

# AGENDA



**CITY OF LENOIR  
CITY COUNCIL MEETING  
CITY HALL, THIRD FLOOR  
801 WEST AVENUE  
TUESDAY, JUNE 7, 2016  
6:00 P.M.**



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## **I. CALL TO ORDER**

- A. Moment of Silence & Pledge of Allegiance

## **II. MATTERS SCHEDULED FOR PUBLIC HEARINGS**

- A. FY2016-2017 Annual Budget: A public hearing will be held to receive public comments regarding the annual budget for the fiscal year beginning July 1, 2016 through June 30, 2017 for the City of Lenoir.

## **III. CONSENT AGENDA ITEMS**

- A. Minutes: Approval of minutes from the City Council Meeting of Tuesday, May 17, 2016 as submitted.
- B. Minutes: Approval of minutes from the Committee of the Whole Meeting of Tuesday, May 24, 2016.

## **IV. REQUESTS AND PETITIONS OF CITIZENS**

## **V. REPORTS OF BOARDS AND COMMISSIONS**

## **VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER**

### **A. Items of Information**

1. The Sister Cities Committee will meet on Thursday, June 9 at 1:15 p.m. at 1841 Café.
2. The Lenoir Business Advisory Board will meet on Thursday, June 9 at 6:00 p.m. at City Hall, Third Floor, former Council Chambers.
3. The City/County Services Committee will meet on Monday, June 13 at 11:45 a.m.
4. The Caldwell County Economic Development Commission will meet on Tuesday, June 14 at 8:00 a.m.
5. The ABC Board will meet on Tuesday, June 14 at 5:30 pm. at Lenoir Store #1 located at 123 ABC Court.
6. Friday after Five is scheduled for Friday, June 10 from 7:00 p.m. – 10:00 p.m. with Rosa Russ performing on the square downtown.
7. A Swingin' Wingin' Madness Event is scheduled on Friday, June 17 from 6:00 p.m. – 10:00 p.m. downtown. The band "Classics Nautical Wheelers" will also be performing on the square.
8. The City/County Coordinating Committee will meet on Monday, June 20 at 11:30 am. at City Hall, Third Floor, former Council Chambers.

B. Items for Council Action

1. Resolution; NC Clean Water Management Trust Fund (NCCWMTF) Grant for Conservation Easement on the Lenoir Watershed: If City Council wishes to approve the NCCWMTF Grant, City Staff recommends approval of the submitted Resolution Accepting the NC Clean Water Management Trust Fund Grant for a Conservation Easement on the Lenoir Watershed.
2. Proposal; Project Administration Services for NCCWMTF: City Staff recommends approval of a Grant Project Administration Services Proposal in the amount of \$10,000 as submitted by Martin-McGill for the NC Clean Water Management Trust Fund Grant.

**VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY**

**VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR**

**IX. REPORT AND RECOMMENDATIONS OF COUNCILMEMBERS**

**X. ADJOURNMENT**

**CITY OF LENOIR**  
**COUNCIL ACTION FORM**

I. **Agenda Item:** II A. FY 2016-2017 Annual Budget: A public hearing is scheduled to receive public comments regarding the annual budget for the fiscal year beginning July 1, 2016 through June 30, 2017 for the City of Lenoir.

II. **Background Information:** The Recommended FY 2016-17 Budget is comprised of General Fund, \$16,148,851 Special District, \$179,918, Tourism Development, \$60,000 and Water Fund, \$8,116,201, for a total budget of \$24,502,970. The current property tax rate of \$0.58 per \$100 valuation remains unchanged. The budget contains a 3% sewer rate increase and a 2% COLA for employees beginning January 1, 2017. Also, all other charges/fees remain unchanged.

In accordance with NCGS 159-12, the Recommended Budget has been submitted to the Mayor and City Council and made available for public inspection and notice given that a public hearing will be held on Tuesday, June 7, 2016, beginning at 6:00 p.m., for the purpose of receiving input from citizens wishing to comment on the proposed budget.

III. **Staff Recommendation:** Upon conclusion of the public hearing, Council may adopt the enclosed FY 2016-17 Budget Ordinance.

IV. **Reviewed by:**

**City Attorney:**

**City Manager:** *SEH*

**City of Lenoir  
Budget Ordinance  
Fiscal Year July 1, 2016 – June 30, 2017**

**BE IT ORDAINED** by the Lenoir City Council in regular session assembled on June 7, 2016.

**Section 1.** That the following amounts are hereby appropriated for the operation of the government of the City of Lenoir and its activities for the fiscal year beginning July 1, 2016, and ending June 30, 2017.

<b>FUND</b>	<b>ESTIMATED REVENUES</b>	<b>FUND BALANCE APPROPRIATED</b>	<b>TOTAL BUDGET</b>	<b>APPROPRIATED</b>
General	\$16,148,851		\$16,148,851	\$16,148,851
Water & Wastewater	<u>\$8,116,201</u>		<u>\$8,116,201</u>	<u>\$8,116,201</u>
<b>Total</b>	<b><u>\$24,265,052</u></b>		<b><u>\$24,265,052</u></b>	<b><u>\$24,265,052</u></b>

**Section 2.** That for said fiscal year there is hereby appropriated as expenditures of the General Fund the following:

Legislative	\$360,705
Administrative	\$558,026
Finance	\$527,545
Planning/Stormwater	\$399,918
Police	\$5,029,292
Fire	\$3,555,035
Recreation	\$1,734,469
Public Works:	
Administrative	\$473,286
Cemetery & Grounds	\$230,841
Building Maintenance	\$336,915
Sanitation	\$812,043
Streets	\$1,910,330
Vehicle Services	<u>\$220,446</u>
<b>Total</b>	<b><u>\$16,148,851</u></b>

**City of Lenoir  
Budget Ordinance  
Fiscal Year July 1, 2016 – June 30, 2017**

**Section 3.** That for said fiscal year there is hereby appropriated as expenditures of the Water & Wastewater Fund the following:

<u>DEPARTMENT/DIVISIONS</u>	<u>APPROPRIATION</u>
Admin. & Engineering	\$313,641
Utilities Maintenance	\$280,094
Rhodhiss Water Treatment Plant	\$1,997,457
Water Distribution	\$1,692,861
Wastewater Collection	\$1,640,317
Wastewater Pretreatment	\$186,396
Wastewater Treatment Plants:	
Gunpowder Plant	\$830,549
Lower Creek Plant	\$1,174,886
<b>Total</b>	<b><u>\$8,116,201</u></b>

**Section 4.** There is hereby levied for the fiscal year ending June 30, 2017, the following rate of taxes on each one hundred dollars of assessed valuation of taxable property listed as of January 1, 2016, and of registered vehicles in accordance with G.S. 105-330.3(a)(1) for the purpose of raising the revenues from the current year's listed and registered property as set forth in the foregoing estimates of the General Fund revenues and in order to finance the foregoing General Fund appropriations.

General Fund.....\$.58 (fifty-eight cents) tax rate  
per one hundred dollars assessed valuation.

Said General Fund tax rate is based on an estimated total appraisal value of real and personal property for the purpose of taxation of \$2,122,316,090 with an assessment ratio of one hundred percent (100%) of appraised value and estimated collection rate of 95.65%. Said collection rates are based on the actual 2015-2016 collection rates.

**City of Lenoir  
Budget Ordinance  
Fiscal Year July 1, 2016 – June 30, 2017**

**Section 5.** That for said fiscal year there is hereby appropriated as expenditures of the special Downtown Tax District Fund for the operation of the Economic Development/Main Street Lenoir program and Tourism Development.

<b>FUND</b>	<b>ESTIMATED REVENUES</b>	<b>FUND BALANCE APPROPRIATED</b>	<b>TOTAL BUDGET</b>	<b>APPROPRIATED</b>
Special Downtown District	\$179,918		\$179,918	\$179,918
Tourism Development	<u>\$60,000</u>		<u>\$60,000</u>	<u>\$60,000</u>
<b>TOTAL</b>	<b><u>\$239,918</u></b>		<b><u>\$239,918</u></b>	<b><u>\$239,918</u></b>

**Section 6.** There is hereby levied for the fiscal year ending June 30, 2017, the following rate of taxes on each one hundred dollars of assessed valuation of taxable property listed as of January 1, 2016, and of registered vehicles in accordance with G.S. 105-330.3(a)(1) for the purpose of raising the revenues from the current year's listed and registered property set forth in the foregoing estimates of Special Downtown District Fund revenues and in order to finance the foregoing Special Downtown District Fund appropriations.

Special Downtown District.....\$.25(twenty-five cents) tax rate  
per one hundred dollars assessed valuation.

Said Special Downtown District tax is based on an estimated total appraised value of property for the purpose of taxation of \$12,545,740 with an assessment ratio of one hundred percent (100%) of appraised and registered real and personal property value. The estimated collection rate is 95.65%.

**Section 7.** It is estimated that \$60,000 in revenue will be available in the Tourism Development Fund for the fiscal year beginning July 1, 2016 and ending June 30, 2017.

**City of Lenoir**  
**Budget Ordinance**  
**Fiscal Year July 1, 2016 – June 30, 2017**

**Section 8.** Water & Sewer rates are established to be effective July 1, 2016 according to the following schedule:

<b>Water Inside Corporate Limits</b>	
0 – 1,000 gallons	\$10.02
Over 1,000 gallons	\$3.17 per 1,000 gallons
<b>Sewer Inside Corporate Limits</b>	
1 – 1,000 gallons	\$8.93
Over 1,000 gallons	\$3.78 per 1,000 gallons
<b>Water Outside Corporate Limits</b>	
0 – 1,000 gallons	\$20.04
Over 1,000 gallons	\$6.34 per 1,000 gallons
<b>Sewer Outside Corporate Limits</b>	
0 – 1,000 gallons	\$17.86
Over 1,000 gallons	\$7.56 per 1,000 gallons
<b>Resale Water</b>	
\$2.12 per 1,000 gallons	
<b>Resale Sewer</b>	
\$3.74 per 1,000 gallons	

**Section 9.** Salaries & wages accounts provide for funding of all budgeted employee positions and City Council.

**Section 10.** The City Manager and Finance Director shall notify the City Council of any items of over-expenditure or shortfalls in revenue on a timely basis throughout the fiscal year. Request for appropriations not contained in the Budget Ordinance will be presented to Council after a review of the necessary revenue sources to offset the expenditure has been conducted by the Finance Director. Recommended budget amendments will be presented to the Council at the time the request for appropriation is submitted by the Finance Director.

**Section 11.** Copies of this Budget Ordinance shall be furnished to the Finance Director and the City Manager of the City of Lenoir, North Carolina, to be kept on file by them for their direction in the collection of revenues and the expenditures of amounts appropriated.

**Section 12.** The City Manager is authorized to amend the budget by transfer of appropriations within each fund. All amendments affecting revenues or total fund appropriations shall be approved by ordinance by the City Council, to be acted on at any regular or special meeting and approved by a simple

**City of Lenoir**  
**Budget Ordinance**  
**Fiscal Year July 1, 2016 – June 30, 2017**

majority of those present and voting, a quorum being present. Only one reading will be required and a public hearing or publication of notice is not necessary unless requested by Council.

Adopted this 7<sup>th</sup> day of June, 2016.

SEAL

\_\_\_\_\_  
Joseph L. Gibbons, Mayor

ATTEST:

\_\_\_\_\_  
Shirley M. Cannon, City Clerk



CITY MANAGER  
SCOTT E. HILDEBRAN

CITY OF LENOIR  
NORTH CAROLINA

MAYOR  
JOSEPH L. GIBBONS

May 17, 2016

CITY COUNCIL  
K. P. EDMISTEN  
T. H. PERDUE  
J. I. PERKINS  
T. J. ROHR  
D. F. STEVENS  
C. D. THOMAS  
B. K. WILLIS

Honorable Mayor Gibbons and Members of the City Council:

Pursuant to Section 159-11 of the North Carolina General Statutes (Local Government Budget and Fiscal Control Act), I am pleased to submit the Recommended FY 2016-17 Budget for your review and consideration. This document provides a financial plan for the ensuing fiscal year and was developed in accordance with the City Council's Priorities established in both the January Strategic Planning Retreat and the February Budget Retreat as well as during Council/Departmental meetings held over the past year. A work session to review the Recommended FY 2016-17 Budget is scheduled to be held on Thursday, May 26<sup>th</sup> at 6:00 p.m. and a public hearing on the budget is scheduled on Tuesday, June 7<sup>th</sup> at 6:00 p.m.

General Fund

The proposed General Fund budget totals \$16,148,851 and is balanced with the current property tax rate of 58¢ per \$100 of assessed property value. All other General Fund charges/fees are unchanged.

Water and Wastewater Fund

The proposed Water/Sewer Fund budget totals \$8,116,201 and is balanced with no water rate increase and a nominal 3% sewer rate increase. The proposed sewer rate increase would cost the average ratepayer an additional 70¢ on a monthly bill. All other Water/Sewer Fund charges/fees are unchanged.

Budget Highlights

The key components of this budget are:

- Core services are continued with funding at adequate levels.
- Revenue projections are estimated in a realistic, conservative manner.
- Our organization-wide Customer Service Excellence Initiative "Service Beyond Measure" remains a priority.
- Employee Compensation: City Council and Management recognize that our employees are vital to the delivery of quality municipal services and they continue to represent our most valuable asset. As such, the budget includes a 2.0% cost of living increase effective on January 1, 2017. Also, the City's group health insurance plan remains unchanged for our coworkers with the budget funding a 7.9% increase in premiums.
- Street Resurfacing: Increases funding 25% from FY 2015-16 levels to \$375,000 in FY 2016-17.
- Fire Station #3: Provides operational funds to get the project shovel ready.
- Downtown Housing: Provides operational funds to continue planning efforts to "Move Lenoir to 2<sup>nd</sup> Floor" and includes \$35,000 in funding for grants/loans to assist in downtown development.
- North Main Street Plan: Allocates funds from the CDBG Capital Project Fund to continue with improvements to J.E. Broyhill Park and funds the North Main Street NW Entrance Beautification.
- Traffic/Transportation Issues: Provides operational funding to initiate the Linkside Connector Project.



- **Fiduciary Responsibility:** Does not appropriate any fund balance proceeds and maintains a GF fund balance of approximately 23%, just slightly less than City Council's 24% goal.
- **Sidewalks/Greenways:** Increases funding 50% from FY 2015-16 levels to \$75,000 in FY 2016-17.
- **Code Enforcement:** Continues support of code enforcement activities and appropriates \$10,000 toward building demolition.
- **Technology:** Continues to fund Computer/IT upgrades throughout the organization and supports conversion to a more user-friendly emergency mass notification system.
- **Fairfield South Plan:** Provides operational funds to develop the Fairfield South Plan.
- The budget also funds all debt obligations, including the newly acquired 75' Quint Fire Truck and recently completed Meadowood Sewer Project.

The following General Fund capital projects are included: Patrol Cars (4), Brake Lathe, Roof Replacements (Fire Station #2, Warehouse and Aquatic/Fitness Center), and a Street Maintenance Storage Building.

The following Water/Sewer Fund capital projects are included: Vehicle, Dump Truck, Warehouse Roof, Hayes Avenue Waterline, Decanter for SB2 Tank, and a Mower.

The proposed budget does not contain any new financing package for capital items. However, the budget does incorporate the new sales tax reallocation proceeds (expected to be \$215,000 in FY 2016-17) approved by the General Assembly in 2015 to address sales tax leakage. As such, staff will monitor collection of this new revenue source and will authorize spending for capital items once the revenue is deemed available.

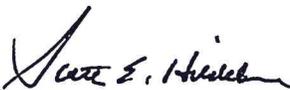
#### Summary

In closing, this Recommended FY 2016-17 Budget is balanced in accordance with State Statutes and attempts to address the goals and priorities that have been established by City Council for the City's future. Though the current economic climate shows some improvement, the Recommended FY 2016-17 Budget represents a level of funding, which will allow the City to continue to maintain current service levels while making organizational changes to be cost effective and more efficient.

Also, I want to personally acknowledge the work of Assistant City Manager/Finance Director Danny Gilbert in the preparation of this document. He has, for the past ten years, provided outstanding leadership and stewardship to the city's financial operation. I, along with all of our organization, extend our appreciation and thanks to Mr. Gilbert for his outstanding service to the citizens of Lenoir.

Finally, I would like to take this opportunity to express my sincere gratitude to the Department Directors, Team Lenoir and City Council for their patience, understanding, and dedicated work on this important policy document. As I observe daily, our Team Lenoir members are committed to providing "Service Beyond Measure".

Respectfully submitted,



Scott E. Hildebran  
City Manager

**LENOIR CITY COUNCIL  
TUESDAY, MAY 17, 2016  
6:00 P.M.**

**PRESENT:** Mayor Gibbons presiding. Councilmembers present were Edmisten, Perdue, Perkins, Rohr, Stevens, Thomas, and Willis. Also in attendance were City Manager Hildebran, City Clerk Cannon and City Attorney Blair.

**I. CALL TO ORDER**

A. The meeting was opened by a moment of silence followed by the Pledge of Allegiance led by Mayor Gibbons.

**COMMENDED; DANNY**

**GILBERT:** B. On behalf of City Council, Mayor Gibbons commended Assistant City Manager/Finance Director Danny Gilbert upon his ten years of dedicated service to the City of Lenoir and its citizens. It was noted Mr. Gilbert will fill in as the Interim Finance Director while the City finalizes its upcoming budget for FY2016-2017. A reception was held in his honor prior to the City Council meeting where Mr. Gilbert was presented with a resolution and a key to the City by City Council.

**PUBLIC NOTICE;**

**INDUSTRY TOURS:** C. Mayor Gibbons informed the general public that members of the City Council will participate in tours of local industries with members of the Caldwell Economic Development Commission and possibly County officials on Friday, May 20. Mayor Gibbons further stated a possibility exists that a quorum of the City Council may be in attendance during some or all of these tours, but that no official action will be taken by City Council.

**II. MATTERS SCHEDULED FOR PUBLIC HEARINGS**

**III. CONSENT AGENDA ITEMS**

- A. Upon a recommendation by City Manager Hildebran, the following Consent Agenda items were submitted for approval:
1. Minutes: Approval of minutes from the City Council Meeting of Tuesday, May 3, 2016 as submitted.
  2. Minutes: Approval of minutes from the Committee of the Whole Meeting of Tuesday, April 26, 2016 as submitted.
  4. Amendment; Annual Audit Contract; S. Eric Bowman, PA: Approval of an amendment of the City's annual audit contract with S. Eric Bowman, PA, to add an hourly rate for the work the auditors will be

performing on the City of Lenoir's year-end report for FY2015-2016. (A copy of the amended audit contract is hereby incorporated into these minutes by reference. Refer to pages 130-134.)

Upon a motion by Councilmember Rohr, Council voted 7 to 0 to approve items 1, 2 & 4 on the Consent Agenda as submitted and as recommended by City Manager Hildebran.

Councilmember Perdue asked to remove Item 3 from the Consent Agenda in order to ask Council to recuse him from voting on this request due to his firm having a business relationship with the two contractors for these projects.

Upon a motion by Councilmember Rohr, Council voted 6 to 0 to recuse Mr. Perdue from discussion regarding this Consent Agenda item.

**3. FY2015-2016 Budget Amendment; Smith Crossroads & Powell**

**Road Re-Alignment Projects:** Approval of a budget amendment in the amount of \$329,000 for the Smith Crossroads Improvements Project and a budget amendment in the amount of \$200,000 for the Powell Road Re-Alignment Project for a total budget amendment of \$529,000.00. (A copy of the budget amendment is hereby incorporated into these minutes by reference. Refer to page 135.)

Councilmember Rohr asked for clarification regarding the City anticipating bringing in \$391,000 more in property taxes than it budgeted for.

City Manager Hildebran responded that was correct as the City had a better than expected year.

Mr. Rohr stated this is a great project and reiterated the City is applying the \$391,000 in property tax revenue from FY2015 to offset the cost of the project, but commented he is opposed to using grant funding in general.

Upon a motion by Councilmember Stevens, Council voted 5 to 1 to approve the budget amendments for the Smith Crossroads and Powell Road Re-Alignment projects as described above and as recommended by City Staff. Councilmember Rohr voted against this motion.

**5. Capital Project Budget Ordinance; Steele Street/College Avenue**

**Sewer Replacement Project:** Approval of a Capital Project Budget Ordinance in the amount of \$390,000 for the Steele Street/College Avenue Sewer Replacement Project. (A copy of the budget ordinance is hereby incorporated into these minutes by reference. Refer to pages 136-137.)

Councilmember Rohr expressed his opposition to federal grants, by stating, if the project is important enough for the City to do, they should pay for the project themselves.

Upon a motion by Mayor Pro-Tem Willis, Council voted 6 to 1 to approve the Capital Project Budget Ordinance for the Steele Street/College Avenue Sewer Replacement Project as described above and as recommended by City Staff. Councilmember Rohr voted against this motion.

