



## REQUEST FOR BOARD ACTION

ITEM NO. 6

**DATE OF REQUEST:** September 4, 2012

**REQUESTED BY:** Don Rawls, Chairman, Pender Soil & Water Conservation District

**SHORT TITLE:** Resolution Authorizing Memorandum of Understanding Between Pender County and US Department of Agriculture-Natural Resources Conservation Service (NRCS), North Carolina Department of Agriculture and Consumer Services-Division of Soil and Water Conservation, and Pender Soil and Water Conservation District for their Cooperation in the Conservation of Natural Resources

**BACKGROUND:** The County has received a request from the Pender Soil and Water Conservation District Town to approve the attached Memorandum of Understanding, which has to be revised every five years. The purpose of the agreement is to supplement the Cooperative Working Agreement between the USDA-Natural Resources Conservation Service, NC Department of Agriculture and Consumer Services, NC Soil and Water Conservation Commission, and Pender Soil and Water Conservation District. This operational agreement documents those areas of common interest of the federal, state and local partnership in natural resources conservation.

**SPECIFIC ACTION REQUESTED:** To consider a resolution approving the attached Memorandum of Understanding from Pender Soil & Water Conservation District, supporting the aforementioned agencies for their cooperation in the Conservation of Natural Resources.

**COUNTY MANAGER'S RECOMMENDATION**

Respectfully *DEFER TO COUNTY ATTORNEY FOR FINAL APPROVAL RECOMMENDATION*

**RESOLUTION**

**NOW, THEREFORE BE IT RESOLVED** by the Pender County Board of Commissioners that

the resolution recommending approval of a Memorandum of Understanding between Pender County and US Department of Agriculture-Natural Resources Conservation Service (NRCS), North Carolina Department of Agriculture and Consumer Services-Division of Soil and Water Conservation, and Pender Soil and Water Conservation District for their cooperation in the Conservation of Natural Resources is hereby approved. The Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

**AMENDMENTS:**

MOVED \_\_\_\_\_ SECONDED \_\_\_\_\_

APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ UNANIMOUS

YEA VOTES: Brown \_\_\_ Tate \_\_\_ Rivenbark \_\_\_ Ward \_\_\_ Williams \_\_\_

\_\_\_\_\_  
George R. Brown, Chairman 9/4/12  
Date

\_\_\_\_\_  
ATTEST 9/4/12  
Date

**MEMORANDUM OF UNDERSTANDING****Between the****UNITED STATES DEPARTMENT OF AGRICULTURE  
NATURAL RESOURCES CONSERVATION SERVICE****And the****NORTH CAROLINA DEPARTMENT OF AGRICULTURE AND  
CONSUMER SERVICES - DIVISION OF SOIL AND WATER  
CONSERVATION****and****THE PENDER SOIL AND WATER CONSERVATION DISTRICT****and****PENDER COUNTY, NORTH CAROLINA****For their Cooperation in the  
Conservation of Natural Resources****BACKGROUND STATEMENT AND PURPOSE**

THIS AGREEMENT is between the Natural Resources Conservation Service (NRCS), an agency of the United States Department of Agriculture (USDA), the North Carolina Department of Agriculture and Consumer Services - Division of Soil and Water Conservation (DSWC) an agency of the State of North Carolina, the Pender Soil and Water Conservation District (SWCD) and Pender County collectively referred to as the parties, to clearly define the roles and responsibilities of the parties.

The purpose of this agreement is to supplement the Cooperative Working Agreement between the USDA-Natural Resources Conservation Service, North Carolina Department of Agriculture and Consumer Services, North Carolina Soil and Water Conservation Commission, and Pender Soil and Water Conservation District. This operational agreement documents those areas of common interest of the federal, state and local partnership in natural resources conservation.

The parties mutually agree to provide leadership in natural resources conservation. The parties pledge to work together by advancing and practicing teamwork, including input in the decision making process; communicating, coordinating, and cooperating; promoting mutual respect, and sharing leadership, ownership, credit and responsibility.

