner stated that the property has been cleaned. Case closed;
- Robert Hollar, owner of 2615 Mission Rd. Overgrown vegetation. Town Planner Becca Bleich stated that there was vegetation on the fence encroaching onto the neighbor's property. Town Planner Becca Bleich stated that a letter was sent on July 24, 2018, with a deadline of August 8, 2018. Town Planner Becca Bleich stated that she missed a call from the property owner requesting clarification and she called back and left a voicemail explaining the issue. Town Planner Becca Bleich stated that she

has spoken with a business representative and a contractor has been hired to abate the issue. Town Planner Becca Bleich stated that she will continue to monitor;

- Gladys Green, registered owner of 2624 Mission Rd. Overgrown vegetation. Town Planner Becca Bleich stated that a letter was sent on July 24, 2018, with a deadline of August 8, 2018. Town Planner Becca Bleich stated that the letter was returned as undeliverable. Town Planner Becca Bleich stated that the property owner is deceased and that Town Attorney Terry Taylor performed a title search and found address of Ms. Green's children. Town Planner Becca Bleich stated that she sent letters out to Ms. Green's children on September 6, 2018 with a deadline of September 16, 2018. Town Planner Becca Bleich stated that she spoke with Ms. Green's daughter and she was informed that the daughter stated she has no control over the property and doesn't know who does, but assumes it is her brother. Town Planner Becca Bleich was informed that Ms. Green's son recently had heart surgery and isn't sure how quickly he will be able to attend to the issue;
- Donald Street, owner of 1747 Cahah Mountain Road. Rubbish and high grass. Town Planner Becca Bleich stated that a letter was sent on August 28, 2018 with a deadline of September 6, 2018. Town Planner Becca Bleich stated that the property has been cleaned and the grass has been mowed. Case closed;
- Buck Poe, 4042 Clyde Drive. High Grass. Town Planner Becca Bleich stated that a letter was sent on September 6, 2018 with a deadline of September 16, 2018.

No Council action was required.

COUNCIL COMMENT: Mayor Johnnie Greene asked if anyone on the Council had any questions or comments at this time.

Mayor Johnnie Greene wanted to thank everyone for coming out and hoped everyone would come back. Mayor Johnnie Greene stated he hoped everyone was careful going home.

Clay Wilson wanted to thank everyone for coming out. Clay Wilson also stated that he had went by Oaktree Lane and the burned apartments have been tore down.

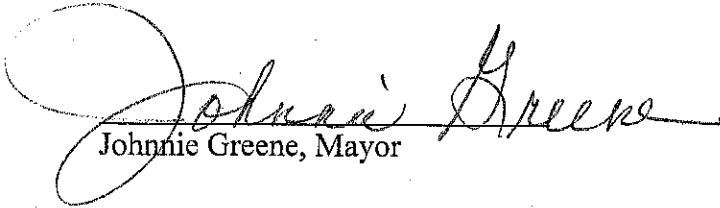
Jeff Wilson wanted to thank everyone for coming out.

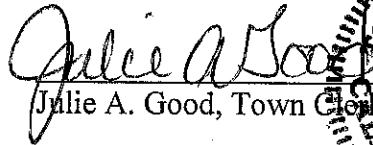
Keith Warren wanted to thank everyone for coming out.

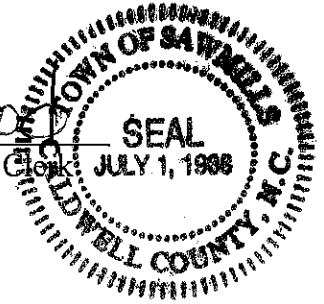
Rebecca Johnson wanted to thank everyone for coming out and hoped everyone would come back.

COUNCIL ADJOURN: Mayor Johnnie Greene asked for a motion to adjourn.

Keith Warren made a motion, and Clay Wilson seconded, to adjourn the meeting. All were in favor.


Johnnie Greene, Mayor


Julie A. Good, Town Clerk



Town of Sawmills Federal Uniform Guidance Procurement Policy

I. Purpose

The purpose of this policy is to establish guidelines for when federal funds are being used, that meet or exceed the procurement requirements for purchases of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects when federal funds are being used in whole or in part to pay for the cost of the contract. To the extent that other sections of procurement policies and procedures adopted by Town of Sawmills are more restrictive than those contained in this policy, local policies and procedures shall be followed.