#### **IV. REQUESTS AND PETITIONS OF CITIZENS**

#### **V. REPORTS OF BOARDS AND COMMISSIONS**

#### **VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER**

##### **A. Items of Information**

##### **NATIONAL PUBLIC WORKS**

**WEEK:** 1. National Public Works Week will be observed during the week of May 15 – 21. A breakfast to honor all Public Works employees is scheduled on Wednesday, May 18 at 1841 Café.

##### **OFFICER DOWN MEMORIAL**

**SERVICE:** 2. An Officer Down Memorial Service will be held on Thursday, May 19 beginning at 7:00 p.m. at First Baptist Church in honor of Peace Officers' Memorial Week.

##### **PLANNING**

**BOARD:** 3. The Planning Board will meet on Monday, May 23 at 5:30 p.m. at the City/County Chambers.

##### **COMMITTEE OF THE**

**WHOLE:** 4. The Committee of the Whole will meet on Tuesday, May 24 at 8:30 a.m. at City Hall, Third Floor, former Council Chambers.

##### **FOOTHILLS REGIONAL**

**AIRPORT AUTHORITY:** 5. The Foothills Regional Airport Authority will meet on Wednesday, May 25 at noon.

##### **CITY COUNCIL BUDGET**

**WORK SESSION:** 6. City Council will conduct an FY2016-2017 Budget Work Session on Thursday, May 26 at 6:00 p.m. at City Hall, Third Floor, former Council Chambers.

##### **AFC OUTDOOR**

**POOL:** 7. The outdoor pool at the Aquatic & Fitness Center will open to the public on Saturday, May 28.

**HOLIDAY**

**CLOSING:** 8. City offices will be closed on Monday, May 30 in observance of Memorial Day.

**CRUISE-IN:** 9. A Cruise-In is scheduled for Saturday, June 4 from 4:00 p.m. – 9:00 p.m. in downtown Lenoir.

**MEMORIAL DAY**

**SERVICE:** 10. The American Legion will host a Memorial Day Service on Monday, May 30 beginning at 10:00 a.m. at the Veterans Plaza Square downtown.

B. Items for Council Action

**AUTHORIZING RESOLUTION;  
COMMUNITIES IN SCHOOLS OF  
CALDWELL COUNTY/CITY OF LENOIR  
LAND EXCHANGE REQUEST:**

1. The City of Lenoir has received a request from Communities in Schools (CIS) to exchange property to facilitate the relocation of the Rankin House. If City Council wishes to proceed with the land exchange as described in the background information on the Council Action Form, City Staff requests approval of a resolution authorizing the exchange of properties between Communities in Schools and the City of Lenoir. In accordance with NCGS 160A-271, a public notice outlining the terms of the exchange was published for a minimum of ten (10) days.

A copy of the resolution, map and legal notice is hereby incorporated into these minutes by reference. (Refer to pages 138-140.)

City Manager Hildebran reiterated the City published a ten-day notice and stated that both of these properties are located on Ridge Street. Mr. Hildebran noted that, in order to make this exchange of equal value, CIS will continue to allow the City to use the parking lot surface that remains after relocation of the Rankin House and CIS will provide the City with a right of first refusal on the parcel in the event that CIS should elect to sell the property to an unaffiliated entity at some point in the future.

Mayor Gibbons commented that Communities in Schools is a great organization and the City appreciates all their hard work in the community.

Councilmember Rohr referred to the difference in cost of the two parcels and remarked it was a pretty fair exchange.

Upon a motion by Councilmember Rohr, Council voted 7 to 0 to approve a resolution authorizing the land exchange request between the City of Lenoir and Communities in Schools as requested by Communities in Schools and as recommended by City Staff.

**PARKING LOT LEASE EXTENSION;  
ANN KOEBBERLING:**

2. City Staff recommends approval of an extension of the lease agreement between the City of Lenoir and Ann Koebberling for property located between South Main Street and Mulberry Street which is owned by Ms. Koebberling. The lease agreement will become effective June 1, 2016 through May 2021.

A copy of the lease agreement is hereby incorporated into these minutes by reference. (Refer to pages 141-144.)

City Manager Hildebran stated the request is for a five-year lease renewal and pointed out the City pays both the City and County property taxes for this property.

Upon a motion by Councilmember Willis, Council voted 7 to 0 to approve the extension of the lease agreement as described above and as recommended by City Staff.

**FY2016-2017 CAPITAL PROJECT  
BUDGET ORDINANCE; CDBG:**

3. City Staff recommends approval of the FY2016 Capital Project Budget Ordinance in the amount of \$140,272.00 for the Community Development Block Grant (CDBG) Program as requested by Rick Oxford, Plan Administrator, Western Piedmont Council of Governments.

A copy of the Capital Project Budget Ordinance is hereby incorporated into these minutes by reference. (Refer to pages 145-146.)

Councilmember Rohr expressed his opposition to the Community Development Block Grant program in general.

Upon a motion by Councilmember Willis, Council voted 6 to 1 to approve the FY2016 Capital Project Budget Ordinance in the amount of \$140,272.00 for the Community Development Block Grant Program as requested by Rick Oxford. Councilmember Rohr voted against this motion.

**FY2016-2017 CAPITAL PROJECT  
BUDGET ORDINANCE; HOME PROGRAM:**

4. City Staff recommends approval of the FY2016 Capital Project Budget Ordinance in the amount of \$1,019,577.00 for the Unifour Consortium HOME Program as requested by Rick Oxford, Plan Administrator, Western Piedmont Council of Governments.

A copy of the Capital Project Budget Ordinance is hereby incorporated into

these minutes by reference. (Refer to pages 147-148.)

Councilmember Rohr restated his opposition to both the Unifour Consortium HOME program and the CDBG program.

Upon a motion by Councilmember Thomas, Council voted 6 to 1 to approve the FY2016 Capital Project Budget Ordinance in the amount of \$1,109,577.00 for the Unifour Consortium HOME Program as requested by Rick Oxford. Councilmember Rohr voted against this motion.

**RESOLUTION OF SUPPORT  
FOR LEASE AGREEMENT; CALDWELL RAIL  
COMMISSION AND CALDWELL COUNTY PATHWAYS:**

5. City Staff recommends approval of a Resolution of Support for a Lease Agreement between the Caldwell Rail Commission and Caldwell County Pathways in order to allow trail construction on the discontinued section of rail right-of-way within the City limits of Lenoir. The Lease Agreement is for a minimum initial lease of thirty (30) years with a minimum of one (1) thirty (30) year renewal period.

A copy of the Resolution of Support is hereby incorporated into these minutes by reference. (Refer to page 149.)

Planning Director Wheelock explained that the last step in the rail banking process is a purchase or a lease agreement in order to transfer the right-of-way to a trail manager to manage the trail. Ms. Wheelock reported the Caldwell Rail Commission owns the right-of-way and Caldwell County Pathways initiated the request for the rail banking. Director Wheelock clarified the property is within the City limits and will impact the City the most.

Director Wheelock remarked a key part of this process is to have a long term lease agreement to insure the trail will stay in public service. In addition, she noted the Service Transportation Board controls the use of the trail and the City needs to make sure it can prove it has control over the trail in order to apply for grant or other funding options.

Councilmember Stevens reiterated this is a necessary step to obtain funding for the building of the trail. He mentioned the actual rails will be salvaged to offset the cost of the trail and pointed out the Service Transportation Board won't fund a five-year lease. In addition, he clarified this is only a 5.2 mile section of the trail from the termination of the railroad south of the Google property to the termination out in the Warrior area.

Councilmember Rohr commented that he is in favor of the project although he is opposed to applying for grant funding in the future.

Upon a motion by Councilmember Edmisten, Council voted 7 to 0 to approve the Resolution of Support for a Lease Agreement between the Caldwell Rail Commission and Caldwell County Pathways in order to allow trail construction on

the discontinued section of rail right-of-way within the City limits of Lenoir as recommended by City Staff.

**FY2016-2017 RECOMMENDED ANNUAL BUDGET:**

6. City Manager Scott Hildebran presented the recommended FY2016-2017 Annual Budget to City Council and recommends that Council call for a public hearing to be held on Tuesday, June 7 for consideration of adoption of the proposed budget.

The recommended budget is comprised of General Fund, \$16,148,851, Special Downtown District, \$179,918, Tourism Development, \$60,000 and Water Fund, \$8,116,201, for a total budget of \$24,502,970. The budget contains a 3% sewer rate increase and a 2% COLA for employees beginning January 1, 2017. The current property tax rate of \$0.58 per \$100 valuation remains unchanged. Mr. Hildebran also stated that all other General Fund charges/fees remain unchanged.

The City is required to have its budget adopted by July 1, 2016 in order to establish its legal spending limits. The budget is available in the City Clerk's office for public inspection from 8:30 a.m. until 5:00 p.m. Monday through Friday.

Mr. Hildebran reported that the City's group health insurance plan remains unchanged with the budget funding a 7.9% increase in premiums. Additionally, the recommended budget increases funding for street resurfacing from 25% from FY2015-2016 to \$375,000 in FY2016-2017.

In addition, Mr. Hildebran reviewed the budget highlights which include the following:

- 1) Provides operational funds to get the new Fire Station #3 "shovel ready".
- 2) Provides operational funds in the amount of \$300,000 for grants/loans to assist in downtown development.
- 3) Allocates funds from the Community Development Block Grant program (CDBG) to continue improvements to the J.E. Broyhill Park and funds the North Main Street NW Entrance Beautification project on Creekway Drive.
- 4) Provides operational funding to initiate the Linkside Connector Project.
- 5) Does not appropriate any fund balance proceeds and maintains a General Fund balance of approximately 23%, just slightly less than City Council's goal of 24%.

Additional highlights are:

- 6) Increases funding 50% from FY2015-2016 levels to \$75,000 for Sidewalks/Greenways in FY2016-2017.
- 7) Appropriates \$10,000 town building demolition.
- 8) Continues to fund Computer/IT upgrades and supports conversion to a more user-friendly emergency mass notification system.
- 9) Provides operational funds to develop the Fairfield South Plan.
- 10) Fund all debt obligations, including the newly required 75' Quint Fire Truck and recently completed Meadowood Sewer Replacement Project.

Mr. Hildebran stated the General Fund Budget will cover the cost of the list of capital project items, but pointed out the budget does not include a financing package for the upcoming fiscal year. The proposed capital items from the General Fund include the

following:

a) 4 patrol cars, brake lathe, roof replacements at several City facilities

The proposed capital items from the Water/Sewer Fund include the following:

b) vehicle, dump truck, warehouse roof, Hayes A venue waterline, decanter for Sludge Basin 2 and a mower

Mr. Hildebran commended former Assistant City Manager/Finance Director Danny Gilbert for his preparation of the budget. Mr. Hildebran stated that Danny has, for the past ten years, provided outstanding leadership and stewardship to the City's financial operation. He further commented that, along with all of our organization, we extend our appreciation and thanks to Mr. Gilbert for his outstanding service to the citizens of Lenoir.

In addition, Mr. Hildebran thanked the Department Directors, Team Lenoir and City Council for their patience, understanding, and dedicated work on this important policy document. Mr. Hildebran remarked, "As I observe daily, our Team Lenoir Members are committed to providing "Service Beyond Measure."

Mr. Hildebran further reported a Budget Work Session is scheduled for Thursday, May 26 at 6:00 p.m. and will be held at City Hall, Third Floor, former Council Chambers.

Upon a motion by Perdue, Council voted 7 to 0 to schedule a public hearing for Tuesday, June 7, 2016 for consideration of the recommended FY2016-2017 Annual Budget.

## **VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY**

## **VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR**

## **IX. REPORT AND RECOMMENDATIONS OF COUNCILMEMBERS**

### **CLOSED**

**SESSION:** A. Pursuant to N.C.G.S. §143-318.11(a), (3), and upon a motion by Mayor Pro-Tem Willis, which carried unanimously, City Council entered into closed session to discuss attorney client privilege.

### **OPEN**

**SESSION:** B. Upon a motion by Councilmember Rohr, Council voted unanimously to return to open session.

## **X. ADJOURNMENT**

A. There being no further business, the meeting was adjourned at 6:48 p.m.

---

Joseph L. Gibbons

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Shirley M. Cannon, City Clerk

Amended

**CONTRACT TO AUDIT ACCOUNTS**

Of \_\_\_\_\_  
CITY OF LENOIR  
Primary Governmental Unit

Discretely Presented Component Unit (DPCU) if applicable

On this \_\_\_\_\_ 4TH \_\_\_\_\_ day of \_\_\_\_\_ MAY \_\_\_\_\_, \_\_\_\_\_ 2016 \_\_\_\_\_,

Auditor: \_\_\_\_\_ S. ERIC BOWMAN, PA \_\_\_\_\_ Auditor Mailing Address: \_\_\_\_\_ PO BOX 1476 \_\_\_\_\_

MORGANTON, NC 28680 \_\_\_\_\_ Hereinafter referred to as The Auditor

and \_\_\_\_\_ CITY COUNCIL \_\_\_\_\_ (Governing Board(s)) of \_\_\_\_\_ CITY OF LENOIR \_\_\_\_\_  
(Primary Government)

and \_\_\_\_\_ : hereinafter referred to as the Governmental Unit(s), agree as follows:  
(Discretely Presented Component Unit)

1. The Auditor shall audit all statements and disclosures required by generally accepted accounting principles (GAAP) and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit (s) for the period beginning \_\_\_\_\_ JULY 1 \_\_\_\_\_, \_\_\_\_\_ 2015 \_\_\_\_\_, and ending \_\_\_\_\_ JUNE 30 \_\_\_\_\_, \_\_\_\_\_ 2016 \_\_\_\_\_. The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion will be rendered in relation to (as applicable) the governmental activities, the business-type activities, the aggregate DPCUs, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types).
2. At a minimum, the Auditor shall conduct his/her audit and render his/her report in accordance with generally accepted auditing standards. The Auditor shall perform the audit in accordance with *Government Auditing Standards* if required by the State Single Audit Implementation Act, as codified in G.S. 159-34. If required by OMB Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations and the State Single Audit Implementation Act, the Auditor shall perform a Single Audit. This audit and all associated workpapers may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the Local Government Commission (LGC). If the audit and/or workpapers are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners (NC CPA Board).

County and Multi-County Health Departments: The Office of State Auditor will designate certain programs that have eligibility requirements to be considered major programs in accordance with OMB Circular A-133 for the State of North Carolina. The LGC will notify the auditor and the County and Multi-Health Department of these programs. A County or a Multi-County Health Department may be selected to audit any of these programs as major.

3. If an entity is determined to be a component of another government as defined by the group audit standards - the entity's auditor will make a good faith effort to comply in a timely manner with the requests of the group auditor in accordance with AU-6 §600.41 - §600.42.
4. This contract contemplates an unqualified opinion being rendered. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract.
5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, 2011 revisions, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he has met the requirements for a peer review and continuing education as specified in *Government*

Governmental Unit

Discretely Presented Component Units (DPCU) if applicable

**Auditing Standards.** The Auditor agrees to provide a copy of their most recent peer review report regardless of the date of the prior peer review report to the Governmental Unit and the Secretary of the LGC prior to the execution of the audit contract (See Item 22). **If the audit firm received a peer review rating other than pass, the Auditor shall not contract with the Governmental Unit without first contacting the Secretary of the LGC for a peer review analysis that may result in additional contractual requirements.**

If the audit engagement is not subject to Government Accounting Standards or if financial statements are not prepared in accordance with GAAP and fail to include all disclosures required by GAAP, the Auditor shall provide an explanation as to why in an attachment..

6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to the State and Local Government Finance Division (SLGFD) within four months of fiscal year end. Audit report is due on:           OCTOBER 31          ,   2016  . If it becomes necessary to amend this due date or the audit fee, an amended contract along with a written explanation of the delay must be submitted to the secretary of the LGC for approval.
7. It is agreed that generally accepted auditing standards include a review of the Governmental Unit's systems of internal control and accounting as same relate to accountability of funds and adherence to budget and law requirements applicable thereto; that the Auditor will make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his findings, together with his recommendations for improvement. That written report must include all matters defined as "significant deficiencies and material weaknesses" in AU-C 265 of the *AICPA Professional Standards (Clarified)*. **The Auditor shall file a copy of that report with the Secretary of the LGC.**
8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the LGC. This includes annual or special audits, agreed upon procedures related to internal controls, bookkeeping or other assistance necessary to prepare the Governmental Unit's records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina. **Invoices for services rendered under these contracts shall not be paid by the Governmental Unit until the invoice has been approved by the Secretary of the LGC.** (This also includes any progress billings.) [G.S. 159-34 and 115C-447] All invoices for Audit work must be submitted by email in PDF format to the Secretary of the LGC for approval. The invoices must be sent via upload through the current portal address: <http://nctreasurer.slgfd.leapfile.net> Subject line should read "Invoice – [Unit Name]. The PDF invoice marked 'approved' with approval date will be returned by email to the Auditor to present to the Governmental Unit for payment. Approval is not required on contracts and invoices for system improvements and similar services of a non-auditing nature.
9. In consideration of the satisfactory performance of the provisions of this contract, the Primary Governmental Unit shall pay to the Auditor, upon approval by the Secretary of the LGC; the fee, which includes any cost the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (Federal and State grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts. (Note: **Fees listed on signature pages.**)
10. If the Governmental Unit has outstanding revenue bonds, the Auditor shall include documentation either in the notes to the audited financial statements or as a separate report submitted to the SLGFD along with the audit report, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the Auditor should be aware that any other bond compliance statements or additional reports required in the authorizing bond documents need to be submitted to the SLGFD simultaneously with the Governmental Unit's audited financial statements unless otherwise specified in the bond documents.

Governmental Unit

Discretely Presented Component Units (DPCU) if applicable

11. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include, but not be limited to, the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the Governmental Unit and all of its component units prepared in accordance with GAAP, (c) supplementary information requested by the client or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board as soon as practical after the close of the accounting period.
12. If the audit firm is required by the NC CPA Board or the Secretary of the LGC to have a pre-issuance review of their audit work, there must be a statement added to the engagement letter specifying the pre-issuance review including a statement that the Governmental Unit will not be billed for the pre-issuance review. The pre-issuance review must be performed prior to the completed audit being submitted to the LGC. The pre-issuance report must accompany the audit report upon submission to the LGC.
13. The Auditor shall electronically submit the report of audit to the LGC as a text-based PDF file when (or prior to) submitting the invoice for services rendered. The report of audit, as filed with the Secretary of the LGC, becomes a matter of public record for inspection, review and copy in the offices of the SLGFD by any interested parties. Any subsequent revisions to these reports must be sent to the Secretary of the LGC. These audited financial statements, excluding the Auditors' opinion, may be used in the preparation of official statements for debt offerings, by municipal bond rating services to fulfill secondary market disclosure requirements of the Securities and Exchange Commission and other lawful purposes of the Governmental Unit without subsequent consent of the Auditor. If it is determined by the LGC that corrections need to be made to the Governmental Unit's financial statements, they should be provided within three days of notification unless another time frame is agreed to by the LGC.

If the OSA designates certain programs to be audited as major programs, as discussed in item #2, agreed-upon procedures report, a turnaround document and a representation letter addressed to the OSA shall be submitted to the LGC.

The LGC's process for submitting contracts, audit reports and invoices is subject to change. Auditors should use the submission process in effect at the time of submission. The most current instructions will be found on our website: <https://www.nctreasurer.com/slq/Pages/Audit-Forms-and-Resources.aspx>

14. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the Secretary of the LGC, this contract may be varied or changed to include the increased time and/or compensation as may be agreed upon by the Governing Board and the Auditor
15. If an approved contract needs to be varied or changed for any reason, the change must be made in writing, on the Amended LGC-205 contract form and pre-audited if the change includes a change in audit fee. This amended contract needs to be completed in full, including a written explanation of the change, signed and dated by all original parties to the contract, and then must be submitted through the audit contract portal to the Secretary of the LGC for approval. The portal address to upload your amended contract is <http://nctreasurer.slqfd.leapfile.net>. No change shall be effective unless approved by the Secretary of the LGC, the Governing Board, and the Auditor.
16. Whenever the Auditor uses an engagement letter with the Governmental Unit, Item #17 is to be completed by referencing the engagement letter and attaching a copy of the engagement letter to the contract to incorporate the engagement letter into the contract. In case of conflict between the terms of the engagement letter and the terms of

Governmental Unit

Discretely Presented Component Units (DPCU) if applicable  
this contract, the terms of this contract will control. Engagement letter terms are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item #22 of this contract. Engagement letters containing indemnification clauses will not be approved by the LGC.

