

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: March 15, 2023

SUBJECT: Change to the County's standard contractual terms and conditions

PRESENTER: Charles Russell Burrell

ATTACHMENT(S): Proposed addition

SUMMARY OF REQUEST:

The attached proposal attempts to deal with the cost of vendor/contractor caused security breaches of the County's information technology infrastructure. Other local governments have suffered such breaches, at huge cost both in lost productivity and in the required notification of possibly affected persons. This attempts to shift the cost of a breach occasioned by the otherwise legitimate use of the County's systems (directly or indirectly, as where the County downloads software or information from a vendor's site) by a third party to that third party if the breach was caused by malware on their system or otherwise attributed to them.

BOARD ACTION REQUESTED:

If the Board is so inclined, the following motion is suggested:

I move that the Board adopt the proposed policy.

PROPOSAL: That the following terms be added to the County's standard contractual terms and conditions in situations where the contractor is able to access the County's information systems (whether directly or indirectly by means of information downloaded from the contractor).

Where a security breach or unauthorized release, as those terms are defined or used in Article 2A of Chapter 75 of the North Carolina Statutes, or in any other state or federal regulation, occurs and is attributed to the Contractor (or any sub-contractor thereof), the Contractor shall promptly pay or reimburse Henderson County for all the costs to Henderson County for all required notifications under all applicable laws, including any associated legal fees incurred by Henderson County, and shall indemnify Henderson County from any liability resulting from the security breach or unauthorized release.

The Contractor shall maintain cyber liability insurance with an insurer permitted to offer the same in North Carolina in the minimum insurance amount per occurrence based on the Contractor's Security Scorecard (securityscorecard.com) rating, but in no event less than \$1,000,000.00. Such insurance shall include third-party coverage for incidents or associated impacts caused directly or indirectly by the Contractor or the Contractor's sub-contractors, and shall name Henderson County as an additional insured. The Contractor shall provide the County with a Certificate of Insurance for such coverage.

<u>Security Rating</u>	<u>Required cyber insurance limits</u>
90 or above	\$1,000,000 or above
80-89, inclusive	\$2,000,000 or above
70-79, inclusive	\$3,000,000 or above
60-69, inclusive	\$4,000,000 or above
Below 60	\$5,000,000 or above

If the Contractor's Security Scorecard rating is less than 90, the County and the Contractor agree to work to assist the Contract to improve their rating.