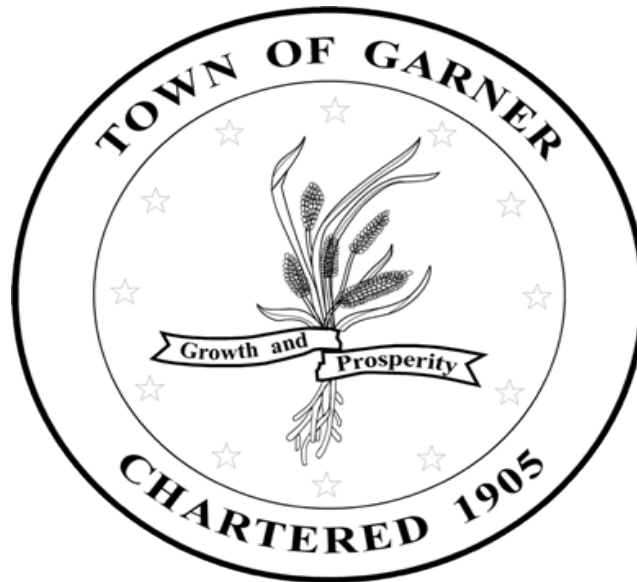


TOWN OF GARNER



TOWN COUNCIL WORK SESSION

June 26, 2018
6:00 P.M.

Garner Town Hall
900 7th Avenue
Garner, NC 27529

**Town of Garner
Work Session Agenda
June 26, 2018**

Dinner will be served for town officials in the Conference Room at 5:15 p.m.

The Council will meet in a Work Session at 6:00 p.m. in the Council Chambers located at 900 7th Avenue.

A. CALL MEETING TO ORDER/ROLL CALL

B. ADOPTION OF AGENDA

C. REPORTS/DISCUSSION

1. Benefits Study Presentation Page 4
Presenter: BD Sechler, Human Resources Director

Lee Weisiger of Gallagher Consulting will provide an understanding of the benefits survey process and the results/findings.

Action: No Action; Presentation only

2. Request for Sewer Extension – Purser Drive Page 19
Presenter: John Hodges, Assistant Town Manager - Development Services

The Manager's Office received a request from the property owner at 817 Purser Drive to extend sewer to their property. Staff is bringing this request to Council to gauge interest in pursuing an assessable sewer extension project for this area.

Action: Council Guidance

3. UDO-18-01 - CBD Amendments Page 23
Presenter: Jeff Triezenberg, Planning Director

The Planning Department and the Downtown Garner Association have been working together to discuss possible changes to the Unified Development Ordinance. These changes will be presented for consideration.

Action: Set public hearing for July 17, 2018

4. Modification to DHIC Agreement Page 27
Presenter: Rodney Dickerson, Town Manager

DHIC, the developer of Pennington Grove, has asked to be released from their commitment to not seek tax exemption for phase 1 of their project, which has been completed. In keeping with the intent of the original commitment, DHIC will pay a fee-in-lieu of taxes to the Town annually. DHIC reaffirms its commitment to not seek tax exemption for phase 2 of their project, which is in the planning stages.

Action: Authorize Execution of Agreement

5. Uniform Guidance Procurement Policy Page 31
Presenter: Pam Wortham, Finance Director

Federal guidelines require the Town to incorporate a Uniform Guidance Procurement Policy for use when spending federal funds. This guidance is included in the Towns purchasing policy under Section 501.5 "Procurement Policy When Using Federal Funds".

Action: Adopt Policy 501 - Procurement Policy & Procedure Statement

6. Ordinance Amending FY2017/2018 Operating Budget
(Body Worn Camera Grant)Page 70
Presenter: Pam Wortham, Finance Director

The matching requirements for the body-worn camera grant, along with the multi-year reporting of the grant, requires establishing a federal grant fund. This is a two-part request. First, we are asking to establish a grant project through the Grant Project Ordinance, which also establishes the budget. Second, we have a budget amendment out of the general fund in the Police Department to transfer the funds to the grant project. The total grant for this project is \$83,320, and the matching amount to be budgeted is \$83,670.

Action: Adopt Ordinance (2018) 3918 & (2018) 3919

7. Ordinance Amending FY2017/2018 Operating Budget (Multi-Year Funding) Page 75
Presenter: Pam Wortham, Finance Director

This amendment will allow Finance to move funds for multi-year operating items into a fund established for that purpose. The unexpended funds for vehicle purchases (\$20,625) for FY 2018, the Parks and Rec Comprehensive Plan (\$37,000), and the Unified Development Ordinance (\$50,000) will be transferred to a multi-year capital reserve fund for expenditure in future years.

Action: Adopt Ordinance (2018) 3920

D. MANAGER REPORTS

E. COUNCIL REPORTS

F. CLOSED SESSION

G. ADJOURNMENT

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: June 26, 2018		
Subject: Benefits Survey Report		
Location on Agenda: Reports		
Department: Human Resources		
Contact: BD Sechler, Human Resources Director		
Presenter: Lee Weisiger, Gallagher Consulting		
Brief Summary: Presentation on the findings of the benefits study requested by Council at the November 2017 retreat.		
Recommended Motion and/or Requested Action:		
Detailed Notes: Gallagher Consulting was contracted by the Town to complete a benefits survey. This was requested by Council during the November 2017 retreat to determine the Town's relative standing on benefits as compared to other municipalities. Lee will provide Council with an understanding of the survey process and results/findings.		
Funding Source:		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations: N/A		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	BDS	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

Custom Benefits Survey Report Executive Presentation



Analysis conducted by



Insurance | Risk Management | Consulting

June 2018

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Gallagher Background

- Founded in 1927
- Is now one of the world's largest insurance brokerage and risk management services firms
- Has more than 24,000 employees and operations in 31 countries
- Has client-service capabilities in over 140 countries through a global network of correspondent brokers and consultants
- Local office presence in Durham, Charlotte and Richmond

Gallagher's Human Resources & Compensation Practice

Through a practice dedicated to human resources and compensation, we provide flexible, customized solutions informed by data analysis and competitive benchmarking. The focus is on bringing our broad-based knowledge and cross-industry experience to bear on problems and opportunities – to help you see them from all sides.

- Have unparalleled experience conducting compensation and benefits studies for cities, counties and other public sector organizations throughout the nation
 - Over 500 states, cities and municipalities have been clients
 - Included from less than 100 to more than 100,000 employees
- Have big firm resources with small practice responsiveness and client service.
- Hold strict professional methodologies that have stood the test of time
- Access to 200 HR and Compensation Consultants
- Hold a reputation to serve as an independent source of recommendation for governing bodies
- Serve as your human resources business advisor

Gallagher's reputation as a highly ethical company, and our commitment to transparency, have also contributed to our growth. For seven years in a row, from 2012 to 2018, we have been recognized by the Ethisphere Institute as one of the World's Most Ethical Companies, and hold the distinction as the only insurance broker to receive this designation.



Project Team

A combination of the following Richmond, VA office consultants will be applied to the project at different stages based on timing and expertise:

A. LEE WEISIGER, CCP, MANAGING DIRECTOR

Lee has 30 years of Human Resources experience at a wide array of Fortune 500 companies and industries including pharmaceutical, manufacturing, specialty chemicals, health insurance, commercial banking, diversified financial services, and management consulting. Lee's expertise lies in Compensation Planning and Design, Management and Sales Incentive Design, Performance Management, Competency Development and Employee Satisfaction metrics.

TARYN SCHRADER, MS, CONSULTANT

Taryn is a Consultant at the Richmond Office of Gallagher Human Resources & Compensation Consulting. Prior to Gallagher, she worked with clients in private industry, federal government, transportation, and healthcare organizations. In addition to consulting, Taryn worked for Shaw Industries, a subsidiary of Berkshire Hathaway.

Taryn received her M.S. in Industrial-Organizational Psychology from the University of Tennessee at Chattanooga and her B.S in Psychology from Virginia Tech. Taryn is a member of the Society for Industrial-Organizational Psychology.

STEPHANIE HARDER, ASSOCIATE CONSULTANT

Stephanie is an Associate Consultant with Gallagher. She has 7 years of human resources and support experience, including recruiting, employee onboarding, internal and external payroll, client and vendor relations and project management. Stephanie received her B.A. degree from the University of Virginia.

Project Overview

Gallagher's HR and Compensation Consulting Practice, a division of Gallagher Benefit Services, Inc., was engaged by the Town of Garner to conduct a benefit survey and developed this report. The scope of this engagement included the following objectives:

- Identify peer towns and cities as comparators
- Design a custom benefits survey instrument for data collection
- Conduct a benefit survey using a custom survey of peers
- Present final report to the Town of Garner management team

Methodology

Gallagher talked with Human Resources to craft a compensation philosophy and survey comparator group around which the custom survey work was sent to.

The following approach was used in this study:

- Reviewed Town of Garner's benefit program
- Conducted a custom survey targeted at the specific organizations of relevance to the Town of Garner
- Performed the following steps:
 - Developed a survey data collection package, with completion instructions and data collection tools for each target participant. The custom survey collected participants' organizational information as well as benefits data related to Health and Wellness, Leave and Careers, and Retirement and Disability.
 - Crafted a draft cover letter requesting assistance to be sent to participants from TOG prior to the launch of the survey
 - Served as the third-party responsible for data confidentiality, data analysis and the preparation of a summary report
 - Distributed survey to the eleven (11) target participants identified by TOG
 - The participants represented public entities in the surrounding Raleigh MSA and other similarly sized North Carolina municipalities
 - Collected participant survey data over the course of three (3) weeks between February and March 2018
 - Over the course of the three weeks, Gallagher contacted the participants several times requesting participation
 - Analyzed the data from the seven (7) participating entities and applied the data to the market analytics.
 - Provided copies of the summary report to the participants
- Created and reviewed report to discuss findings

Using a Total Rewards Approach

When you consider total compensation in terms of total rewards, the added value is remarkable. Total rewards is everything of value resulting from the relationship with the employer, including all monetary and non-monetary considerations.

- Total rewards focuses on five specific components:
 - (1) Compensation
 - (2) Benefits
 - (3) Work experience
 - (4) Performance and recognition
 - (5) Development and career opportunities
- Goal of using a total rewards approach is for motivation to drive organizational success. Employees working for a total rewards employer tend to be more motivated, productive, and happy.

Using a total reward approach may allow the Town of Garner the right mix of salary and benefits. The summary table (table B page 9) shows the Town of Garner is competitive with market in terms of benefits. If TOG combines salary, benefits, and the other total rewards components, it may become very competitive to its market and competitors.

Benefit Survey Participants

Table A below lists the survey participants. Town of Garner's (TOG) information is highlighted in light blue, the average of the customized market is highlighted in grey, and the market 25th, 50th, and 75th percentiles are highlighted in beige. If a section was left blank, the participant did not provide the information.

Overall, the comparison group was much larger than TOG. The Town of Garner (TOG) is below the 50th percentile (market median) for full-time equivalents, annual operating budget, fiscal year payroll, and annual cost of benefits. But TOG is 6.69% above the 75th percentile for benefits as a percent of total payroll.

Table A.




Organization Name	Full Time Equivalent Employees (FTEs)	Annual Operating Budget	Fiscal Year Payroll	Annual Cost of Benefits	Benefits as a % of Total Payroll	Reason for Inclusion
Town of Cornelius	113	\$23,899,414	\$5,862,082	\$1,172,416	20.00%	Example of a smaller than Garner municipality
Town of Fuquay-Varina	243	\$30,000,000	\$11,500,000	\$4,037,866	23.30%	Local direct competitors for labor
Town of Morrisville	175	\$34,964,000	\$16,529,200	\$4,070,000	24.62%	Local direct competitors for labor
City of Asheboro	331	\$42,643,308	\$16,093,403	\$6,168,419	38.33%	Potential next step regarding growth
Town of Holly Springs	295	\$50,000,000	\$17,791,587	\$5,575,790	31.34%	Local direct competitors for labor
Town of Wake Forest	163	\$65,023,200	\$16,958,545	\$4,796,490	28.28%	Local direct competitors for labor
City of Hickory, NC	658	\$95,696,964	\$27,889,271			Potential long-term growth/size for Garner
25 th Percentile	169	\$32,482,000	\$13,796,702	\$4,045,900	23.63%	
50 th Percentile (median)	243	\$42,643,308	\$16,529,200	\$4,433,245	26.45%	
75 th Percentile	313	\$57,511,600	\$17,375,066	\$5,380,965	30.58%	
Average:	282.57	\$48,889,555	\$16,089,155	\$4,303,496	27.65%	
Town of Garner	170	\$33,200,000	\$9,978,917	\$3,661,264	36.69%	

Non-respondents (4): Town of Apex, Goldsboro, Town of Clayton and City of Burlington

Benefit Survey Results- Summary

Table B below summarizes the results from the benefits survey. Overall, the Town of Garner is at or above market for benefits, which is very competitive since the peer group of participants is somewhat larger than TOG.

