

AGENDA

Regular Meeting of the Sawmills Town Council Sawmills Town Hall

**Tuesday, November 19, 2019
6:00 pm**

1. Call To Order Mayor Johnnie Greene
2. Invocation NC Representative Destin Hall
3. Pledge of Allegiance Mayor Johnnie Greene
4. Adopt Agenda Mayor Johnnie Greene
5. Approve Meeting Minutes
A. October 15, 2019 Regular Meeting Minutes Mayor Johnnie Greene
B. October 15, 2019 Closed Session Meeting Minutes Mayor Johnnie Greene
6. Public Comment Mayor Johnnie Greene
7. Recognitions:
A. Recycle Rewards Mayor Johnnie Greene
8. Public Hearing on Town of Sawmills Code of Ordinances, Phase II
Stormwater Ordinance:
A. Open Public Hearing Mayor Johnnie Greene
B. Staff Comments/Recommendations Mayor Johnnie Greene
C. Public Comment Mayor Johnnie Greene
D. Close Public Hearing Mayor Johnnie Greene
E. Council Action Mayor Johnnie Greene
9. Financial Matters:
A. AMI Loan Resolution Mayor Johnnie Greene
B. Employee Longevity Pay Mayor Johnnie Greene
C. Caldwell County Veterans Honor Guard Donation Request Mayor Johnnie Greene
D. Caldwell County 4-H Saddle Club Donation Request Mayor Johnnie Greene
E. Granite Falls Booster Club Donation Request Mayor Johnnie Greene
F. South Caldwell Boosters Donation Request Mayor Johnnie Greene
G. Approve Auditors Contract for FY 2018-2019 Mayor Johnnie Greene
10. Public Comment Mayor Johnnie Greene
11. Updates:
A. Code Enforcement Report Mayor Johnnie Greene
B. Council Comment Mayor Johnnie Greene
12. Closed Session: N.C.G.S. §143-318.11 (a) (6) Mayor Johnnie Greene
13. Adjourn Mayor Johnnie Greene

**TUESDAY, OCTOBER 15, 2019
TOWN OF SAWMILLS REGULAR COUNCIL MEETING
6:00 PM**

COUNCIL PRESENT

Mayor Johnnie Greene
Keith Warren
Clay Wilson
Rebecca Johnson

STAFF PRESENT

Terry Taylor
Julie A Good

CALL TO ORDER: Mayor Johnnie Greene called the meeting to order at approximately 6:06pm.

INVOCATION: Pastor Ashley Crouse gave the invocation.

PLEDGE OF ALLEGIANCE: Ashton Woodruff, Addison Rogers, Bryant Keller and Sarah Franklin of Sawmills Elementary School led the Pledge of Allegiance.

ADOPT AGENDA: Mayor Johnnie Greene asked for a motion to adopt the October 15, 2019 Agenda.

Joe Norman made a motion, and Keith Warren seconded, to adopt the October 15, 2019 Agenda. All were in favor.

APPROVE SEPTEMBER 17, 2019 REGULAR MEETING MINUTES: Mayor Johnnie Greene asked for a motion to approve the September 17, 2019 regular meeting minutes.

Clay Wilson made a motion, and Joe Norman seconded, to approve the September 17, 2019 regular meeting minutes. All were in favor.

APPROVE SEPTEMBER 17, 2019 CLOSED SESSION MEETING MINUTES: Mayor Johnnie Greene asked for a motion to approve the September 17, 2019 closed session meeting minutes.

Clay Wilson made a motion, and Rebecca Johnson seconded, to approve the September 17, 2019 closed session meeting minutes. All were in favor.

APPROVE OCTOBER 1, 2019 SPECIAL SESSION MEETING MINUTES: Mayor Johnnie Greene asked for a motion to approve the October 1, 2019 special session meeting

minutes.

Clay Wilson made a motion, and Joe Norman seconded, to approve the October 1, 2019 special session meeting minutes. All were in favor.

APPROVE OCTOBER 1, 2019 SPECIAL CLOSED SESSION MEETING MINUTES:

Mayor Johnnie Greene asked for a motion to approve the October 1, 2019 special closed session meeting minutes.

Clay Wilson made a motion, and Joe Norman seconded, to approve the October 1, 2019 special closed session meeting minutes. All were in favor.

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

No one wished to speak

RECOGNITIONS:

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

No Council action was required.

PUBLIC HEARING ON TEXT AMENDMENT FOR ZONING ORDINANCE:

OPEN PUBLIC HEARING: Mayor Johnnie Greene asked for a motion to open the public hearing on text amendment for zoning ordinance.

Clay Wilson made a motion, and Joe Norman seconded, to open the public hearing. All were in favor.

STAFF COMMENTS/RECOMMENDATIONS: Town Planner Hunter Nestor stated that currently the Town of Sawmills has separate Board of Adjustments and Planning Boards. The Planning Board should consist of five (5) members; three (3) in town members and two (2) ETJ members. The Board of Adjustments consist of five (5) members and Council may appoint two (2) alternate members. However, staff is having problems finding people who would like to serve on either board. Currently, we have only four (4) members on the Planning Board and four (4) members on the Board of Adjustments.

Staff would like to combine the Planning Board and the Board of Adjustments. The proposed draft states that the Board will consist of six (6) members, four (4) in town and two (2) ETJ to remain proportional, and have two (2) alternates, one (1) in town and (1) ETJ. This will help with trying to find people to serve on the Board, as well as giving the new combined

Board more duties for more frequent meetings. By combining both boards, staff recommends to having six (6) regular members instead of the current five (5) for each board. The proposed language allows for two (2) alternates to be appointed in case a regular member cannot attend a meeting. There will be one (1) alternate from in town and one (1) from ETJ.

PUBLIC COMMENT: Mayor Johnnie Greene asked if anyone wished to speak on the text amendment for zoning ordinance.

No one wished to speak.

CLOSE PUBLIC HEARING: Mayor Johnnie Greene asked for a motion to close the public hearing.

Clay Wilson made a motion, and Joe Norman seconded, to close the public hearing. All were in favor.

COUNCIL ACTION: Joe Norman made a motion, and Rebecca Johnson seconded, to approve the text amendment for zoning ordinance because the proposed amendment is consistent with the Comprehensive Plan. All were in favor.

Clay Wilson made a motion, and Joe Norman seconded, to reappoint all members as follows:

Name	New Term Expiration	Term Length
Steve Duncan	Oct-20	1 year
David Powell	Oct-20	1 year
Adam Wilson (ETJ)	Oct-21	2 year
Jack Keller	Oct-21	2 year
Walter Moore(ETJ Alternate)	Oct-21	2 year
Dino DiBernardi (ETJ)	Oct-22	3 Year
Kelley Price	Oct-22	3 Year
Reed Lingerfelt (Alternate)	Oct-22	3 Year

All were in favor.