II. Policy

- A. **Application of Policy.** This policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). The requirements of this Policy also apply to any subrecipient of the funds.

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

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

- C. **Contract Award.** All contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract.

- D. **No Evasion.** No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or state and federal law.

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

- F. **Contractors' Conflict of Interest.** Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, invitation for bids or requests for proposals shall be excluded from competing for such requirements, in accordance with the Town's Conflict of Interest Policy
- G. **Approval and Modification.** The administrative procedures contained in this Policy are administrative and may be amended as necessary at with approval of the Town Administrator and Town Attorney to comply with state and federal law.

III. General Procurement Standards and Procedures:

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

- A. **Necessity.** Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. The Purchasing Department and/or the Requesting Department should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.
- B. **Clear Specifications.** All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.
- C. **Notice of Federal Funding.** All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.
- D. **Compliance by Contractors.** All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.
- E. **Fixed Price.** Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will not be used unless no other form of contract is suitable and the contract includes a "Not to Exceed" amount. A time and materials contract shall not be awarded without express written permission of the federal agency or state pass-through agency that awarded the funds.

- F. Use of Brand Names.** When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how to reach the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and "or equal" must be included in the description.
- G. Lease versus Purchase.** Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach.
- H. Dividing Contract for M/WBE Participation.** If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.
- I. Documentation.** Documentation must be maintained by the Finance Officer detailing the history of all procurements. The documentation should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor's responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.
- J. Cost Estimate.** For all procurements costing \$250,000 or more, the Purchasing Department and/or Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids and submit to the Town Administrator. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.
- K. Contract Requirements.** The Town Administrator will request the Town Attorney to prepare a written contract incorporating the provisions referenced in Section II.C of this Policy.
- L. Debarment.** No contract shall be awarded to a contractor included on the federally debarred bidder's list.
- M. Contractor Oversight.** The Town Administrator or his designee will maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.

- N. Open Competition.** Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to unnecessary supplier experience, excessive or unnecessary bonding, specifying a brand name without allowing for "or equal" products, or other unnecessary requirements that have the effect of restricting competition.
- O. Geographic Preference.** No contract shall be awarded on the basis of a geographic preference.

IV. Specific Procurement Procedures

Either the Finance Officer and/or Town Administrator will solicit bids in accordance with the requirements under this Section of the Policy based on the type and cost of the contract.

- A. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing less than \$10,000** shall be procured using the Uniform Guidance "micro-purchase" procedure (2 C.F.R. § 200.320(a)) as follows:
1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
 2. To the extent practicable, purchases must be distributed among qualified suppliers.
- B. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$10,000 up to \$90,000** shall be procured using the Uniform Guidance "small purchase" procedure (2 C.F.R. § 200.320(b)) as follows:
1. Obtain price or rate quotes from an "adequate number" of qualified sources (a federal grantor agency might issue guidance interpreting "adequate number," so the Requesting Department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
 2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
 3. Cost or price analysis is not required prior to soliciting bids.
 4. Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
 5. Award the contract to the lowest responsive, responsible bidder.
- C. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$90,000 and above** shall be procured using a combination of the most restrictive requirements of the Uniform Guidance "sealed bid" procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:
1. Cost or price analysis is required prior to soliciting bids.
 2. Complete specifications or purchase description must be made available to all bidders.

3. The bid must be formally advertised in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for "sound documented reasons."
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
5. Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Governing board approval is required for purchase contracts unless the governing board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for "sound documented reasons."

D. Service Contracts (except for A/E professional services) **costing \$250,000 and above** may be procured using the Uniform Guidance "competitive proposal" procedure (2 C.F.R. § 200.320(d)) when the "sealed bid" procedure is not appropriate for the particular type of service being sought. The procedures are as follows:

1. A Request for Proposals (RFP) must be publicly advertised. Formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an "adequate number" of qualified firms.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
4. Consider all responses to the publicized RFP to the maximum extent practical.
5. Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
6. Award the contract to the responsible firm with most advantageous proposal taking into account price and other factors identified in the RFP. Governing board approval is not required.
7. Award the contract on a fixed-price or cost-reimbursement basis.