Table B.

Benefit Area	Market Comparison	Comments
Benefits Costs as a % of Payroll	 Above Market	<p>Overall, TOG is above market.</p> <p>TOG is very competitive with the benefit costs as a percent of payroll. TOG's benefits are 36.69% of payroll which are 6.69% higher than the 75th percentile (30.58%) and 10.24% higher than market (26.45%).</p>
Pay Practices (including longevity)	 At Market	<p>Overall, TOG is competitive with market.</p> <p>TOG is very competitive with longevity pay for employees hired before Sept 8, 2009 but falls below market for new hires. TOG offers no longevity to new hires while market offers different longevity amounts to the same group.</p> <p>TOG is very competitive by projecting about a 3.0% salary increase while market is projecting a 2.71% salary increase.</p>
Health and Wellness (including retiree health)	 At Market	<p>Overall, TOG is competitive with market.</p> <p>TOG is competitive with market in employer contributions for employee-only (100%) and retiree healthcare benefits.</p> <p>TOG only offers 1 health plan option and the market average is 1.29. TOG also doesn't offer as many wellness programs or informal benefits to its full-time employees as the market.</p>
Paid Leave and Career Development	 Above Market	<p>Overall, TOG is above market.</p> <p>TOG is very competitive for vacation (especially employees with tenure of 6 or more years) and carryover vacation days. TOG is competitive with holidays and bereavement days but is behind market for not offer a floating holiday (with the exception of police).</p>
Retirement and Disability	 At Market	<p>Overall, TOG is competitive with market.</p> <p>For 401k plans, both market and TOG match 5% and vest immediately.</p> <p>For defined benefit plans (state retirement plan) for law enforcement, town contribution of 8.25% with a 5 year vesting period. For the defined benefit plan (state retirement plan) for general employees, town contribution of 7.56% with a 5 year vesting period. Staff contribution into state retirement plan is 6%</p>

Section 1- General Pay and Benefits Practices

Overall, the Town of Garner is competitive with market and its general pay practices.

- Very competitive with longevity pay for employees who were hired prior to the September 8, 2009 policy. For hires after 2009, not having longevity pay can be a competitive disadvantage.
- Falls behind market because it does not offer any longevity pay to new hires.
 - About 71% of the market continues to offer some longevity benefit to new hires
 - Provide a few hundred dollars at each tenure level.
- Very competitive with the market by projecting a 3.0% salary increase
 - The market is projecting a 2.71% salary increase (custom survey question 2c).

Section 2- Health and Wellness

Overall, the Town of Garner is at market for health and wellness programs.

Health

- Offers health and dental insurance to its part-time employees, depending on hours worked,
 - Competitors do not.
- Does not offer the same benefits to its full-time employees as the market such as:
 - Vision,
 - Medical and dependent FSA offered,
 - Defined contribution health plans
 - Programs that allow employees to take a fixed amount of money to shop for their own insurance off a selection the employer provides
 - Indicated that it only offers dental and indemnity plans.
- About 85% of the market offers a Preferred Provider Organization (PPO) health plan.
- In line with market by offering only one health plan options (average is 1.29).
- Very competitive in retiree healthcare benefits for those hired prior to May 1, 2011
 - At market for those hired after May 1, 2011.

Wellness Programs

- Does not have as many wellness programs options that the market offers such as:
 - Example: Health assessment profiles
 - See table 5a of the report for the complete list.
 - About 85% of market does not offer a limit towards these programs.
- Is in line with market in terms of informal wellness benefits
 - Offers many of the same informal benefits as the majority of the market.

Section 3- Paid Leave and Career Development

Overall, the Town of Garner is at market for paid leave and career development.

Paid Leave

- Competitive with market for the number of holidays (12 days) and bereavement days (3 days)
 - Behind market for number of personal days (also known as a floating holiday)
 - The market average for personal days is 1
- Very competitive to market for:
 - Vacation days, especially for employees with tenure of six or more years, and
 - Carryover vacation days offering a maximum of 288 hours (36 days)
 - The market average is 105 hours (13 days). TOG is at market for exempt employees' comp time

Career Development

- Five of six respondents say they are using a career ladder approach to career development. Town of Garner also utilizes a career ladder approach for managing career development. (Police and Inspections Departments)

Section 4- Retirement, Disability, and Life Insurance

The Town of Garner is competitive with market in employee contributions to their programs.

- All competitors offer a retirement plan to full-time employees and the employees contribute 6%. (Mandated by NC Legislature)
- Competitive with market for retirement plan type.
 - All competitors offer a 401(k) with most matching 5%.
 - All competitors also offer a defined benefits plan for both general and law enforcement employees with the average employer contribution at 7.56% and 8.25%, respectively, vesting at 5 years. (Mandated by NC Legislature)

The Town of Garner is slightly below market for its part-time employees.

- About 30% of competitors offer retirement benefits to part-time employees.
 - Most of the market does not offer much in terms of disability benefits for full or part-time employees.

Next Steps

1. Review mix of benefits and ensure they are aligned with needs and desires of current staff demographics. Make changes if needed.
2. Consider creating a total rewards approach to compensating and rewarding employees.
3. Options for Consideration

Short-Term Implementation

- Paid Parental Leave
- Flexibility in setting new hire vacation accrual rates
- Add Prudential 457 retirement plan
- PD Only – return to 5% pay increase for specialized positions
- PD Only – reduce the amount of time required for career progression from 4 years to 3 years

Study/Research Further

- Reinstating longevity pay
- Increase cap on comp time allowed
- Count holiday hours as work time for purposes of comp time
- Add vision plan
- Increase town contribution to 401k based on years of service
- Increase town contribution to educational reimbursement
- Free staff PR&CR programming
- Garner resident rate for staff on PR&CR programming
- Paid community/service/civic leave time

Considered But Not Viable

- Condensed summer work schedule
- Double value of town paid life insurance
- Reinstate retiree health care
- Town paid memberships to gyms/health clubs
- Broaden/widen grade ranges

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: June 26, 2018		
Subject: Request for Sewer Extension - Purser Drive		
Location on Agenda: Discussion		
Department: Town Manager's Office		
Contact: John Hodges, Assistant Town Manager - Development Services		
Presenter: John Hodges, Assistant Town Manager - Development Services		
<p>Brief Summary:</p> <p>The Manager's Office has received a request from the property owner at 817 Purser Drive to extend sewer to their property. Staff is bringing this request to the Council to gauge interest in pursuing an assessable sewer extension project for this area.</p> <p>A copy of the letter is included in the packet. Also included is a map of the area with the location of the requesting property and the properties that would likely be included in the assessment project denoted.</p>		
<p>Recommended Motion and/or Requested Action:</p> <p>Provide direction to move forward with investigating the assessment project, if desired.</p>		
<p>Detailed Notes:</p> <p>The Town Attorney will outline the steps involved in the process. Engineering and Planning staff will be on hand to discuss implementation and answer questions.</p>		
Funding Source:		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
<p>Manager's Comments and Recommendations:</p> <p>N/A</p>		
<p>Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/></p>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	JMH	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

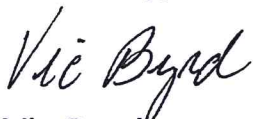
May21, 2018

To the Town of Garner;

My name is Vic Byrd and I own property on Purser Drive, off Fayetteville Rd. south of Raleigh. We property owners on Purser Dr. have been having sewer problems for years. On my property at 817 Purser Dr., I have a complete failure of my septic system. I have had to have a port-a-john delivered for the employees to use. Over the past couple of weeks I have made contact with most property owners on Purser Drive. We would like to ask the Town of Garner to look into extending a sewer line down our street to a manhole on Rupert Road that is at present being installed.

I am attaching a list of some owners with whom I have spoken. I hope that you will look favorably at our request and look into the possibility of the sewer line. We really need your help. Thank you.

Sincerely,



Vic Byrd

Purser Drive Property Owners

817 Purser Drive.....Vic Byrd, 700 Maxwell Dr., Raleigh, N.C. 27603-4250

819 Purser Drive.....3 Wing Prop., LLC., 602 Kimloch Dr., Ral, N.C. 27603

Ron Williams

821 Purser Drive.....Progressive Plumbing, Chad Woodall, 110 Fortune

Way, Ral., N. C. 27617-1907

823 B. Purser Dr.....Neil Evans, 273 B, Blue Pond Rd., Clayton, N.C. 27520-

74393

825 Purser Drive..... *SCOTT LANNADY*
828 EAST BLVD., CHARLOTTE, N.C. 28203

829 Purser Drive.....Betty Allen, 1500 Sycamore Dr. Garner, N.C. 27529-

4432

831 Purser Drive.....Matthew Vaughn, 66 Mels Meadows Dr., Fuquay

Varina, N.C. 27526-6487

826 Purser Drive.....Frank Monague, 1614 Ball Rd. Holly Springs, N.C. 27540-

7138

828 Purser Drive.....Joseph Murphy, 102 Marsburg Ln, Cary, N.C. 27519-9519

830 Purser Drive.....Seth Penny, 1302 Colony Dr., Ral., N.C. 27603-4606

832 Purser Drive.....Lanstar LLC, 210 Wingo Way, STE 202 Mt. Pleasant, S.C.

29464-1819 (Jim Traylor, CFO)

Red Line -
8" Sewer Line to
be constructed by
new development

Applicant's Property

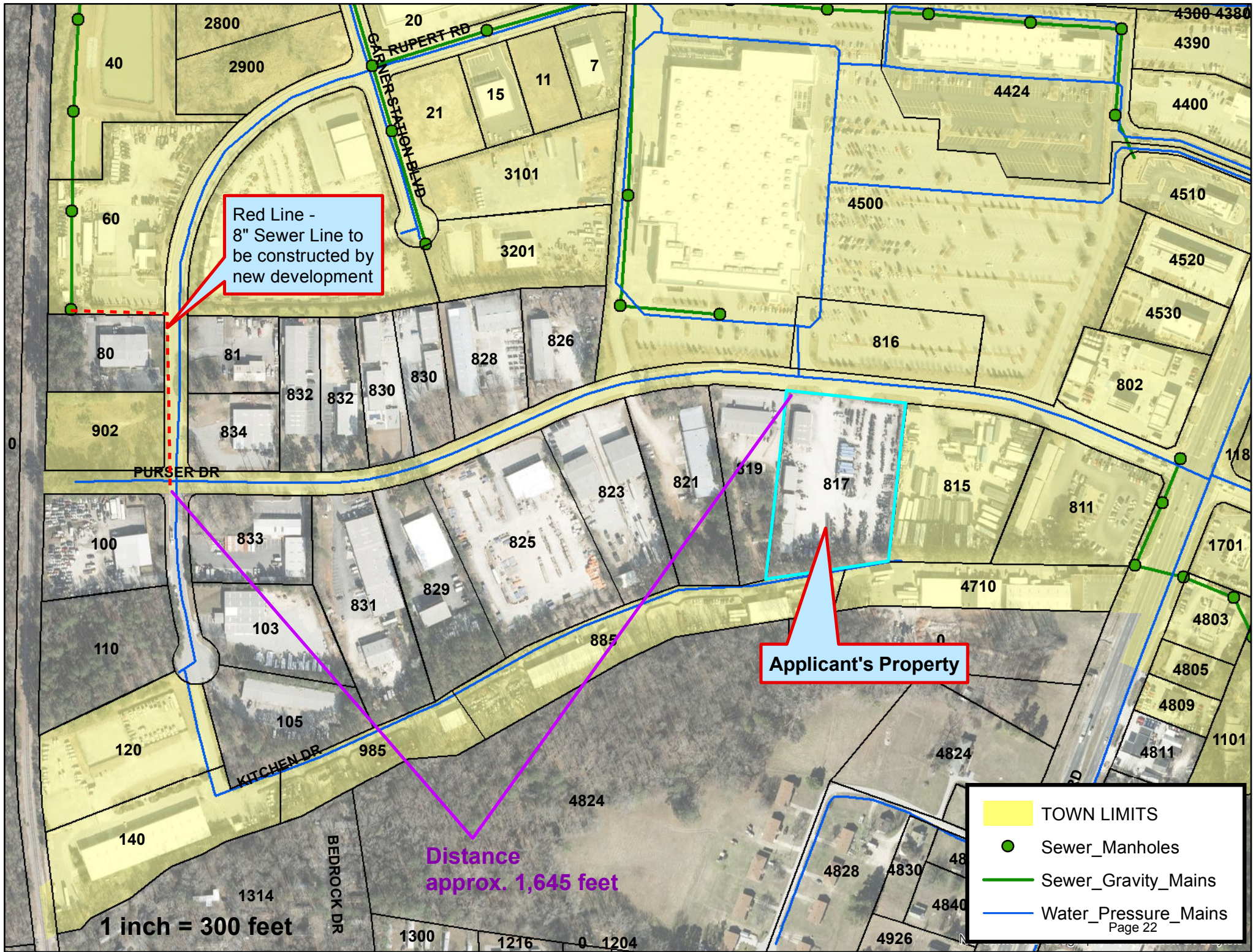
Distance
approx. 1,645 feet

1 inch = 300 feet

TOWN LIMITS

- Sewer_Manholes
- Sewer_Gravity_Mains
- Water_Pressure_Mains

Page 22



Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: June 26, 2018		
Subject: UDO-18-01 - CBD Amendments		
Location on Agenda: Discussion		
Department: Planning		
Contact: Jeff Triezenberg, AICP, GISP; Planning Director		
Presenter: Jeff Triezenberg		
Brief Summary: The Planning Department is actively engaged with the Downtown Garner Association, the association's manager and various association subcommittees. Over the months, the Department has examined the Unified Development Ordinance closely in how it applies to the Central Business District. More often than not, anticipated barriers to desired redevelopment have been found not to be present; however, there are a couple that have been identified and are introduced now for consideration at the request of the Downtown Development Manager's office.		
Recommended Motion and/or Requested Action: Set public hearing for July 17, 2018		
Detailed Notes: See attached memorandum to the Town Manager.		
Funding Source:		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations: N/A		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	JT	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