DISCUSSION:

APPROVE EMPLOYMENT CONTRACT OF TOWN MANAGER: Mayor Johnnie Greene stated that Council had a copy of the contract for a New Town Manger for the Town of Sawmills. The effective hire date for the new Town Manger will be November 21, 2019, or as soon thereafter as he is able to report for duty.

Keith Warren made a motion, and Rebecca Johnson seconded, to approve the Employment Contract of the Town Manger. All were in favor.

CONSIDERATION OF APPOINTMENT OF TOWN MANAGER: Mayor Johnnie Greene stated that upon approval of the Town Manager's contract, that Council will need to vote to approve the new Town Manager.

Joe Norman made a motion, and Clay Wilson seconded, and to appoint David C. Winebarger as Town Manager for the Town of Sawmills. All were in favor.

CALL FOR PUBLIC HEARING FOR SAWMILLS STORMWATER ORDINANCE: Mayor Johnnie Greene stated that in order to enforce the Stormwater NPDES permit, the Town is required to adopt a stormwater and illicit discharge ordinance. The purpose of the code is to comply with North Carolina General Statute requirements. The adoption of the proposed changes will enhance the overall protection of stormwater.

Rebecca Johnson made a motion, and Joe Norman seconded, to call a public hearing for the Town of Sawmills Stormwater Ordinance at the regularly scheduled November 19, 2019 Town of Sawmills Council meeting. All were in favor.

RUSSELL DRIVE/MISSION ROAD WATERLINE REPLACEMENT: Todd Poteet, with West Consultants, gave an update on the Russell Drive and Mission Road waterline replacement projects.

No Council action was required.

FINANCIAL MATTERS:

PRESENTATION OF BIDS FOR AMI: The bid opening for the Advanced Metering Infrastructure (AMI) occurred on Friday, September 13, 2019. Three (3) bids were received from:

- 1- Fortiline/Waterworks/Kamstrup;
- 2- Water Works/Mueller Systems; and
- 3- Ferguson Waterworks/Sensus

The bid packets were reviewed and certified in accordance with North Carolina General Statutes, by MeterSys. On September 24, 2019, staff met with Andy Honeycutt and Lisa Nguyen, from MeterSys, to review the bid information. The following bids have been proposed:

Vendor:	Construction:	Operational (Yr. 1)
1- Water Works/Mueller	\$1,135,150.00	\$13,712.00
2- Ferguson Waterworks/Sensus	\$1,864,968.00	\$19,647.00

On September 30, 2019, staff met with the Public Works Committee to review the remaining two (2) bids. The lowest bid received was from Water Works/Mueller Systems for a total bid of one million one hundred thirty-five thousand one hundred fifty dollars (\$1,135,150.00). MeterSys does believe that Water Works/Mueller Systems is qualified to perform the project.

Joe Norman made a motion, and Clay Wilson seconded to award the AMI project to Water Works/Mueller Systems for a total amount of one million one hundred thirty-five thousand one hundred fifty dollars (\$1,135,150.00). All were in favor.

APPROVE CONTRACT FOR AMI: Andy Honeycutt, with MeterSys, stated that MeterSys has received a contract from Water Works/Mueller Systems that they are reviewing. Mr. Honeycutt stated that as soon as MeterSys had the final draft of the contract that they would forward a copy to Town Attorney Terry Taylor for her review and approval.

Rebecca Johnson made a motion, and Keith Warren seconded, that after review and approval by Town Attorney Terry Taylor, of the contract for the purchase and installment of the AMI meter system from Water Works/Mueller Systems, Mayor Johnnie Greene is authorized to sign the contract. All were in favor.

APPROVE CAPITAL PROJECT BUDGET ORDINANCE WATER METER REPLACEMENT PROJECT: Mayor Johnnie Greene stated that during the August 20, 2019 regularly scheduled council meeting, the Council voted to finance the AMI project as follows:

Sixty percent (60%) out of the General Fund;
Forty percent (40%) out of the Utility Fund; and
A four hundred thousand dollars (\$400,000.00) installment loan.

A Capital Project Budget Ordinance Water Replacement Project will need to be adopted to move forward with the AMI project.

Joe Norman made a motion, and Keith Warren seconded, to approve the Capital Project Budget Ordinance Water Meter Replacement Project. All were in favor.

REFUSE TRUCK INFORMATION: Mayor Johnnie Greene stated that during the August 20, 2019, regularly scheduled council meeting, the Council voted to have staff contact interested parties in regards to the sale of two (2) of the three (3) refuse trucks that the Town currently owns: a 2009 LE 600 Mack-Low Entry Tandem, Serial Number 7E7302994 and a 2018 LR 613 Mack-Low Entry Tandem, Serial Number 7E7306229.

Information was received by September 13, 2019, at 10:00 am, as follows:

Carolina Environmental Systems	\$217,756.00
Kernersville, NC	
City of Lenoir	\$258,000.00
Lenoir, NC	

No Council action was required.

RESOLUTION APPROVING CONVEYANCE OF PROPERTY TO ANOTHER UNIT OF GOVERNMENT IN NORTH CAROLINA PURSUANT TO NORTH CAROLINA GENERAL STATUTE § 160A-274: Mayor Johnnie Greene stated that in order to sale the two (2) refuse trucks to the City of Lenoir, a Resolution Approving Conveyance of Property to Another Unit of Government in North Carolina pursuant to North Carolina General Statute § 160A-274, is needed to complete the sale.

Rebecca Johnson made a motion, and Joe Norman seconded, to adopt the Resolution Approving Conveyance of Property to Another Unit of Government in North Carolina Pursuant to North Carolina General Statute § 160A-274. All were in favor.

PUBLIC COMMENT:

No one wished to speak.

OCTOBER CODE ENFORCEMENT REPORT: There are seven (7) code enforcement cases open:

- Chaney Carter, owner of 4361 Sawmills School Rd. Overgrown vegetation. Town Planner Hunter Nestor stated that a letter was sent on July 19, 2018, with a deadline of August 3, 2018. Town Planner Hunter Nestor stated that the nuisance was abated by the Town on August 10, 2018. Town Planner Hunter Nestor stated that a lien will be placed on the property for the cost of the mowing. Town Planner Hunter Nestor stated that a hearing was held on September 6, 2018, and Ms. Carter did not show so Town will proceed to demolish house. Town Planner Hunter Nestor stated that an asbestos test was performed on the property on July 25, 2019, and the test did find asbestos. Town Planner Hunter Nestor stated that DARI was contacted on August 8, 2019, to give the Town an estimate for abatement, the cost of abatement is seventeen thousand nine hundred dollars (\$17,900.00). Town Planner Hunter Nestor stated that staff can proceed to demolish and abate the property. Town Planner Hunter Nestor stated that staff entered into an agreement with DARI and the asbestos should be removed and house demolished by end of 2019;
- Carolyn Bray/Robyn Brittan, 2570 Baker Circle. Abandoned mobile home. Town Planner Hunter Nestor states that he is working with Town Attorney Terry Taylor to abate. Town Planner Hunter Nestor stated that the Town can treat this as a junk and debris case and not minimum housing, and by doing so, can proceed after thirty (30) days with abatement. Town Planner Hunter Nestor stated that staff plans to abate in Spring 2020;
- Horror Fields, Kiser-Sawmills, Helena St. Fence/buffer. Town Planner Hunter Nestor stated that a complaint was received on April 10, 2019. Town Planner Hunter Nestor stated that the property is not in compliance with the conditions set in CUP. Town