**AUTHORITIES, STATUTES, LAWS**

NRCS is authorized to cooperate and furnish assistance to the parties in the conservation of natural resources as referenced in the Soil Conservation and Domestic Allotment Act, 16 U.S.C. 590; The Department of Agriculture Reorganization Act of 1994, Public Law 103-354; and Secretary's Memorandum No. 1010-1, Reorganization of the Department of Agriculture, dated October 20, 1994.

DSWC is authorized to enter into this agreement by North Carolina General Statutes §139-4 and §143B-294 - §143B-297.

The District authority is defined in Soil Conservation Districts Law, General Statutes of North Carolina §139-1 - §139-47.

The county is authorized to enter into this agreement by North Carolina General Statute §153A-11 and §160A-461 - §160A-464.

**ROLES AND RESPONSIBILITIES:**

**CONSERVATION PROGRAM IMPLEMENTATION**

The parties recognize the natural resources conservation program as a unique blend of voluntary conservation initiatives and federal, state, and local mandates. Together these address a variety of natural resource, environmental, and educational issues. The parties agree to jointly commit their program authorities and financial and human resources to cooperatively implement a unified natural resources conservation program in areas of mutual concern. The implementation of all programs will be done in accordance with program policy and procedure developed for that specific program – whether federal, state, or local.

Inventories and Data Sharing: The parties agree to identify, define, and coordinate the collection and use of natural resource and other data needed to support the delivery of local, state and federal conservation program benefits. The parties will cooperate in maintaining data to assure that it supports the mutual needs of the parties for resource planning and evaluation. The parties further agree that gathered data will be mutually shared and used in support of conservation program implementation as needed to facilitate implementation of the programs shown in Attachment A. The use and disclosure of information will be consistent with the guidelines provided in the Records, Facilities, and Equipment section of this agreement. Both NRCS and SWCD employees in the office will maintain adequate knowledge of available conservation programs in order to provide basic customer service including, but not limited to:

1. Providing basic information about program requirements and signup periods
2. Helping a customer complete a program application
3. Interviewing the customer to determine resource concerns and conservation issues
4. Gathering of farm data to support development of a conservation plan
5. Developing a conservation plan

Setting Program Priorities: The parties agree to implement the conservation program based on mutually developed priorities while recognizing individual responsibilities for federal, state, or local mandates. The parties further agree to annually re-evaluate established priorities and adjust as warranted. SWCD Board has responsibility to organize local work groups to assess resource conditions and establish local priorities, and develop a single SWCD/NRCS partnership plan of work each fiscal year (July 01-June 30). Specifically, NRCS employees will first address workload associated with Federal conservation programs, NRCS priorities, and required NRCS administrative procedures. As time is available, NRCS employees will assist with the North Carolina Agriculture Cost Share Program (NCACSP) and other District priorities. Likewise, District staff will first address workload associated with the NCACSP, District priorities, and

required District administrative procedures. As time is available, District staff will assist with federal conservation programs and other NRCS priorities.

Programs to be Implemented: The parties agree to use federal, state, and local programs in a complimentary fashion to address local priorities and concerns. Attachment A includes a list of programs that will be utilized to address priorities and concerns. Employees from both agencies will work across program lines to assure efficient and effective customer service.

Marketing: The parties agree to conduct a common effort to inform the public of program opportunities and benefits. This information will be provided to the appropriate media concerning district activities and programs.

See Attachment A for a marketing profile and a summary of media outlets.

## **TECHNICAL STANDARDS AND JOB APPROVAL AUTHORITY**

The parties agree to utilize the NRCS Field Office Technical Guide or Soil and Water Conservation Commission adopted standards as the minimum technical standards for conservation program implementation in areas of mutual concern. The parties may utilize more stringent standards when necessary to comply with locally enacted laws or ordinances. The NRCS will be the lead agency in the development, maintenance, and interpretation of the Field Office Technical Guide. When program contracts are developed, the District and NRCS employees in the office will provide conservation planning assistance that meets NRCS planning policy. At a minimum, the conservation planning will encompass the field or fields impacted by the cost-shared conservation practice.