TO: Rodney Dickerson, Town Manager

FROM: Jeff Triezenberg, Planning Director

SUBJECT: *UDO-18-01, Central Business District Amendments*

DATE: June 26, 2018

I. BACKGROUND

The Planning Department is actively engaged with the Downtown Garner Association, the association’s manager and various association subcommittees. Over the months, the Department has examined the Unified Development Ordinance closely in how it applies to the Central Business District. More often than not, anticipated barriers to desired redevelopment have been found not to be present; however, there are a couple that have been identified and are introduced now for consideration at the request of the Downtown Development Manager’s office.



Preliminary draft language changes are shown in the following section of this report. Staff will be on hand to discuss the exact nature of the amendments that are being proposed. Staff considers all of these items as positive in nature and in support of **Garner Forward** promoting downtown as a “growing crossroads of cultural arts, recreation and creative entrepreneurship in the community,” but would like to take the opportunity to share and answer any questions from management, the Mayor and Town Council Members.

II. PROPOSED TEXT CHANGES

USE		RESIDENTIAL DISTRICTS						NONRESIDENTIAL DISTRICTS										
P = Permitted by right		P* = Permitted subject to standards						S = Special use permit required										
Use Category	Specific Use	R-40	R-20	R-15	R-12	R-9	R-MH	MF-1	MF-2	NO	NC	CBD	OI	CR	SB	I-1	I-2	Notes
COMMERCIAL, OFFICE, RETAIL																		
Entertainment (see 5.2F.1)	Outdoor Athletic or Entertainment Facility, Private											S			S	S		
INDUSTRIAL AND MANUFACTURING																		
Manufacturing and Production (see 5.2G.3)	Indoor or Outdoor																P*	5.3D.3
	Indoor Only										P*				P*	P*	P*	5.3D.3

5.3. Specific use standards

D. Industrial and manufacturing uses.

3. **Manufacturing and production.** Manufacturing and production facilities are permitted in accordance with the use table in Section 5.32 and the following standards:
 - a. No vibration shall be produced which is transmitted through the ground (and is discernable without the aid of instruments) at or at any point beyond the lot line.
 - b. All noise shall be muffled so as to not be objectionable due to intermittence, beat frequency or shrillness.
 - c. Visible emissions of air pollutants of any kind at ground level, past the lot line of the lot on which the source of emissions is located, are prohibited.
 - d. No person shall cause or permit any materials to be handled, transported or stored in such a manner which allows or may allow particulate matter to become airborne.

- e. No direct glare from high temperature processes such as combustion or welding, which is visible at the lot line, shall be permitted.
- f. There shall be no emission or transmission of heat or heated air so as to be discernable from the lot line.
- g. Any condition or operation which results in the creation of odors of such intensity or character as to unreasonably interfere with the comfort of the public shall be removed, stopped or modified so as to remove the odor.
- h. Manufacturing and production uses shall not be a permissible use within existing commercial buildings in downtown Garner located along Main Street between Montague Street and Griffin Street, and zoned CBD.

III. RECOMMENDATION

Planning staff recommends that the Town Council set a public hearing for July 17, 2018, to consider this matter, hear any comments from the general public and potentially forward the item to the Planning Commission for further discussion and a recommendation.

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: June 26, 2018		
Subject: Modification to DHIC Agreement		
Location on Agenda: Discussion		
Department: Town Manager's Office		
Contact: Rodney Dickerson, Town Manager		
Presenter: Rodney Dickerson, Town Manager		
<p>Brief Summary:</p> <p>DHIC, the developer of Pennington Grove, has asked to be released from their commitment to not seek tax exemption for phase 1 of their project, which has been completed. In keeping with the intent of the original commitment, DHIC will pay a fee-in-lieu of taxes to the Town annually. DHIC reaffirms its commitment to not seek tax exemption for phase 2 of their project, which is in the planning stages.</p> <p>This language has been approved by both agency's legal counsel.</p>		
<p>Recommended Motion and/or Requested Action:</p> <p>Authorize the Town Manager to execute the Modification Agreement</p>		
<p>Detailed Notes:</p> <p>The original agreement is included as reference.</p>		
<p>Funding Source:</p>		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
<p>Manager's Comments and Recommendations:</p> <p>The change is being requested to aid in the financing of the first phase of the development. The project is an asset to the community and the proposed modification meets the Town's objectives for the original agreement.</p>		
<p>Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/></p>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	JMH	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

NORTH CAROLINA

WAKE COUNTY

MODIFICATION AGREEMENT

This Modification Agreement, made on this the ___ day of June, 2018, by and between DHIC, Inc., Inc (“DHIC”) a North Carolina nonprofit corporation and the Town of Garner, a municipal corporation situated in Wake County, North Carolina,

WHEREAS, DHIC has requested the Town of Garner to relieve it from some of the term of that the agreement dated ___ April, 2015, not to seek Tax exemption for Phase 1 of the Pennington Grove project, and has agreed to make payments to the Town in lieu of taxes,

NOW, THEREFORE, the parties agree as follows:

1. TOG releases DHIC from its commitment not to seek tax exemption for Phase I of Pennington Grove;
2. DHIC reaffirms its commitment not to seek tax exemption for Phase 2 of Pennington Grove;
3. DHIC will pay a fee-in-lieu of taxes to the Town annually;, based on applying the Town’s tax rate to the real property’s evaluation;
4. The due date of said payment shall be the later of December 1st of each year;
5. If the DHIC payment to the Town is late, and the late payment is not corrected within 10 days, DHIC will execute a confession of judgment to the Town for the amount due, which the Town may file at the Courthouse if the fee is not paid within a specified time.;
6. The parties anticipate that Wake County will continue to reappraise all real property, even tax-exempt real property, but if the County does not appraise Phase 1, the fee-in-lieu of taxes will be based on estimating the value of Phase 1 on a square footage basis from the tax appraisal on Phase 2.
7. If Phase 2 is not built, and/or if County policy changes and there is no appraisal, the parties will base the fee-in-lieu on an agreed estimation of the value, and if the parties can not agree, DHIC will be required to pay to hire an appraiser suitable to the Town for an appraisal of Phase 1 every 4 years.

Witness our hands and seals this the day and year first above written.

Attest:

Asst. Secretary

Attest:

Town Clerk

DHIC, INC.

Natalie Britt,
Vice President

Town of Garner

Rodney Dickerson
Town Manager

NORTH CAROLINA

WAKE COUNTY

AGREEMENT REGARDING PROPERTY TAX EXEMPTION

This Agreement, made this ___ day of April, 2015, by and between DHIC, Inc. ("DHIC") is a North Carolina nonprofit corporation that develops safe, decent and affordable housing in North Carolina and the Town of Garner ("TOWN") is a municipal corporation situated in Wake County, North Carolina,

WHEREAS, through a subsidiary, DHIC intends to develop an eighty-three unit affordable housing project for senior citizens on Heather Park Drive (the "Project") in Garner, North Carolina ("Garner");

WHEREAS, DHIC expects that, as an affordable housing project, the Project will be eligible for property tax exemption under sections 105-282.1 and 105-278.6(a)(8) of the North Carolina General Statutes within approximately eighteen years;

WHEREAS, DHIC has requested a letter of support from the Town of Garner, NC, and DHIC recognizes that the payment of property tax in respect of the Project is important to Garner and the expectation that such taxes shall be paid regardless of whether the Project is entitled to property tax exemption is fundamental to Garner's support for the Project;

WHEREAS, the Executive Committee of the Board of Directors of DHIC (the "Executive Committee") has determined that agreeing not to seek property tax exemption for the Project at any point is in the best interest of DHIC and the Project (such agreement being referred to herein as the "Property Tax Commitment").

NOW, THEREFORE, BE IT AGREED by and between the parties as follows:

1. That the Town of Garner will provide a letter of support for the project from its Mayor, and in consideration thereof,
2. DHIC and any of its subsidiaries or affiliates agree to forebear at all times from seeking any property tax exemption for the Project;
3. DHIC will direct the entity yet to be created which will develop the aforesaid project to enter into a similar agreement prior to the submission of development permit documents to the Town; such agreement will provide that the entity will make an annual report to the Town Finance Director on before February 1 of each year to the effect that the County and Town *ad valorem* taxes on the project have been paid.

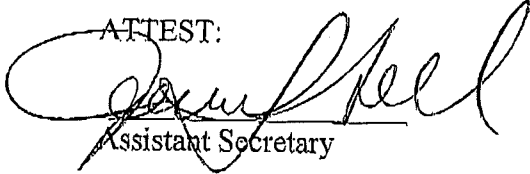
Witness our hands and seals the day and year first above written,

DHIC, INC.



Name: Gregg Warren
Title: President

ATTEST:


Assistant Secretary

TOWN OF GARNER

Name: Hardin Watkins
Title: Town Manager

ATTEST:

Secretary

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: June 26, 2018		
Subject: Purchasing Policy		
Location on Agenda: Discussion		
Department: Finance		
Contact: Pam Wortham, Finance Director		
Presenter: Pam Wortham, Finance Director		
Brief Summary: Federal guidelines required that we incorporate Uniform Guidance Procurement Policy for use whenever we are spending federal funds. This guidance is included in our purchasing policy under Section 501.5 "Procurement Policy When Using Federal Funds". No other substantive changes were made to our policy.		
Recommended Motion and/or Requested Action: Adopt policy 501 Procurement Policy & Procedure Statement		
Detailed Notes:		
Funding Source: N/A		
Cost: 0	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations: N/A		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	PW	
Finance Director:	PW	
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

FINANCE DEPARTMENT MEMORANDUM


TO: RODNEY DICKERSON, TOWN MANAGER
FROM: PAM WORTHAM, FINANCE DIRECTOR
SUBJECT: PURCHASING POLICY UPDATE
DATE: JUNE 19, 2018

The Federal government has changed their procurement policies when local governments are spending federal funds, commonly referred to as “Uniform Guidance”. This replaces previous guidance and is now required to be incorporated into our Purchasing policy.

Section 501.5 of this policy is the Uniform Guidance. We did not make any substantive changes to the policy other than this section. There are a few minor housekeeping changes that have been made, but nothing that changes the policy that has been in place.

This policy is required to be in place by June 30 to begin our new fiscal year on July 1. Our auditors will be verifying that this has been adopted.

Please let me know if you have any questions. Thank you.

	<p>TOWN OF GARNER PROCUREMENT POLICY & PROCEDURE STATEMENTS</p>
<p>Policy Number</p>	<p>501</p>
<p>Department</p>	<p>Finance</p>
<p>Subject</p>	<p>Purchasing</p>
<p>Description</p>	<p>Policies and Procedures</p>
<p>Adopted by Town Council</p>	<p>Original July 1993, October 6, 2014</p>
<p>Effective Date</p>	<p>July 1, 2018</p>
<p>Amended Date(s)</p>	<p>June 19, 2018</p>

501.0 Introduction

This Purchasing Policy and Procedures Manual is intended for use as a guide to the Town of Garner’s purchasing methods and practices. When used properly, the policies and procedures established herein will enable the Town to obtain needed materials, equipment, supplies and services efficiently and economically.