Planner Hunter Nestor stated that a NOV letter was sent out on April 11, 2019, with a deadline of May 10, 2019. Town Planner Hunter Nestor stated that he made a site visit on May 30, 2019 and owner is working to get property in compliance but there are still some other areas that need to be addressed. Town Planner Hunter Nestor stated that he made another site visit on September 28, 2019, and the property is currently in compliance with the CUP. Town Planner Hunter Nestor stated that he will continue to monitor all October while the Horror Fields are open;

- Charles and Patsy Crotts, 4200 Crotts MHP Dr. Overgrown Vegetation. Town Planner Hunter Nestor stated that a complaint was made on May 21, 2019, and a NOV letter was sent out on June 3, 2019. Town Planner Hunter Nestor stated that the NOV letter came back and was resent to updated address on May 28, 2019. A second NOV letter was sent out on July 30, 2019, with a new deadline of August 8, 2019. Town Planner Hunter Nestor stated that he had received no response and no progress had been made as of August 8, 2019. Town Planner Hunter Nestor stated that he received a telephone call on September 17, 2019, asking if the property was going to be abated. Town Planner Hunter Nestor stated that a final NOV was sent to all members that were identified that had a stake in the property on September 19, 2019. Town Planner Hunter Nestor stated that a daughter of Mr. and Mrs. Crotts contacted him and stated that the property was sold in 2006 and should not be in their name. Town Planner Hunter Nestor stated that staff would do more research.
- Debra Baker, 4476 Rual Dr. Overgrown vegetation/garbage and rubbish. Town Planner Hunter Nestor received a written complaint on May 22, 2019. Town Planner Hunter Nestor sent a NOV letter with a deadline of June 11, 2019. Town Planner Hunter Nestor stated that he has received no response, but the property had been mowed as of August 13, 2019. Town Planner Hunter Nestor stated that the rest of the property is still not in compliance, but no other complaints have been made;
- Timberline Lumber Co, Inc, 4221 US Highway 321A. Overgrown Vegetation/Property Maintenance. Town Planner Hunter Nestor stated that he received a complaint on July 2, 2019 and sent a NOV letter on July 16, 2019. Town Planner Hunter Nestor stated that he has had no response as of August 8, 2019. Town Planner Hunter Nestor stated that he sent a second NOV letter on August 8, 2019, with a new deadline of August 20, 2019. Town Planner Hunter Nestor stated that some progress has been made;
- William and Lana Barlow, 2141 Stamey Rd. Living in RV/Camper. Town Planner Hunter Nestor stated that he received a complaint on September 27, 2019. Town Planner Hunter Nestor stated that he checked the property and the RV seems to be occupied. Town Planner Hunter Nestor stated that a NOV letter was sent on October 1, 2019, with a deadline of October 17, 2019.

No Council action was required.

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

Joe Norman thanked everyone for coming out and hoped everyone had a safe trip home.

Keith Warren thanked everyone for coming.

Interim Town Manager Karen Clontz wanted to invite everyone to the Sawmills Fall Festival and Tractor Treat scheduled for October 25, 2019, from Noon to 6:00pm.

CLOSED SESSION FOR ATTORNEY CLIENT PRIVILEGE PURSUANT TO NCGS § 143-318.11 (a), 5(a) and 6: Mayor Johnnie Greene asked for a motion to go into closed session.

Clay Wilson made a motion, and Rebecca Johnson seconded, to go into closed session pursuant to NCGS § 143-318.11(a), 5(a) and 6 at approximately 6:26pm. All were in favor.

Clay Wilson made a motion, and Joe Norman seconded, to come out of closed session at approximately 6:50pm. All were in favor.

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

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

The meeting was adjourned at approximately 6:50pm.

Johnnie Greene, Mayor

Julie A. Good, Town Clerk

AGENDA ITEM 7A

MEMO

DATE:

November 19, 2019

SUBJECT:

Recognition:
Recycle Rewards
Program

Discussion:

The Town of Sawmills would like to congratulate Freida Whisnant on winning the Recycle Rewards Program for the month of November. Mayor Johnnie Greene will present her with a Certificate of Appreciation. A thirty-two dollar (\$32.00) credit will be added to the current sanitation bill.

Recommendation:

No Council action is required.

AGENDA ITEM 8

MEMO

DATE:

November 19, 2018

SUBJECT:

Public Hearing:
Town of Sawmills Code of
Ordinances, Phase II
Stormwater Ordinance

Discussion:

Since contracting with the WPCOG, a draft of the required Stormwater Management Plan (SWMP) has been submitted to the State and awaiting the State's feedback. Once an acceptable SWMP and NPDES permit are granted by the State, and in order to enforce the Stormwater NPDES permit, the Town is required to adopt a Stormwater and Illicit Discharge Ordinance with the WPCOG as the administrator of the stormwater plan. The purpose of the code is to comply with NC General Statute requirements. The adoption of the proposed changes will enhance the overall protection of stormwater.

Recommendation:

Staff recommends Council approve the Stormwater and Illicit Discharge Ordinance, as written, with the WPCOG as the administrator of the stormwater plan.

TOWN OF SAWMILLS
NORTH CAROLINA
Phase II Stormwater Ordinance

Phase II Stormwater Ordinance

SECTION 1: GENERAL PROVISIONS

- 101 Title
- 102 Authority
- 103 Findings
- 104 Purpose
- 105 Applicability and Jurisdiction
- 106 Interpretation
- 107 Design Manual
- 108 Relationship to Other Laws, Regulations and Private Agreements
- 109 Severability
- 110 Effective Date and Transitional Provisions

SECTION 2: ADMINISTRATION AND PROCEDURES

- 201 Review and Decision-Making Entities
- 202 Review Procedures
- 203 Applications for Approval
- 204 Approvals
- 205 Appeals

SECTION 3: STANDARDS

- 301 General Standards
- 302 Development Standards for Low-Density Projects
- 303 Development standards for High-Density Projects
- 304 Standards for Stormwater Control Measures
- 305 Dedication of BMPS, Facilities & Improvements
- 306 Variances
- 307 Additional standards for special situations
- 308 Onsite wastewater

SECTION 4: MAINTENANCE

- 401 General Standards for Maintenance
- 402 Operation and Maintenance Agreement
- 403 Inspection Program
- 404 Performance Security for Installation and Maintenance
- 405 Notice to owners
- 406 Records of Installation and Maintenance Activities
- 407 Nuisance
- 408 Maintenance Easement

SECTION 5: ENFORCEMENT AND VIOLATIONS

- 501 General
- 502 Remedies and Penalties
- 503 Procedures

SECTION 6: DEFINITIONS

- 601 Terms Defined

SECTION 7: ILLICIT DISCHARGES

- 701 Title And Purpose
- 702 Authority

703	Definitions
704	Illicit Discharges And Connections
705	Right Of Entry/Powers And Authority For Inspection
706	Enforcement

SECTION 1: GENERAL PROVISIONS

101 TITLE

This ordinance shall be officially known as "The Phase II Stormwater Ordinance." It is referred to herein as "this ordinance."