The parties agree that their respective employees will provide technical assistance based on assigned conservation practice job approval authority which is based on acquired knowledge, skills, and demonstrated ability and within applicable laws, regulations, and guidelines. Conservation practice job approval authority will be determined and documented according to NRCS National Engineering Manual, Part 501 and in accordance with the NC NRCS policy and procedures regarding job approval authority. Job approval authority for District employees for non agricultural practices will be determined and documented by the N.C. Soil and Water Conservation Commission pursuant to NCAC 15A 06F.0105(c)(3). Each technical employee in the office will acquire the necessary skills to qualify for job approval authority for the routinely used engineering and non-engineering conservation practices prevalent in the county. Both District and NRCS employees will attend available training sessions to maintain their knowledge, skills, and abilities related to conservation planning and practice design, layout, checkout, and certification.

## **PERSONNEL AND FISCAL MANAGEMENT**

The parties recognize that natural resources conservation programs are delivered through an intergovernmental system, in which federal, state, and local governments work together.

The parties will work together to provide staffing and fiscal resources commensurate with workload, priorities, allocated funding, and expertise necessary to deliver a balanced and diversified conservation program. Staffing will be a mix of employees provided by federal, state, county, and district resources. There are certain authorities delegated to specific staff as follows:

Department Head

The parties jointly agree that Don Rawls will serve as the Department Head. The Department Head will represent the District and its employees at county meetings, conferences, and appropriate functions.

Personnel Management

The management of personnel will be as follows:

- a) Hiring and dismissal of district employees will be in accordance with county personnel policies or district policy when employees are not employed by the county.
- b) The management of NRCS personnel is the responsibility of NRCS.
- c) The management of county employees is the responsibility of the Pender District Board of Supervisors. In the interest of facilitating these responsibilities, the District Conservationist is delegated the authority for:
  - 1) Technical oversight
    - a. As a condition of assigning Job Approval Authority for agricultural practices to District employees, NRCS must periodically review the technical work of these employees to assure adherence to planning and design standards and policy. The DC is assigned as the NRCS representative to provide this oversight. NRCS Area personnel will also periodically review the technical work of both NRCS and District employees in the office.
  - 2) Delivery of employee technical training and development
- d) The Department Head will make recommendations to the Pender District Board of Supervisors regarding the following in accordance with county government policy:
  - 1) Recruitment and hiring of district employees
  - 2) Employee performance evaluation, including awards, disciplinary actions, and separation
  - 3) Leave coordination and approval
  - 4) Certification of Time and Attendance reports
  - 5) Determination and approval of training requiring expenditure of district funds
  - 6) For counties with technicians cost shared through the state's Cost Share Programs, responsibility for documenting 2080 hours for each funded position spent per year on non-point source pollution control issues by office staff.

In the event that a county employee feels aggrieved, their recourse is according to county government personnel policy. The parties agree to work cooperatively to resolve employee grievances.

Hiring, supervision, development, evaluation and dismissal of county employees will be done in accordance with applicable law and county personnel policies.

Fiscal Management

The parties will work together to maximize available resources and actively seek funding to accomplish natural resource priorities and programs.

Each party is responsible for its own fiscal resources to include equipment, supplies, and accounts.

The Department Head and Administrative Assistant will actively assist the district with the following:

- 1) Development of operating budgets
- 2) Tracking of expenditures for maintaining funding accountability
- 3) Making recommendations regarding expenditure of funds and purchases

**TECHNICAL AND ADMINISTRATIVE CONTACTS**

<b>NRCS</b>	<b><u>Technical</u></b>
<b>Name:</b>	Jane Wood
<b>Title:</b>	District Conservationist
<b>Address:</b>	801 S Walker St, Burgaw, NC 28425
<b>Phone No.</b>	910-259-9123
<b>Fax No.</b>	910-259-1505
<b>E-mail:</b>	jane.wood@nc.usda.gov

<b>NRCS</b>	<b><u>Administrative</u></b>
<b>Name:</b>	Renee Melvin
<b>Title:</b>	ASTC – Field Operations
<b>Address:</b>	208C Malloy St, Goldsboro, NC 27534
<b>Phone No.</b>	919-751-0976
<b>Fax No.</b>	919-751-9876
<b>E-mail:</b>	renee.melvin@nc.usda.gov