The understanding and cooperation of all employees is essential if the Town is to obtain the maximum value for each dollar spent. While this manual does not answer all questions related to purchasing, it does provide the foundation for a sound centralized purchasing system.

Commitment of Town funds for purchasing without issuance of a purchase order signed by an authorized Finance Department employee is prohibited by North Carolina law. Any purchase agreement entered without the issuance of a properly executed purchase order is invalid and unenforceable against the Town (N.C.G.S. 159-28a); see Appendix for statutory provisions.

Professional services of consultants, engineers, architects, attorneys, etc. are exempt from centralized purchasing. The details of such purchases may be arranged directly by department heads. However, department heads must obtain a purchase order from the purchasing office certifying the availability of funds to pay for such services.

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

501.1 Purpose

The basic goals of the Town of Garner’s purchasing program are:

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

- To assure vendors that impartial and equal treatment is afforded to all that wish to do business with the Town of Garner.
- To receive maximum value for each dollar spent by awarding purchase orders to the lowest responsible bidder, taking into consideration, quality, performance, technical support, delivery schedule, past performance and other relevant factors.
- To provide the Town's departments the required goods, equipment and services at the time and place needed and in the proper quantity and quality.
- To professionally administer the search for sources of suppliers, negotiations, commitment, follow-up, and adjustments.
- To promote good and effective vendor relations, cultivated by informed and fair buying practices and strict maintenance of ethical standards.
- To effect maximum feasible standardization of products used within and among departments in order to minimize stock levels and obtain better pricing.
- The Purchasing Division will follow the Federal (UG) requirements where applicable. All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procedure 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 Garner will follow all local, state, federal procurement requirements when expending federal funds. Should the Town of Garner have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.

501.2 Purchasing Ethics

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

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

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

501.2.1 Conflicts of Interest:

In addition to the prohibition against self-benefiting from a public contract under G.S. 14-234, no officer, employee, or agent of the Town of Garner may participate directly or indirectly in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. A real or apparent conflict exists when any of

the following parties has a financial or other interest in or receives a tangible personal benefit from a firm considered for award of a contract:

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

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

501.2.2 Gifts and Favors:

In addition to the prohibition against accepting gifts and favors from vendors and contractors under G.S. 133-32, officers, employees, and agents of the Town of Garner are prohibited from accepting or soliciting gifts, gratuities, favors, or anything of monetary value from contractors, suppliers, or parties to subcontracts. Items of nominal value which fall into one of the following categories may be accepted:

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

Any officer, employee or agent who knowingly accepts an item of nominal value allowed under this policy shall report the item to his or her immediate supervisor. It is against the law for a Town employee to accept the gift or favor, other than the items of nominal value indicated above. (N.C.G.S. 133-32).

501.2.3 Violation

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

501.3 General Guidelines for Purchasing

501.3.1 Purchasing Division Primary Responsibility:

The Purchasing Division of the Finance department is responsible for the administration of contracts used for the procurement of supplies, materials, service, maintenance and rental of equipment. It is also the responsibility of the Purchasing division to ensure that all requirements, and necessary documentation, (i.e. purchase requisition, current insurance certification) vendor information, and any required licenses are present before the contract is executed. All contracts that

obligate the Town to an expenditure must contain a pre-audit certification by the Finance Director. A contract may require action by the Town Council, subsequently requiring Council approval along with the Town Attorney's review and pre-audit certification by the Finance Director. Contracts must be presented to the Town Manager for approval when these conditions have been met. Before execution all contracts will be checked for compliance with the Local Government Budget and Fiscal Control Act.

Local Buying: It is the desire of the Town to purchase from vendors located within the Town of Garner and Wake County whenever possible. This can be accomplished by insuring that local vendors who have goods or services available that are needed by the Town are included in the competitive purchasing process. The Town has a responsibility to its residents however, to insure that maximum value is obtained for each public dollar spent. The Town cannot make purchasing decisions solely on the basis of vendor residence. Rather, the Town will endeavor to encourage local vendors and suppliers to compete for all Town business, and is willing to provide additional information to local vendors about the bidding process.

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

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

501.32 Departmental Primary Responsibility:

The department seeking to procure goods or services is responsible for preparing specifications in order to secure the products or service needed. Specifications must be prepared for the formal and informal purchases of goods or services. All specifications should do at least four things:

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

Specifications should be written as simply as possible, while maintaining a degree of exactness required to prevent bidders from avoiding supplying the goods or services required or otherwise taking advantage of competitors.

Specifications utilizing a name brand must include the term "or approved equal" to avoid being restrictive or eliminating fair competition from the bidding process. Methods of structuring specifications may include:

- a. Qualified products by acceptable vendor list
 - b. Specification by blueprint or dimension sheet
 - c. Specification by performance, purpose or use
 - d. Specifications by identification with industry standards
 - e. Specification by samples
1. The department also is responsible for determining the most economical source of obtaining the desired goods. Obtain the necessary quotes required for informal bids and follow the required State procedures for formal bids.
 2. Enter the requisition into the finance purchase system, and forward any written quotes and related bid information to Purchasing.
 3. Ensure that all new vendors have been registered in the Town's vendor database.
 4. Inspect all items when received to verify correctness and submit necessary paperwork and approval for payment information to accounts payable in a timely manner.
 5. Work with accounts payable to establish good will between the Town and its vendors.
 6. Avoid unethical practices and the appearance of such practices.
 7. Consider, at all times, the interests of the Town in each transaction.

501.4 Availability and Transfer of Budgetary Funds

A request to transfer funds for any purchase or commitment of Town funds is required when there are insufficient funds available in the budgetary account against which a purchase or commitment is to be applied.

1. Transfers of funds are not allowed for the purpose of making it possible to spend all appropriations.
2. The Finance Director is authorized to make transfers between operating expenditure line items, (i.e. non-capital and/or non-personnel related items), in the budget of a department with the approval of the Town Manager. The Finance Department is authorized to make transfers to/from a personnel-related line item (i.e. salaries, FICA, insurance, retirement, etc.) to/from a non-personnel-related line item with the approval of the Town Manager, given that such transfers are reported to the Board at the next regularly scheduled meeting. Transfers between departments are not allowed without Board authorization.
3. Transfer of funds must be requested by the department head or his/her designee and forwarded to the Finance Director before any commitments are approved against an expenditure line item which would exceed the amount budgeted for that particular line item.
4. Requests should be stated in even dollar amounts.

5. The Finance Director and the Town Manager are expected and authorized to inquire about the appropriateness of any and all requests for transfer of funds. After review and approval of the request, a copy of this form and the corresponding requisition shall be forwarded to the Purchasing Manager for processing.
6. Transfers which increase or decrease the total departmental budget must be approved by the Town Council.

501.5 Procurement Policy When Using Federal Funds

501.5.1 Purpose

The purpose of this policy is to establish guidelines that meet or exceed the procurement requirement for the purchase of goods (apparatus, supplies, materials, and equipment), services and construction or repair project when federal funds are being used in whole or in part to pay for the cost of the contract. The Town of Garner shall solicit bids in accordance with the requirements under the federal uniform guidance.

501.5.2 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) which includes, but is not limited to, direct grants, USDA grants and loans, CDBG funds, FEMA disaster assistance grants, and the Highway Planning, Research, and Construction Program. The requirements of this Policy also apply to any 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 Garner will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the Town of Garner have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law

C. Contract Award. When bids are required by law, or otherwise solicited by the Town, all contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract. Consideration shall be given to contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

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

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

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

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

501.5.3 General Procurement Standards and Procedures:

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

A. Necessity. Purchases ***must be necessary*** to perform the scope of work and must avoid acquisition of unnecessary or duplicative items (no stock-piling). The Purchasing Manager 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. The Purchasing Manager and the Requesting Department will ensure that all solicitations incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.

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

E. Fixed Price. Solicitations must state that the bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are *prohibited*. Time and materials contracts are prohibited *in most circumstances*. Time and Materials (Cost-Plus) contracts will not be used unless no other form of contract is suitable and the contract includes a "Not to Exceed" amount. A Time and

materials contract shall not be awarded without the express written permission of the federal agency or state pass-through agency that awarded the funds.

- 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. Note: This comparison is necessary for most FEMA financial assistance programs following an emergency or major disaster declaration.
- H. Dividing Contract for MWBE Participation.** If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.
- I. Documentation.** Documentation must be maintained by the Purchasing Manager and/or the Requesting Department detailing the history of all procurements. The documentation should include procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor’s responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.
- J. Cost Estimate.** For all procurements costing \$150,000 or more, the Purchasing Manager and/or Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.
- K. Contract Requirements.** The Requesting Department must prepare a written contract incorporating the provisions referenced in Section 501.5.2 C. “Contract Award” of this Policy.
- L. Debarment.** No contract shall be awarded to a contractor included on the federally debarred bidder’s list. Prior to preparing the contract, the Purchasing Manager must verify that the contractor is not on the federally debarred bidder’s list. See Certification Regarding Debarment and Suspension form in the Appendix section.
- M. Contractor Oversight.** The Requesting Department receiving the federal funding must maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.

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

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

501.5.4 SPECIFIC PROCUREMENT PROCEDURES

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

501.5.4a SERVICE AND PURCHASE CONTRACTS

A. Service Contracts (except for A/E professional services) and **Purchase Contract** costing less than \$3,500 shall be procured using the Uniform Guidance (UG) “**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 good or services is considered to be fair and reasonable.
2. Purchases must be distributed among qualified suppliers.
3. The contract must be in written form.

B. Service Contracts (Service Contracts (except for A/E professional services) and Purchase Contract costing \$3,500 up to \$90,000 shall be procured using the UG “**small purchase**” procedure (2 C.F.R. § 200.320 (b)) as follows:

1. Obtain price or rate quote from at least two (2) qualified sources.
2. Take steps to solicit price quote from MWBE vendors and suppliers as required under 2 C.F.S. §200.321.
3. A cost or price analysis is **not** required prior to soliciting bids.
4. Award contract to the lowest responsive, responsible bidder based on the bid specification requirements.
5. 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).
6. Execute a written contract or use the purchase order as the contract.
7. The Town will not use a cooperative purchasing program as an Exception to the Bidding.

C. Service Contracts (except for A/E professional services) 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. A cost or price analysis is required prior to soliciting bids.
2. Complete specifications or purchase description must be made available to all bidders.
3. Advertise all formal bids 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 Town Council (Council). The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the Council the right to reject any or all bids only for “sound documented reasons.” Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement.

4. All bids must be submitted sealed.
5. A minimum of two (2) bids must be received in order to open the project.
6. Take steps to solicit price quotes from MWBE vendors and suppliers as required under 2 C.F.R. § 200.321.
7. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Council approval is required for purchase contracts unless the Council has delegated award authority to an individual official or employee. Any and all bids may be rejected only for “sound documented reasons.”
8. Contract will be in written form or the purchase order may be used as a form of contract.
9. Cannot use a cooperative purchasing program as an Exception to the Bidding.

D. Service Contracts (except for A/E professional services) **costing \$150,000 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:

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

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 MWBE 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.
7. Council approval is required per local policy.
8. Contract must be in written form or use the purchase order; using the federal contract provisions.
9. Award the contract on a fixed-price or cost-reimbursement basis.
10. Cannot use a cooperative purchasing program as an Exception to the Bidding process.

501.5.4b CONSTRUCTION AND REPAIR CONTRACT

A. Construction and repair contracts costing less than \$3,500 shall be procured using the Uniform Guidance “**micro-purchase**” procedure (2 C.F.R. § 200.320(a)) as follows:

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

B. Construction and repair contracts costing \$3,500 up to \$150,000 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). The Town of Garner will obtain quotes from at least two (2) qualified sources.
2. Take affirmative steps to solicit price quotes from MWBE 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. Award the contract to the lowest responsive, responsible bidder.
5. Must have a written contract with the federal contract provision included

C. Construction and repair contracts costing \$150,000 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. Publicly 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. We will advertise bids at least seven (7) full days prior to bid opening date.
4. Take affirmative steps to solicit price quotes from MWBE 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.
6. A minimum of 2 bids must be received in order to open all bids.
7. A five 5% bid bond is required of all bidders. Performance and payment bonds of 100% of the contract price is required of the winning bidder.
8. Contract will be awarded on a firm fixed-price basis
9. The contract must be in writing and include applicable UG contract provision
10. Award the contract to the lowest responsive, responsible bidder. Council approval is required. Any and all bids may be rejected only for “sound documented reasons.”
11. Cannot divide the contract for the purpose of evading competitive bidding requirements

D. 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).

E. 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 Council. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the Council the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from MWBE 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 three (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. Contract must be in writing and include applicable UG contract provisions.
9. Award the contract to the lowest responsive, responsible bidder. Council approval is required and cannot be delegated.
10. The Council may reject and all bids only for “sound documented reasons.”
11. Cannot divide the contract for the purpose of evading competitive bidding requirement.