E. Construction and repair contracts costing less than \$10,000 shall be procured using the Uniform Guidance "micro-purchase" procedure (2 C.F.R. § 200.320(a)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
2. To the extent practicable, contracts must be distributed among qualified suppliers.

F. Construction and repair contracts costing \$10,000 up to \$250,000 shall be procured using the Uniform Guidance "small purchase" procedure (2 C.F.R. § 200.320(b)) as follows:

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

G. Construction and repair contracts costing \$250,000 up to \$500,000 shall be procured using the Uniform Guidance "sealed bid" procedure (2 C.F.R. § 200.320(c)) as follows:

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

H. Construction and repair contracts costing \$500,000 and above shall be procured using a combination of the most restrictive requirements of the Uniform Guidance "sealed bid" procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate should be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Formally advertise the bid in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid

opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for "sound documented reasons."

4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
 5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of 3 bids must be received in order to open all bids.
 6. A 5% bid bond is required of all bidders (a bid that does not include a bid bond cannot be counted toward the 3-bid minimum requirement). Performance and payment bonds of 100% of the contract price is required of the winning bidder.
 7. Award the contract on a firm fixed-price basis.
 8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is required and cannot be delegated. The governing board may reject and all bids only for "sound documented reasons."
- I. **Construction or repair contracts involving a building costing \$300,000 and above** must comply with the following additional requirements under state law:
1. Formal HUB (historically underutilized business) participation required under G.S. 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.
 2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under G.S. 143-128(a).
 3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under G.S. 143-129(a1).
- J. **Contracts for Architectural and Engineering Services costing under \$250,000** shall be procured using the state "Mini-Brooks Act" requirements (G.S. 143-64.31) as follows:
1. Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
 2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.
 3. Evaluate the qualifications of respondents based on the evaluation criteria developed by the Town Administrator.
 4. Rank respondents based on qualifications and select the best qualified firm. Price cannot be a factor in the evaluation. Preference may be given to in-state (but not local) firms.
 5. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.

6. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

K. Contracts for Architectural and Engineering Services costing \$250,000 or more shall be procured using the Uniform Guidance "competitive proposal" procedure (2 C.F.R. § 200.320(d)(5)) as follows:

1. Publically advertise a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ.
4. Proposals must be solicited from an "adequate number of qualified sources" (an individual federal grantor agency may issue guidance interpreting "adequate number").
5. Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
6. Consider all responses to the publicized RFQ to the maximum extent practical.
7. Evaluate qualifications of respondents to rank respondents and select the most qualified firm. Preference may be given to in-state (but not local) firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
8. Price cannot be a factor in the initial selection of the most qualified firm.
9. Once the most qualified firm is selected, negotiate fair and reasonable compensation. If negotiations are not successful, repeat negotiations with the second-best qualified firm.
10. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated.

V. Exceptions

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

- A. Sole Source.** A contract may be awarded without competitive bidding when the item is available from only one source. The Purchasing Department and/or Requesting Department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the governing board.
- B. Public Exigency.** A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to

public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.

- C. Inadequate Competition.** A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.
- D. Federal Contract.** A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.
- E. Awarding Agency Approval.** A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law.

Prepared by: Terry M. Taylor, Attorney at Law

NORTH CAROLINA

CALDWELL COUNTY

TOWN OF SAWMILLS VIDEO/AUDIO SURVEILLANCE POLICY AND PROCEDURE

1. Background

The Town of Sawmills ("Town") has established a priority to place video/audio surveillance equipment at Town facilities and on Town property (collectively, "Facilities").

The Town has allocated funds to purchase surveillance equipment and has installed such equipment at its Facilities.

2. Purpose

The purpose of this Video/Audio Surveillance Policy and Procedure ("Policy") is to implement and regulate the use of Video/Audio Surveillance System used to monitor and record Town owned and maintained public and restricted areas, when utilized with other security measures, for the purpose of ensuring the security and safety of Facilities operated by the Town.