17. Special provisions should be limited. Please list any special provisions in an attachment.

**ENGAGEMENT LETTER ATTACHED**

18. A separate contract should not be made for each division to be audited or report to be submitted. If a DPCU is subject to the audit requirements detailed in the Local Government Budget and Fiscal Control Act and a separate audit report is issued, a separate audit contract is required. If a separate report is not to be issued and the DPCU is included in the primary government audit, the DPCU must be named along with the parent government on this audit contract. Signatures from the DPCU Board chairman and finance officer also must be included on this contract.
19. The contract must be executed, pre-audited, physically signed by all parties including Governmental Unit and Auditor signatures and submitted in PDF format to the Secretary of the LGC. The current portal address to upload your contractual documents is <http://nctreasurer.slgfd.leapfile.net> Electronic signatures are not accepted at this time. Included with this contract are instructions to submit contracts and invoices for approval as of October 2015. These instructions are subject to change. Please check the NC Treasurer's web site at [www.nctreasurer.com](http://www.nctreasurer.com) for the most recent instructions.
20. The contract is not valid until it is approved by the LGC Secretary. The staff of the LGC shall notify the Governmental Unit and Auditor of contract approval by email. **The audit should not be started before the contract is approved.**
21. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the LGC.
22. **E-Verify.** Auditor shall comply with the requirements of NCGS Chapter 64 Article 2. Further, if Auditor utilizes any subcontractor(s), Auditor shall require such subcontractor(s) to comply with the requirements of NCGS Chapter 64, Article 2.
23. All of the above paragraphs are understood and shall apply to this contract, except the following numbered paragraphs shall be deleted: (See Item 16 for clarification).

***SIGNATURE PAGES FOLLOW***

Governmental Unit

Discretely Presented Component Units (DPCU) if applicable

CITY OF LENOIR - FEES

Year-end bookkeeping assistance – [For audits subject to Government Auditing Standards, this is limited to bookkeeping services permitted by revised Independence Standards] N/A

Audit \$ 29,300

Preparation of the annual financial Statements \$90 PER HOUR PER PERSON

Prior to submission of the completed audited financial report, applicable compliance reports and amended contract (if required) the Auditor may submit invoices for approval for services rendered, not to exceed 75% of the total of the stated fees above. If the current contracted fee is not fixed in total, invoices for services rendered may be approved for up to 75% of the prior year audit fee.

The 75% cap for interim invoice approval for this audit contract is \$ 21,975

\*\* NA if there is to be no interim billing

Communication regarding audit contract requests for modification or official approvals will be sent to the email addresses provided in the spaces below.

Audit Firm Signature:

S. ERIC BOWMAN, PA

Name of Audit Firm

By S. ERIC BOWMAN

Authorized Audit firm representative name: Type or print

Signature of authorized audit firm representative

Date 5-4-16

sericbowmanpa@bellsouth.net

Email Address of Audit Firm

Governmental Unit Signatures:

CITY OF LENOIR

Name of Primary Government

By JOE L. GIBBONS - MAYOR

Mayor / Chairperson: Type or print name and title

Signature of Mayor/Chairperson of governing board

Date 5-17-16

By N/A

Chair of Audit Committee - Type or print name

Signature of Audit Committee Chairperson

Date

\*\* If Governmental Unit has no audit committee, mark this section "N/A"

CITY OF LENOIR

PRE-AUDIT CERTIFICATE: Required by G.S. 159-28

(a)

This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act. Additionally, the following date is the date this audit contract was approved by the governing body.

By DANNY GILBERT

Primary Governmental Unit Finance Officer:

Type or print name

Primary Government Finance Officer Signature

Date

(Pre-audit Certificate must be dated.)

dgilbert@ci.lenoir.nc.us

Email Address of Finance Officer

Date Primary Government Governing Body Approved Audit Contract - G.S. 159-34(a )

5-17-2016

5/17/2016

**BUDGET AMENDMENTS**

**GENERAL FUND**

**REVENUES**

NCDOT Beautification Grant	120,000
Miscellaneous Revenue -School Board	18,000
Property Taxes - 2015	391,000
<b>TOTAL</b>	<b><u><u>\$529,000</u></u></b>

**EXPENDITURES**

Street Maintenance	
Smith Crossroads	329,000
Powell Road Alignment	200,000
<b>TOTAL</b>	<b><u><u>\$529,000</u></u></b>

CITY OF LENOIR  
2015 APPALACHIAN REGIONAL COMMISSION GRANT  
CAPITAL PROJECT BUDGET ORDINANCE

Be it ordained by the City Council of the City of Lenoir that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted.

Section 1. The project authorized is the Appalachian Regional Commission Project described in the work statement contained in the Grant Agreement (ARC NC-18021) between this unit and the North Carolina Department of Commerce. This project is more familiarly known as the City of Lenoir's FY-2015 ARC Program.

Section 2. The officers of this unit are hereby directed to proceed with the grant project within the terms of the grant document(s), the rules and regulations of the DHUD and the budget contained herein.

Section 3. The following revenues are anticipated to be available to complete the project:

Revenues

Local Funds(City of Lenoir)	\$117,000
ARC Grant	<u>273,000</u>
Total Revenues	\$390,000

Section 4. The following amounts are appropriated for the project:

Expenditures

Public Sewer Improvements	\$390,000
<u>Total Expenditures</u>	<u>\$390,000</u>

Section 5. The Finance Officer is hereby directed to maintain within the Grant Project Fund sufficient specific detailed accounting records to provide the accounting to the grantor agency required by the grant agreement(s) and Federal and State regulations.

Section 6. Funds may be advanced from the General Funds for the purpose of making payments as due. Reimbursement requests should be made to the grantor agency in an orderly and timely manner.

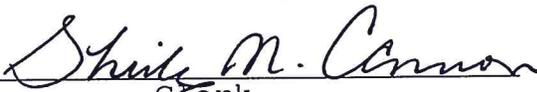
Section 7. The Finance Officer is directed to report quarterly on the financial status of each project element in Section 4 and on the total grant revenues received or claimed.

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

Section 9. Copies of this grant project ordinance shall be made available to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this the 17<sup>th</sup> day of May, 2016.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Clerk

CITY OF LENOIR, NC  
CHARTERED  
JANUARY 28, 1851

SEAL

CITY OF LENOIR

Minutes-City of Lenoir Council Meeting

Tuesday, May 17, 2016

RESOLUTION AUTHORIZING EXCHANGE OF PROPERTY

138

WHEREAS, the City of Lenoir owns approximately 0.4305 acres of land in the County of Caldwell, North Carolina, (NCPIN 2749882314), located in the 300 block of Ridge Street, with an estimated tax value of \$42,900.00; and

WHEREAS, Communities in Schools of Caldwell County (CIS) are under contract to purchase from Rankin Ridge, Inc. approximately 0.2310 acres of land in the County of Caldwell, North Carolina, (a portion of NCPIN 2749881547), located in the 400 block of Ridge Street, with an estimated tax value of \$16,900.00; and

WHEREAS, the City of Lenoir and CIS wish to make an exchange of the above-described properties subject to the following negotiated terms and conditions:

- (1) The City of Lenoir will convey approximately 0.4305 acres of land to CIS in fee simple.
- (2) Communities in Schools of Caldwell County (CIS) will convey approximately 0.2310 acres of land to the City of Lenoir in fee simple.
- (3) CIS will allow public parking to continue on the parking lot surface that remains after relocation of the Rankin House.
- (4) CIS will provide the City with a right of first refusal on the parcel in the event that CIS should elect to sell the property to an unaffiliated entity at some point in the future.

WHEREAS, with the reservation of public parking rights and the right of first refusal, both parties consider the exchange of property to be of equal value; and

WHEREAS, the exchange is considered to provide a full and fair compensation to the City as both tracts are similar in location and value, and will continue to permit public parking on a portion of city-conveyed tract and would further a public purpose in providing a prominent downtown location for siting a restored historic community treasure and the opportunity to expand a downtown public park space, fostering tourism and historic preservation in the City;

WHEREAS, North Carolina General Statute 160A-271 authorizes the City of Lenoir to make such an exchange if authorized by the City Council by a resolution adopted at a regular meeting of the City Council upon at least 10 days' public notice; and

WHEREAS, the City of Lenoir has given the required public notice, and the City Council is convened in a regular meeting.

THEREFORE, THE CITY COUNCIL OF THE CITY OF LENOIR RESOLVES THAT:

- 1. The exchange of properties is authorized subject to the approved negotiated terms and conditions as stated above.
- 2. The appropriate City officials are directed to execute the instruments necessary to carry out the exchange.

Adopted this the 17<sup>th</sup> day of May, 2016.

SEAL



Joseph L. Gibbons, Mayor

ATTEST:



Shirley M. Cannon, City Clerk



**PUBLIC NOTICE  
EXCHANGE OF REAL ESTATE**

Pursuant to North Carolina General Statute §160A-271, the Lenoir City Council states its intention to authorize the exchange of certain city-owned property for certain property currently owned (or will be owned) by Communities in Schools of Caldwell County (CIS).

The exchange involves the following:

The proposed exchange would convey approximately 0.2310 acres of land with an estimated tax value of \$16,900 (a portion of NCPIN 2749881547) that would be owned by CIS pursuant to the option with Rankin Ridge, Inc., to the City of Lenoir in exchange for approximately 0.4305 acres of city-owned land with an estimated tax value of \$42,900 (NCPIN 2749882314) both located on Ridge Street NW. Both tracts are similar in location and value, and would further a public purpose in providing a prominent downtown location for siting a restored historic community treasure (Rankin House) and the opportunity to expand a downtown public park space, fostering tourism and historic preservation in the City. Consistent with the spirit of this transaction, CIS is willing to allow public parking to continue on the parking lot surface that remains after relocation of the Rankin House, and to provide the City with a right of first refusal on the parcel in the event that CIS should elect to sell the property to an unaffiliated entity at some point in the future. With the reservation of public parking rights and the right of first refusal, both parties consider the exchange of property to be of equal value. The Lenoir City Council intends to authorize the exchange of properties described above at their regular meeting on Tuesday, May 17, 2016.

Individuals may contact the City Clerk's office at (828) 757-2205 for additional information.

**City of Lenoir  
Shirley M. Cannon, MMC, NCCMC  
City Clerk**

Please publish on Friday, May 6.

This document presented and filed:  
05/23/2016 09:56:37 AM

LEASE  
Fee \$26.00



Caldwell County North Carolina  
Wayne L. Rash, Register of Deeds

City of Lenoir ✓✓

North Carolina

Caldwell County

Lease

This contract of lease made and entered into this 1<sup>st</sup> day of June, 2016 by and between Ann Koeberling, Lenoir, North Carolina 28645, party of the first part, and the City of Lenoir, a North Carolina municipal corporation, party of the second part; both of Caldwell County, North Carolina.

WITNESSETH:

That subject to the terms and conditions herein set out, said party of the first part doth hereby let and lease unto said party of the second part, and said party of the second part doth hereby accept as tenant of said party of the first part, a certain lot in Lenoir, Caldwell County, North Carolina, located at the following address: from South Main Street to Mulberry Street, Lenoir, Caldwell County, North Carolina, and more specifically described as the Second Tract of the October 21, 1988, deed from Dickson Whisnant, Trustee to the party of the first part, recorded in the Caldwell County Registry at Book 978 at pages 296-298.

The terms and conditions of this lease being as follows:

The lease shall begin as of first day of June, 2016, and, unless sooner terminated as herein provided, shall exist and continue until and including last day of May, 2021.

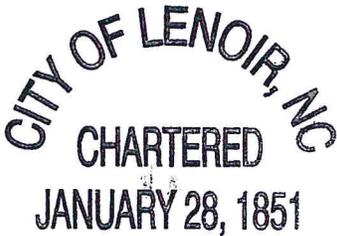
The rental to be paid by said party of the second part for said premises shall be an annual amount equal to the share of the annual ad valorem taxes due the City of Lenoir and Caldwell County which shall accrue upon and be attributable to the leased portion of the premises of the Party of the First Part, taking into account the relative tax value of the property attributable to the leased portion and the non-leased portion. Such rental payment shall be applied by the Party of

the Second Part for direct payment to the tax collector of such proportionate share of the municipal and county ad valorem taxes as the same shall become due each year during the term of the lease. In the event of a re-valuation of the premises for ad valorem tax purposes such that the tax value of the un-leased portion of the property of the Party of the First Part shall increase relative to the leased portion, the payment of the Party of the Second Part shall be adjusted in order to maintain the appropriate share of the total municipal and county ad valorem tax to be paid by the Party of the Second Part for rental.

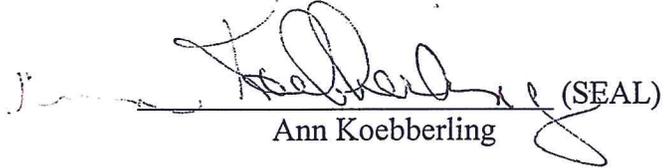
Party of the second part agrees to accept said premises in their present condition. The Party of the Second Part intends to use the leased premises as a municipal parking lot. The Party of the Second Part shall have exclusive use and control of the leased premises, except that the Party of the Second Part shall designate three (3) parking space(s) to be marked reserved for the use of the Party of the First Part or its customers as specified by the Party of the First Part. The Party of the First Part agrees that during the period of this lease the municipal parking lot shall be operated as a 2-hour maximum parking limit facility. If said premises shall be destroyed or so damaged by calamity so that the premises cannot be rendered fit for use as a parking lot within thirty days, this lease shall in the discretion of the Party of this Second Part be thereby terminated upon written notification of the Party of the First Part by the Party of the Second Part. The Party of the Second Part may terminate this lease at any time by giving a thirty (30) days advance written notice to the Party of the First Part.

The Party of the Second Part agrees to indemnify and hold the Party of the First Part harmless from claims which may subsequently be asserted during the term of lease by the third parties pendency of this lease as a result of the operation of a parking lot by the Party of the Second Part.

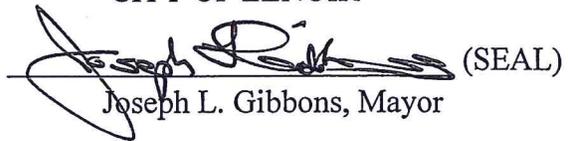
In testimony whereof, said parties have hereunto set their hands and seals on this the 17<sup>th</sup> day of May, 2016.



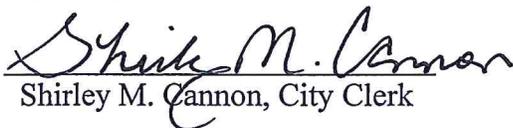
SEAL

 (SEAL)  
Ann Koebberling

PARTY OF THE SECOND PART  
CITY OF LENOIR

 (SEAL)  
Joseph L. Gibbons, Mayor

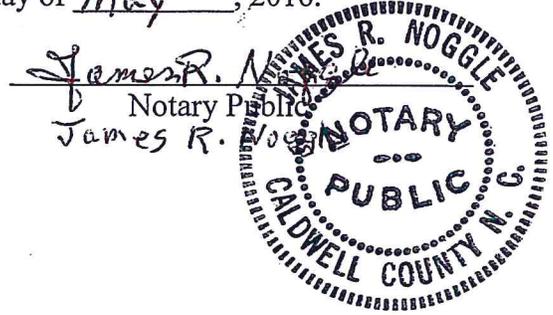
ATTEST:

  
Shirley M. Cannon, City Clerk

NORTH CAROLINA  
CALDWELL COUNTY

I, a Notary Public of the County and State aforesaid, certify that Ann Koeberling personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this the 20<sup>th</sup> day of May, 2016.

My Commission Expires:  
May 25, 2017

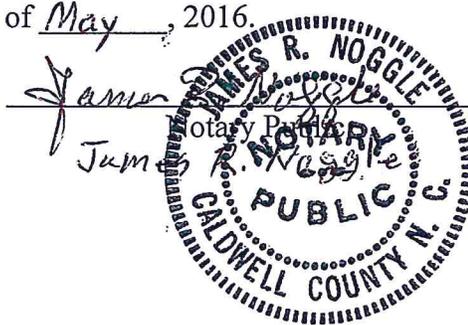


NORTH CAROLINA  
CALDWELL COUNTY

I, a Notary Public of the County and State aforesaid, certify that Shirley M. Cannon personally appeared before me this day and acknowledged that he/she is City Clerk for the City of Lenoir, a North Carolina municipal corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by Joseph L. Gibbons as its Mayor, sealed with its corporate seal and attested by Shirley M. Cannon, as its City Clerk.

Witness my hand and official stamp or seal, this 13<sup>th</sup> day of May, 2016.

My commission expires:  
May 25, 2017



The foregoing Certification(s) of \_\_\_\_\_ is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

REGISTER OF DEEDS FOR \_\_\_\_\_ COUNTY

By \_\_\_\_\_  
Deputy/Assistant-Register of Deeds

*Koebberling Lot*

Google Maps



CITY OF LENOIR  
2016 COMMUNITY DEVELOPMENT BLOCK GRANT  
CAPITAL PROJECT BUDGET ORDINANCE

Be it ordained by the City Council of the City of Lenoir that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted.

Section 1. The project authorized is the Community Development Project described in the work statement contained in the Grant Agreement (#B-16-MC-37-0022) between this unit and the United States Department of Housing and Urban Development. This project is more familiarly known as the FY 2016 CDBG Entitlement Program.

Section 2. The officers of this unit are hereby directed to proceed with the grant project within the terms of the grant document(s), the rules and regulations of the DHUD and the budget contained herein.

Section 3. The following revenues are anticipated to be available to complete the project:

Revenues

Community Development Block Grant	\$140,272
Total Revenues	\$140,272

Section 4. The following amounts are appropriated for the project:

Expenditures

Public Facilities Improvements	\$112,218
Program Administration	28,054
<u>Total Expenditures</u>	\$140,272

Section 5. The Finance Officer is hereby directed to maintain within the Grant Project Fund sufficient specific detailed accounting records to provide the accounting to the grantor agency required by the grant agreement(s) and Federal and State regulations.

Section 6. Funds may be advanced from the General Funds for the purpose of making payments as due. Reimbursement requests should be made to the grantor agency in an orderly and timely manner.

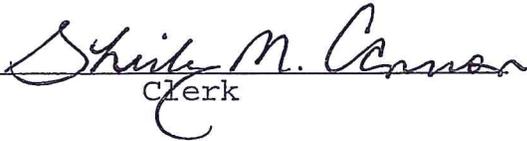
Section 7. The Finance Officer is directed to report quarterly on the financial status of each project element in Section 4 and on the total grant revenues received or claimed.

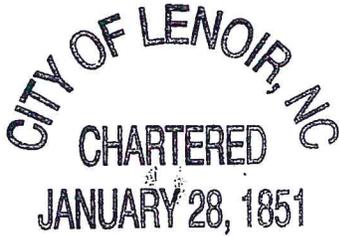
Section 8. The Budget Officer is directed to include a detailed analysis of past and future cost and revenues on this grant project in every budget submission made to this Board.

Section 9. Copies of this grant project ordinance shall be made available to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this the 17<sup>th</sup> day of May, 2016.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Clerk



SEAL

CITY OF LENOIR  
2016 UNIFOUR CONSORTIUM HOME PROGRAM  
CAPITAL PROJECT BUDGET ORDINANCE

Be it ordained by the City Council of the City of Lenoir that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted.

Section 1. The project authorized is the HOME project described in the work statement contained in the Grant Agreement (#M-16-DC-370208) between this unit and the United States Department of Housing and Urban Development. This project is more familiarly known as the FY 2016 Unifour Consortium HOME Program.

Section 2. The officers of this unit are hereby directed to proceed with the grant project within the terms of the grant document(s), the rules and regulations of the DHUD and the budget contained herein.

Section 3. The following revenues are anticipated to be available to complete the project:

Revenue from HOME Grant	\$789,577
Anticipated Program Income	<u>230,000</u>
Total Revenues	\$1,019,577

Section 4. The following amounts are appropriated for the project:

Downpayment Assistance (HOME Funds)	\$285,183
Program Income Expenditures (Downpayment Assistance)	230,000
HOME CHDO (HOME Funds)	118,437
Development of Multi-Family Housing	307,000
General Program Administration	<u>78,957</u>
Total Expenditures	\$1,019,577

Section 5. The Finance Officer is hereby directed to maintain within the Grant Project Fund sufficient specific detailed accounting records to provide the accounting to the grantor agency required by the grant agreement(s) and Federal and State regulations.

Section 6. Funds may be advanced from the General Funds for the purpose of making payments as due. Reimbursement requests should

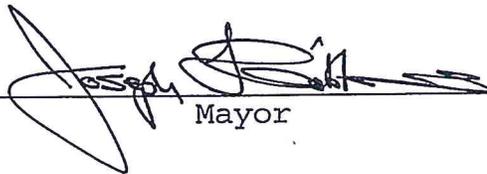
be made to the grantor agency in an orderly and timely manner.