F. Contracts for Architectural Contracts for Architectural and Engineering Services costing under \$150,000 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. Price (other than unit cost) shall not be solicited in the RFQ.
2. Formal advertisement in a local newspaper is not required but RFQ will be advertised online

3. Take affirmative steps to solicit price quotes from MWBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.
4. Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Manager and/or Requesting Department.
5. 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.
6. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
7. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated.
8. Contract must be in writing and include applicable UG contract provisions
9. Preference may be given to in-state firms
10. NOTE: The authority to exempt contracts costing less than \$50,000 under the G.S. 143-64-32 is not allowed under this UG.

G. Contracts for Architectural and Engineering Services costing \$150,000 or more shall be procured using the Uniform Guidance “**competitive proposal**” procedure (2 C.F.R. § 200.320(d)(5)) as follows:

1. Publicly advertise a Request for Qualifications (RFQ) to solicit qualifications from qualified firms. Price (other than unit cost) shall not be solicited in the RFQ.
2. Formal advertisement in a newspaper is not required.
3. Take affirmative steps to solicit price quotes from MWBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
4. Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ developed by the Purchasing Manager and/or Requesting Department.
5. Proposals must be solicited from an “adequate number of qualified sources” (an individual federal grantor agency may issue guidance interpreting “adequate number”).
6. Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm. Solicitation from at least two (2) qualified sources.
7. Evaluate qualifications of respondents to rank respondents and select the most qualified firm. Preference may be given to in-state (but not local) firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
8. Price cannot be a factor in the initial selection of the most qualified firm.
9. Once the most qualified firm is selected, negotiate fair and reasonable compensation. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
10. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated.
11. State licensure requirements apply
12. Must be a fixed price or not to exceed contract type for service
13. Must have a written contract with the federal UG contract provisions requirements included

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

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

501.5.6 Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or

reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide

exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

501.5.7 Procurement of recovered materials. §200.322

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014]

501.5.7 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 Requesting Department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the Council.

- 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.

Procedures:

1. Perform independent cost estimate
2. Perform cost or price analysis if procurement is above the simplified acquisition threshold (currently \$150,000 or the equivalent local/state threshold if more restrictive)
3. Submit procurement documentation to awarding agency
4. Negotiate profit as a separate element of the contract price

501.6 Procurement Procedure Non - Federal Funds

501.6.1 Purchases less than \$5,000 (N.C.G.S. 143-131):

In accordance with N.C.G.S. 143-131, purchases of less than \$5,000 may be made in the open market without formal invitation for bids or request for quotations. However, a sincere effort should be given to obtain three written quotes for purchases less than \$5,000. All quotes, regardless of degree of formality, should be forwarded to the purchasing department as soon as the requisition has been entered into the system.

501.6.2 Informal Bids (N.C.G.S. 143-131):

In accordance with N.C.G.S. 143-131, a Request for Quotation (RFQ) or Request for Proposal (RFP) will be used for purchases of Equipment and Supplies - \$5,000 to \$89,999 or Construction (and repair) less than \$500,000 with or without advertising.

The Town of Garner's policy on informal bidding process requires that competitive pricing be obtained on purchases of supplies, material, apparatus, equipment, and construction and repair contracts estimated to cost \$5,000 or more in a written manner using a RFQ or RFP. These requests are sent to several potential sources, and posted on the Town's website. Once quotes are received, the quote deemed in the best interest of the Town is determined. A requisition shall be completed, and a purchase order generated to the successful bidder.

501.6.3 Award:

Informal contracts must be awarded to the lowest responsive, responsible bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract. This is the same standard of award as applies to formal bids.

501.6.4 Separate Contract:

The purchase order will serve as the contract on all purchases for supplies, materials, apparatus, and equipment unless it would be in the best interest of the Town to execute a separate contract. A separate contract will be prepared when a purchase is complex, is for construction, services or management has determined that a contract would be in the best interest of the Town.

Services that may require a separate contract include but are not limited to, those that are performed on Town property, those that require the vendor to provide proof of insurance to the Town, or those that are consultative, professional or technical in nature. Professional services or other technical services require the use of a separate contract **in addition to** the purchase order. Professional service contracts consist of architectural, engineering, legal, design, financial, audit, consultant training, appraisal, survey, planning, environmental, and other services of a similar skilled or professional nature. Other service contracts consist of leases for rental equipment, maintenance agreements and contracts for semi-skilled and unskilled labor, towing, leaf pickup, lot cleanup, demolition, sludge removal and similar activities. The contract document is available on the Town's intranet site (*Town of Garner Standard Contract Document*) and shall be executed in triplicate. Completed contracts are to be accompanied by a *Check List for Contracts*, and all other documentation required on the check list and submitted to Purchasing for execution and appropriate signatures. The contract information is logged in to the Town's Contract Administration Database, and the completed contracts are distributed as follows: Town Clerk, Purchasing Manager, and Buyer.

501.6.5 Formal Bids (N.C.G.S. 143-129):

In accordance with N.C.G.S 143-129, invitation for formal bids will be used for purchases of Equipment and Supplies of \$90,000 and greater and Construction (and repairs) of \$500,000 and greater. This will include advertising in the local newspaper and/or other advertising media as deemed appropriate, posting on the Town's

website and receiving sealed bids (please refer to Town Resolution 2013-2181, adopted December 17, 2013 and allowed by N.C.G.S. 143-129(a)).

Purchasing is responsible for working in conjunction with the responsible department head or project administrator and insuring that all formal bidding requirements are satisfied, including, but not limited to, the advertisement of and receipt of sealed bids.

501.6.5a Bid Bonds (N.C.G.S. 143-129(b)):

The purpose of a bid bond is to insure that the successful bidder will execute the contract and provide performance and payment bonds if required. The minimum amount required is 5% of the total bid. Bid bonds are returned to the bidder or released after the contract is signed or the purchase order is issued.

The bidding statute allows the bid bond to be made in the following forms:

- Cash
- Cashiers check
- Certified check on a bank or trust company insured by the Federal Deposit Insurance Corporation (FDIC), or a
- Bid bond executed by a corporate surety licensed under the laws of North Carolina.

When a bid bond is required, failure of a bidder to submit a bid bond at the time of the bid opening will render the bid invalid and the bid cannot be considered. Failure of the successful bidder to sign the contract will result in forfeiture of the bid bond. Bid bonds are required for construction or repair contracts estimated to cost \$500,000 or more (N.C.G.S. 44A Art.3). When deemed necessary by the Town Manager or designee to be in the best interest of the Town, performance and payment bonds may be required on contracts for the purchase of apparatus, supplies, materials or equipment.

501.6.5b Bid Opening:

All formal bids shall be opened at the time and place listed in the advertisement for receiving bids. It is the responsibility of the bidder to deliver the bid to the designated site and Town official. Late delivery of a bid for any reason will disqualify the bid and the bid will be returned to the bidder unopened with an explanation. Bid openings may be postponed at the discretion of the Town for any reason that would impact all bidders such as hazardous weather conditions. Disclosure or the opening of any sealed bid prior to bid opening is a general misdemeanor as stated in N.C.G.S. 143-129.

501.6.5c Evaluation of Bids/Recommendation for award:

After receipt of bids, the purchasing officer, the department head, and/or the project administrator, shall review all bid responses and prepare a recommendation to the Council for award. This decision is based on price, conformance to specifications, quality of product, availability and bidder's past performance.

501.6.5d Award:

Award of all formal bids for equipment and supplies over \$90,000 and construction projects over \$500,000 must be made by the Town Council and “*shall be to the lowest responsive responsible bidder or bidders taking into consideration quality, performance, and the time specified in the proposal for the performance of the contract,*” per N.C.G.S.0143-131.

A **responsive** bid is one that substantially meets the specifications outlined in the solicitation. **Responsibility** relates to the issue of performance by the contractor in terms of the skill, experience, financial resources, and integrity necessary to complete the requirements of the contract.

Award may be made to a bidder other than the low bidder if it is clearly evident that it would be in the best interest of the Town to do so. The lowest bidder may be rejected for lack of skill, experience, financial resources, or other qualifications necessary to perform the contract. The Town may also consider other factors such as past performance, financial stability, information obtained during reference/background check, and availability of equipment in the consideration of the award.

501.6.5e Bids Received in Excess of Budgeted Funds:

When the lowest responsible bid exceeds budgeted funds available, the Town may enter into negotiations with the lowest responsive responsible bidder to reduce the cost to within budgeted funds. If this cannot be accomplished, the Town must revise the specifications in such a manner as to reduce the cost of the project, and re-advertise the revised project. This procedure is available for purchase contracts as well as construction and repair projects (N.C.G.S. 143-129 (b)).

501.6.5f Number of Bids:

The Town may accept a single bid for apparatus, supplies, material or equipment, but prefers to obtain at least two or more bids. If only one bid is received and it is in the opinion of the Town that more than one bid would be obtained on a rebid, the Town policy is to solicit bids again. The Town will accept a single bid without re-advertisement if it can be

determined that there are no other suppliers of the item, or prospective bidders have been contacted and chosen not to bid. Letters from companies that were informed of the bid opportunity but chose not to apply should be obtained if possible. Bids on construction or repair work, however, estimated to cost \$500,000 or more require at least three bids. If fewer than three bids are obtained, the bids shall be returned unopened and the bid shall be re-advertised. After the second advertisement, an award may be made if there are fewer than three bids received.

501.6.5g Standard for Rejecting Bids:

The Town shall have the right to reject any or all bids and/or waive any informality or irregularity in any bid or bids received and to accept the bid or bids, which in its judgment are in the Town's best interest.

501.6.5h Withdrawal of Bid:

A bidder submitting a bid for construction or repair work may withdraw the bid from consideration after the bid opening without forfeiture of the bid bond if the price bid was based upon a mistake that constituted a substantial error provided the bid was submitted in good faith. The bidder must submit credible evidence that the mistake was clerical in nature as opposed to a judgment error, and was actually due to an unintentional and substantial arithmetic error or an unintentional omission or a substantial quantity or work, labor, supplies, materials, apparatus, equipment, or services made directly in the compilation of the bid. The unintentional arithmetic error or unintentional omission must be clearly shown by objective evidence drawn from inspection of the original work papers, documents or materials used in the preparation of the bid sought to be withdrawn.

A request to withdraw a bid must be made in writing prior to the award of the contract, but not later than 72 hours after the opening of the bids. If the bid is withdrawn, the bid is deemed to have been received for the purpose of complying with the three-bid rule for construction and repair.

The responsible department head or project administrator should notify the Town Clerk of any request for withdrawal. The Town Clerk will notify the Town Manager of any request for withdrawal and arrange for the item to be discussed at the next available Town Council meeting.

If the work or purchase is re-bid, the bidder who has filed a request to withdraw will not be permitted to re-bid. If the price bid was based upon a mistake not of the type mentioned above, the bidder shall forfeit the bid bond.

501.6.6 Minority Business Participation (G.S. 143-128.2):

A minority business is a business that is at least fifty-one (51%) percent owned by one or more minority persons or socially and economically disadvantaged individuals. The minority or disadvantaged person or persons must be actively engaged in the daily operations and management of the business. Minority and disadvantaged as defined and recognized by the US Government and State of North Carolina are classified as one or more of the following: Black, Hispanic, Asian American, American Indian, Native Hawaiian, Female, Disabled, and Disadvantaged. All of the minority individuals/groups must be citizens or lawful permanent citizens of the United States.

The Town of Garner has the legal and moral obligation to foster the participation of minority business concerns as prime contractors, subcontractors and suppliers in contracting opportunities with the Town.

Please refer to the Town's Minority Business Participation Policy, Resolution 2014-2188, adopted February 3, 2014.

501.6.7 SPECIAL PROCUREMENT PROCEDURES

501.6.7 Exceptions to Competitive Bidding Requirements of Public Contracts:

North Carolina has certain legislative provisions that allow for local government exceptions to the competitive bidding requirements in N.C.G.S. 143 Art. 8. Some of these exceptions are discussed below.

501.6.7a Purchases from Other Units of Government (N.C.G.S. 143-129(e)(1)):

An exception category permits the waiving of bidding requirements for the purchase of apparatus, supplies, materials, or equipment if that purchase is made from any federal agency or any other governmental unit within the United States.