102 AUTHORITY

The Town of Sawmills is authorized to adopt this ordinance pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; Town of Sawmills; North Carolina General Statutes 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapter 160A, §§ 174, 185.

103 FINDINGS

It is hereby determined that:

Development and *redevelopment* alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;

These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health and safety as well as to the natural environment; and

These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from *development* sites.

Further, the Federal Water Pollution Control Act of 1972 ("Clean Water Act") and federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt minimum stormwater controls such as those included in this ordinance.

Therefore, the Town of Sawmills establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of stormwater runoff and discharge.

104 PURPOSE

(A) General

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-*development* stormwater runoff and nonpoint and point source pollution associated with new *development* and *redevelopment* [as well as illicit discharges into municipal stormwater systems]. It has been determined that proper management of construction-related and post-*development* stormwater runoff will minimize damage to public and private property

and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.

(B) Specific

This ordinance seeks to meet its general purpose through the following specific objectives and means:

1. Establishing decision-making processes for *development* that protect the integrity of watersheds and preserve the health of water resources;
2. Requiring that new *development* and *redevelopment* maintain the pre-*development* hydrologic response in their post-*development* state as nearly as practicable for the applicable design storm to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;
3. Establishing minimum post-*development* stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
4. Establishing design and review criteria for the construction, function, and use of *structural stormwater BMPs* that may be used to meet the minimum post-*development* stormwater management standards;
5. Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers and other conservation areas to the maximum extent practicable;
6. Establishing provisions for the long-term responsibility for and maintenance of *structural and nonstructural stormwater BMPs* to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;
7. Establishing administrative procedures for the submission, review, approval and disapproval of *stormwater management plans*, for the inspection of approved projects, and to assure appropriate long-term maintenance.
8. Coordinating site design plans that include open space and natural areas with the Town of Sawmills,
9. Controlling illicit discharges into the municipal separate stormwater system.

105 APPLICABILITY AND JURISDICTION

(A) General

Beginning with and subsequent to its effective date, this ordinance shall be applicable to all *development* and *redevelopment*, including, but not limited to, site plan

applications, subdivision applications, and grading applications, unless exempt pursuant to Subsection (B) of this Section, Exemptions.

(B) Exemptions

Development that cumulatively disturbs less than one acre and does not exceed 20,000 square feet or impervious area and does not include disturbances within a stream buffer, filling or excavation in excess of 1,000 cubic yards or filling and excavation that would impact an adjoining parcel through alteration or drainage paths, ponding or water or velocity of stormwater flow is not part of a *larger common plan of development or sale* is exempt from the provisions of this ordinance.

Redevelopment that cumulatively disturbs less than one acre and does not have a net increase in impervious area and is not part of a larger common plan of *development or sale* is exempt from the provisions of this ordinance.

Development and *redevelopment* that disturb less than one acre are not exempt if such activities are part of a *larger common plan of development or sale*, even though multiple, separate or distinct activities take place at different times on different schedules.

Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this ordinance.

(C) No Development or Redevelopment Until Compliance and Permit

No *development* or *redevelopment* shall occur except in compliance with the provisions of this ordinance or unless exempted. No *development* for which a permit is required pursuant to this ordinance shall occur except in compliance with the provisions, conditions, and limitations of the permit.

(D) Map

The provisions of this ordinance shall apply within the areas designated on the map titled "Phase II Stormwater Map of Town of Sawmills, North Carolina" ("the Stormwater Map"), which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompanies and is hereby made a part of this ordinance.

The Stormwater Map shall be kept on file by the Stormwater Administrator and shall be updated to take into account changes in the land area covered by this ordinance and the geographic location of all *structural BMPs* permitted under this ordinance. In the event of a dispute, the applicability of this ordinance to a particular area of land or BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.

106 INTERPRETATION

(A) Meaning and Intent

All provisions, terms, phrases, and expressions contained in this ordinance shall be construed according to the general and specific purposes set forth in Section 104,

Purpose. If a different or more specific meaning is given for a term defined elsewhere in Town of Sawmills Code of Ordinances, the meaning and application of the term in this ordinance shall control for purposes of application of this ordinance.¹

(B) Text Controls in Event of Conflict

In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.

(C) Authority for Interpretation

The Stormwater Administrator has authority to determine the interpretation of this ordinance. Any person may request an interpretation by submitting a written request to the Stormwater Administrator, who shall respond in writing within 30 days. The Stormwater Administrator shall keep on file a record of all written interpretations of this ordinance.

(D) References to Statutes, Regulations, and Documents

Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the *Design Manual*), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

(E) Computation of Time

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town of Sawmills, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the Town of Sawmills. References to days are calendar days unless otherwise stated.

(F) Delegation of Authority

Any act authorized by this Ordinance to be carried out by the Stormwater Administrator of Town of Sawmills may be carried out by his or her designee.

(G) Usage

(1) Mandatory and Discretionary Terms

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

(2) Conjunctions

Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word "and" indicates that all connected items,

conditions, provisions and events apply. The word "or" indicates that one or more of the connected items, conditions, provisions or events apply.

(3) Tense, Plurals, and Gender

Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

(H) Measurement and Computation

Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

107 DESIGN MANUAL

(A) Reference to Design Manual

The Stormwater Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the *Design Manual* as the basis for decisions about stormwater permits and about the design, implementation and performance of *structural and non-structural stormwater BMPs*.

The *Design Manual* includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Phase II laws.

(B) Relationship of Design Manual to Other Laws and Regulations

If the specifications or guidelines of the *Design Manual* are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the *Design Manual*.

(C) Changes to Standards and Specifications

If the standards, specifications, guidelines, policies, criteria, or other information in the *Design Manual* are amended subsequent to the submittal of an application for approval pursuant to this ordinance but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this ordinance with regard to the application.