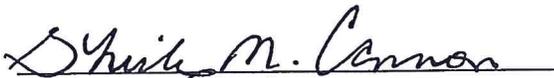
Section 7. The Finance Officer is directed to report quarterly on the financial status of each project element in Section 4 and on the total grant revenues received or claimed.

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

Section 9. Copies of this grant project ordinance shall be made available to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this the 17<sup>th</sup> day of May, 2016.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Clerk

CITY OF LENOIR, NC  
CHARTERED  
JANUARY 28, 1851

SEAL



CITY MANAGER  
SCOTT E. HILDEBRAN

CITY OF LENOIR  
NORTH CAROLINA

MAYOR  
JOSEPH L. GIBBONS

CITY COUNCIL  
K. P. EDMISTEN  
T. H. PERDUE  
J. I. PERKINS  
T. J. ROHR  
D. F. STEVENS  
C. D. THOMAS  
B. K. WILLIS

**RESOLUTION OF SUPPORT  
FOR A LEASE AGREEMENT BETWEEN  
CALDWELL COUNTY PATHWAYS AND CALDWELL RAIL COMMISSION**

**WHEREAS**, the City of Lenoir has been working in partnership with Caldwell County Pathways and the Caldwell Rail Commission to pursue rail-banking along the discontinued section of rail right-of-way within the City limits of Lenoir; and

**WHEREAS**, the discontinued section of rail right-of-way falls within the congressionally-designated corridor for the Overmountain Victory National Historic Trail (OVNHT) and is anticipated to be certified by the National Park Service as an official segment of the OVNHT if a multi-use trail is constructed; and

**WHEREAS**, the Surface Transportation Board issued a Notice of Interim Trail Use in late 2015; and

**WHEREAS**, Caldwell Rail Commission desires to lease the right-of-way to Caldwell County Pathways to allow trail construction pursuant to the Notice of Interim Trail Use; and

**WHEREAS**, the City of Lenoir anticipates partnering with Caldwell County Pathways to be the Trail Manager to construct and maintain a trail pursuant to the Notice of Interim Trail Use; and

**WHEREAS**, various funding sources may be pursued to fund construction of the trail, including highly competitive grants; and

**WHEREAS**, a lease term of at least thirty (30) years, with renewal options, is crucial to being eligible to receive many potential grants, as well as to present competitive applications;

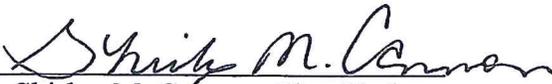
**NOW, THEREFORE BE IT RESOLVED** that the Lenoir City Council supports a lease agreement between Caldwell County Pathways and the Caldwell Rail Commission with a minimum initial lease of thirty (30) years with a minimum of one (1) thirty (30) year renewal option, in order to facilitate the use of this discontinued corridor within the City limits as a multi-use trail.

Adopted this 17th day of May, 2016.

SEAL

  
Joseph L. Gibbons, Mayor

ATTEST:

  
Shirley M. Cannon, City Clerk



**COMMITTEE OF THE WHOLE  
CITY HALL, THIRD FLOOR  
TUESDAY, MAY 24, 2016  
8:30 A.M.**

PRESENT: Mayor Pro-Tem Willis presiding. Committee members Edmisten, Gibbons, Perkins, Rohr, and Stevens.

City Manager Hildebran, City Clerk Cannon, Communications/ Resource Director Reynolds, Police Chief Brown, Recreation Director Winkler, Planning Director Wheelock, Public Utilities Director Thomas, Public Works Director Beck, and Fire Chief Briscoe.

OTHERS: John Braiser, *News-Topic* and Matt Oetting, McGill Associates.

ABSENT: Councilmembers Perdue and Thomas and Economic Development Director Horn.

I. CALL TO ORDER

A. Mayor Pro-Tem Willis welcomed everyone and called the meeting to order.

B. Taylor Gupton, Planner & GIS Specialist, announced her resignation effective June 10<sup>th</sup>. Ms. Gupton has accepted a position with Destination by Design in Boone. Along with City Council, Mayor Pro-Tem Willis commended Ms. Gupton for her dedicated service to the City of Lenoir during her tenure.

C. Planning Director Wheelock introduced Hannah Williams, Summer Intern, who will be working on the City's Stormwater Project during the summer.

II. CITIZEN COMMENT PERIOD

III. PLANNING BOARD: The Planning Board met on Monday, May 23. Jenny Wheelock, Planning Director, presented a report on the following items:

A. Variance; Fairfield Chair Expansion Project: Director Wheelock reported the Board of Adjustments approved a variance request as submitted by Fairfield Chair Company for a proposed expansion. Ms. Wheelock stated the applicant plans to subdivide the property and purchase the eastern 0.5 acre portion to construct a new building as a part of the existing Fairfield Chair furniture manufacturing campus. The proposed building will be used for the storage of lumber.

B. Update; Food Trucks: Director Wheelock presented an update on allowing food trucks and stated that selling food from on street spaces is neither specifically prohibited nor explicitly allowed by City ordinances. She informed Council they could allow for the sale of food from any legal parking area within a City right-of-way; allow for the sale of food in designated on street areas during designated times; or require a City permit (fee or no fee) to operate a food truck on a City right-of-way.

Ms. Wheelock further explained Council could exempt peddlers such as lunch trucks and ice cream trucks from location/time/permit/zoning rules when they don't stay in one place longer than 30 minutes; allow for non-motorized carts in the square, in parks, or on the sidewalk; prohibit overnight parking of food trucks on City property (on or off street); and food truck "rodeos" could be facilitated by a private coordinator or the Main Street Department, to have multiple food trucks come together in a set location (on street or off street) that could be promoted.

Next, Director Wheelock presented suggestions on how to regulate or not regulate food trucks. Ms. Wheelock stated her recommendation is to make the process as simple as possible and pointed out a major concern for businesses is competition. She remarked that communities regulate food trucks due to health issues and public safety and asked City Council for their comments regarding the possibility of allowing food trucks in the downtown area. Ms. Wheelock stated one option may be to develop a Downtown Food Truck Program.

City Manager Hildebran clarified that food trucks are regulated by their health permit. Much discussion was held with Council agreeing to have Staff look at developing a permit process along with reviewing public property regulations before proceeding further. It was also clarified that Council would have to give their permission before allowing a food truck on City owned property.

- C. Update; Sign Code: Director Wheelock informed Council the Planning Board recommends approval of the City's updated sign code. Ms. Wheelock emphasized the update does not affect any rules, but only repeals and replaces language in the code in order to make it easier for everyone to understand and Staff to enforce. In addition, Ms. Wheelock reported they have compiled a Sign Code Design Book which is a supplement to the sign code and includes images of different types of signs.

Following a brief discussion, Council was in consensus to conduct a workshop on the updated sign code at the Committee of the Whole meeting scheduled for Tuesday, June 28.

- D. Update; Business Café Permit; Beer Gardens: On behalf of Economic Development Director Horn, Director Wheelock explained that an "Open Concept" Beer Garden perimeter will allow for a larger, more functional space which will keep a growing number of participants from being confined within a roped area plus allow consumers to purchase food from vendors within the same space while consuming alcoholic beverages. It was noted that participants consuming alcohol will be clearly banded and will have special event cups. Additionally, large alcohol ordinance signs will be placed on all four streets ending on Main/Ashe/ Main/Harper; West/Mulberry/ and West Church Street.

Ms. Wheelock further explained the boundary/perimeter maps will be distributed on small flyers and/or beverage cups and distributed with each band purchase. Also, she clarified that having a "roped perimeter" or "open concept perimeter" does not affect insurance costs – that changes is based on the number of participants. This is an additional day of event insurance that is negotiated and paid for by the event

organizer. Large signs illustrating the beer garden boundary map will be placed at the ID, ticket sales and banding tent.

Police Chief Brown stated that, historically, these events are held in known areas with boundaries. He pointed out the Police Department needs the legal standing to enforce any charges if necessary and Staff has to be sure to meet all requirements for public safety and have ample access for Fire Department vehicles to get through. Chief Brown emphasized they do not want participants going outside of the roped off perimeter of a Beer Garden.

In addition, Chief Brown explained the only way to obtain an ABC permit for these types of events is to be a non-profit or political organization. He explained the City provides the non-profit group with a letter to be submitted to the ABC Commission describing the location along with a map of the property outlining where the event will be held. Chief Brown clarified the City will not be the sponsor for these types of events and noted the individual or organization hosting the event is liable for any accidents, etc. He emphasized that liability is the responsibility of the individual conducting the event.

City Council was in consensus to try the “Open Concept” Beer Garden with Mayor Gibbons reporting the town of Wake Forest allows these types of beer gardens and the Police Chief informed him they have not had any problems with these events.

Next, Planning Director Wheelock informed Council they currently do not have an application for “pop-out” dining. Public Works Director Beck commented his Department has been working on a “pod” to provide businesses who may be interested in offering sidewalk dining. He stated they can be removed once the event has ended.

#### **Brown Bagging Discussion**

Chief Brown informed Council that Recreation Director Winkler has received several requests to allow brown bagging at City recreational facilities. The City ordinance does not allow alcohol on City property unless it is a permitted event as described above. Chief Brown asked Council if they were in agreement to support and enforce the ordinance.

Recreation Director Winkler expressed his opposition to allowing individuals to have alcohol at the facilities due to the number of youth and small children usually in attendance. He emphasized his concern was to have consistency in dealing with this issue. As information, he related that one event was held at the Martin Luther King, Jr., Center last year without his knowledge and the participants had alcohol present.

Much discussion was held regarding this issue. It was the consensus of City Council to not permit brown bagging at any City facility and to direct Staff to review the language of the ordinance in order to amend it to be more consistent and to cover the issue of alcohol at the City’s Recreational Facilities. Staff was further directed to report back to Council within the next thirty days.

#### IV. COMMITTEE ITEMS

##### A. Public Utilities/Public Works

1. Update: Public Utilities Director Thomas presented a report on the following items:
  - a) Citizens will be notified by mail regarding the City's upcoming lead and copper testing process. Also, information will be posted on the City's website explaining the testing process.
  - b) Final inspections for the Meadowood Sewer Replacement Project and the Gunpowder Improvements Projects will be conducted in June.
  - c) The City was unsuccessful with its Brownfields Assessment Application, but will be seeking to identify its priorities in order to resubmit an application in the future.

2. Update; Public Works: Public Works Director Beck reported on the following items:

A. Update; Revised Estimate for Linkside Connector Project: Director Beck stated the Meridian Apartment Complex has created additional traffic onto Wilkesboro Boulevard and the City's goal is to have traffic tie into Hibriten Drive. He explained the City cancelled its previous contract with Louis Berger Group and that McGill Associates is currently the engineering firm for this project.

Director Beck presented cost information and a map prepared by McGill Associates for this project. (A copy is attached to these minutes as information.) Alternate I with contractors performing the work has a total project cost of \$511,574 and Alternative II with the project being completed in phases with the City constructing Phase I has a total project cost of \$385,715. Mr. Beck noted the estimated project cost exceeded what the City expected, and reported that with Phase I, the City could take care of grading and placing stone until the site could be paved in the future. For Phase II, the City would place curb and gutter on the north side of the property while the south side would be a vegetative area. The City would use its paving contractor to pave the site. Or, he stated that Council could choose not to take any action at this time.

Mr. Beck stated he recommends Alternate II if Council wishes to proceed and clarified the area would be compacted gravel until paved. Police Chief Brown reported there have been four accidents at this location this year. Director Beck reviewed the map of the project and noted it will enhance everyone's property. He related the surveying may be completed in eight weeks in addition to contacting property owners regarding the City obtaining easements. Mr. Beck also clarified there was an eight-foot elevation change between the Lenoir Golf Course and the property site.

City Council was in consensus to proceed with Alternate II, Construction Estimate Phase I, with 12% Contingency, in the amount of \$92,080.

- b) Paving Projects – paving is 30% complete with several large projects being completed including Haigler Road, Severt Circle and Joyceton Church Road. Also, the two large entrances along with the two large circles at Blue Ridge Memorial Park are on the schedule to be paved.

## V. COMMUNITY DEVELOPMENT

- A. Lenoir Tourism Development Authority: The Lenoir Tourism Development Authority met on Tuesday, May 10, 2016. Minutes of the meeting were presented as information.

Communication/Resources Director Reynolds reviewed the minutes and stated that, in order to insure income and a contingency fund plus fund projects, the Board has approved a budget amendment in the amount of \$35,000 which adjusts the current fiscal year budget to \$95,000. In addition, Ms. Reynolds reported the Board has received \$22,000 in requests from various organizations and agreed to fund these requests at one-half of the requested amount except the request for the annual Sculpture Festival.

Next, Ms. Reynolds reported she will present information from the Legislative Breakfast for State Resort Areas she recently attended at the June Committee of the Whole meeting. She further reported a statewide meeting for Retire NC will be held in June and participants will receive the final year end results.

Director Reynolds mentioned that GovDeals will be rebuilding the City's website which will not only make it more sophisticated, but also more user friendly. She related there may be disruptions of service during this time.

Mayor Pro-Tem Willis asked for information regarding the analytic reports for the City's website. Ms. Reynolds commented the City was experiencing more traffic and ranked #4 for social media for our surrounding area.

- B. Lenoir Business Advisory Board: The Lenoir Business Advisory Board met on Thursday, May 12. Minutes of the meeting from April 14 are presented as information. No report was presented at this time due to Ms. Horn not being present.

City Manager Hildebran remarked that discussion is continuing for the "Move Lenoir to the Second Floor" project and related there was a great turnout for the Fairfield South Community meeting held recently.

- C. Sister Cities Committee: The Sister Cities Committee met on Thursday, May 12. Minutes of the will be submitted. No report was giving at this time.
- D. Parks & Recreation Advisory Board: The Parks & Recreation Advisory Board did not meet in May. Minutes of the April 11 meeting were presented

as information. Recreation Director Winkler reported on the following items:

- 1) Outdoor pool at the AFC is opening on Saturday, May 28.
- 2) Veterans Memorial Service is scheduled for Monday, May 30 at 10:00 a.m.
- 3) Fabulous Film Nights & Friday After Five events are scheduled for the month of June along with a “Swinging Winging Madness Event” scheduled on the square on Friday, June 17 from 6:00 p.m. – 10:00 p.m.
- 4) Informed Council he met with the Western Piedmont Council of Governments Staff last week regarding the J.E. Broyhill Park Improvements Project and reported that several Departments still have to sign off on the project. He also stated the City was required to have additional environmental information regarding the Park. The project may be ready to continue in thirty days. In addition, Director Winkler clarified that Staff has only done painting and mowing at the Optimist Park site.
- 5) A brief discussion was held regarding online registration with Director Winkler stating that, if existing software could be utilized, the City could offer it.

Communications/Resource Director Reynolds reported the City’s website provider does offer options for online registration purposes.

#### F. Finance & Administration

1. FY2015-16 Financial Update: City Manager Hildebran presented a financial summary as of April 30, 2016. The General Fund has a balance of \$1,197,205 with 104% of the budgeted tax collection being collected. The sales tax revenue has a balance of \$2,506,013, Water & Sewer Fund \$298,852 and the Downtown District Revenues/Expenditures Over (Under) balance is (\$77,642.)
2. Update; Clean Water Management Trust Fund Grant: City Manager Hildebran presented background information to Council by reporting the City received an unsolicited offer of \$852,540 for the Watershed property in 2013. Due to concerns about relocating the Police Department’s firing range (costs, permitting and noise) and potential major residential development of the area, City Council chose to retain Martin-McGill, Inc. to conduct a best use assessment for the Lenoir Watershed. After exploring a variety of options, it was determined that the best alternative was for the City to retain ownership of the property under a Conservation Easement with the North Carolina Clean Water Management Trust Fund (NCCWMTF) which was found to be the most appropriate conservation partner for the City. Mr. Hildebran further reported the costs to relocate the firing range are from \$500,000 and up.

Mr. Hildebran informed Council that a contract for a Conservation Easement on the Watershed Property will be submitted to Council at the June 7<sup>th</sup> City Council Meeting for their consideration of approval. He stated the North Carolina Clean Water Management Trust Fund (NCCWMTF) has approved the purchase of a Conservation Easement on the Lenoir Watershed property tract via a bargain sale with the City for a grant award of up to \$755,993. Per the award, this project involves a total of approximately 568.36 acres (minus approximately 5.0 acres to be excluded and used as a law enforcement training facility (firing range).

In addition, he reported the purpose of the state grant is for the purchase of conservation easement acquisition, and to preserve, enhance, restore, and maintain the natural features and resources of the property; provide habitat for native plants and animals, improve and maintain water quality; control runoff of sediment, and for recreational, scientific, educational, cultural and aesthetic purposes.

Mr. Hildebran clarified that, according to the NCCWMTF, only passive recreational use is allowed on a watershed conservation tract. Mr. Hildebran pointed out there would not be any mountain bike trails allowed on the property at this time. He stated the City would record a permanent, state-held conservation easement on the property and the conservation easement will be monitored by Foothills Conservancy of North Carolina through a separate agreement with the NCCWMTF.

#### G. Public Safety

1. Update; Veterans Only Parking at City Facilities: Police Chief Brown informed Council that American Legion Post 231 has requested the City consider putting up signs for “Veterans Only Parking” at City facilities. He explained that no formal action was required; however, he is seeking public endorsement from Council. (A copy of the proposed sign is attached to these minutes as information).

Chief Brown stated the Department is currently working on several projects with the Caldwell County Health Department and other various agencies.

2. Update; Fire Department: Chief Briscoe reported the Department continues to prepare for the insurance inspection (ISO) rating which will take place on July 26<sup>th</sup>.

In addition, Chief Briscoe reported that Jessie Plaster has completed the drawings for the new Fire Station No. 3 and they will be presented for Council’s review at the June Committee of the Whole meeting.

#### VI. OTHER

- A. June Calendar: By consensus of the Council, the calendar for the month of June was approved by Council with various meetings and events.

#### VII. Adjourn:

There being no further business, the meeting was adjourned at 10:18 a.m.

#### Attachments

- 1) Handout for Linkside Connector Project
- 2) Veterans Only Parking Sign

Linkside Connector Engineering & Construction Cost Estimates  
Prepared by McGill & Associates

**ALTERNATE I**

Initial Cost Estimates (Contractors performing work)

- Engineering (including land survey, civil engineering, permitting assistance, bidding assistance) – Lump Sum Fee: \$59,700
- Construction Admin Servs – Maximum Not-to-Exceed Fee: \$22,000
- Construction Estimate w/15% Contingency: \$429,874
  
- Total Project Cost - \$511,574

**ALTERNATE II**

Initial Cost Estimates (Constructing Project in Phases with City crews constructing Phase I)

- Engineering (including land survey, Phase I Civil Engineering, Phase I permitting assistance, Phase II Civil Engineering, Phase II bidding assistance) –  
Lump Sum Fee (Phase I): \$51,800  
Lump Sum Fee (Phase II): \$11,800
- Phase I Construction Admin Servs – Maximum Not-to-Exceed Fee: \$11,000
- Phase II Construction Admin Servs – Maximum Not-to-Exceed Fee: \$9,000
- Construction Estimate Phase I w/12% Contingency: \$92,080
- Construction Estimate Phase II w/10% Contingency: \$210,034
  
- Total Project Cost Phase I & II - \$385,714





Advertiser: Lenoir Public Works  
Rep: Nathan Rathjen - Jamestown  
Date: March 31, 2016  
Design/Production: Mike Laliberte

12" x 18" painted bulletin • 1" = 3"  
Structure # \_\_\_\_\_  
Extension(s) cost: \_\_\_\_\_  
Other production costs: \_\_\_\_\_  
Approved by \_\_\_\_\_

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**CITY OF LENOIR**

**COUNCIL ACTION FORM**

I. **Agenda Item:** VI. B.1. Resolution Accepting the NC Clean Water Management Trust Fund (CWMTF) Grant for a Conservation Easement on the Lenoir Watershed.

II. **Background Information:** The NC CWMTF Board of Trustees approved the purchase of a conservation easement on the Lenoir Watershed tract via a bargain sale with the City for a grant award of up to the \$755,993. Per the award, this project involves a total of approximately 568.36 acres (minus approximately 5.0 acres to be excluded and used as a law enforcement training facility). The purpose of the state grant is for the purchase of conservation easement acquisition, and to preserve, enhance, restore, and maintain the natural features and resources of the property; provide habitat for native plants and animals; improve and maintain water quality; control runoff of sediment, and for recreational, scientific, educational, cultural and aesthetic purposes. The City would record a permanent, state-held conservation easement on the property and the conservation easement will be monitored by Foothills Conservancy of North Carolina through a separate agreement with the NC CWMTF.

A historical summary of the Lenoir Watershed, a grant contract, and maps of the area are enclosed for your information.