501.6.7b Emergency Purchases (N.C.G.S. 143-129(e)(2)):

Bidding requirements are not required "in cases of special emergency involving the health and safety of the people or their property." The emergency must be immediate and existing. If harm to the public can be averted through temporary measures while proper bidding is being conducted, the emergency exception cannot be used to avoid bidding.

The Town Manager shall approve all purchases made under this exception. The Town Council must adopt a resolution setting out the facts constituting the emergency either before or as soon as possible after the purchase. It is the Department's responsibility to forward a copy of the resolution along with the Town Manager's approval to the buyer.

501.6.7c Group Purchasing Programs (N.C.G.S. 143-129(e)(3)):

Purchases from suppliers who are selected through group purchasing programs (also known as cooperative purchasing programs) are exempt from the bidding requirements. Certain limitations apply and care must be exercised in the use of these types of programs.

The decision to participate in a group or cooperative purchasing program must be approved by the Town Council. Once the relationship with the group has been established, departments may use these resources if conditions are favorable.

501.6.7d Change Order Work (N.C.G.S. 143-129)(e)(4)):

This exception category does not require bidding for a change order on *construction or repair work* that occurs “during the progress” of a project that was originally bid.

501.6.7e Sole Source Purchases, Standardization and Compatibility (N.C.G.S. 143-129)(e)(6)):

Competitive bidding requirements are not required for the purchase of apparatus, supplies, materials, and equipment in the following situations:

1. When the performance or price competition for a product are not available,
2. When a needed product is available from only one source of supply, or
3. When standardization or compatibility is the overriding consideration.

All purchases, formal or informal, made under this exception must be awarded by the Town Council before award of the purchase order/contract. A record of purchases made under this exception must be maintained; therefore, a written explanation or justification is necessary. It is the Department’s responsibility to forward proof of Council’s approval and justification for the exception to the competitive bidding requirements to Purchasing at the time the requisition is entered into the system.

501.6.7f Request for Proposal (RFP) for Information Technology Goods and Services (N.C.G.S. 143-129 (e)(7)):

The statute now authorizes local governments to use a RFP process to purchase information technology goods and services. Information technology is defined as “electronic data processing goods and services and telecommunications goods and services, micro-processors, software, information processing, office systems, any services related to the foregoing, and consulting or other services for design or redesign of information technology supporting business processes” (N.C.G.S. 147-33.81)(2)).

Purchases must be advertised in the same manner as is required for formal bids. Contracts may be awarded to the submitter of the “best overall proposal” – not the “lowest responsible bidder.” The criteria to be used in awarding the contract must be identified in the RFP. The RFP provision permits negotiation after proposals are received. Negotiations must not change the contract beyond the scope of the original proposal in a manner that deprives the bidder of a fair opportunity to compete for the contract, and would have resulted in the award of the contract to a different bidder if changes had been included in the original RFP.

RFPs are not subject to public inspection until a contract is awarded or a purchase order is issued.

501.6.7g State Contract Purchases (N.C.G.S. 143-129)(e)(9)):

Bidding procedures are not required when purchasing from contracts “established by the State or any agency of the State.” The vendor must offer the Town the same or more favorable prices, terms and conditions as established in the State Contract.

501.6.7h Used Goods (N.C.G.S. 143-129)(e)(10)):

The statute authorizes the purchase of used goods without bidding. The exception does not include remanufactured items, refabricated materials, or demo equipment.

For the purchase of used vehicles, please refer to the Town’s Used Vehicle Purchase Policy.

501.6.7i Piggybacking of Contracts (N.C.G.S. 143-129(g)):

This exception will allow a department to purchase from any vendor that has recently (within the last 12 months) contracted to furnish an item to the United States of America or any federal agency, the State of North Carolina or any agency political subdivision of the State, or any other state or any agency of political subdivision of that state.

This method of placing a contract on the merits (back) of one that is already awarded and in place is called “piggybacking.” Several essential criteria must be met in order to use this method of purchasing: a) purchases are to be made directly from the supplier, b) the vendor must be willing to supply the item for the same or better price, and c) the prior contract must have been entered in to following a public bid process. The requesting Department must publish a Notice of Intent to award the contract (as allowed by N.C.G.S. 143-129(a)) without bidding no less than

10 days prior to a Town Council meeting. At a minimum, the notice should describe the item or items to be purchased, identify the vendor from whom the purchase will be made, and identify the public agency that originally contracted with the vendor.

If any vendor makes a competitive offer in response to the Notice of Intent to waive bidding, the formal bidding process is now required. The piggybacking applies to the formal purchase contracts only; the exception does not apply to construction or repair contracts. All purchases made under this exception must be awarded by the Town Council. It is the Department's responsibility to forward proof of Council approval and justification for the exception to the competitive bidding requirements to the Purchasing office at the time the requisition is entered into the system.

501.6.8 Projects Requiring Licenses:

1. Contractors on construction or repair projects must comply with state contractor licensing requirements. The contract threshold for licensure of general contractors is \$30,000. Licenses can be certified by checking with the North Carolina Licensing Board for General Contractors' website (www.nclbgc.net) (N.C.G.S. 87-1).
2. Architects and/or engineers who prepare the plans and specifications for the following types of projects must be licensed (N.C.G.S. 133-1.1):
 - a) New construction/major repair to buildings or utilities costing \$135,000 or more,
 - b) Nonstructural repairs costing \$500,000 or more, or
 - c) Work affecting "life safety systems" costing \$100,000 or more.
3. Any business, trade, occupation, profession, avocation or calling of any kind doing business with the Town of Garner within Town limits must obtain a business privilege license. Certain businesses are exempted from business licenses. Businesses should check with the Finance Department for details.
4. Other licenses required by federal, state, county or local regulations that may not be listed herein.

501.6.9 Procurement of Architectural, Engineering and Surveying Services:

While professional services are not specifically covered by N.C.G.S. Chapter 143-64.31 addresses some specific requirements concerning Architects, Engineers, Surveyors and Construction Managers at Risk. This statute requires the selection of these services based on the "demonstrated competence and qualification for the type of services required without regard to the fee or unit price information."

N.C.G.S. also requires that these professional services "be announced" to select qualified firms, that the Town develop a list of qualified firms or individuals, and that upon selection of a qualified firm, the Town attempt to negotiate a fee for the services requested. If the Town is unable to negotiate a fee with the selected firm then negotiations should begin with the next most qualified firm and so on until an agreement is reached with a qualified firm.

The Town Council may, if approved by resolution, exempt particular projects from the selection requirements only if the estimated fee is less than \$50,000 (N.C.G.S. 143-64.32).

501.6.10 Continuing Contracts:

According to N.C.G.S. 160A-17.1 the Town is authorized to enter into continuing contracts, some portion or all of which are to be performed in ensuing fiscal years. Sufficient funds shall be appropriated to meet any amount to be paid under the contract in the fiscal year in which it is made, and in each ensuing fiscal year, the Town Council shall appropriate sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered.

501.6.11 Service Contracts:

There are two categories of service contracts: (1) professional and (2) all others. These definitions apply:

1. *Professional Service Contracts:* Those that involve professional, technical and skilled services used by the Town. Professional service contracts consist of architectural, engineering, legal, design, financial, audit, consultant training, appraisal, survey, planning, environmental, and other services of a similar skilled, or professional nature.
2. *Other Service Contracts:* Other service contracts consist of leases for rental equipment, maintenance agreements, and contracts for semi-skilled and unskilled labor, janitorial, recycling, solid waste collection or disposal services, towing, leaf pickup, lot cleanup, demolition, sludge removal, and similar activities.

Some characteristics of a service contract are: 1) sales tax may not be charged, 2) individual charges for skill or labor are stated, or 3) hourly or daily charges are stated. Services that may require a contract include, but are not limited to, those that are performed on Town property, those that require the vendor to provide proof of insurance to the Town, or those that are consultative, professional or technical in nature.

Service contracts are not subject to State laws requiring competitive bidding, and although the Town will seek the lowest cost where feasible, other considerations may be used in awarding a contract, including but not limited to, experience, particular skills, quality, and timeliness of service. The use of the word "bid," if used in a notice, RFP, discussion of the same, or any other communication about a service contract, is not intended to convert the process into a competitive bidding process and does not make competitive bidding statutes applicable.

It is the policy of the Town to seek competitive proposals for services when possible. Selection of architectural, engineering and surveying services are based on

qualifications as stated in Section 501.63 of this policy. Otherwise, the Department Head or his/her designee should develop a specific scope of services for the required service. The scope must clearly define all aspects of the required service in order that all parties have a clear understanding of the requirements and the desires of the Town. Purchasing, after consulting with the requisitioner, will decide whether the Town would be better served by seeking competitive proposals under this section of the policy.

Any request for proposal where the estimated cost of the work to be performed is equal to or greater than \$5,000 must be advertised on the Town's Website or in local media to ensure competition. Departments are free to notify any other prospective bidders.

As noted in other Town documents, the Town Manager has authority to authorize service contracts without prior Town Council approval at the Town Manager's discretion, subject to adequate funding available as indicated in the most recent Council-adopted budget document.

501.6.12 Leases:

Leases, along with all terms and conditions, must be submitted to the Finance Director for review. The lease must be accompanied by a requisition. Leases that have a multi-year duration must contain a non-appropriation clause (N.C.G.S. 159-28). As with all expenditures, the funds committed for a lease must be budgeted. A purchase order must be completed annually for each lease.

501.6.13 Purchase with Trade-In of Equipment:

N.C.G.S. 143-129.7 allows that the specifications for the purchase of apparatus, supplies, materials or equipment an opportunity for bidders to purchase as "trade-in" specified personal property owned by the Town, and the award of a contract for both the purchase of and the sale of property, taking into consideration the amount offered on the trade-in.

501.6.14 Purchase of Recycled Material Supplies

Per Town Resolution 1993-1341, the Town will seek to buy and use products needed for Town services that are made with recycled material if the recycled materials are cost competitive with non-recycled products and meet or exceed the specifications and user quality levels set forth by the Town. The Town may consider purchasing recycled products not exceeding 10% more in cost than the comparable non-recycled product.

501.7 VENDOR RELATIONS

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

The Finance Department maintains a vendor file which includes performance of vendors that conduct business with the Town. Should a department experience difficulties with or have a complaint with a particular vendor, the incidents should be documented and submitted to the Finance Department purchasing office. Persons completing materials for said file shall be as specific as possible, detailing the circumstance, dates, personnel involved (including titles and contact information). This information will prove helpful in determining if the vendor is to remain on the vendor list. Likewise if a vendor is to be commended for its efforts, similar documentation should be submitted as well.

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

Departments do not have the authorization to commit future Town business to vendors. If a department wishes to add a specific vendor or contractor to the bid list, the Finance Department should be contacted.

Vendors wishing to be placed on the Town of Garner's vendor list, should complete a vendor application. The vendor application is available on the Town's Website or may be obtained from the purchasing office. A completed application should be returned to the Finance Department.

501.8 INSURANCE REQUIREMENTS

The Town of Garner requires that contractors carry insurance depending on the type of work being performed, location of the work, and the level of risk to the public, Town employees, and the contractor. The project may require that the contractor carry only one type of insurance or a combination of insurances. The department requesting the purchase should require the appropriate insurance. The necessary insurance coverage, whether required by law or in the Town's best interest, must be decided in the planning phases of the project and communicated to the potential bidders. The Finance Department, Risk Manager and the Town Attorney may be consulted in determining insurance requirements.

The following list describes various types of insurance and the limits of coverage normally required by the Town.

1. *Comprehensive Automobile Liability*: This insurance will be written in comprehensive form and shall protect the Contractor against all claims for injuries to the public and damage to property of others arising from the use of motor vehicles, and will cover operation on or off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired. The Contractor will furnish additional insurance as may be

required by the General Statutes of North Carolina, including motor vehicle insurance in amounts not less than statutory limits.

The liability limits shall not be less than \$ 1,000,000 Single Limit.

2. *Comprehensive General Liability:* This insurance will be written in comprehensive form and will protect the Contractor against all claims arising from injuries to persons other than his/her employees or damage to the Town property or others arising out of any act or omission of the Contractor or his/her agents, employees or subcontractors. The policy should also include protection against claims insured by usual Personal Injury Liability Coverage, a “Protective Liability” endorsement to insure the contractual liability assumed by the Contractor under the indemnification provisions of the contract document or purchase order, and “Completed Operations and Products Liability” Coverage (which will remain in force during the period that corrections are being made).

To the extent that the Contractor’s work required blasting, explosive conditions, or underground operations, the Comprehensive General Liability coverage shall not contain an exclusion clause relative to blasting, explosion, collapse of buildings, or damage to underground property.

The liability limits shall not be less than \$1,000,000 Single Limit/\$2,000,000 Aggregate. This requirement may be satisfied with \$1,000,000 General Liability and \$1,000,000 Umbrella/Excess Insurance.