108 RELATIONSHIP TO OTHER LAWS, REGULATIONS AND PRIVATE AGREEMENTS

(A) Conflict of Laws

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other

provision of law. Where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

(B) Private Agreements

This ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this ordinance are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this ordinance shall govern. Nothing in this ordinance shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this ordinance. In no case shall Town of Sawmills be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

109 SEVERABILITY

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

110 EFFECTIVE DATE AND TRANSITIONAL PROVISIONS

(A) Effective Date

This Ordinance shall take effect on November 19, 2019.

(B) Final Approvals, Complete Applications

All *development* and *redevelopment* projects for which complete and full applications were submitted and approved by the Town of Sawmills prior to the effective date of this ordinance and which remain valid, unexpired, unrevoked and not otherwise terminated at the time of *development* or *redevelopment* shall be exempt from complying with all provisions of this ordinance dealing with the control and/or management of post-construction runoff, but shall be required to comply with all other applicable provisions, including but not limited to illicit discharge provisions.

A phased development plan shall be deemed approved prior to the effective date of this ordinance if it has been approved by all necessary government units, it remains valid, unexpired, unrevoked and not otherwise terminated, and it shows:

1. For the initial or first phase of development, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has been approved.
2. For any subsequent phase of development, sufficient detail so that implementation of the requirements of this ordinance to that phase of development would require a material change in that phase of the plan.

(C) Violations Continue

Any violation of provisions existing on the effective date of this ordinance shall continue to be a violation under this ordinance and be subject to penalties and enforcement under this ordinance unless the use, *development*, construction, or other activity complies with the provisions of this ordinance.

SECTION 2: ADMINISTRATION AND PROCEDURES

201 REVIEW AND DECISION-MAKING ENTITIES

(A) Stormwater Administrator

(1) Designation

A Stormwater Administrator shall be designated by the Board of Alderman to administer and enforce this ordinance.

(2) Powers and Duties

In addition to the powers and duties that may be conferred by other provisions of the Town Code of Ordinances and other laws, the Stormwater Administrator shall have the following powers and duties under this ordinance:

- a. To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this ordinance.
- b. To make determinations and render interpretations of this ordinance.
- c. To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the Board of Alderman on applications for *development* or *redevelopment* approvals.
- d. To enforce the provisions of this ordinance in accordance with its enforcement provisions.
- e. To maintain records, maps, forms and other official materials as relate to the adoption, amendment, enforcement, and administration of this ordinance.
- f. To provide expertise and technical assistance to the Board of Alderman, upon request.
- g. To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.
- h. To take any other action necessary to administer the provisions of this ordinance.

202 REVIEW PROCEDURES

(A) Permit Required; Must Apply for Permit

A stormwater permit is required for all *development* and *redevelopment* unless exempt pursuant to this ordinance. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.

(B) Effect of Permit

A stormwater permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including *structural BMPs* and elements of site design for stormwater management other than *structural BMPs*.

The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the *development* or *redevelopment* site consistent with the requirements of this ordinance, whether the approach consists of *structural BMPs* or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions of this ordinance.

(C) Authority to File Applications

All applications required pursuant to this Code shall be submitted to the Stormwater Administrator by the land *owner* or the land *owner's* duly authorized agent.

(D) Establishment of Application Requirements, Schedule, and Fees

(1) Application Contents and Form

The Stormwater Administrator [Stormwater Advisory Board] shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the stormwater permit application shall describe in detail how post-*development* stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this ordinance.

(2) Submission Schedule

The Stormwater Administrator shall establish a submission schedule for applications. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications; and that the various stages in the review process are accommodated.

(3) Permit Review Fees

The Board of Alderman shall establish permit review fees, as well as, policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.

(4) Administrative Manual

For applications required under this Code, the Stormwater Administrator shall compile the application requirements, submission schedule, fee schedule, a copy of this ordinance, and information on how and where to obtain the Design

Manual in an Administrative Manual, which shall be made available to the public.

(E) Submittal of Complete Application

Applications shall be submitted to the Stormwater Administrator pursuant to the application submittal schedule in the form established by the Stormwater Administrator, along with the appropriate fee established pursuant to this section.

An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this ordinance, along with the appropriate fee. If the Stormwater Administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

(F) Review

Within 30 working days after a complete application is submitted, the Stormwater Administrator shall review the application and determine whether the application complies with the standards of this ordinance.

(1) Approval

If the Stormwater Administrator finds that the application complies with the standards of this ordinance, the Stormwater Administrator shall approve the application. The Stormwater Administrator may impose conditions of approval as needed to ensure compliance with this ordinance. The conditions shall be included as part of the approval.

(2) Fails to Comply

If the Stormwater Administrator finds that the application fails to comply with the standards of this ordinance, the Stormwater Administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

(3) Revision and Subsequent Review

A complete revised application shall be reviewed by the Stormwater Administrator within 15 working days after its re-submittal and shall be approved, approved with conditions or disapproved.

If a revised application is not re-submitted within thirty (30) calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee for a new submittal.

One re-submittal of a revised application may be submitted without payment of an additional permit review fee. Any re-submittal after the first re-submittal

shall be accompanied by a permit review fee additional fee, as established pursuant to this ordinance.

203 APPLICATIONS FOR APPROVAL

(A) Concept Plan and Consultation Meeting

Before a stormwater management permit application is deemed complete, the Stormwater Administrator or developer may request a consultation on a concept plan for the post-construction stormwater management system to be utilized in the proposed *development* project. This consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the *development* process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Local watershed plans and other relevant resource protection plans should be consulted in the discussion of the concept plan.

To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:

(1) Existing Conditions / Proposed Site Plans

Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); boundaries of existing predominant vegetation; proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

(2) Natural Resources Inventory

A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for *development* and stormwater management.

(3) Stormwater Management System Concept Plan

A written or graphic concept plan of the proposed post-*development* stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.

(B) Stormwater Management Permit Application

The stormwater management permit application shall detail how post-*development* stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this ordinance, including Section 3, Standards. All such plans shall be prepared by a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of competence, and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the *Design Manual*, and that the designs and plans ensure compliance with this ordinance.

The submittal shall include all of the information required in the submittal checklist established by the Stormwater Administrator. Incomplete submittals shall be treated pursuant to Section 2-202(D).

(C) As-Built Plans and Final Approval

Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs, and shall submit actual "as built" plans for all stormwater management facilities or practices after final construction is completed.

The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this ordinance. A final inspection and approval by the Stormwater Administrator shall occur before the release of any performance securities.

(D) Other Permits

No certificate of compliance or occupancy shall be issued by the Caldwell County Building Inspectors without final as-built plans and a final inspection and approval by the Stormwater Administrator, except where multiple units are served by the stormwater practice or facilities, in which case the Caldwell County Building Inspections Department may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

204 APPROVALS

(A) Effect of Approval

Approval authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

(B) Time Limit/Expiration

An approved plan shall become null and void if the applicant fails to make *substantial progress* on the site within one year after the date of approval. The Stormwater Administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.