III. **Staff Recommendation:** If Council wishes to approve the NC CWMTF grant, please adopt the attached Resolution Accepting the NC Clean Water Management Trust Fund Grant for a Conservation Easement on the Lenoir Watershed.

IV. **Reviewed by:**

**City Attorney:**

**City Manager:**





CITY MANAGER  
SCOTT E. HILDEBRAN

CITY OF LENOIR  
NORTH CAROLINA

MAYOR  
JOSEPH L. GIBBONS

CITY COUNCIL  
K. P. EDMISTEN  
T. H. PERDUE  
J. I. PERKINS  
T. J. ROHR  
D. F. STEVENS  
C. D. THOMAS  
B. K. WILLIS

**RESOLUTION OF THE LENOIR CITY COUNCIL ACCEPTING  
THE CLEAN WATER MANAGEMENT TRUST FUND GRANT**

**WHEREAS**, the Clean Water Management Trust, a division of the NC Department of Natural and Cultural Resources, acting through its Board of Trustees, has authorized approval of the purchase of a conservation easement on approximately 568.36 acres (minus approximately 5.0 acres to be excluded and used as a law enforcement training facility) of land known as the “Lenoir Watershed”; and

**WHEREAS**, the Clean Water Management Trust Fund awarded the City of Lenoir up to \$755,993 for the acquisition of a conservation easement on the property via a bargain sale; and

**WHEREAS**, the Clean Water Management Trust Fund submitted a grant contract (CWMTF Project Number 2015-033) for consideration by the Lenoir City Council; and

**WHEREAS**, the grant will preserve, enhance, restore, and maintain the natural features of the property; provide habitat for native plants and animals; improve and maintain water quality, and control runoff of sediment and for recreational, scientific, educational, cultural and aesthetic purposes.

**NOW, THEREFORE, BE IT RESOLVED THAT THE LENOIR CITY COUNCIL** hereby accepts the grant from the NC Clean Water Management Trust Fund and agrees to perform the functions and obligations set out in the grant agreement.

Adopted this the 7<sup>th</sup> day of June, 2016.

SEAL

\_\_\_\_\_  
Joseph L. Gibbons, Mayor

ATTEST:

\_\_\_\_\_  
Shirley M. Cannon, City Clerk



## Historical Summary of Lenoir Watershed Property

The subject property (Lenoir Watershed) lies in Caldwell County, approximately four miles from the main corporate limits of Lenoir. The property covers 568.36 acres with access from Zack's Fork Road and was acquired by the City between August 16, 1923 and March 21, 1930. The land also contains the police firing range (located on the property since the 1990's).

In 2013, the City received an unsolicited offer of \$852,540 for the property. Due to concerns about relocation of the police firing range (costs, permitting & noise) and potential major residential development of the area, City Council retained Martin-McGill, Inc. to conduct a best use assessment for the Lenoir Watershed. A variety of options were explored. At the end, it was determined that the best alternative was for the City was to retain ownership of the property and to place the property under a conservation easement with the NC Clean Water Management Trust Fund (CWMTF) which was found to be the most appropriate conservation partner for the City. (FYI - costs to relocate the police firing range are from \$500,000 and up.)

Per City Council direction, an application to the NC CWMTF was submitted for their consideration of a conservation easement acquisition of the property, which permitted the preservation of the existing police firing range. In addition, City Council requested that the property be annexed into the City via action by the NC General Assembly. Annexation of the property occurred on June 30, 2015.

After lengthy consideration, in November 2015, the NC CWMTF Board of Trustees *provisionally* approved the purchase of a conservation easement on this tract with a grant award of up to \$755,993. In May 2016, the City was officially notified of the grant award for acquisition of a conservation easement on the property.

Per the award, this project involves a total of approximately 568.36 acres, minus approximately 5.0 acres to be excluded and used as a law enforcement training facility (firing range). The purpose of the state grant is for the purchase of conservation easement acquisition, and to preserve, enhance, restore, and maintain the natural features and resources of the property; provide habitat for native plants and animals; improve and maintain water quality; control runoff of sediment, and for recreational, scientific, educational, cultural and aesthetic purposes. The City would record a permanent, state-held conservation easement on the property and the conservation easement will be monitored by Foothills Conservancy of North Carolina through a separate agreement with the NC CWMTF.

According to the NC CWMTF, only passive recreational use is allowed on a watershed conservation tract. By way of illustration, such passive recreational uses may include non-commercial hunting, fishing, hiking, walking, scientific study, animal/plant observation, nature and environmental education, historic tours, photography, and any other purposes consistent with these accepted uses and the maintenance of the conservation value, subject to all applicable federal, state and local laws and regulations. It is their belief that heavier impact uses create greater erosion and minimizes their water quality conservation efforts.

All net proceeds received by the City from a NC CWMTF conservation easement may be used for any public purpose, with City Council ultimately making any final determination.

<b>PROJECT BUDGET Item</b>	<b>CWMTF Grant Amount</b>	<b>Matching Funds<sup>1</sup></b>	<b>Total Project Cost</b>
Property/Conservation Easement Acquisition	\$717,155	\$1,075,732	<b>\$1,792,887</b>
Transactional Costs <sup>2</sup>	\$10,000	\$7,000	<b>\$17,000</b>
Project Administration <sup>3</sup>	\$10,000	\$0	<b>\$10,000</b>
Stewardship	\$18,838	\$0	<b>\$18,838</b>
<b>Totals</b>	<b>\$755,993</b>	<b>\$1,082,732</b>	<b>\$1,838,725</b>
<b>Funding Percentages</b>	<b>42%</b>	<b>58%</b>	<b>100%</b>

**Budget Notes:**

1 Source and dollar amounts of matching funds: Bargain sale of easement and local funds from City of Lenoir (\$1,082,732).

2 Transactional costs include: surveys and legal descriptions; appraisals; Phase I Environmental Site Assessment; legal fees and closing costs; title insurance; recording fees; ad valorem taxes; and baseline documentation report.

3 If you are requesting Project Administration reimbursement or demonstrating Project Administration match, you must submit itemized documentation of staff hours and hourly compensation rates (salary and fringe benefits) for time spent on Project Administration. Only staff time is reimbursable under this line item.

**STATE OF NORTH CAROLINA  
DEPARTMENT OF NATURAL AND CULTURAL RESOURCES  
CLEAN WATER MANAGEMENT TRUST FUND  
GRANT CONTRACT  
(FEE OR EASEMENT ACQUISITION – Local Government)**

**CWMTF PROJECT NUMBER: 2015-033**

**GRANTOR:** NC Clean Water Management Trust Fund (“Trust Fund” or “CWMTF”), a division of the Department of Natural and Cultural Resources, acting through its Board of Trustees solely in its official capacity pursuant to Part 41, Article 2, Chapter 143B of the North Carolina General Statutes (“N.C.G.S.”)

**CONTRACT ADMINISTRATOR:** Nancy Guthrie  
NC Clean Water Management Trust Fund  
1651 Mail Service Center  
Raleigh, NC 27699-1651  
Phone: 919-707-9126  
Email: [nancy.guthrie@ncdenr.gov](mailto:nancy.guthrie@ncdenr.gov)

**GRANT RECIPIENT:** City of Lenoir, a North Carolina Local Government Unit (“Grant Recipient” or “City”).

**CONTRACT ADMINISTRATOR:** Scott Hildebran  
City of Lenoir  
801 West Ave Northwest  
Lenoir, NC 28645  
Phone: 828-757-2200  
Email: [shildebran@ci.lenoir.nc.us](mailto:shildebran@ci.lenoir.nc.us)

**CONTRACT EFFECTIVE DATE:** \_\_\_\_\_ (the “Effective Date”)

**CONTRACT EXPIRATION DATE:** May 31, 2018 (the “Expiration Date”)

**DEADLINE FOR RECEIPT BY CWMTF OF REIMBURSEMENT/PAYMENT REQUESTS:** June 15, 2018 (the “Reimbursement Date”)

**GRANT AMOUNT:** up to \$755,993(the “Grant”)

**AWARD DATE:** November 20, 2015(the “Award Date”)

**THIS GRANT CONTRACT** (the “Grant Contract”) is made and entered into as of the Effective Date by and between the Trust Fund and the Grant Recipient (both sometimes hereinafter referred to individually as a “Party” or collectively as the “Parties”).

**WITNESSETH:**

**WHEREAS**, Grant Recipient has submitted to the Trust Fund an application requesting a grant of monies (hereinafter the “Grant Application”) to purchase some or all of that certain real property more particularly described on the attached Exhibit “A” (the “Property”), or to establish a conservation easement thereon (“Conservation Easement”).

**WHEREAS**, the Trust Fund is authorized by N.C.G.S. Chapter 143B, Article 2, Part 41 to acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses; to acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and drinking water supplies; to coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water quality; to restore previously degraded lands to reestablish their ability to protect water quality; to facilitate planning that targets reductions in surface water pollution; to finance innovative efforts, including pilot projects, to improve stormwater management, to reduce pollutants to improve water quality, and to research alternative solutions to the State’s water quality problems; to provide buffers around military bases or for State matching funds for the Readiness and Environmental Protection Initiative; to acquire land that represents the ecological diversity of NC; and to acquire land that contributes to the development of a balanced State program of historic properties.

**WHEREAS**, the Grant Recipient is a qualified applicant as defined in N.C.G.S. §143B-135.238(a).

**WHEREAS**, the acquisition of the Property in fee simple or acquisition of the Conservation Easement (the “Acquisition” or the “Project”) shall be for the purposes and according to the schedule set out in said Exhibit A, the specific details of the Project being set forth thereon. The Project shall be implemented pursuant to the budget set forth on the attached Exhibit “B.”

**WHEREAS**, the Trust Fund approved the Grant Recipient’s application at its meeting on the Award date, and is willing to make the Grant to the Grant Recipient pursuant to the terms and conditions set forth in this Grant Contract.

**WHEREAS**, the Parties desire to enter into this Grant Contract and intend to be bound by its terms.

**NOW, THEREFORE**, for and in consideration of the Grant, the mutual promises each to the other made, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties mutually agree as follows:

- 1. Grant Documents.** The documents described below are hereinafter collectively referred to as the “Grant Documents.” In the case of conflict, specific and special terms, conditions and requirements shall have precedence over general terms, conditions and requirements. Upon

execution and delivery of the Grant Contract, it and the other Grant Documents and items required hereunder will constitute a valid and binding Grant Contract (“Grant Contract” or “Contract”) between the Parties, enforceable in accordance with the terms thereof. The Grant contract constitutes the entire Grant Contract between the Parties, superseding all prior oral and written statements or Grant Contracts. This Grant Contract shall not be amended orally or by performance but only through a written Amendment duly executed by the Parties. Only changes deemed non-material in type at the discretion of the Trust Fund’s Executive Director may be made to the Grant Contract without the consent of the Trust Fund’s Board of Trustees.

The Grant Documents consist of:

- a. Cover Sheet
- b. Grant Contract
- c. Exhibit A – Project Summary
- d. Exhibit B – Project Budget
- e. Exhibit C – Pre-Funding Checklist
  - a. Exhibit C.1. – *does not apply*
  - b. Exhibit C.2 – Assurances for Non-Federally Funded Contracts
- f. Exhibit D – Pre-Closing Checklist
- g. Exhibit E – Post-Closing Checklist
- h. Exhibit F – Payment Checklist
- i. Exhibit G – Quarterly Report and Final Report Form
  - a. Exhibit G.1 – Quarterly Report
  - b. Exhibit G.2 – Final Report
- j. Exhibit H – Additional Definitions
- k. Exhibit I – General Terms and Conditions
- l. Exhibit J – *does not apply*, and
- m. Exhibit K – CWMTF Invoice Form
- n. Exhibit L – Statement of State Time
  - a. Exhibit L.1 – Statement of Staff Time – Project Administration
  - b. Exhibit L.2 – Statement of Staff Time – Baseline Document Report (BDR).
- o. Exhibit M – Confirmation of Grant Funds Paid to Grantee Vendors

2. **Purpose.** The purpose of the Grant is for purpose(s) outlined in Exhibit A. Grant funds may not be used for the purchase of any improvements or removal of debris on the Property or for any other purpose not set forth herein.

3. **Trust Fund’s Duties.** Subject to the appropriation, allocation, and availability to CWMTF of Grant funds for the Project, CWMTF hereby agrees to pay the Grant funds to the Grant Recipient in accordance with the payment procedures set forth herein. Neither of the parties is obligated to perform and the Grant Contract is not a binding agreement on all parties until all parties have executed the Grant Contract (inclusive of all exhibits), the Department of Natural and Cultural Resources has notified the Trust Fund that funds for the Grant contemplated hereunder have been encumbered, and the Grant Recipient has received its counterpart original of the Grant Contract, fully executed and with all dates inserted where indicated on the cover page to the Grant Contract.

4. **Grant Recipient’s Duties.** The Grant Recipient shall carry out the Project pursuant to the terms of this Grant Contract.

5. **Contract Period.** The Trust Fund's commitment to disburse Grant funds under this Grant Contract shall cease on the Reimbursement Date. It is the responsibility of the Grant Recipient to ensure that the Project is completed by the Expiration Date and that all costs to be reimbursed have been submitted to the Trust Fund by the Reimbursement Date. After the Expiration Date, any Grant monies remaining under this Grant Contract will no longer be available to the Grant Recipient except to pay proper invoices for budgeted costs incurred by the Expiration Date and which are submitted to the Trust Fund no later than the Reimbursement Date. **The burden is on the Grant Recipient to request an extension of the Grant Contract if the Grant Recipient anticipates that the Project will not be completed by the Expiration Date.** The request for an extension must be a formal one made in a writing addressed to the Trust Fund's Executive Director, giving complete details of the reasons why an extension is needed, and proposing a new expiration date for the Grant Contract. This written request must be submitted to and received by the Trust Fund's office at least **60 days** prior to the Expiration Date. Approval of any requested extension is at the sole discretion of the Trust Fund. The approval or denial of the requested extension will be based upon Project performance, among other factors. **The Trust Fund is not obligated to send reminders or other notification of an approaching Expiration Date.**

6. **Pre-Funding Requirements.** Prior to the disbursement of any Grant monies under this Grant Contract, the Grant Recipient shall deliver to the Trust Fund all of the documentation described on Exhibits C, C.1 and C.2.

7. **Payment of Grant Funds.**

- (a) Grant monies are awarded based on a commitment of matching funds to the project. CWMTF expects that its final portion of the total project cost will be no more than the percentage of funds originally committed to in the Grant Contract. As funds are requested from CWMTF, the Grant Recipient should be demonstrating expenditure of match.
- (b) The Acquisition and the recording of the General Warranty Deed, Conservation Easement and/or Assignment, as may be applicable, shall be referred to herein as the "Closing." Grant monies may be paid at Closing provided Grant Recipient has complied with the terms of Section 6 above and with all pre-Closing requirements as set forth in Exhibit D.
- (c) Grant Recipient may be reimbursed for itemized Project expenses prior to or subsequent to Closing, at the Trust Fund's discretion, upon submittal of the following documentation:
  - i. A copy of the document for which reimbursement is requested (i.e. a survey, appraisal, etc.), if applicable.
  - ii. A copy of invoices or other documentation submitted to the Grant Recipient showing the itemized expenses. Grant Recipient shall identify any sales tax for which reimbursement has been or will be obtained from the State Department of Revenue, and such monies shall not be reimbursed.
  - iii. A written report containing a detailed narrative of the progress of the Project, as set forth on Exhibit G.

- iv. A signed cover letter requesting reimbursement and stating that the Grant Recipient complied with all terms of this Grant Contract in incurring the expenses.
  - v. A completed invoice in the form set forth in Exhibit K.
- (d) CWMTF may, upon request, disburse Grant funds prior to actual Project payments by the Grant Recipient, if costs are documented by unpaid third-party invoices. In order for CWMTF to pay Grant funds to the Grant Recipient based upon an unpaid third-party invoice, the Grant Recipient shall submit the following documentation:
- i. A copy of the document for which reimbursement is requested (i.e. a survey, appraisal, etc.), if applicable.
  - ii. A copy of invoices or other documentation submitted to the Grant Recipient showing the itemized expenses. Grant Recipient shall identify any sales tax for which reimbursement has been or will be obtained from the State Department of Revenue, and such monies shall not be reimbursed.
  - iii. A written report containing a detailed narrative of the progress of the Project, as set forth on Exhibit G.
  - iv. A signed cover letter requesting reimbursement and stating that the Grant Recipient complied with all terms of this Grant Contract in incurring the expense, reviewed and has approved the unpaid third-party invoice, and certifies to the Trust Fund that the unpaid third-party invoice will be paid within three (3) working days of receipt of the disbursed Grant funds.
  - v. A completed invoice in the form set forth in Exhibit K.

The Grant Recipient will confirm in writing to the Trust Fund that the required payment has been made within thirty (30) days of payment.

- (e) The Trust Fund agrees to pay or reimburse the Grant Recipient only for reasonable costs actually incurred by the Grant Recipient that do not exceed the Grant funds budgeted for the Project as shown in Exhibit B.
- (f) Grant funds will not be paid or reimbursed during the first week of January, the last three weeks of June, the first week of July, and the last two weeks of December.
- (g) The Grant Recipient may seek reimbursement for allowable Project costs incurred after the Award Date notwithstanding the fact that those costs may have been incurred prior to the Effective Date.
- (h) The Fund agrees to reimburse the Grant Recipient for Project administration costs consisting only of costs of labor for administrative work conducted exclusively on this Project. The Grant Recipient's requests for such reimbursement shall be made under the Project administration line item of Exhibit B and shall conform to the following:
  - i. Costs allowable under the Project administration line item include only costs of labor needed to comply with the general conditions of the Grant Contract (e.g.,

preparing progress reports, payment requests, the Project final report, negotiating the Grant Contract, and negotiating the Conservation Easement). Allowable Project administrative labor costs may include any of the following:

- a. Compensation to the Grant Recipient's employees, plus the Grant Recipient's cost of paying benefits on such compensation (i.e., employees' pay times an audited or auditable benefits multiplier);
  - b. Compensation to Grant Recipient's independent contractors (e.g., temporary office support), payable at the Grant Recipient's actual cost, without application of a benefits multiplier; and/or
  - c. Cost of professional services contracted by the Grant Recipient (e.g., engineering firm or consultant), payable at the Grant Recipient's actual cost.
- ii. (ii) Costs of any other work described in the Project's scope of work as defined on Exhibit A are not allowable under the Project administration line item.

8. **Reversion of Unexpended Grant Funds.** Any unexpended Grant funds shall revert to the Trust Fund upon termination of this Grant Contract.

9. **Reporting Requirements.** Beginning three (3) months after the Effective Date, the Grant Recipient must submit to the Trust Fund a quarterly report on the status of the Project, on the form attached as Exhibit G. In addition, N.C.G.S. Chapter §143C, Article 6, Part 3 and Title 09, Subchapter 3M of the North Carolina Administrative Code (N.C.A.C.) require each Grant Recipient of State funds to comply with certain reporting requirements as further described on Exhibit J, and to further provide certain documentation as set forth on Exhibits C, C.1 and C.2.

10. **Notice; Contract Administrators.** All notices, requests or other communications permitted or required to be made under this Grant Contract or the other Grant Documents shall be given to the respective Contract Administrator. Notice shall be in writing, signed by the Party giving such notice. Notice shall be deemed given three (3) business days next following the date when deposited in the mail, postage prepaid, registered or certified mail, return receipt requested.

11. **Signature Warranty.** Each individual signing below warrants that he or she is duly authorized to sign this Grant Contract for the respective Party and to bind said Party to the terms and conditions of this Grant Contract.

IN WITNESS WHEREOF, Grant Recipient and the Fund have executed this Grant Contract in one (1) original as of the Effective Date. One original shall be retained by the Fund and a copy of the original will be sent to the Grant Recipient. If there is any controversy among the documents, the document on file in the Fund's office shall control.

**GRANT RECIPIENT:**

**CITY OF LENOIR, a unit of local government**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Corporate Seal)  
Attest:

\_\_\_\_\_  
(Asst.) Secretary

**TRUST FUND:**

**NORTH CAROLINA CLEAN WATER MANAGEMENT  
TRUST FUND**

By: \_\_\_\_\_ (SEAL)  
Name: Troy Kickler, Ph.D.  
Title: Chairman, Board of Trustees

By: \_\_\_\_\_ (SEAL)  
Name: Bryan M. Gossage  
Title: Executive Director

## **EXHIBIT A PROJECT SUMMARY**

### **Legal Description of Property:**

Being approximately 568.36 acres of land including 6 parcels, the City of Lenoir Watershed in Lenoir, North Carolina, is titled in the name of the City of Lenoir, and is recorded in:

- Deed Book 125 at Page 191 dated January 12, 1925 +/- 79.28 acres from T.H. and Mae Broyhill (Caldwell Furniture Company) to the City of Lenoir,
- Deed Book 125 at Page 182 dated December 10, 1924 +/- 206.49 acres from J.M. Bernhardt to the City of Lenoir,
- Deed Book 125 at Page 180 dated December 10, 1924 +/- 207.89 acres from J.M. and Ellen Bernhardt and George and Frances Harper to the City of Lenoir,
- Deed Book 102 a Page 267 dated August 14, 1923 +/- 43.9 acres from Andrew Morrow and Susan B. Absher to the City of Lenoir,
- Deed Book 102 at Page 262 dated August 14, 1923 +/- 13.8 acres from Andrew Morrow to the City of Lenoir, and
- Deed Book 144 at Page 558 dated March 21, 1930 +/- 18,265 ft<sup>2</sup> (approx. .42 acres) from Mary Mitchell to City of Lenoir, in the Office of the Register of Deeds for Caldwell County North Carolina.