3. *Umbrella Liability:* This insurance protects the Contractor against all claims in excess of the limits provided under the Worker’s Compensation and Employer’s Liability, Comprehensive Automobile Liability, and General Liability Policies.

The liability limits of the Umbrella Liability Policy shall not be less than \$1,000,000.

4. *Workers’ Compensation:* The Contractor shall take out and maintain Workers’ Compensation for all his/her employees employed at the project worksite during the life of the contract with the Town. The coverage must include employers’ liability with a limit no less than the minimum required by G.S. 97.

Coverage A – Statutory

Coverage B- \$1,000,000 each accident/\$1,000,000 disease – Policy limit/\$1,000,000 each employee.

5. *Builder’s Risk All-Risk Insurance:* For construction contracts: the Contractor shall secure and maintain during the life of the contract with the Town, Builder’s Risk All-Risk Insurance, including fire and extended coverage, wind and water damage from hurricanes and tropical storms, flooding, and special extended coverage, for 100% of the contract amount, if required. The coverage should provide for losses to be paid to the Contractor and the Owner as their interests may appear. The coverage shall be equal to 100% of the contract amount *plus* the asset value of any existing structure.

6. *Professional Liability Insurance:* Persons providing professional services shall have in effect at all times during the provision of the service a policy of professional liability insurance, also known as “errors and omissions coverage,” in at least the amount of \$1,000,000.
7. *Agency Funding, Program Partners, Volunteers:* Persons providing service to the Town in a “volunteer capacity” shall indemnify and hold the Town of Garner harmless. Each contract should include this statement or similar wording. “To the maximum extent allowed by law, the Grantee shall indemnify and save harmless the Town and its officers, officials, agents, and employees from and against all claims, judgments, costs, expenses, including reasonable attorney’s fees, which arise in any manner from or as a result of performance of this grant agreement by, or the acts or omissions of, the Grantee or the Grantee’s officers, officials, agents, employees or volunteers.”

When the contractor provides insurance certificates to the Town, the certificate must be an original document and the Town must be added as an Additional Insured on the insurance. Certificates are required before work or service can begin. Each certificate should include this statement or similar wording. “Written notice of cancellation, expiration, non-renewal or changes in coverage during the full period of construction covered by the contract shall be given to the Town thirty days prior to the date of such cancellation, expiration, non-renewal, lapse of coverage, or changes in coverage affecting the policy.”

The Finance Department, and Risk Manager must verify all insurance certificates and Performance and Payment Bonds submitted by contractors. This procedure applies to all Insurance Certificates, Bid, Performance and Payment Bonds. Companies that provide insurance and bid bonds must be *licensed* in North Carolina and companies that provide performance and payment bonds must be *authorized* to do business in North Carolina.

It is recognized that many small performing artists with whom the Town may contract may not have general business liability coverage, may not have (and may not be required by State law to have) workers’ compensation coverage; requirements by the Town to have such coverage may be waived on a case-by-case basis.

501.9 Purchase Orders:

Purchase Order Compliance. To be valid and to ensure compliance with the budget, statutory requirements and administrative policies by pre-auditing the Town of Garner purchase order must be completed and signed by the Finance Director or designee. Purchase orders will not be issued without a properly executed requisition.

A purchase order is a contract between the Town and a vendor and is not binding until accepted by the vendor. The issuance of purchase orders by unauthorized Town employees or officials will not be recognized by the Town and payment of these obligations will not be approved. Obtaining supplies, materials, equipment or services without a purchase order is an unauthorized purchase (except in an emergency situation as outlined in 501.61.2). Unauthorized purchases are classified as a personal expense and will be paid for by the employee.

The electronic requisition initiates the procurement cycle. The receipt of the request with the required information and appropriate approvals gives the Purchasing office the authority to proceed with competitive pricing (if this hasn't already been provided) and to issue a purchase order to the most suitable vendor. The Department Head or designee must approve all requests within the department.

A completed requisition with appropriate approvals is required for all purchases. ***Purchase Orders must be obtained prior to purchasing any goods or services,*** unless specified elsewhere in this policy. This includes purchases made with a credit card or online. Please refer to the Town's Credit Card Policy for use of and procedures related to credit card transactions.

Completing the Purchase Requisition Form. The requisition, once completed should be released to the Department Head for approval. Any contracts requiring approval, insurance certificates or documents related to the purchase should be forwarded to Purchasing. The requisition should include but not be limited to the following information:

- a. Department: The department and program/division to be charged
- b. Date: The date the requisition is filled out
- c. Quantity: Specific amounts of the item needed and unit or measure
- d. Description: Include all information necessary to identify the goods or service with supplementary information in the notes section if needed

It is the responsibility of Purchasing to evaluate all requisitions. This evaluation should include but not be limited to the following:

Vendor Selection. Vendors will be selected on a competitive basis. Formal bids, informal bids, telephone quotations may be solicited by the requesting department or Purchasing. Bid awards, purchase orders, and/or contracts will be issued to the lowest responsible bidder, as defined in Section 501.58.4 of this policy.

Purchase Order Distribution: The purchase order is a numbered four part form with copies to be distributed as follows:

- White – Vendor Copy – Mailed to vendor
- Yellow – Purchasing Copy – Maintained in purchasing until submitted to accounts payable for payment
- Blue – Departmental Copy – Maintained in department file
- Pink – Receiving Copy – Submitted with payment request, upon completion of purchase order

If the delivery is incomplete, partial payment can be requested, but pink copy should be retained until the purchase order is complete and ready to be closed.

In order to properly process the vendor's invoice for payment, any invoice or packing slip copies must be approved for payment, indicate the purchase order number and be forwarded to the accounting department. This must be done immediately after the item(s) have been received, inspected and accepted by the user department.

501.10 Blanket Purchase Orders:

A blanket purchase order is established to provide an efficient, cost-effective way to procure items that are not covered by contracts from regular suppliers. Blanket purchase orders may be used by departments for supply items only, no blanket purchase order may be used for a capital purchase. Insuring that an adequate unspent balance remains to cover the planned purchase is the responsibility of the individual authorized to make such purchases. Any purchase that exceeds the funds available under a blanket purchase order will be classified as an unauthorized purchase. Any purchases made by personnel not authorized by the blanket purchase order will be classified as a personal expense and will not be paid by the Town of Garner. Blanket purchase orders can only remain open for the current fiscal year, no blanket purchase order can be carried over. These procedures define how and when a blanket purchase order can be used:

- a. Purchasing will issue blanket purchase orders to selected vendors for the procurement of large volume items such as landscaping supplies, rock, sand and asphalt.
- b. Requests for blanket purchase orders must, in addition to the required information, indicate the following: items covered under the blanket purchase order and a not-to-exceed dollar amount.
- c. The vendor's delivery ticket must be signed by an authorized Town of Garner employee and the purchase order number must be indicated. If the purchase is to be charged to an account other than indicated by the purchase order, the account number must be indicated on the vendor's ticket. Departments will forward these delivery tickets immediately to accounts payable for payment.

501.11 Change Orders:

In order to change, modify, or cancel an existing purchase order, the user department must submit request with the department heads approval to the purchasing department.

If the Town Council originally approved a contract, they also must approve any request or amendment that exceeds a purchase/contract for which it was originally awarded.

Change orders will not be allowed that would alter the procurement guideline that was used in the original process or on a service or material that has already been received.

501.12 Chart of Accounts – Definitions – Object of Expenditure Codes

This section identifies each expense account by a number in order to correctly identify what can be purchased under that particular account. These numbers will be used by all departments. This list does not include personnel related line items. If a department is ever unsure as to what code an item should be charged to, they should contact the Finance Department prior to processing and approving the invoice.

- 521000 Professional Services: Auditing, consulting, engineering, surveying, attorney and legal fees, etc.
- 521100 Postage: Fees for postage, stamps, bulk mailing, etc.
- 521150 Telephone: Fees for regular, long-distance, and cell phone charges or stipends.
- 521200 Printing: Printing of forms, signs, business cards, etc.
- 521300 Utilities: Electricity and natural gas.
- 521310 Water and Sewer Charges
- 521400 Travel/Training: Reimbursement for mileage & expenses related to travel.
- 521405 Travel-Senior Citizens: Travel conducted by PRCR for senior programs.
- 521410 Special Events (does not include events conducted through PRCR)
- 521401 Organizational Development: Town-wide training coordinated by the Human Resources Department.
- 521410 Special Events: Does not include specific Parks, Recreation, and Cultural Resources events.
- 521440 Business Recruitment: Funds for travel related to economic development.
- 521455 Developmental Assistance: Fund provided to local HOAs and neighborhoods for improvements.
- 521450 Economic Incentives: Specific incentive payments provided to business as approved by Town Council.
- 521500 Building & Grounds Maintenance: Cleaning, painting, repairs, landscaping, etc. Expenses that exceed \$10,000 should be charged to object code 537200 or 537210.

- 521520 Vandalism Repair
- 521600 Equipment Maintenance & Repair: Service, repairs to equipment (tractors, mowers, office machines. Includes annual maintenance contracts.
- 521700 Auto Maintenance & Repair: Service & repairs to automotive equipment.
- 522100 Equipment Rental: Rental of automotive, office or maintenance equipment.
- 522200 Building Rental: Rental of office space.
- 522500 Fees and Taxes
- 522530 Recording Fees: Fees for recording and filing of documents with Wake County.
- 522600 Advertising
- 522601 Recruitment: Fees incurred by Human Resources in the course of job recruitment Town wide.
- 523100 Fuel
- 523200 Agricultural Supplies: Grass seed, fertilizer, lime, mulch, etc.
- 523300 Departmental Supplies: Supplies and material routinely required for the operation of the department.
- 523302 Utility Patching Supplies: Supplies reimbursed by City of Raleigh for patching of water and sewer utility repairs.
- 523310 Copier Supplies
- 523350 United Way: Supplies to promote annual United Way campaign.
- 523399 Non-capital Equipment: Equipment that is not routinely purchased, but falls below the threshold for capital equipment (\$10,000).
- 523520 Visual Image Program
- 523540 Promotional Supplies: Supplies and materials purchased by Economic Development to promote Garner and activities.
- 523550 Vet Supplies and Food: For K-9 program.
- 523580 Stormwater Education Program
- 523600 Uniforms (does not include uniforms for participants in PRCR programs)
- 524205 Downtown Façade Grant Program
- 524300 Contract Services: Contracts for janitorial service, exterminating, contractors and non-employee contracts for service.
- 524310 Contract Services-Wake County: Payments made to Wake County for collection of property taxes.
- 524340 Garner Chamber of Commerce
- 524345 Garner Revitalization Association
- 524350 Contract Services-Elections: Payments made to Wake County for local elections.
- 524353 Contract Services-GVFR, Inc.
- 524365 School Access Fees
- 524380 Contract Services-Powell Bill
- 524386 Street Resurfacing
- 524391 Wake County HAZMAT
- 524410 Contract Services – Commercial Sanitation Collection
- 524420 Contract Services – Residential Sanitation Collection
- 524430 Curbside Recycling Program
- 524440 Office Paper Recycling Program
- 524500 Contract Services – Repair

- 524545 Park Facility Improvements: Improvements to park facilities that do not rise to the level of a capital expenditure.
- 524600 Subsidized Programs (excludes Program Partners paid separately under PRCR)
- 524700 Landfill Charges
- 525300 Due and Subscriptions
- 525400 Town Insurance and Bonds: Fees for property, liability, casualty insurance and bonds.
- 525610 Workers Compensation Insurance: Fees for worker's compensation insurance for all Town employees.
- 525620 Unemployment Insurance
- 525630 Wellness Program
- 525650 Employee Safety Awards: Funds utilized by Town safety committee to recognize employee safety achievements.
- 525660 Educational Assistance Program
- 525800 Contingency: Funds budgeted by Council as contingency to be used as unexpected expenditures arise during the fiscal year.
- 537100 Land Acquisition: Should include all legal fees, surveys, etc. required to acquire land.
- 537200 Improvements to Land/Real Estate: Grading, filling, or other work to put land in condition for intended use. Expenses that exceed \$10,000.
- 537210 Improvements to Buildings: Painting, roofing, etc. Expenses that exceed \$10,000.
- 537220 Sidewalk Construction
- 537230 Retention Ponds
- 537400 Equipment: Purchases of equipment, apparatus or supplies that individually exceed \$10,000.
- 537410 Vehicles: Purchase of vehicle(s), including all fees and equipment necessary to operate vehicle.
- 537500 Building Purchase
- 537600 Construction

Appendix:

Dollar Thresholds in North Carolina Public Contracting Statutes, updated
September 1, 2013
Town of Garner Contract Requirements