The need to ensure security and safety must be balanced with an individual's right to privacy. The purpose of this Policy is to establish procedures which are intended to achieve this balance. Specifically, this Policy addresses requirements and responsibilities with respect to:

- The installation and operation of Video/Audio Surveillance Systems at Town Facilities;
- The use of the information obtained through Video/Audio Surveillance Systems on Town Facilities; and
- Custody, control, access to and retention of records created through Video/Audio Surveillance Systems.

3. Scope

This Policy governs the used of the Video/Audio Surveillance System equipment when utilized for the purpose of ensuring the safety of persons and property within Town Facilities, including such equipment when used for the deterrence and the investigation and potential prosecution of criminal behavior.

4. Definitions/Terms

“Town Administrator” means the primary official with overall responsibilities for the management and operations of the Town programs, or his designee.

“Video/Audio Surveillance System, “Video/Audio Surveillance Systems,” or “System” refers to any system or device that enables continuous or periodic video/audio recordings, observing or monitoring the interior or exterior of Town Facilities. This may include individuals entering or exiting Town Facilities, and includes the storage device used to store the recorded video/audio data.

5. General Principals

5.1. Management and Operations of Video/Audio Surveillance System

- a. This Video Surveillance Policy will be administered and monitored by the Town Administrator or his designee. The use of a video/audio surveillance system to enhance security, including specific camera positions, is determined on the basis of reasonable and justifiable grounds for the provision of employee and public safety, as well as security
- b. The Town Administrator or his designee shall be responsible for the following:
 - Maintaining and annually reviewing the protocols for the installation, operation, and use of the Video/Audio Surveillance System used by the Town, and for the custody, control, access to and retention of records created;
 - Ensuring that all proposed changes to the existing system or any newly proposed systems meet the requirements of this Policy prior to implementation;
 - Maintaining the custody of all system records created. All records will be maintained for a period of sixty (60) calendar days. Any records saved for specific purposes such

personnel action, incident/accident investigation, or litigation will be retained for as long as necessary;

- Ensuring the security of any records, from creation through final disposal;
- Ensuring compliance with this Policy;
- Designating persons to operate the System and maintain a list of all persons designated to operate the System, and only those who have been designated may be permitted to operate the System; and
- Establishing an appropriate training program for the operation of the equipment, including responsibilities with respect to protection of privacy and confidentiality.

c. Designated staff are responsible for the following:

- Ensuring, at the time of Facility inspections, that the camera LED light is lit solid and not flashing to insure that system is operating;
- Refraining from loud playing of radios, or other devices that would interfere with the recording of audio data;
- Taking no action or allow others to take actions that would interfere with the proper functioning of the system; and
- Noting specifically the time and location of the occurrence, if incidents do occur during the normal course of providing service that is part of an investigation.

d. Access is limited to the following:

- Individuals responsible for the operation or administration of the system;
- Individuals who have a legitimate need to access the information for one of the purposes listed in the "Use of Information Collected" section of this Policy;
- Access means the Town staff may provide a summary of the information collected.
- If required by North Carolina or Federal law, a copy of the record may be provided.

5.2. Appropriate and Prohibited Use

a. It is the intention that information on the operation and use of Video/Audio surveillance systems at Town Facilities, as well as

the actual records created, will not be considered public record, as defined in N.C.G.S. §132-1 as the recordings are made for the following purposes:

- To document, monitor, and evaluate the actions of Town employees for use in performance evaluations; and suspension, disciplinary actions and terminations. Such recordings become part of confidential personnel files and are thereby protected as confidential information under Article 7, N.C.G.S. 126 and N.C.G.S. 160A-168;
- To deter criminal activity and assist public law enforcement agencies in apprehending wrongdoers. Such recordings become criminal investigation or intelligence records and are thereby protected as confidential information under N.C.G.S. 132-14;
- To assist public law enforcement agencies in criminal investigations; intelligence records; Innocence Inquiry Commission records, N.C.G.S.132-1.4;
- To investigate a critical bodily injury or injuries;
- To aid in the investigation of an insurance claim filed against Town;
- For security purposes and monitoring of Licensee and/or vendor activities for compliance with Town of Sawmills policies and procedures; and/or
- For security purposes or other reasons as allowed by North Carolina or Federal law.

b. Video/Audio Surveillance System shall not be used for:

- Monitoring individuals based on characteristics of race, gender, ethnicity, national origin, sexual orientation, or disability;
- Monitoring intimate behavior;
- Duplicating images or permitting access to others to surveillance images except as specifically permitted by this Policy; or
- Using the equipment addressed in this Policy for viewing, recording, accessing or otherwise using the Video/Audio Surveillance System or images in any manner that is inconsistent with this Policy and/or outside the scope.