### **Project Description:**

Grant Recipient originally requested \$755,993 of a total cost of \$1,838,724 to purchase a Conservation Easement on the Property. At its meeting in Raleigh, N.C. on November 20, 2015, the Trust Fund's Board of Trustees awarded an amount of **UP TO SEVEN HUNDRED FIFTY FIVE THOUSAND NINE HUNDRED NINETY THREE DOLLARS (UP TO \$755,993)** for the Acquisition of the Property.

**Purpose:** The purpose(s) of the Grant is for the Acquisition and to preserve, enhance, restore, and maintain the natural features and resources of the Property, to provide habitat for native plants and animals, to improve and maintain water quality, and to control runoff of sediment and for recreational, scientific, educational, cultural and aesthetic purposes

### **Scope of Work:**

This project involves a total of approximately 568.36 acres minus approximately 5 acres to be excluded and used as a law enforcement training facility. The remaining approximately 563 acres encompass portions of Zacks Fork Creek, Green Mountain/Zacks Fork natural area, and several natural communities.

Before the expiration date of the Grant Contract, funds from CWMTF will be used to purchase of a conservation easement at a bargain sale on approximately 563 acres.

The City will record a permanent, state-held conservation easement on the Property and the conservation easement will be monitored by Foothills Conservancy of North Carolina through a separate agreement with the Fund.

All Property acquisition value (whether purchased, realized from a bargain sale or donated) must be accounted for in the value approved by the NC State Property Office.

CWMTF Grant funds will reimburse the City toward the Conservation Easement value of the Property (minus any discounts accounted for in the budget such as from a bargain sale and/or donated acreage value of the Property) as outlined in the budget and as agreed to in the terms of this Grant Contract as long as the Conservation Easement purchase has occurred after the Award Date of the Grant.

Should the total property value as approved by the NC State Property Office be less than budgeted in Exhibit B, or should fewer acres be purchased, CWMTF will only reimburse in proportion to total matching funds as budgeted in Exhibit B.

**Conditions:**

1. The portion of the Property to be used for law enforcement training center will be surveyed and excluded from the Project.
2. No value of the excluded portion for the law enforcement training center will be used as matching funds or be used to calculate reimbursement from the Fund.
3. The state-held conservation easement will allow for use as emergency water supply in the future.
4. The existing dam and associated infrastructure will be excluded from the state-held easement area and will be the responsibility of the City. The City is not required to actively maintain the dam and associated infrastructure so long as it is not causing damage to in the watershed downstream.

**Schedule:**

1. The Project must be completed by the **Expiration Date**. The Trust Fund will not reimburse the Grant Recipient for costs incurred after the Expiration Date.
2. Submit all invoices and final reports by the **Reimbursement Date**. The Trust Fund will not accept or process invoices received after the Reimbursement Date.

**EXHIBIT B  
PROJECT BUDGET**

<b>Item</b>	<b>CWMTF Grant Amount</b>	<b>Matching Funds<sup>1</sup></b>	<b>Total Project Cost</b>
Property/Conservation Easement Acquisition	\$717,155	\$1,075,732	\$1,792,887
Transactional Costs <sup>2</sup>	\$10,000	\$7,000	\$17,000
Project Administration <sup>3</sup>	\$10,000	\$0	\$10,000
Stewardship	\$18,838	\$0	\$18,838
<b>Totals</b>	<b>\$755,993</b>	<b>\$1,082,732</b>	<b>\$1,838,725</b>
<b>Funding Percentages</b>	<b>42%</b>	<b>58%</b>	<b>100%</b>

**Budget Notes:**

<sup>1</sup> Source and dollar amounts of matching funds: Bargain sale of easement and local funds from City of Lenoir (\$1,082,732).

<sup>2</sup> Transactional costs include: surveys and legal descriptions; appraisals; Phase I Environmental Site Assessment; legal fees and closing costs; title insurance; recording fees; ad valorem taxes (Grant Recipient's portion); and baseline documentation report.

If you are requesting reimbursement for your own organization's work on the baseline documentation report, you must submit documentation of staff hours and hourly compensation rates (salary and fringe benefits) for time spent on the report plus actual mileage.

<sup>3</sup> If you are requesting Project Administration reimbursement or demonstrating Project Administration match, you must submit itemized documentation of staff hours and hourly compensation rates (salary and fringe benefits) for time spent on Project Administration. Only staff time is reimbursable under this line item.

**THE UNDERSIGNED HAS REVIEWED AND APPROVED THE BUDGET ON BEHALF OF THE GRANT RECIPIENT THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 201\_.**

**SIGNATURE:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**EXHIBIT C  
PRE-FUNDING CHECKLIST**

**EXHIBIT C.1**  
*Does not apply to this grant contract.*

## EXHIBIT C.2

### ASSURANCES FOR NON-FEDERALLY FUNDED CONTRACTS

The Grant Recipient acknowledges and certifies the following:

1. **DEBARMENT AND SUSPENSION** - To the best of its knowledge and belief, that the Grant Recipient and its principals:
  - (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State, or local government agency;
  - (b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - (d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
2. **LOBBYING** - To the best of the Grant Recipient's knowledge and belief, that:
  - (a) No Federal, State or local government appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal, State or local government agency; a member of Congress, North Carolina's General Assembly or local government body; an officer or employee of Congress, North Carolina's General Assembly or local government body; or an employee of a member of Congress, North Carolina's General Assembly or local government body in connection with the awarding of any Federal, State or local government contract, the making of any Federal, State or local government grant, the making of any Federal, State or local government loan, the entering into of any Federal, State or local government cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal, State or local government contract, grant, loan, or cooperative agreement.
  - (b) If any funds other than Federal, State or local government appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal, State or local government agency; a member of Congress, North Carolina's General Assembly or local government body; an officer or employee of Congress, North Carolina's General Assembly or local government body; or an employee of a member of Congress,

North Carolina's General Assembly or local government body in connection with the Federal, State or local government contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

3. **DRUG-FREE WORK PLACE REQUIREMENTS** – The Grant Recipient will comply by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grant Recipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing a drug-free awareness program to inform employees about -
  - (1) The dangers of drug abuse in the workplace;
  - (2) The Grant Recipient's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a) above;
- (d) Notifying the employee in the statement required by paragraph (a), above, that, as a condition of employment under the grant, the employee will -
  - (1) Abide by the terms of the statement; and
  - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- (e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2), above, from an employee or otherwise receiving actual notice of such conviction;
- (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), above with respect to any employee who is so convicted -
  - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f), above.

4. **EQUAL EMPLOYMENT** – The Grant Recipient will comply with the provisions of the Equal Employment Practices Act set out in N.C.G.S. Chapter 143, Article 49A.
5. **LABOR STANDARDS** – The Grant Recipient will comply, as applicable, with the provisions of the Wage and Hour Act, Occupational Safety and Health Act of North Carolina, Controlled Substance Examination Regulation, Retaliatory Employment Discrimination, Safety and Health Programs and Committees, Workplace Violence Prevention, and other applicable provisions of N.C.G.S. Chapter 95 regarding labor standards.
6. **COMPLIANCE WITH APPLICABLE LAW** – The Grant Recipient will comply with all applicable requirements of all other federal, state and local government laws, executive orders, regulations and policies governing this program.

As the duly authorized representative of the Grant Recipient, I hereby certify that the Grant Recipient will comply with the above certifications (Items 1 through 6):

1. Grant Recipient Name & Address:

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2. Typed Name and Title of Authorized Representative:

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3. Signature of Authorized Representative:

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4. Date:

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## EXHIBIT D

### PRE-CLOSING CHECKLIST ACQUISITION OF FEE SIMPLE AND CONSERVATION EASEMENT

**The following documents must be submitted for approval forty-five (45) business days before preferred Closing date. A final Closing date should not be set until Grant Recipient has received authorization to Close.**

1. **Appraisal.** Two (2) appraisals are required if the fee simple value or the easement value of the Property is greater than \$500,000. If the value of the Property exceeds \$500,000, contact the State Property Office (“SPO”) regarding instructions on ordering the second appraisal.

Appraisals must meet the following criteria:

- Appraisals must be performed by a North Carolina general certified appraiser and all appraisals must be summary appraisals in narrative form in accordance with Uniform Standards of Professional Appraisal Practice.
- The appraisal should reflect the market value of the Property or the Conservation Easement.
- Appraisals of the conservation easement should reflect the “before and after” approach, indicating the value before and after the easement was recorded on the Property.

Appraisals are subject to review by the SPO, and no grant funds will be disbursed until the appraised value has been approved in writing by the SPO.

2. **Conservation Easement(s) or Declaration of Restrictive Covenants.** The State-owned Conservation Easement through CWMTF and the match Conservation Easement, where applicable, shall convey such rights and establish such restrictions on the use of the Property as may be deemed suitable by CWMTF to accomplish the purposes set out in Exhibit A. **Any changes to the standard template for the State-owned Conservation Easement should be highlighted for review.**

3. **Assignment of Conservation Easement.** The Assignment of Conservation Easement executed by the Grant Recipient to the State as assignee shall be in the form satisfactory to the CWMTF. The Grant Recipient shall retain the non-exclusive rights to monitor, observe, and access the Property and the Conservation Easement area.

4. **General Warranty Deed to Grant Recipient (Fee Simple Acquisitions).** The description of the General Warranty Deed to the Grant Recipient must either be metes and bounds or refer to a recorded map or plat. The General Warranty Deed must indicate that the Grant Recipient will own and possess fee simple title to the Property, free and clear of any liens, charges, or encumbrances that would materially

affect the use of the Property as set forth in the Grant Contract and the Conservation Easement.

5. **Title Insurance.**

(a) **For Fee Acquisition:** The Title Policy must consist of a standard commitment on the form required by the American Land Title Association to issue a title insurance policy and show that title to the Property is vested in fee in the owner of the Property and insure the Conservation Easement interest in the State. Neither the Title Commitment nor the Title Policy shall contain an exception as to matters of survey. They shall provide for the following:

- Afford coverage to the State for the portion of the Grant used to purchase the Property; and
- Provide affirmative coverage for access over, upon, and across the Property to and from the Conservation Easement area, and from the Property to a publicly-maintained road; and
- Provide that a Closing Protection Letter will be issued to the CWMTF pursuant to NCGS Chapter 58, Article 26; and
- Indicate whether the Property is subject to any liens and defects.

(b) **For Conservation Easement Acquisitions:** A Title Commitment must be followed after closing by a Title Policy showing that title to the Property is vested in the owner of the Property and insure the Conservation Easement interest. The Title Policy must be issued without exception as to matters of survey, and shall provide for the following:

- Afford coverage to the State for the portion of the Grant used to purchase the Conservation Easement; and
- Provide affirmative coverage for access over, upon and across the Property, to and from the Conservation Easement area, and from the Property to a publicly-maintained road; and
- Provide that a Closing Protection Letter will be issued to the CWMTF pursuant to N.C.G.S. Chapter 58, Article 26; and
- Indicate whether the Property is subject to any liens and defects.

6. **Survey.** Any survey of the Property and/or the Conservation Easement obtained must meet the following criteria. Any deviation from these criteria must be approved by CWMTF staff in advance.

- Submit the survey to CWMTF for review prior to recordation.
- The configuration of any survey should simplify the project boundary and reduce the number of corners where new lines will be created. A strong preference for longer lines must prevail over shorter lines when considering the placement of lines and corners. Wetland delineations and measurements from the top of bank should serve as tools to help draw the conservation easement boundary, but should rarely be used as the boundary itself.

- All existing easements or rights-of-way that affect the project must be shown on the plat. When pre-existing easements and rights-of-way run parallel to the outer edge of the conservation easement, make the boundaries contiguous and exclusive.
- All surveys shall meet the Standards of practice for Land Surveying the North Carolina as described in Title 21, Chapter 56 of the North Carolina Administrative Code.
- The Provider shall show the existing property corners, easements, dwellings, roadways, and waterbodies on the survey plat.
- The Provider shall set 5/8” rebar 30” in length and 3-1/4” aluminum caps on all easement corners.
- All surveys shall be tied to the North Carolina State Plane Coordinate System NAD83 (NSRS2007) per the Standards of Practice for Land Surveying in North Carolina, Title 21 NCAC 56.1602(g) regardless of whether the property is or is not within 2,000 feet of a geodetic monument and with application of 21-56.1607 GLOBAL POSITIONING SYSTEM SURVEYS or 21-56.1603 CLASSIFICATION OF BOUNDARY SURVEYS.
- The title block shall contain Property Identification Number, as assigned by the county where the Property is located, the Grant Contract Number, the name of the landowner, location, date surveyed, scale of the drawing, name, address, registration number and seal of the surveyor. A table of coordinates (northing and easting) for all property corners must be included on the plat. All corners shall be numbered consecutively starting with number 1. If multiple parcels comprise a single project, assign a unique number to each property corner within the project.
- The text metes and bounds description for each tract of the surveyed areas shall be provided on standard letter sized paper and titled “Exhibit B”.
- The survey must specify the length of any of the Property or Conservation Easement boundaries shared with surface waters and the total length of stream buffered, if applicable.
- If the Property has no public road frontage, show a right of access to the Property and Conservation Easement area.

7. **Phase I Environmental Site Assessment (Optional).** The Phase I Environmental Site Assessment (“ESA”) shall conform to the requirements of the latest version of American Society for Testing and Materials (“ASTM”) Standard E-1527. CWMTF reserves the right to require the Grant Recipient to remedy any concerns prior to or subsequent to Closing. CWMTF must be included as an authorized user of the ESA. Provide one (1) copy of the report.

8. **Baseline Documentation Report (if necessary for future monitoring).** Whether a Baseline Documentation Report is required will be the sole decision of CWMTF and based on an evaluation of the Project’s management and monitoring

requirements. The Baseline Documentation Report should be in the format set forth in CWMTF Stewardship Guidelines, available on the CWMTF website.

9. **Settlement Statement.** Settlement costs must be substantiated with invoices.

**EXHIBIT E**  
**POST-CLOSING CHECKLIST**

Within forty-five (45) business days of Closing, the following documents must be submitted to CWMTF on a CD or USB-drive. A paper copy of the recorded survey and Conservation Easement is also required.

1. Title Policy -.pdf format
2. Recorded Survey - .pdf format and two (2) full-sized and two (2) 8.5x11 inch surveys in paper copy
3. Easement Boundaries of CWMTF Conservation Easement area – ESRI shapefile and .dwg format. The shapefile must be created from the survey data – either taken from geo-referenced CAD files or entered directly from coordinate geometry.
4. Recorded Conservation Easement or Declaration of Restrictive Covenants- .pdf format and one (1) paper copy with original signature
5. General Warranty Deed - .pdf format
6. Signed Final Baseline Documentation Report (if required) - .pdf format
7. Fully executed settlement statement - .pdf format
8. Final Project Report, Exhibit G.2

**EXHIBIT F  
PAYMENT CHECKLIST**

**To request funds from CWMTF, the documents listed below must be submitted in paper copy to CWMTF with each pay request. CWMTF staff will complete the CWMTF Administrator portion.**

1	<input type="checkbox"/>	Pre-disbursement documents (Executed Contract, Exhibit C) have been submitted; OR are attached.
2	<input type="checkbox"/>	Signed Cover Letter requesting reimbursement and confirming compliance with all terms of the Contract.
3	<input type="checkbox"/>	The Exhibit K, CWMTF Invoice Form is complete and signed by the GRANT RECIPIENT. a) Budget on the Invoice Form matches the original budget or a CWMTF approved revision. b) "Previously Spent" numbers have been accurately carried forward from the prior request. c) All lines of the Invoice Form are totaling correctly. d) All totals spent to date on this current request are still within each budgeted line item. e) Cost is being allocated to CWMTF and to matching funds in correct proportion to the original funding commitment as outlined in the grant contract budget.
4	<input type="checkbox"/>	All invoices and supporting documentation to substantiate costs as reported on the Invoice Form are attached and the following conditions have been met: a) All invoices are attached for both CWMTF funds AND matching funds expenditures. b) All invoices are dated after the CWMTF Award Approval Date. c) All invoices are FROM vendors/contractors TO the Grant Recipient. d) Statement of Staff Time on CWMTF form is attached if staff time is reported for reimbursement or match e) Statement of Staff Time – BDR on CWMTF form is attached if staff time is reported for reimbursement of match for work on Baseline Documentation Report
5	<input type="checkbox"/>	All documents (e.g. survey, appraisal, BDR) for which CWMTF funds OR matching funds expenditure are requested are submitted with payment request.
6	<input type="checkbox"/>	<input type="checkbox"/> Current Progress Report; OR <input type="checkbox"/> Final Report is attached.
7	<input type="checkbox"/>	IF CLOSING COSTS ARE REQUESTED: <input type="checkbox"/> Settlement statement attached and back-up invoices for any closing costs are included. <input type="checkbox"/> Memo from State Property Office approving acquisition value. <input type="checkbox"/> Memo from State Property Office approving closing. <input type="checkbox"/> STATE AGENCIES: State Property Office check request is attached. <input type="checkbox"/> STATE AGENCIES: Journal Voucher, if required

Signature \_\_\_\_\_

Date \_\_\_\_\_

**CWMTF ADMINISTRATOR**

Date Submitted: \_\_\_\_\_ Requested Amount: \_\_\_\_\_ Amount Approved \_\_\_\_\_

- Scope of work review.
- Any variance in scope of work is documented on decision matrix form.
- Stewardship funds are withheld from payment and will be transferred to State Endowment.

Comments:

Signature \_\_\_\_\_

Date \_\_\_\_\_

**EXHIBIT G**  
**QUARTERLY REPORT and FINAL REPORT FORM**

**EXHIBIT G.1**  
**QUARTERLY REPORT**  
**Acquisition Grants**

*Submit every 3 months and with each payment request.*

Grant #: \_\_\_\_\_ Tract Name: \_\_\_\_\_  
Report Period: from \_\_\_\_\_ to \_\_\_\_\_ Date Submitted \_\_\_\_\_  
Effective Date of Contract \_\_\_\_\_ End Date of Contract \_\_\_\_\_

Grant Recipient \_\_\_\_\_  
Primary Contact \_\_\_\_\_  
Address \_\_\_\_\_  
Phone Number \_\_\_\_\_ Email address \_\_\_\_\_  
*Has any of the contact information changed?*

Is there a pay request attached?

Project Schedule (check one)  
on schedule                      delayed                      canceled                      complete

**Narrative Project Report:** *provide a complete and detailed narrative status report on the Project for the current reporting period. Include all progress made, problems encountered, and resolution to those problems. Attach any relevant photographs or documentation that helps demonstrate the status of the Project or problems encountered. Attach additional pages as necessary.*

**EXHIBIT G.2**  
**FINAL REPORT**  
**Acquisition Grants – Non Profits and Local Government**

Grant #: \_\_\_\_\_ Grant Recipient & Tract Name: \_\_\_\_\_

Conservation Easement or Declaration of Restrictive Covenants was recorded on \_\_\_\_\_ (date)  
 in \_\_\_\_\_ County, Deed Book \_\_\_\_\_ Page \_\_\_\_\_

Acres under state-held (CWMTF) Conservation Easement \_\_\_\_\_  
 Acres under another easement/restrictions \_\_\_\_\_ held by \_\_\_\_\_  
 Total acres under easement or restrictive covenants \_\_\_\_\_

Acres to be monitored using CWMTF stewardship funds \_\_\_\_\_

I, in my official capacity as \_\_\_\_\_ in relation to the Grant Recipient, acknowledge that all work was completed within the contract period and no more invoices will be submitted. I, in my official capacity, further acknowledge that all of the final documents listed below have been submitted to CWMTF. I understand CWMTF will unencumber any remaining funds and transfer stewardship endowment funds to the state treasurer, if applicable.