References:

Uniform Guidance, 2 C.F.R. Part 200, Appendix II
North Carolina General Statutes
Special Legislation
North Carolina Division of Purchase and Contract Department of Administration
North Carolina Office of Historically Underutilized Business
"A Legal Guide to Purchasing and Contracting for North Carolina Local Governments" by
Frayda Bluestein, UNC School of Government
Local Government Law Bulletins published by the UNC School of Government

Dollar Thresholds in North Carolina Public Contracting Statutes

Dollar limits and statutory authority current as of September 1, 2013



Requirement	Threshold	Statute
Formal bidding		
	<i>(estimated cost of contract)</i>	
Construction or repair contracts	\$500,000 and above	G.S. 143-129
Purchase of apparatus, supplies, materials, and equipment	\$90,000 and above	G.S. 143-129
Informal bidding		
	<i>(actual cost of contract)</i>	
Construction or repair contracts	\$30,000 to formal limit	G.S. 143-131
Purchase of apparatus, supplies, materials, and equipment	\$30,000 to formal limit	G.S. 143-131
Construction methods authorized for building projects		
	Over \$300,000	G.S. 143-128(a1)
Separate Prime	<i>(estimated cost of project)</i>	
Single Prime		
Dual Bidding		
Construction Management at Risk (G.S. 143-128.1)		
Design-Build and Design-Build Bridging (G.S. 143-128.1A; G.S. 143-128.1B)		
Public Private Partnership (P3) (G.S. 143-128.1C)		
Historically Underutilized Business (HUB) requirements		
Building construction or repair projects		
– Projects with state funding (<i>verifiable 10% goal required</i>)	\$100,000 or more	G.S. 143-128.2(a)
– Locally funded projects (<i>formal HUB requirements</i>)	\$300,000 or more	G.S. 143-128.2(j)
– Projects in informal bidding range (<i>informal HUB requirements</i>)	\$30,000 to \$500,000*	G.S. 143-131(b)
*Note: Formal HUB requirements should be used for informally bid projects costing between \$300,000 and \$500,000		
Limit on use of own forces (force account work)		
	<i>(not to exceed)</i>	G.S. 143-135
Construction or repair projects	\$125,000 (<i>total project cost</i>) or \$50,000 (<i>labor only cost</i>)	
Bid bond or deposit		
Construction or repair contracts (<i>at least 5% of bid amount</i>)	Formal bids (<i>\$500,000 and above</i>)	G.S.143-129(b)
Purchase contracts	Not required	
Performance/Payment bonds		
Construction or repair contracts (<i>100% of contract amount</i>)	Each contract over \$50,000 of project costing over \$300,000	G.S. 143-129(c); G.S. 44A-26
Purchase contracts	Not required	
General contractor's license required		
	\$30,000 and above	G.S. 87-1
Exemption	Force account work (<i>see above</i>)	
Owner-builder affidavit required	Force account work (<i>see above</i>)	G.S. 87-14(a)(1)
Use of licensed architect or engineer required		
Nonstructural work	\$300,000 and above	G.S. 133-1.1(a)
Structural repair, additions, or new construction	\$135,000 and above	
Repair work affecting life safety systems	\$100,000 and above	
Selection of architect, engineer, surveyor, construction manager at risk, or design-build contractor		
"Qualification-Based Selection" procedure (QBS)	All contracts unless exempted	G.S. 143-64.31
Exemption authorized	Only projects where estimated fee is less than \$50,000	G.S. 143-64.32

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TOWN OF GARNER CONTRACT REQUIREMENTS

Contracts submitted by vendors shall conform to the following requirements:

1. **“Limitations of Liability”** provisions are not acceptable, and should not be proposed by vendors in contracts relating to design or construction, professional services, or other contracts for goods or services in which potential liability is a consideration.
2. **“Indemnification”** of the Town by the vendor for all matters arising out of the negligence of the vendor (excluding the negligence of the Town) is required.
3. **“Insurance”** requirements, including “Additional Insured” requirements, are set out below.
4. **“Indemnification”** provisions by which the Town agrees to indemnify the vendor are not acceptable.
5. **“Choice of Law”** provisions to the effect that the contract is governed by the law of any jurisdiction other than the State of North Carolina are not acceptable.
6. **“Choice of Forum”** provisions allowing a civil action in any jurisdiction other than Wake County Superior Court or the United States District Court for the Eastern District of North Carolina are not acceptable.
7. **“Arbitration”** requirements are not acceptable.
8. **“Situs of Contract”** (meaning the location of the making of the contract) shall be North Carolina; no provision for an alternative situs is acceptable. To assure that North Carolina is the situs of the contract, the vendor shall fully execute the final contract document prior to submission to the Town for execution.

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: June 26, 2018		
Subject: Budget amendment for federal grant		
Location on Agenda: Discussion		
Department: Finance		
Contact: Pam Wortham, Finance Director		
Presenter: Pam Wortham, Finance Director		
Brief Summary: The matching requirements for the body-worn camera grant, along with the multi-year reporting of the grant, has made us realize the need to establish a federal grant fund. This is a two-part request. First we are asking to establish a grant project through the Grant Project Ordinance, which also establishes the budget. Second, we have a budget amendment out of the general fund in the Police Department to transfer the funds to the grant project. The total grant for this project is \$83,320, and the matching amount to be budgeted is \$83,670.		
Recommended Motion and/or Requested Action: Adopt Ordinance (2018) 3918 & (2018) 3919		
Detailed Notes:		
Funding Source:		
Cost:	One Time: <input checked="" type="radio"/>	Annual: <input type="radio"/> No Cost: <input type="radio"/>
Manager's Comments and Recommendations:		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	PW	
Finance Director:	PW	
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

FINANCE DEPARTMENT MEMORANDUM

TO: RODNEY DICKERSON, TOWN MANAGER
FROM: PAM WORTHAM, FINANCE DIRECTOR
SUBJECT: BUDGET AMENDMENT FOR FEDERAL GRANTS
DATE: JUNE 19, 2018

The matching requirements for the body-worn camera grant, along with the multi-year reporting of the grant, has made us realize the need to establish a federal grant fund. This is a two-part request. First we are asking to establish a grant project through the Grant Project Ordinance, which also establishes the budget. Second, we have a budget amendment out of the general fund in the Police Department to transfer the funds to the grant project. The total grant for this project is \$83,320, and the matching amount to be budgeted is \$83,670.

Please let me know if you have any questions. Thank you.

Ordinance No. (2018) 3918

ORDINANCE AMENDING ORDINANCE NO. (2017) 3862
WHICH ESTABLISHED THE 2017 – 2018 OPERATING BUDGET

BE IT ORDAINED by the Town Council of the Town of Garner North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following project ordinance is hereby adopted:

Section 1: The project authorized is the purchase of body worn cameras for the police department through a grant from US Department of Justice. A local match commitment is required for salaries and fees associated with the implementation of the project.

Section 2: The officers of this unit are hereby directed to proceed with the capital project within the terms of the revenue restrictions and the budget contained herein.

Section 3: The following amounts are appropriated for the project:

Account	Project	Description	Amount
21-5151-00-5102-00	51000	Salary	\$33,600
21-5151-00-5105-00	51000	FICA	2,570
21-5151-00-5214-00	51000	Travel	6,500
21-5151-00-5374-00	51000	Equipment-Federal	83,320
21-5151-00-5216-00	51000	Equipment Maintenance	41,000
			<hr/> \$166,990

Section 4: The following revenues are anticipated to be available to complete this project:

US DOJ Body Worn Camera Grant		
21-3090-00-4111-61	\$	83,320
Transfer from GF-Police		
21-3090-00-4710-00		83,670

Section 5: The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the revenue restrictions, and federal regulations.

Section 6: Funds may be advanced from the General Fund for the purpose of making payments as due.

Section 7: The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3, and on the total restricted revenues received or utilized.

Section 8: The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 9: Copies of this capital project ordinance shall be furnished to the Town Clerk, the Budget Manager, and the Finance Director for direction in carrying out this project and for public inspection.

Duly adopted this 26th day of June, 2018.

Ronnie S. Williams, Mayor

ATTEST: _____
Stella L. Gibson, Town Clerk

Ordinance No. (2018) 3919

ORDINANCE AMENDING ORDINANCE NO. (2017) 3862
WHICH ESTABLISHED THE 2017 – 2018 OPERATING BUDGET

BE IT ORDAINED by the Town Council of the Town of Garner, North Carolina:

Section One. That the GENERAL FUND be amended as follows:

General Fund Budget Changes:

Department/Category	Description	Current	Amended	Net Changed
Expenditures				
10590000-552021	Transfer to body worn camera grant	\$0	\$10,000	+\$10,000
10511000-523100	Police Fuel	\$140,000	\$130,000	-\$10,000

Section Two: Copies of this ordinance shall be furnished to the Finance Director and the Town Clerk for their direction in the disbursement of the Town's funds and for public inspection

Duly adopted this 26th day of June, 2018.

Ronnie S. Williams, Mayor

ATTEST: _____
Stella L. Gibson, Town Clerk

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: June 26, 2018		
Subject: Budget amendment to establish multi year fund		
Location on Agenda: Discussion		
Department: Finance		
Contact: Pam Wortham, Finance Director		
Presenter: Pam Wortham, Finance Director		
Brief Summary: This amendment will allow Finance to move funds for multi-year operating items into a fund established for that purpose. The unexpended funds for vehicle purchases (\$20,625) for FY 2018, the Parks and Rec Comprehensive Plan (\$37,000), and the Unified Development Ordinance (\$50,000) will be transferred to a multi-year capital reserve fund for expenditure in future years.		
Recommended Motion and/or Requested Action: Adopt Ordinance (2018) 3920		
Detailed Notes:		
Funding Source:		
Cost:	One Time: <input checked="" type="radio"/>	Annual: <input type="radio"/> No Cost:
Manager's Comments and Recommendations:		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	PW	
Finance Director:	PW	
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

FINANCE DEPARTMENT MEMORANDUM

TO: RODNEY DICKERSON, TOWN MANAGER
FROM: PAM WORTHAM, FINANCE DIRECTOR
SUBJECT: BUDGET AMENDMENT FOR MULTI-YEAR FUND
DATE: JUNE 19, 2018

As part of our budget discussions this year, it was determined that a multi-year operating account would provide the Finance staff a mechanism to handle projects that span more than a single fiscal year. The best example of this is the UDO. During FY 2018, \$50,000 was appropriated. Another \$100,000 is appropriated for FY 2019, and an additional \$50,000 is anticipated to be appropriated in FY 2020. No funds have been expended to date. We are proposing to move \$50,000 from this year's budget to this new multi-year fund now, and next year's appropriation will be moved at the beginning of next fiscal year. The same concept applies to the Parks and Rec Comprehensive Plan.

Also, we are asking to transfer all unexpended vehicle and equipment funds to this multi-year fund. This will add to the amount that is being appropriated for VERT expenditures that will be accounted for through this fund. As you recall, all vehicles and equipment will be budgeted centrally through this multi-year fund. Individual departments will not have responsibility for managing the budget for those items. This will allow any unused funds to roll over to the following fiscal year to help offset future expenditures.

All expenditures related to these items will be appropriated by Council in this multi-year fund, and will be expended directly from this fund. There will be additional amendments forthcoming to move items identified in the FY 2019 budget to this fund.

Please let me know if you have any questions. Thank you.

Ordinance No. (2018) 3920

ORDINANCE AMENDING ORDINANCE NO. (2017) 3862
WHICH ESTABLISHED THE 2017 – 2018 OPERATING BUDGET

BE IT ORDAINED by the Town Council of the Town of Garner North Carolina:

Section 1: That the GENERAL FUND be amended as follows:

Expenditures:

Account	Description	Current Budget Amount	Amended Budget Amount	Net Budget Revision
10-5900-00-5520-20	Transfer to Capital Reserve Fund for approved projects	-	\$107,625	\$107,625

Funding Sources:

104-4610-00-521-00	Planning – UDO	\$79,872	\$29,872	(\$50,000)
10-5710-00-5243-00	P&R – Comp Plan	57,000	20,000	(37,000)
10-4910-00-5374-10	Vehicles	25,112	24,657	(455)
10-5110-00-5374-10	Vehicles	308,688	288,598	(20,090)
10-5741-00-5374-10	Vehicles	55,200	55,120	(80)

Section 2: Copies of this Ordinance shall be furnished to the Finance Director & the Town Clerk for their direction in the disbursement of the Town's funds and for public inspection.

Duly adopted this 26th day of June, 2018.

Ronnie S. Williams, Mayor

ATTEST: _____
Stella L. Gibson, Town Clerk