5.3. Procedures

a. Camera Placement

The Town will take all reasonable steps to mitigate any adverse effects on personal privacy. Camera placement has been assessed by law enforcement personnel. This process has developed a standardized placement and number of cameras to be used.

b. Storage and Retention of Recorded Material

Video and audio obtained pursuant to this Policy must be stored in a secure location and configured to prevent their unauthorized access, modification, duplication, or destruction. Video and audio obtained pursuant to this Policy will normally be kept for no longer than sixty (60) days, unless a specific extension is requested in writing and approved, generally in pursuance of a criminal investigation.

Chain of Custody: a chain of custody request form containing the following mandatory information must be completed and signed by an outside party requesting access to a record (**See Attachment A incorporated herein by reference**).

****Records will only be given to parties who are granted access under North Carolina and Federal law.

As far as Town Facilities are concerned, recorded video/audio data is stored on the Town's hard drive. When the hard drive reaches capacity, the system will begin recording over the oldest recordings, thus destroying those records. The Town will save relevant recordings to a computer or server with sufficient capacity to manage the data. Consideration should be given to servers that can be backed-up daily or to external hard drives that can be removed and stored offsite. The Town Administrator will use their best efforts to routinely monitor the system's health to insure that the system is properly functioning. This may include periodic rotation and reviewing of all hard drives.

The Town will use best efforts to monitor the volume of records downloaded daily to insure that the designated computer or server has ample record storage capacity. Records that have no value will be deleted by those personnel authorized to do so. Records of value will be stored in the system for future retrieval.

c. Unauthorized Disclosure

Any employee of Town having knowledge of unauthorized access to or disclosure of a record must immediately inform the Town Administrator or his designee.

Failure to comply with this Policy, including any unauthorized access to or disclosure of information is cause for disciplinary action up to and including termination of employment.

Records will be released only when requested by appropriate law enforcement personnel or for other reasons as authorized by law.

d. Signage

Appropriate signage will be placed in a visible conspicuous location in the interior and exterior of the Facilities that provides notification of the collection of personal information. The signage will advise all persons entering the Facilities that the interior and exterior of the Facilities are under video/audio surveillance. (*See Attachment B incorporated herein by reference*).

6. Duration and Effective Date

- 6.1. This Policy is revocable by the Town at any time and without notice.
- 6.2. This Policy is effective upon issuance.

**Attachment A
Chain of Custody**

Date of Recording Requested _____ Time of Requested Recording _____

Name of Person Making Request _____

Authorized Official Granting Permission for Record Access _____

Reason for Allowing Access: (check)

- To perform performance evaluations; and suspension, disciplinary actions and terminations that are protected as confidential information under Article 7, N.C.G.S. 126 and N.C.G.S. 160A-168.
- To assist public law enforcement agencies in criminal investigations; intelligence records; Innocence Inquiry Commission records, N.C.G.S.132-1.4.
- As required by North Carolina or Federal law.
- For security purposes as authorized by the Town Administrator.

Date/Time Access is granted _____

Content of information for which access is given: _____

By signing below, I agree to only use the information contained in records released for the specific purposes stated above, and will not release the information to other parties without prior approval. I also agree to destroy the records when the records have met their useful purpose. Information from video/audio records received is not considered public record under NC law and should be treated as such.

Signed

Date

Authorized Official

Date

**Attachment B
Signage**

 **NOTICE** 

For Your Safety you will be recorded by a video surveillance system which will also include audio recording.

NOTA

Para Su Seguridad usted será grabado/a por un sistema de vigilancia que también incluye grabación de audio.