Signature \_\_\_\_\_ Date \_\_\_\_\_

		Document	# copies	format	date submitted
1	<input type="checkbox"/>	Title Policy	1	.pdf	
2	<input type="checkbox"/>	Recorded Survey (full-sized and 8.5x11 inch survey)	2 1	paper .pdf	
3	<input type="checkbox"/>	Easement Boundaries of CWMTF easement area	1 1	ArcGIS shapefile .dwg	
4	<input type="checkbox"/>	Recorded Conservation Easement	2 1	paper .pdf	
5	<input type="checkbox"/>	General Warranty Deed (fee simple acquisitions)	1	.pdf	
6	<input type="checkbox"/>	Signed Final Baseline Documentation Report (for easements to be monitored by non-profit organizations)	1	.pdf	
7	<input type="checkbox"/>	Fully executed settlement statement	1	.pdf	

Please submit all electronic files on a CD or USB drive – do not email.

## EXHIBIT H ADDITIONAL DEFINITIONS

The definitions set forth in N.C.G.S. Chapter 143C shall apply to this Grant Contract except as otherwise provided herein below. The definitions provided by 09 N.C.A.C. 03M shall apply to this Grant Contract to the extent they are not in conflict with N.C.G.S. Chapter 143C or this Grant Contract. In the event of conflict, N.C.G.S. Chapter 143C shall control over 09 N.C.A.C. 03M, and this Grant Contract shall control over N.C.G.S. Chapter 143C.

- (1) "Grant" and "grant funds" as defined in N.C.G.S. §143C-6-23 means State funds disbursed as a grant by a State agency; however, the terms do not include any payment made by the Medicaid program, the State Health Plan for Teachers' and State Employees, or other similar medical programs. For purposes of this Grant Contract, both "grant" and "grant funds" shall be referred as the Grant which is provided to the Grant Recipient to carry out the objectives of the Grant Contract.
- (2) "Grantee" as defined in the N.C.G.S. § 143C-6-23 means a non-State entity that receives State funds as a grant from a State agency but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. For purposes of this Grant Contract however, a "grantee" as defined in N.C.G.S. §143C-6-23 shall be referred to as the Grant Recipient and the term "grantee" shall mean and refer to an entity that is the recipient of an interest in real property.
- (3) "Grantor" means an entity that provides resources, generally financial, to another entity in order to achieve a specified goal or objective. For purposes of this Grant Contract, the Grantor is Clean Water Management Trust Fund.
- (4) "State agency" shall mean a unit of the executive, legislative, or judicial branch of State government, such as a department, institution, division, commission, board, council, or The University of North Carolina. The term does not include a unit of local government or a public authority. For purposes of this Grant Contract, both the North Carolina Department of Natural and Cultural Resources and the Clean Water Management Trust Fund are State agencies.
- (5) "Subgrantee" as defined in N.C.G.S. §143C-6-23 means a non-State entity that receives State funds as a grant from a grantee, as defined in N.C.G.S. § 143C-6-23, or from another subgrantee, but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. For purposes of this Grant Contract however, a "subgrantee" shall be referred to as a "sub-grant recipient."

**EXHIBIT I  
GENERAL TERMS AND CONDITIONS**

A. Affirmative Covenants

1. Title. If the property right to be acquired is fee title, Grant Recipient shall acquire good and marketable title to the Property free and clear of any liens, other charges or encumbrances that would materially affect the use of the Property as intended under this Grant Contract. The General Warranty Deed shall convey such rights and establish such restrictions on use as may be deemed by the Trust Fund or the State suitable to accomplish the purposes set out in Exhibit A. Outstanding mineral rights are not an acceptable exception to title unless specifically approved by the Trust Fund's Board of Trustees.

2. Conservation Easement. If the property right to be acquired is a conservation easement, Grant Recipient shall obtain a valid and enforceable Conservation Easement, and assure that the Seller has possession and ownership, free and clear of any liens, other charges or encumbrances that would materially affect the use of the Property as intended under the Conservation Easement. The Grant Recipient will be the holder of the Conservation Easement and will then immediately assign the Conservation Easement to the State by and through the Trust Fund or continue to hold the Conservation Easement, based on CWMTF's evaluation of the Project's management or monitoring requirements. Whether the Grant Recipient will immediately assign or hold the Conservation Easement will be the sole decision of CWMTF. The Conservation Easement shall convey such rights and establish such restrictions on use as may be deemed by the Trust Fund or the State suitable to accomplish the purposes set out in Exhibit A and indemnifications satisfactory to the Trust Fund. Grant Recipient covenants that it will monitor the Property for compliance with the restrictions on use contained in the Conservation Easement, and will report any observed or suspected violations to the Trust Fund.

3. No Mitigation. Grant Recipient shall not use the Property or any portion thereof to satisfy compensatory mitigation requirements under 33 USC § 1344 or N.C.G.S. §143-214.11.

4. Right of Entry and Inspections. The Grant Recipient shall permit CWMTF's representatives to enter the Property for inspection of the Property and to enter any other premises of the Grant Recipient associated with the activities of the Grant Recipient pursuant to the Grant, including to review books and records in any way related to the Grant or the Property.

5. Retention, Operation, Maintenance and Use. Grant Recipient agrees to carry out the Acquisition as approved by the Trust Fund. The Grant Documents and accompanying or related plans, specifications, estimates, procedures and maps submitted to the Trust Fund by the Grant Recipient are the foundation of this Grant Contract. Only changes deemed non-material in type at the discretion of the Executive Director of the Trust Fund may be made without the consent of the Trust Fund's Board of Trustees. Furthermore, Property interests acquired with Grant assistance from the Trust Fund shall be used for the purposes identified in the Grant Contract, and Grant Recipient hereby agrees to file or record such restrictions as may be required to assure such continued use and the continued validity of any Conservation Easement, if applicable.

6. Signage. If funds are available in the Grant Contract at the end of the Project, the Grant Recipient agrees to post signs, acknowledging CWMTF as the source of monies for conservation of the Property, on publically visible areas of those Properties that have public access and/or where private property owners are amenable to signage. CWMTF will provide art work for the signs.

7. Publicity. To the extent possible, the Grant Recipient will use its best efforts to appropriately publicize the Project's benefits to the general public, local government and state representatives, including the role of the Trust Fund in the funding and development of the project.

8. Conflicts of Interest. Grant Recipient shall at all times comply with Grant Recipient's conflict of interest policy.

9. Compliance with Reporting Requirements. Grant Recipient shall comply with the reporting requirements contained in Section 9 of the Grant Contract, and in N.C.G.S. Chapter 143C, Article 6, Part 3, and 09 N.C.A.C. Subchapter 03M-Uniform Administration of State Grants, including audit oversight by the Office of the State Auditor, the provision of access to the accounting records by both the funding entity and the Office of the State Auditor in accordance with N.C.G.S. §147-64.7, and availability of audit work papers in the possession of any auditor of any recipient of State funding. If a grant recipient has not met these reporting requirements and fails to submit revised reports in accordance with a grantor agency determination letter, the grantor agency shall suspend further payments to the grant recipient and report the grant recipient to the Office of the State Auditor and the Office of the State Controller.

10. Books and Records. Grant Recipient agrees to maintain and make available for inspection by the Trust Fund, at all reasonable times, all documents, books, and records of all expenditures for costs applicable to this Grant Contract, and to submit properly certified billings for such costs on forms prescribed by the Trust Fund and supported by detailed data sheets which will facilitate the audit of the Grant Recipient's records. Further, Grant Recipient shall maintain all Grant records for a period of five (5) years or until all audit exceptions have been resolved, whichever is longer.

11. Additional Requirements. Grant Recipient shall comply with all legal requirements applicable to the use of the Grant funds.

12. Permits and Approvals. All required regulatory approvals to use the Property and the Conservation Easement area in accordance with Exhibit A have or will be obtained.

13. Stewardship. If the Project includes the recordation of a Conservation Easement, Grant Recipient acknowledges and agrees to the following terms and conditions regarding stewardship of the Conservation Easement:

- a) Regardless of whether the State is the Grantee of the Conservation Easement, the Grant Recipient shall monitor and observe the Property and the Easement Area at least annually in perpetuity unless otherwise set forth on Exhibit B of this Grant Contract; and
- b) The purpose of such stewardship shall be to assure compliance with the purposes and provisions of the Grant Contract, as set forth in Exhibit A, and the Conservation Easement; and
- c) Unless otherwise set forth on Exhibit B of this Grant Contract, Grant Recipient will report on the condition of the Easement Area or provide for such reporting to the Trust Fund no less frequently than once a year; and further will report immediately to the Trust Fund any observed and/or known violations of the Conservation Easement or the Grant Contract; and
- d) Any associated stewardship monies awarded under the Grant Contract will be administered pursuant to N.C.G.S. § 143B-135.236, N.C.G.S. § 147-69.2, and N.C.G.S. § 147-69.; and
- e) The Parties shall enter into a separate written Stewardship Contract setting forth the terms and conditions of the stewardship obligation including invoicing and payment. Such separate Stewardship Contract may be assignable by either Party with the prior written consent of both Parties, but only to an entity that is qualified to receive a grant from the Trust Fund, is a qualified holder of conservation agreements under the Uniform North Carolina Conservation and Historic Preservation Agreements Act, (N.C.G.S. Chapter 121, Article 4), or any successor statute, and is a qualified organization as that term is defined in 26 U.S.C. § 170(h)(3) of the Internal Revenue Code (the "Code"), as amended, or any successor section, and the regulations promulgated there under the Code, which is organized or operated primarily for one of the conservation purposes specified in 26 U.S.C. § 170(h)(4)(A) of the Code.

Stewardship monies in this Grant Contract will not be paid out under this Grant Contract but will be transferred to the Office of the State Treasurer for investment in the CWMTF's N.C. Conservation Easement Endowment Fund at the closing of this Grant Contract.

## B. Representations and Warranties

In order to induce the Trust Fund to enter into this Grant Contract and to make the Grant as herein provided, the Grant Recipient, after reasonable inquiry, makes the following representations, warranties and covenants, which shall remain in effect after the execution and delivery of this Grant Contract and the other Grant Documents, any inspection or examinations at any time made by or on behalf of the Trust Fund, and the Acquisition by the Grant Recipient:

1. No Actions. There are no actions, suits, or proceedings pending, or to the knowledge of the Grant Recipient threatened against or affecting the Grant Recipient before any court, arbitrator, or governmental or administrative body or agency which might affect the Grant Recipient's ability to observe and perform its obligations under this Grant Contract.
2. No Untrue Statements. Neither this Grant Contract nor any information, certificate, statement, or other document furnished by Grant Recipient in connection with the Grant, contains any untrue statement of a material fact or omits disclosure of a material fact which affects the Property, any subsequent Conservation Easement on the Property or the ability of the Grant Recipient to perform under this Grant Contract.
3. Zoning. The present and proposed use of the Property, including, without limitation, the purpose of the Conservation Easement, is in compliance with all zoning ordinances, and all municipal and other governmental and regulatory approvals have been or will be obtained for the use and for operation of the Property according to this Grant Contract.
4. Environmental Condition of Property. The Parties acknowledge that, as of the Effective Date of this Agreement, the Grant Recipient has not yet received the ESA. Accordingly, the Grant Recipient warrants, represents and covenants to the Trust Fund that to the best of its knowledge as of the Effective Date: (a) the Property is and at all times hereafter will continue to be in full compliance with all federal, state and local environmental laws and regulations; (b) there are no hazardous materials, substances, wastes or other environmentally regulated substances (including, without limitation, any materials containing asbestos) located on, in or under the Property or used in connection therewith; (c) there is no environmental condition existing on the Property that may prohibit or impede use of the Property for the purposes set forth in this Grant Contract; and (d) the Grant Recipient will not allow such uses or conditions.
5. Access. There is, or shall be by the date of Closing, legal access to the Property from a public roadway, and access over, upon and across the Property to and from the easement area. If the Property is surrounded by water, there is access to the Property from the waters of the State.
6. Tax Exempt Status. As applicable, the Grant Recipient shall maintain tax-exempt status under Section 501(c) (3) of the Internal Revenue Code of 1986, as amended (or any successor section) and the regulations promulgated there under (the "Code") and shall notify the Trust Fund within thirty (30) days upon any change in its status under the Code.

## C. Termination; Events of Default

1. Termination by Mutual Consent. The Parties may terminate this Grant Contract by mutual written consent with sixty (60) days prior notice, or as otherwise provided by law.
2. Termination for Cause. The happening of any of the following, after the expiration of any applicable cure period without the cure thereof, shall constitute an event of default ("Event(s) of Default") by the Grant Recipient of its obligations to the Trust Fund, and shall entitle the Trust Fund to exercise all rights and remedies under this Grant Contract and as otherwise available at law or equity:
  - (a) Property Unsuitable. A determination by the Trust Fund, prior to the date of Closing that the Property is unsuitable for the purpose for which this Grant contract is made.

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- (b) Unsuitable Use. The Property is used in a manner materially inconsistent with the purposes of this Grant Contract or the Conservation Easement that Grant Recipient agrees to obtain in accordance with this Grant Contract.
- (c) Default in Performance. The default by the Grant Recipient in the observance or performance of any of the terms, conditions or covenants of the Grant Contract, including, without limitation, a failure to satisfy any condition precedent to disbursement or reimbursement set forth in conditions 5 and 6 thereof; provided, however, that no such default shall occur until the Grant Recipient has been given written notice of the default and thirty (30) days from the date of receipt of written notice in which to cure said default.
- (d) Misrepresentation. If any representation or warranty made by the Grant Recipient in connection with the Grant or any information, certificate, statement or report heretofore or hereafter made shall be untrue or misleading in any material respect at the time made.
- (e) Eligibility of Grant Recipient. If Grant Recipient ceases to be qualified to receive Grant funds, is dissolved, or otherwise ceases to exist.
- (f) Failure to Monitor Conservation Easement. If the Grant Recipient fails to notify the Trust Fund of any potential violation of the Conservation Easement within a reasonable period of time so as to avert or cure any potential violation.

#### D. The Trust Fund's Rights and Remedies

If an Event of Default shall occur, the Trust Fund shall have the following rights and remedies, all of which are exercisable at the Trust Fund's sole discretion, and are cumulative, concurrent and independent rights:

1. Default Prior to Closing. If an Event of Default occurs prior to the date of Closing, the Trust Fund may, at its discretion, suspend and/or terminate all obligations of the Trust Fund hereunder and Grant Recipient shall immediately refund all money previously paid to the Grant Recipient under this Grant Contract. If in the judgment of the Trust Fund, such failure was due to no fault of the Grant Recipient, amounts required to resolve, at minimum costs, any irrevocable obligations properly incurred by Grant Recipient shall, in the discretion of the Trust Fund, be eligible for reimbursement under this Grant Contract.
2. Default Subsequent to Closing.
  - (a) If an Event of Default occurs subsequent to Closing of a Conservation Easement assigned to the State, the Trust Fund or State shall be entitled to maintain and enforce its rights under the Conservation Easement, in which case the Trust Fund shall have no right to receive any reimbursement, refund or repayment of any money paid Grant Recipient under this Grant Contract.
  - (b) If an Event of Default occurs subsequent to the Closing and Grant Recipient has received title to the Property, then the Grant Recipient shall convey and transfer to the State or designee all its underlying fee simple title to the Property, by general warranty deed, free and clear of any liens, charges or encumbrances that would materially affect the use of the Property as set forth in the Conservation Easement, in which case the Trust Fund shall have no right to receive any reimbursement, refund, or repayment of any money paid to Grant Recipient under this Grant Contract.
  - (c) If an Event of Default occurs subsequent to the Closing and the Grant Recipient holds the Conservation Easement, the Trust Fund and State may seek to obtain title to the Conservation Easement in order to preserve or protect its interest in the Property; or the Trust Fund may suspend and/or terminate all obligations of the Trust Fund hereunder, and the Grant Recipient shall immediately return to the Trust Fund all money previously paid to the Grant Recipient under this Grant Contract.

(d) If an Event of Default occurs subsequent to Closing and a third party has received the Conservation Easement, the Trust Fund and State may seek to obtain title to the Conservation Easement in order to preserve or protect its interest in the Property; or the Trust Fund may suspend and/or terminate all obligations of the Trust Fund hereunder, and the Grant Recipient shall immediately return to the Trust Fund all money previously paid to the Grant Recipient under this Grant Contract.

3. Non-waiver. No delay, forbearance, waiver, or omission of the Trust Fund to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy or shall be construed to waive any such Event of Default or to constitute acquiescence therein. Every right, power and remedy given to the Trust Fund may be exercised from at any time and as often as may be deemed expedient by the Trust Fund.

#### E. Miscellaneous

1. Modification. This Grant Contract may be rescinded, modified or amended only by written agreement executed by all Parties.

2. Benefit. This Grant Contract is made and entered into for the sole protection and benefit of the Trust Fund, the State and the Grant Recipient, and their respective successors and assigns, subject always to the provisions of paragraph E.6 of this Exhibit I. Except for the State, there shall be no third party beneficiaries to this Grant Contract.

3. Further Assurance. In connection with and after the payment of Grant funds under this Grant Contract, upon the reasonable request of the Trust Fund, the Grant Recipient shall execute, acknowledge and deliver or cause to be delivered all such further documents and assurances, and comply with any other requests as may be reasonably required by the Trust Fund or otherwise appropriate to carry out and effectuate the Grant as contemplated by this Grant Contract and the purposes of the Conservation Easement.

4. Compliance by Others. The Grant Recipient shall be responsible for compliance with the terms of this Grant Contract by any sub-grant recipient, including but not limited to, a political subdivision, public agency, or qualified non-profit organization to which funds or obligations are transferred, delegated or assigned pursuant to this Grant Contract. Delegation by the Grant Recipient to a sub-grant recipient of any duty or obligation hereunder does not relieve the Grant Recipient of any duty or obligation created hereunder. Failure by such sub-grant recipient to comply with the terms of this Grant Contract shall be deemed failure by the Grant Recipient to comply with the terms of this Grant Contract. Any such delegation of duties or obligations shall be in writing, signed by the Grant Recipient and sub-grant recipient, shall be in accordance with paragraph E.8 of this Exhibit I, and shall contain an affirmative covenant by the sub-grant recipient that it shall abide by the rules set forth in Title 09, Subchapter 03M of the North Carolina Administrative Code.

5. Independent Status of the Parties. The Parties are independent entities and neither this Grant Contract nor any provision of it or any of the Grant Documents shall be deemed to create a partnership or joint venture between the Parties. Further, neither the Grant Contract nor any of the Grant Documents shall in any way be interpreted or construed as making the Grant Recipient, its agents or employees, agents or representatives of the Trust Fund. The Grant Recipient is and shall be an independent contractor in the performance of this Grant Contract and as such shall be wholly responsible for the work to be performed and for the supervision of its agents and employees. In no event shall the Trust Fund be liable for debts or claims accruing or arising against the Grant Recipient. The Grant Recipient represents that it has, or shall secure at its own expense, all personnel required in the performance of this Grant Contract. Such employees shall not be employees of, nor have any individual contractual relationship with, the Trust Fund.

6. Indemnity. The Grant Recipient agrees, to the fullest extent permitted by law, to release, protect, indemnify and hold harmless the State, the Trust Fund, its Trustees, employees, agents and assigns against any and all claims, losses, liabilities, damages, and costs, including reasonable attorney fees, which result from or arise out of: (a) damages or injuries to persons or property caused by the negligent acts or omissions of Grant

Recipient, its employees, or agents in use or management of the Property; (b) use or presence of any hazardous substance, waste or other regulated material in, under or on the Property; or (c) the performance of the Grant Recipient's duties under this Grant Contract. The obligations under this Section are independent of all other rights or obligations set forth herein. This indemnity shall survive the disbursement of the Grant funds, as well as any termination of this Grant Contract.

7. No Discrimination. The Grant Recipient shall assure that no person will be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity covered by this Grant Contract solely on the grounds of race, color, age, religion, sex or national origin.

8. Binding Effect, Contract Assignable. The terms hereof shall be binding upon and inure to the benefit of the successors, assigns, and personal representatives of the Parties; provided, however, that the Grant Recipient may not assign this Grant Contract or any of its rights, interests, duties or obligations hereunder or any Grant proceeds or other moneys to be advanced hereunder in whole or in part without the prior written consent of the Trust Fund, which may be withheld for any reason and that any such assignment (whether voluntary or by operation of law) without said consent shall be void. In the event assignment is allowed, neither the Grant Recipient nor the sub-grant recipient shall be relieved of any of the duties and responsibilities of the Grant Contract. Further, the sub-grant recipient shall agree to abide by the all the requirements of this Grant Contract, and to provide all information needed in order for the Grant Recipient to comply with this Grant Contract.