In granting an extension, the Stormwater Administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.

205 APPEALS

(A) Right of Appeal

Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this ordinance made by the Stormwater Administrator, may file an appeal to the Board of Adjustment within 30 days.

(B) Filing of Appeal and Procedures

Appeals shall be taken within the specified time period by filing a notice of appeal and specifying the grounds for appeal on forms provided by Town of Sawmills. The Stormwater Administrator shall transmit to the Board of Adjustment all documents constituting the record on which the decision appealed from was taken.

The hearing conducted by the Board of Adjustment shall be conducted in the nature of a quasi-judicial proceeding with all findings of fact supported by competent, material evidence.

(C) Review by Superior Court

Every decision of the Board of Adjustment shall be subject to Superior Court review by proceedings in the nature of certiorari. Petition for review by the Superior Court shall be filed with the Clerk of Superior Court within thirty (30) days after the latter of the following:

(1) The decision of the Board of Adjustment is filed; or

(2) A written copy of the decision is delivered to every aggrieved party who has filed a written request for such copy with the Chair of the Board of Adjustment at the time of its hearing of the case.

SECTION 3: STANDARDS

301 GENERAL STANDARDS

All *development* and *redevelopment* to which this ordinance applies shall comply with the standards of this section.

302 DEVELOPMENT STANDARDS FOR LOW-DENSITY PROJECTS

Low-density projects shall comply with each of the following standards:

- (A) Stormwater runoff from the *development* shall be transported from the *development* by vegetated conveyances to the maximum extent practicable.
- (B) Stream buffers shall be maintained on all sides of perennial and intermittent surface waters. The size of the buffer for perennial surface waters shall be an undisturbed width of 30 feet, plus a vegetated setback of 20 feet. Buffers for intermittent surface waters shall be an undisturbed width of 30 feet. The buffer width is measured perpendicularly from the top of the streambank. A perennial or intermittent surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division-approved methodology.
- (C) The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future *development* and *redevelopment* maintains the site consistent with the approved project plans.

303 DEVELOPMENT STANDARDS FOR HIGH-DENSITY PROJECTS

High-density projects shall implement stormwater control measures that comply with each of the following standards:

- (A) The measures shall control and treat runoff from the first inch of rain, runoff volume drawdown time shall be a minimum of 48 hours, but not more than 120 hours.
- (B) All structural stormwater treatment systems used to meet these requirements shall be designed to have a minimum of 85% average annual removal for Total Suspended Solids (TSS);
- (C) General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the *Design Manual*;

- (D) Stream buffers shall be maintained on all sides of perennial and intermittent surface waters. The size of the buffer for perennial surface waters shall be an undisturbed width of 30 feet, plus a vegetated setback of 20 feet. Buffers for intermittent surface waters shall be an undisturbed width of 30 feet. The buffer width is measured perpendicularly from the top of the streambank. A surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3) (a) or similar site-specific determination made using Division-approved methodology.
- (E) On-site verification of intermittent and perennial streams by a qualified professional is required for all development exceeding a cumulative 5 acres and 24 percent impervious coverage, or any commercial development.
- (F) The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future *development* and *redevelopment* maintains the site consistent with the approved project plans.

304 STANDARDS FOR STORMWATER CONTROL MEASURES

(A) Evaluation According to Contents of Design Manual

All stormwater control measures and stormwater treatment practices (also referred to as Best Management Practices, or BMPs) required under this ordinance shall be evaluated by the Stormwater Administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the *Design Manual*. The Stormwater Administrator shall determine whether proposed BMPs will be adequate to meet the requirements of this ordinance.

(B) Determination of Adequacy; Presumptions and Alternatives

Stormwater treatment practices that are designed, ~~and~~ constructed, and maintained in accordance with the criteria and specifications in the *Design Manual* will be presumed to meet the minimum water quality and quantity performance standards of this ordinance. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the *Design Manual*, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this ordinance. The Stormwater Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Administrator to determine whether such an affirmative showing is made.

(C) Separation from Seasonal High Water Table

For BMPs that require a separation from the seasonal high-water table, the separation shall be provided by at least 12 inches of naturally occurring soil above the seasonal high-water table.

305 DEDICATION OF BMPs, FACILITIES & IMPROVEMENTS

The Town of Sawmills may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this ordinance and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

306 VARIANCES

(A) Any person may petition the Town of Sawmills for a variance granting permission to use the person's land in a manner otherwise prohibited by this ordinance. To qualify for a variance, the petitioner must show all of the following:

- (1) Unnecessary hardships would result from strict application of this ordinance.
- (2) The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.
- (3) The hardships did not result from actions taken by the petitioner.
- (4) The requested variance is consistent with the spirit, purpose, and intent of this ordinance; will secure public safety and welfare; and will preserve substantial justice.

(B) The Town of Sawmills may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

(C) Statutory exceptions

Notwithstanding subdivision (A) of this section, exceptions from the 30-foot landward location of built-upon area requirement as well as the deed restrictions and protective covenants requirements shall be granted in any of the following instances:

- (1) When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.
- (2) When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.

(3) A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

307 **ADDITIONAL STANDARDS FOR SPECIAL SITUATIONS**

(A) Pet waste

(1) Restrictions on Pet Waste

- (a) It shall be unlawful for the owner or custodian of any dog to take it off the owner's own property limits without the means to properly remove and dispose of the dog's feces from any public or private property.
- (b) It is the responsibility of a dog's owner or custodian to clean up the dog's feces from any public or private property outside of the dog's owner's own property limits. Such property includes, but is not limited to, parks, rights-of-way, paths, and public access areas.
- (c) "Means to properly remove and dispose of feces" shall consist of having on or near one's person a device such as a plastic bag, or other suitable plastic or paper container, that can be used to clean up and contain dog waste until it can be disposed of in an appropriate container. Such a device must be produced and shown, upon request, to anyone authorized to enforce these ordinances.
- (d) This provision shall not apply to handicapped persons assisted by trained guide or assistance dogs.
- (e) "Public nuisance" is defined to include "a dog which deposits feces on public property or on private property without the consent of the owner or person in lawful possession of the private property, and the person owning, possessing, harboring or having the care, charge, control or custody of the dog fails to remove the feces so deposited. Provided, however, this definition shall not apply to any dog assisting a handicapped person."

308 **ONSITE WASTEWATER**

(A) Operation and Maintenance Requirements

New and replaced onsite systems for domestic wastewater installed after the effective date of this ordinance shall be subject to the same requirements for operation and maintenance as *structural BMPs* for stormwater, including, at a minimum, annual inspection reports and a recorded operation and maintenance agreement, pursuant to Section 4 of this ordinance.