<b>SWCD</b>	<b><u>Technical</u></b>
<b>Name:</b>	Jason Turner
<b>Title:</b>	NCACSP Technician
<b>Address:</b>	801 S Walker St, Burgaw, NC 28425
<b>Phone No.</b>	910-259-9123
<b>Fax No.</b>	910-259-1505
<b>E-mail:</b>	jason.turner@nc.nacdnet.net

<b>SWCD</b>	<b><u>Administrative</u></b>
<b>Name:</b>	Priscilla Pierce
<b>Title:</b>	Administration/Education Coordinator
<b>Address:</b>	801 S Walker St, Burgaw, NC 28425
<b>Phone No.</b>	910-259-9123

<b>Fax No.</b>	910-259-1505
<b>E-mail:</b>	ppierce@pendercountync.gov

## RECORDS, FACILITIES, AND EQUIPMENT

The parties will work together to provide office space, vehicles, and equipment within funding limits, operating guidelines, authorities, federal and state laws, and local ordinances. Any and all parties may negotiate formal agreements when financial reimbursement for use of office space, vehicles or other equipment/facilities is required. Specifically, the following is mutually agreeable:

- 1) **Vehicles:** The District will provide transportation, with county support, for District employees. NRCS will provide a vehicle for the NRCS employee(s). District personnel with NRCS approval to operate government vehicles may use the federal vehicle for promoting conservation programs, commensurate with the NRCS mission and priorities, when it is not needed by NRCS personnel. District personnel operating a federal government vehicle must provide proof of liability insurance.
- 2) **Office Space:** The County will provide office space for the District and NRCS employees at the USDA Service Center. Any space is provided at no cost and is incidental to this agreement.

The parties will agree on the maintenance, update, and disposition of relevant records. Access to records will be governed by Section 1619 of the Food, Conservation, and Energy Act of 2008, the Federal Freedom of Information Act (FOIA) and/or the North Carolina Public Records Law depending on whether the record is a federal record or a state/local record. Each party accepts responsibility for any security breach caused by their employee(s). District personnel with access to federal records, either electronic or hard copies, will complete the required annual security training, conducted through NRCS.

All parties agree to protect personally identifiable and/or confidential information from customers and employees by securing this information in locked file cabinets. When the information is being used and not in a locked cabinet, the employees will keep it with them personally (folder, memory storage device) to avoid improper disclosure or loss of the data. Personally identifiable and/or confidential information will only be used for authorized purposes

## FEE FOR SERVICES

The parties recognize that nonfederal signatories may establish procedures to collect fees, where permissible, for delivery of such services which are not provided through federal financial or technical assistance.

From time to time the Pender Soil and Water Conservation District may

- sell materials (i.e. native species plants)
- solicit sponsorship for special events, or community/educational workshops
- general fundraising

## ACCOUNTABILITY

The parties agree to cooperatively develop and utilize natural resource databases to measure effectiveness in program delivery and customer satisfaction. The District will provide a copy of its Annual Report by September 1 and Plan of Operations by July 31 to the other signatories of this agreement. The District will also provide a copy of their Long Range Plan which, at no time, will be in excess of five years old.

## **SCOPE OF AGREEMENT**

This agreement covers the basic operating understanding between all parties. Authority to carry out specific projects or activities, transfer of funds, or acquisition of services or property, will be established under separate agreement. The parties agree that contracts, memorandums of understanding, and/or additional agreements may be entered into, as needed, to facilitate the implementation of natural resources conservation programs within the conservation districts.

## **TORT LIABILITY**

The parties will each assume responsibility for the actions of their officials or employees acting within the scope of their employment to the extent provided by federal and state laws and local ordinances.

## **CIVIL RIGHTS**

The parties recognize the benefit and importance of delivering conservation programs equitably to all customers, having a diverse staff to assist this customer base, and having diversity within the district board. The parties agree to work cooperatively to achieve diversity in all aspects of the conservation program through effective outreach and marketing.

The parties will be in compliance with the nondiscrimination provisions contained in Titles VI and VII of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987 (Public Law 100-259) and other nondiscrimination statutes, namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, Americans with Disabilities Act of 1990, and in accordance with regulations of the USDA Secretary of Agriculture (7CFR-15, Subparts A & B) which provide that no person in the United States shall, on the grounds of race, color, national origin, age, sex, religion, marital status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Agriculture or any agency thereof.