9. Governing Law, Construction and Jurisdiction. This Grant Contract and the other Grant Documents and all matters relating thereto shall be governed by and construed and interpreted in accordance with the laws of the State of North Carolina, notwithstanding the principles of conflicts of law. The headings and section numbers contained herein are for reference purposes only. The terms of this Grant Contract shall be construed according to their plain meaning, and not strictly construed for or against either party hereto. The Grant Recipient hereby submits to the jurisdiction of the state and Federal courts located in North Carolina and agree that the Trust Fund may, at its option, enforce its rights under the Grant Documents in such courts. The Parties intend this document to be an instrument executed under seal. The Trust Fund and any party that is an individual, partnership or limited liability company hereby adopts the word "SEAL" following his/her signature and the name of the Trust Fund or partnership or limited liability company as his/her/its legal seal.

10. Savings Clause. Invalidation of any one or more of the provisions of this Grant Contract, or portion thereof, shall in no way affect any of the other provisions hereof and portions thereof which shall remain in full force and effect.

11. Additional Remedies. Except as otherwise specifically set forth herein, the rights and remedies provided hereunder shall be in addition to, and not in lieu of, all other rights and remedies available in connection with this Grant Contract.

12. Survival. Where any representations, warranties, covenants, indemnities or other provisions contained in this Grant Contract and/or any of the Grant Documents, by its context or otherwise, evidences the intent of the Parties that such provisions should survive the Closing or termination of this Grant Contract, the provisions shall survive the Closing or any such termination.

13. Entire Grant Contract; Incorporation of Exhibits. This Grant Contract constitutes the entire Grant Contract between the Parties with respect to the subject matter hereof. All recitals, exhibits, schedules and other attachments hereto are incorporated herein by reference.

14. Headings. The headings of the various sections of this Grant Contract have been inserted for convenience only and shall not modify, define, limit or expand the express provisions of this Grant Contract.

15. Time of the Essence. Time is of the essence in the performance of this Grant Contract.

**EXHIBIT J**  
*Does not apply to this grant contract.*

**EXHIBIT K  
CWMTF INVOICE FORM**

**Exhibit K: CWMTF Request for Payment/Reimbursement Form**

CWMTF Project Number	2015-033
Project Name	City of Lenoir, Watershed
Contract Expiration Date	May 31, 2018
1 Payment Request Number & Date	Request No.: _____ Date: _____

<b>CWMTF FUNDS \$755,993</b>	<b>Amount CWMTF Funds Remaining:</b>			<b>\$755,993.00</b>
	<b>a</b>	<b>b</b>	<b>c</b>	<b>d</b>
<b>Activity</b>	CWMTF Budget	Previously Spent from CWMTF Budget	Total spent this invoice period from CWMTF Budget	Total spent to date from CWMTF Budget
Property/Conservation Easement Acquisition	\$717,155	\$0.00	\$0.00	\$0.00
Transaction costs	\$10,000	\$0.00	\$0.00	\$0.00
Stewardship Expenses/Endowment	\$18,838	\$0.00	\$0.00	\$0.00
Project Administration	\$10,000	\$0.00	\$0.00	\$0.00
<b>Total</b>	<b>\$755,993</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
			<b>Amount Requested this Invoice</b>	<b>\$0.00</b>

<b>ALL MATCHING FUNDS: \$1,082,732</b>	<b>Amount Matching Funds Remaining:</b>			<b>\$1,082,732.00</b>
	<b>e</b>	<b>f</b>	<b>g</b>	<b>h</b>
<b>Activity</b>	Matching Funds Budget	Previously Spent from Matching Funds	Total spent this invoice period from Matching Funds	Total spent to date from Matching Funds
Property/Conservation Easement Acquisition	\$1,075,732	\$0.00	\$0.00	\$0.00
Transaction costs	\$7,000	\$0.00	\$0.00	\$0.00
Stewardship Expenses/Endowment	\$0	\$0.00	\$0.00	\$0.00
Project Administration	\$0	\$0.00	\$0.00	\$0.00
<b>Total</b>	<b>\$1,082,732</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

**READ CAREFULLY THE CERTIFICATIONS IN THIS BOX**

I, in my official capacity representing the Grant Recipient, certify that, to the best of my knowledge and belief, the amounts in this payment request for which payment by CWMTF is requested were incurred according to the terms of the Grant Contract and that these amounts have not previously been requested for payment.

I further certify that, in accordance with paragraph 7 of the Grant Contract:

- (1) if any expenditures incurred and owed to a vendor(s) have not yet been paid, said expenditures will be paid within three (3) banking days after receiving corresponding payment from CWMTF, and I will confirm in writing to the Trust Fund that all such previously unpaid vendor invoices have been paid; and
- (2) if any funds requested are to be paid at Closing, said funds will be immediately transferred after receiving corresponding payment to the Grant Recipient's closing attorney to be held in trust pending Closing, which will be scheduled within three (3) banking days of receipt of funds or as soon as possible thereafter and the Closing date will be communicated to CWMTF staff prior to Closing.

Direct questions about this form to the Contract Administrator, Nancy Guthrie at (919) 707-9126 or Nancy.Guthrie@ncdenr.gov

Submitted by: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 E-mail Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_

**EXHIBIT L  
STATEMENT OF STAFF TIME**

**EXHIBIT L.1  
STATEMENT OF STAFF TIME – Project Administration  
Grant Recipient Staff Time on a CWMTF Grant Funded Project**

**CWMTF Grant #:** \_\_\_\_\_ **Grant Recipient:** \_\_\_\_\_ **Date:** \_\_\_\_\_

<u>Time Period During Which Work Was Performed (date range):</u>				
<u>Staff Person (Job Title; Name (Optional))</u>	<u>Project Administration Task Performed*</u>	<u>Hours Spent on Tasks Performed During Time Period</u>	<u>Hourly Rate**</u>	<u>Total</u>
			\$	\$ (Hours X Hourly Rate)
			<b>Total</b>	<b>\$</b>

*\*Provide specific detail of all tasks and use additional space/pages as needed.  
 \*\*The hourly rate must be the actual, direct cost of the services provided (rate of pay) and may include fringe benefit cost but may NOT include indirect/overhead cost.*

I affirm that all of the information presented in this statement is accurate to the best of my knowledge.

---

Name \_\_\_\_\_ Title \_\_\_\_\_

---

Signature (Individual authorized to sign as to the accuracy of information provided) \_\_\_\_\_ Date \_\_\_\_\_

**EXHIBIT L.2**  
**STATEMENT OF STAFF TIME – Baseline Document Report (BDR)**  
**Grant Recipient Time on a CWMTF Grant Funded Project**

**CWMTF Grant #:** \_\_\_\_\_ **Grant Recipient:** \_\_\_\_\_ **Date:** \_\_\_\_\_

<u>Time Period During Which Work Was Performed (date range):</u>				
<u>Staff Person (Job Title; Name (Optional))</u>	<u>BDR Task Performed*</u>	<u>Hours Spent on Tasks Performed During Time Period</u>	<u>Hourly Rate**</u>	<u>Total</u>
			\$	\$ (Hours X Hourly Rate)
<b>Staff Time Subtotal</b>				<b>\$</b>
<u>Mileage</u>				
<u>Staff Person (Job Title; Name (Optional))</u>	<u>BDR Task Performed*</u>	<u>Mileage</u>	<u>IRS Mileage Reimbursement Rate</u>	<u>Total</u>
				\$ (Mileage X Rate)
<b>Mileage Reimbursement Subtotal</b>				<b>\$</b>
<b>Total</b>				<b>\$ (Staff Time Subtotal + Mileage Subtotal)</b>

\*Provide specific detail of all tasks and use additional space/pages as needed.

\*\*The hourly rate must be the actual, direct cost of the services provided (rate of pay) and may include fringe benefit cost but may NOT include indirect/overhead cost.

I affirm that all of the information presented in this statement is accurate to the best of my knowledge.

\_\_\_\_\_  
 Name Title

\_\_\_\_\_  
 Signature (Individual authorized to sign as to the accuracy of information provided) Date

**EXHIBIT M**

**Confirmation of Grant Funds Paid to Grantee's Payees (Vendors)**

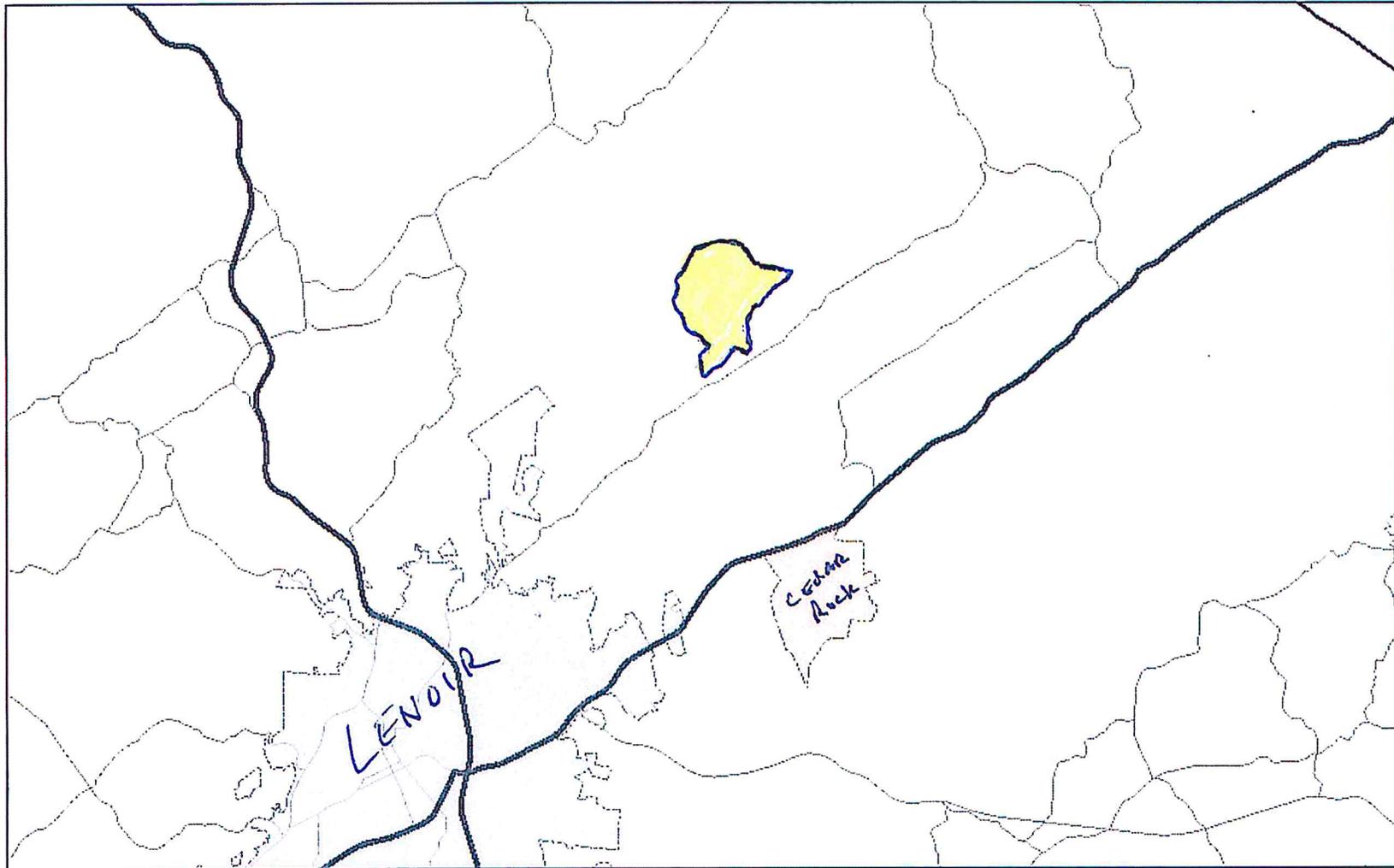
	 <b>cleanwater</b> <small>MANAGEMENT TRUST FUND</small>	Confirmation of Grant Funds Paid to Grantee's Payees (Vendors)		
1	CWMTF Grant #:			
2	Grant Recipient:			
3				
4	Amount of payment received from CWMTF:	\$		
5	Amount of that payment that was still owed to the grantee's vendors:	\$		
6				
7	Per the CWMTF grant contract, we confirm that the grant funds received as noted on line 5 above were paid to the ultimate payee of the funds (i.e. vendor, contractor, etc.) within three banking days of receipt (details below).			
8				
9	<u>Date Payment Received from CWMTF/NCDNCR</u>	<u>Date Payment Made to Payee (must be within 3 banking days of payment receipt date)</u>	<u>Payee (Vendor)</u>	<u>Amount</u>
10				\$
11				\$
12				\$
13				\$
14				\$
15				\$
16				\$
17	<b>Total Paid (This amount must match the amount on line 5 above)</b>			\$

**\*\*\*Attach copies of the checks paid to vendors for each payment listed above.**

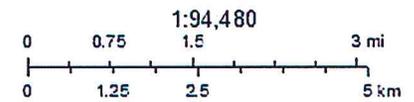
Grant Recipient Authorized Signature

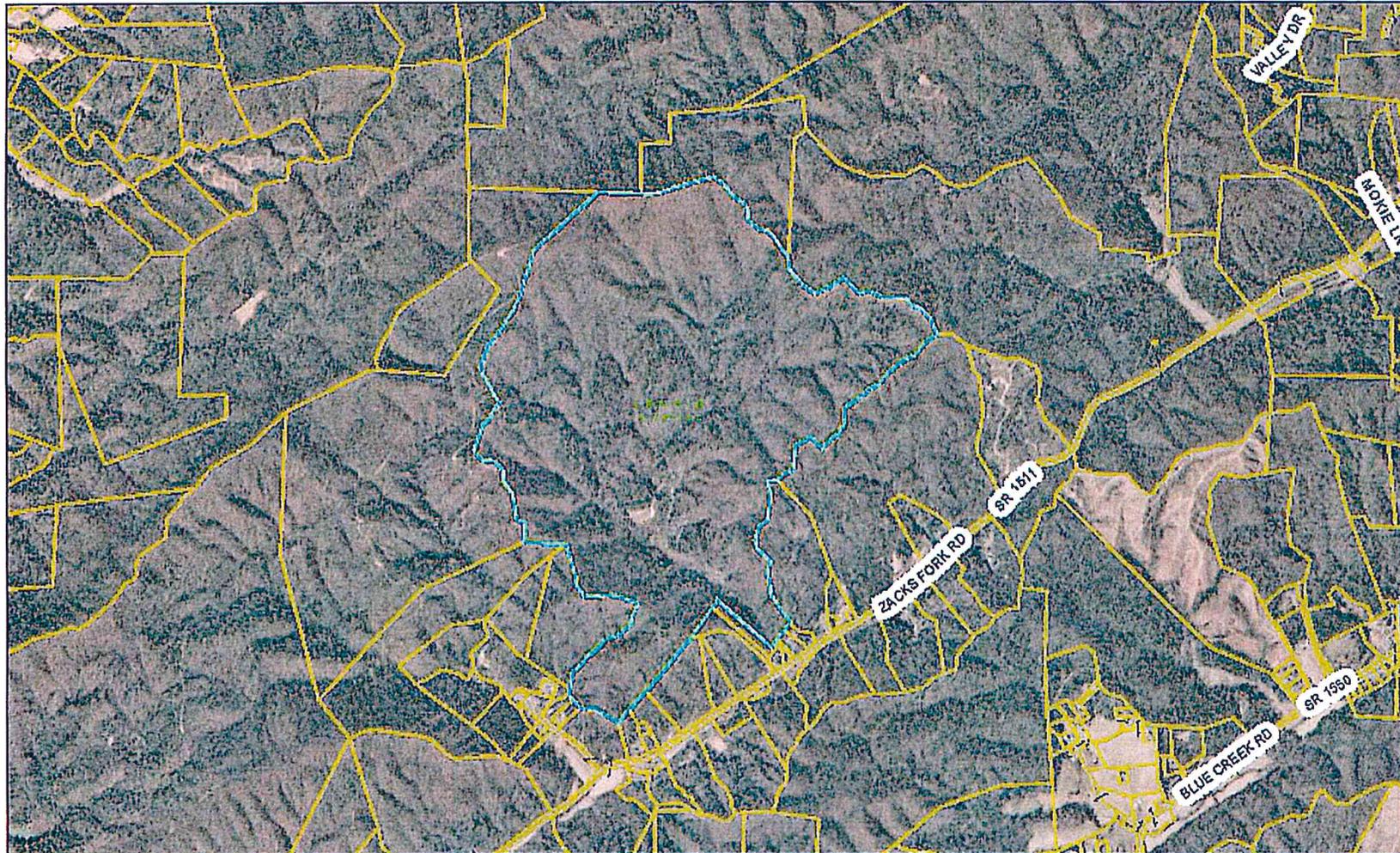
Date

### Caldwell County



June 2, 2016



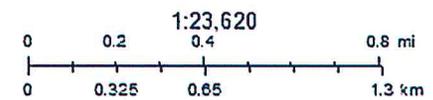


**Owner** CITY OF LENOIR  
PO BOX 958  
LENOIR, NC 28645

**Acct Number** 49402  
**Parcel ID** 09164 1 2  
**NCPIN** 2862647176

**Deferred Val** 0  
**Assessed Val** \$1,039,500  
**Calc Acreage** 598.092094  
**Land Units** 568.36 (AC)  
**Legal Desc** 0102/0262  
**Plat Ref** /  
**Property Addr** ZACKS FORK RD

**Caldwell County**



June 2, 2016

**CITY OF LENOIR**

**COUNCIL ACTION FORM**

- I. **Agenda Item:** VI. B.2. Approve Proposal for Project Administration Services for NC Clean Water Management Trust Fund Grant
  
- II. **Background Information:** As you are aware, Martin-McGill, Inc. provided assistance to the City of Lenoir in submission of a NC Clean Water Management Trust Fund (CWMTF) application that secured a \$755,993 grant for a conservation easement on the Lenoir Watershed. Enclosed please find a proposal for your consideration for project administration services related to the grant award.

Under this proposal, Martin-McGill will ensure that all deliverables outlined in the NC CWMTF contract scope of work are completed on schedule, including submission of all reporting requirements and reimbursement requests for a fee of \$10,000. The CWMTF grant includes reimbursement of up to \$10,000 to the City of Lenoir for project administration costs.

- III. **Staff Recommendation:** If Council accepts the NC CWMTF grant, please accept the attached grant project administration services proposal from Martin-McGill for a fee of \$10,000.
  
- IV. **Reviewed by:**

**City Attorney:**

**City Manager:**





May 26, 2016

Mr. Scott Hildebran  
City Manager  
City of Lenoir  
801 West Avenue Northwest  
Lenoir, NC 28645

*Re: CWMTF # 2015-033 City of Lenoir Watershed Conservation Easement*

Dear Mr. Hildebran,

Thank you for the opportunity to present this proposal for consideration for project administration services related to the above referenced acquisition project.

The CWMTF agrees to reimburse the City of Lenoir for project administration costs consisting only labor for administrative work conducted exclusively on this project up to \$10,000. The City's requests for such reimbursement shall be made under the project administration line item of Exhibit B from the contract document and shall conform to the following:

- Costs allowable under the project administration line item include only costs of labor needed to comply with the general conditions of the Grant Contract.

Under this scope of work, Martin-McGill proposes to complete these activities associated with meeting the City's obligations for this acquisition project:

1. Prepare progress reports
2. Prepare payment requests
3. Prepare project final report
4. Assist with finalizing/negotiating the grant contract
5. Facilitate activities outlined in contract Exhibit D: Pre-Closing Checklist:
  - a. Coordinating appraiser for the 2<sup>nd</sup> appraisal following the State Property Office instructions
  - b. Coordinate with City's attorney:
    - i. General Warranty Deed
    - ii. Title Commitment / Title Insurance (paid for by the City)
    - iii. Closing documents
  - c. Obtain survey of property meeting the required criteria provided in Exhibit D (paid for by the City)
    - i. Martin-McGill to pursue 2 quotes for this service for the City's consideration
  - d. Coordinate completion of the Baseline Documentation Report with Foothills Conservancy
6. Exhibit E: Post-Closing Checklist: ensure submittal of the following within 45 days of Closing:
  - a. Title policy
  - b. Recorded survey
  - c. Easement boundaries – created from survey data
  - d. Recorded conservation easement



- e. General Warranty Deed
- f. Signed Final Baseline Documentation Report
- g. Fully executed settlement statement
- h. Final project report

Under this contract agreement, Martin-McGill will ensure that all deliverables outlined in your CWMTF contract scope of work are completed on schedule, reports are submitted to CWMTF on a quarterly basis, and invoices are submitted for reimbursement.

We propose to complete the scope of work outlined in this proposal for a fee of \$10,000.

Sincerely,

Jessica B. Martin  
**Martin-McGill, Inc.**

Execution of this document in the space provided below acknowledges approval of the terms and provisions provided for herein.

\_\_\_\_\_  
 Scott Hildebran, City Manager  
 City of Lenoir

\_\_\_\_\_  
 Date

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
 Pre Audit Certification  
 City Finance Officer

\_\_\_\_\_  
 Date