(B) Standards for Operation and Maintenance

Onsite systems for domestic wastewater covered by this ordinance shall be operated and maintained so as to avoid adverse effects on surface water and groundwater, including eutrophication of surface water and microbial or nitrate contamination of groundwater. Septic tank residuals shall be pumped

whenever necessary to assure the proper operation of the system to meet these standards, and the septage shall be reused or disposed of in a manner that does not present significant risks to human health, surface water or groundwater.

SECTION 4: MAINTENANCE

401 GENERAL STANDARDS FOR MAINTENANCE

(A) Function of BMPs As Intended

The *owner* of each *structural BMP* installed pursuant to this ordinance shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the *structural BMP* was designed.

(B) Annual Maintenance Inspection and Report

The person responsible for maintenance of any *structural BMP* installed pursuant to this ordinance shall submit to the Stormwater Administrator an inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following:

- (1) The name and address of the land *owner*;
- (2) The recorded book and page number of the lot of each *structural BMP*;
- (3) A statement that an inspection was made of all *structural BMPs*;
- (4) The date the inspection was made;
- (5) A statement that all inspected *structural BMPs* are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and
- (6) The original signature and seal of the engineer, surveyor, or landscape architect.

All inspection reports shall be on forms supplied by the Stormwater Administrator. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of as-built certification and each year thereafter on or before the date of the as-built certification.

402 OPERATION AND MAINTENANCE AGREEMENT

(A) In General

Prior to the conveyance or transfer of any lot or building site to be served by a *structural BMP* pursuant to this ordinance, and prior to issuance of any permit for *development* or *redevelopment* requiring a *structural BMP* pursuant to this ordinance, the applicant or *owner* of the site must execute an operation and maintenance agreement that shall be binding on all subsequent *owners* of the site, portions of the site, and lots or parcels served by the *structural BMP*. Until the transference of all property,

sites, or lots served by the *structural BMP*, the original *owner* or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

The operation and maintenance agreement shall require the *owner* or *owners* to maintain, repair and, if necessary, reconstruct the *structural BMP*, and shall state the terms, conditions, and schedule of maintenance for the *structural BMP*. In addition, it shall grant to Town of Sawmills a right of entry in the event that the Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the *structural BMP*; however, in no case shall the right of entry, of itself, confer an obligation on Town of Sawmills to assume responsibility for the *structural BMP*.

The operation and maintenance agreement must be approved by the Stormwater Administrator prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval.² A copy of the recorded maintenance agreement shall be given to the Stormwater Administrator within fourteen (14) days following its recordation.

(B) Special Requirement for Homeowners' and Other Associations

For all *structural BMPs* required pursuant to this ordinance and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

- (1) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.
- (2) Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the *structural BMPs*. If *structural BMPs* are not performing adequately or as intended or are not properly maintained, the Town of Sawmills, in its sole discretion, may remedy the situation, and in such instances the Town of Sawmills shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the *structural BMPs*, provided that the Town of Sawmills shall first consent to the expenditure.
- (3) Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to fifteen (15) per cent of the initial construction cost of the *structural BMPs*. Two-thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the *structural BMPs*. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow

account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.

- (4) The percent of developer contribution and lengths of time to fund the escrow account may be varied by the Town of Sawmills depending on the design and materials of the stormwater control and management facility.
- (5) Granting to the Town of Sawmills a right of entry to inspect, monitor, maintain, repair, and reconstruct *structural BMPs*.
- (6) Allowing the Town of Sawmills to recover from the association and its member's any and all costs the Town of Sawmills expends to maintain or repair the *structural BMPs* or to correct any operational deficiencies. Failure to pay the Town of Sawmills all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. In case of a deficiency, the Town of Sawmills shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both (Interest, collection costs, and attorney fees shall be added to the recovery).
- (7) A statement that this agreement shall not obligate the Town of Sawmills to maintain or repair any *structural BMPs*, and the Town of Sawmills shall not be liable to any person for the condition or operation of *structural BMPs*.
- (8) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town of Sawmills to enforce any of its ordinances as authorized by law.
- (9) A provision indemnifying and holding harmless the Town of Sawmills for any costs and injuries arising from or related to the structural BMP, unless the Town of Sawmills has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

403 INSPECTION PROGRAM

Inspections and inspection programs by Town of Sawmills may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs.

If the *owner* or occupant of any property refuses to permit such inspection, the Stormwater Administrator shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Stormwater Administrator while carrying out his or her official duties.

404 **PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE**

(A) May Be Required

The Town of Sawmills may, at its discretion, require the submittal of a performance security or bond with surety or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the *structural BMPs* are

(1) Installed by the permit holder as required by the approved stormwater management plan, and/or

(2) Maintained by the *owner* as required by the operation and maintenance agreement.

(B) Amount

(1) Installation

The amount of an installation performance security shall be the total estimated construction cost of the BMPs approved under the permit, plus 25%.

(2) Maintenance

The amount of a maintenance performance security shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the BMPs approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing minus a reasonable estimate of long-term inflation.

(C) Uses of Performance Security

(1) Forfeiture Provisions

The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or *owner* in accordance with this ordinance, approvals issued pursuant to this ordinance, or an operation and maintenance agreement established pursuant to this ordinance.

(2) Default

Upon default of the *owner* to construct, maintain, repair and, if necessary, reconstruct any *structural BMP* in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the *owner* to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the Town of Sawmills shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

(3) Costs in Excess of Performance Security

If Town of Sawmills takes action upon such failure by the applicant or *owner*, the Town of Sawmills may collect from the applicant or *owner* the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to any other penalties or damages due.

(4) Refund

Within sixty days of the final approval, the installation performance security shall be refunded to the applicant or terminated, except any amount attributable to the cost (plus 25%) of landscaping installation and ongoing maintenance associated with the BMPs covered by the security. Any such landscaping shall be inspected one (1) year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.

405 NOTICE TO OWNERS

(A) Deed Recordation and Indications On Plat

The applicable operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance (whichever is applicable) pertaining to every *structural BMP* shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance, whichever is applicable shall be recorded with the county Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

(B) Signage

Where appropriate in the determination of the Stormwater Administrator to assure compliance with this ordinance, *structural BMPs* shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible.

406 RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES

The *owner* of each *structural BMP* shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Stormwater Administrator.

407 NUISANCE

The *owner* of each stormwater BMP, whether *structural* or non-*structural BMP*, shall maintain it so as not to create or result in a nuisance condition.

408 MAINTENANCE EASEMENT

Every *structural BMP* installed pursuant to this ordinance shall be made accessible for adequate maintenance and repair by a maintenance easement. The easement shall be

recorded and its terms shall specify who may make use of the easement and for what purposes.

SECTION 5: ENFORCEMENT AND VIOLATIONS

501 GENERAL

(A) Authority to Enforce

The provisions of this ordinance shall be enforced by the Stormwater Administrator, his or her designee, or any authorized agent of Town of Sawmills. Whenever this section refers to the Stormwater Administrator, it includes his or her designee as well as any authorized agent of Town of Sawmills.