**REVIEW/MODIFICATION/TERMINATION**

This agreement will be reviewed annually and, unless amended, shall be in effect for a period not to exceed five (5) years from the date of final signature. The agreement can be modified or terminated at any time by mutual consent of all parties or can be terminated by any party by giving 60 days written notice to the other parties.

UNITED STATES DEPARTMENT OF  
AGRICULTURE  
NATURAL RESOURCES  
CONSERVATION SERVICE

NCDA&CS-DIVISION OF SOIL AND  
WATER CONSERVATION

By: \_\_\_\_\_  
State Conservationist

By: \_\_\_\_\_  
Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_

PENDER SOIL AND WATER  
CONSERVATION DISTRICT

PENDER COUNTY

By: Don M. Rawls  
Chairperson

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## Attachment A

*The following is a detailed list of Resource Inventories, Programs and Marketing Media used to address local conservation priorities and concerns. The parties agree to utilize these in a complimentary manner, thus maximizing the delivery of conservation benefits to customers and clients. This list is subject to informal changes or updates.*

### **RESOURCE INVENTORY & DATA SHARING**

Natural Resource Inventory (FSA, NCACSP, 0.200)  
 River Basin Study Reports  
 Natural Heritage Inventory of Pender County  
 Pender County GIS  
 Pender SWCD Long Range Plan  
 Soil Survey of Pender County  
 Grassland Reserve Program (GRP)

NC Agriculture Cost Share Program (NCACSP)  
 Environmental Quality Incentives Program (EQIP)  
 Forest Land Enhancement Program (FLEP)  
 Wildlife Habitat Incentives Program (WHIP)  
 Toolkit  
 Maps (USGS Topographical, National Wetland Inventory and Flood Insurance Rate Maps.)  
 Historical Aerial Photos

### **PROGRAMS**

#### **Federally Initiated Programs**

Conservation Technician Assistance (CTA)  
 National Cooperative Soil Survey (NCSS)  
 Small Watershed Program (PL-566)  
 River Basin Surveys & Investigations (RB-09)  
 Resource Conservation & Development (RC&D)  
 Emergency Watershed Program (EWP)  
 Environmental Quality Incentives Program (EQIP)  
 Grassland Reserve Program (GRP)  
 Conservation Stewardship Program (CStP)

Forest Land Enhancement Program (FLEP)  
 Wetland Reserve Program (WRP)  
 Wildlife Habitat Incentives Program (WHIP)  
 Conservation Reserve Program (CRP / CREP)  
 Emergency Conservation Program (ECP)  
 NC Partners for Wildlife  
 Farmland Protection  
 319 Funds  
 Other Farm Bill authorized conservation programs

#### **North Carolina Initiated State Programs**

NC Agriculture Cost Share Program (NCASCP) – DSWC  
 Erosion and Sedimentation Control – Urban Areas  
 Site Plan Reviews – Non Ag. Developments  
 Stewardship Incentive Program (SIP) – NCFS  
 Confined Animal Permits – NCDENR  
 Farmland Protection  
 NC-Wetland Restoration Program (NC-WRP)  
 NC Agriculture Water Resources Assistance Program (AgWRAP) - DSWC

Community Conservation Assistance Program (CCAP)  
 Clean Water Management Trust Fund  
 Wildlife Biology Technical Assistance–NCWRC  
 Wildlife Restoration Committee  
 State non-discharge rules (0.100, 0.2H200 & 0.2T)

Forest Development Plan (FDP) – NCFS  
 North Carolina Environmental Education Plan  
 North Carolina Big Sweep

#### **Locally Initiated Programs**

Farmland Preservation  
 Erosion and Sedimentation Control – Urban Areas  
 Site Plan Reviews – Non Ag. Developments  
 Environmental Education  
 Awards and Recognition Program

Open Spaces Institute Advisory Board

#### **MARKETING MEDIA**

- Newsletters (SWCD, FSA, CES, Country Intranet)
- Private Schools
- Public Schools
- Church Newsletters
- Local Government payrolls and billings
- Regional Chamber of Commerce
- Community College
- Internet Web Pages (State, County, SWCD)
- 4-H Groups
- Local Broadcasting (TV, Radio, Cable)