(B) Violation Unlawful

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this ordinance, or the terms or conditions of any permit or other *development* or *redevelopment* approval or authorization granted pursuant to this ordinance, is unlawful and shall constitute a violation of this ordinance.

(C) Each Day a Separate Offense

Each day that a violation continues shall constitute a separate and distinct violation or offense.

(D) Responsible Persons/Entities

Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of this ordinance shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists; or an *owner*, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or *development* of the property on which the violation occurs.

For the purposes of this article, responsible person(s) shall include but not be limited to:

(1) Person Maintaining Condition Resulting In or Constituting Violation

An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists.

(2) Responsibility For Land or Use of Land

The *owner* of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person,

who has control over, or responsibility for, the use, *development* or *redevelopment* of the property.

502 REMEDIES AND PENALTIES

The remedies and penalties provided for violations of this ordinance, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

(A) Remedies

(1) Withholding of Certificate of Occupancy

The Stormwater Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(2) Disapproval of Subsequent Permits and Development Approvals

As long as a violation of this ordinance continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the Town of Sawmills Planning Board may disapprove, any request for permit or *development* approval or authorization provided for by this ordinance or the zoning, subdivision, and/or building regulations, as appropriate for the land on which the violation occurs.

(3) Injunction, Abatements, etc.

The Stormwater Administrator, with the written authorization of the Town Administrator, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this ordinance. Any person violating this ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

(4) Correction as Public Health Nuisance, Costs as Lien, etc.

If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina G.S. § 160A-193, the Stormwater Administrator, with the written authorization of the Town Administrator, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

(5) Stop Work Order

The Stormwater Administrator may issue a stop work order to the person(s) violating this ordinance. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work

order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

(B) Civil Penalties

Violation of this ordinance may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the Stormwater Administrator. Civil penalties may be assessed up to the full amount of penalty to which Town of Sawmills is subject for violations of its Phase II Stormwater permit, or if no Phase II Stormwater permit exists for the jurisdiction, civil penalties may be assessed up to the full amount allowed by law.

(C) Criminal Penalties

Violation of this ordinance may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

503 PROCEDURES

(A) Initiation/Complaint

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Stormwater Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Stormwater Administrator.

(B) Inspection

The Stormwater Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this ordinance.

(C) Notice of Violation and Order to Correct

When the Stormwater Administrator finds that any building, structure, or land is in violation of this ordinance, the Stormwater Administrator shall notify, in writing, the property *owner* or other person violating this ordinance. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

The Stormwater Administrator may deliver the notice of violation and correction order personally, by the law enforcement or code enforcement personnel, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.

If a violation is not corrected within a reasonable period of time, as provided in the notification, the Stormwater Administrator may take appropriate action under this

ordinance to correct and abate the violation and to ensure compliance with this ordinance.

(D) Extension of Time

A person who receives a notice of violation and correction order, or the *owner* of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Stormwater Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 30 days. The Stormwater Administrator may grant 15-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this ordinance. The Stormwater Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

(E) Enforcement After Time to Correct

After the time has expired to correct a violation, including any extension(s) if authorized by the Stormwater Administrator, the Stormwater Administrator shall determine if the violation is corrected. If the violation is not corrected, the Stormwater Administrator may act to impose one or more of the remedies and penalties authorized by this ordinance.

(F) Emergency Enforcement

If delay in correcting a violation would seriously threaten the effective enforcement of this ordinance or pose an immediate danger to the public health, safety, or welfare, then the Stormwater Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Stormwater Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

SECTION 6: DEFINITIONS

601 TERMS DEFINED

When used in this Ordinance, the following words and terms shall have the meaning set forth in this section, unless other provisions of this Ordinance specifically indicate otherwise.

Built-upon area (BUA)

That portion of a *development* project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

Department

The North Carolina Department of Environment Quality.

Design Manual

The stormwater design manual approved for use in Phase II jurisdictions by the *Department* and certified by this jurisdiction for the proper implementation of the requirements of the federal Phase II stormwater program. All references herein to the *Design Manual* are to the latest published edition or revision.

Development

Any land-disturbing activity that increases the amount of *built-upon area* or that otherwise decreases the infiltration of precipitation into the soil.

Division

The Division of Energy, Mineral and Land Resources in the *Department*.

High-density project

Any project that exceeds the *low-density* threshold for dwelling units per acre or *built-upon area*.

Larger common plan of development or sale

Any area where multiple separate and distinct construction or land-disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

Low-density project

For a project that is not located within one-half mile of and draining to Shellfish Resource Waters: the project is a low-density project if it has no more than two dwelling units per acre or twenty-four percent *built-upon area* (BUA) for all residential and non-residential *development*.

A project with an overall density at or below the relevant low-density threshold, but containing areas with a density greater than the overall project density, may be considered low density as long as the project meets or exceeds the post-construction model practices for

low-density projects and locates the higher density in upland areas and away from surface waters and drainage ways to the maximum extent practicable.

1-year, 24-hour storm

The surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.

Owner

The legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. "Owner" shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of "owner" under another description in this definition, such as a management entity.

Redevelopment

Any *development* on previously-developed land, other than a rebuilding activity that results in no net increase in *built-upon area* and provides equal or greater stormwater control than the previous *development*.

Structural BMP

A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-*development* hydrology on a developed site; or to achieve any combination of these goals. Structural BMP includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. "Structural BMP" is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this ordinance.

Substantial progress

For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. "Substantial progress" for purposes of determining whether an approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.

SECTION 7: ILLICIT DISCHARGES

701 TITLE AND PURPOSE

(A) Title

This ordinance shall be officially known as "The Phase II Stormwater Illicit Discharge Detection and Elimination Ordinance." It is referred to herein as "this ordinance."

(B) Purpose

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the Town Sawmills through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by Stormwater discharges by any user
- (2) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

702 AUTHORITY

The Town of Sawmills is authorized to adopt this ordinance pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; North Carolina General Statutes 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapter 160A § 174, 185.

703 DEFINITIONS

For the purposes of this section, the following shall mean:

Best Management Practices (BMPs)

schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to Stormwater, receiving waters, or Stormwater conveyance systems BMPs also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks sludge or water disposal, or drainage from raw materials storage.

Clean Water Act

The federal Water Pollution Control Act (33 U.S. C. 5 1251 et seq.), and any subsequent amendments thereto.

Hazardous Materials

Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported disposed of, or otherwise managed.

Illegal Discharge

Any direct or indirect non-storm water discharge to the storm drain system.

Illicit Connections

An illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency or,

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system, which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity

Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).

Municipal Separate Storm Sewer System (MS4)

Pursuant to 40 CFR 122.26(b)(8) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets catch basins, curbs, gutters, ditches, manmade channels, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures or storm drains):

(i) Owned or operated by a town, city, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, Stormwater, or other wastes, that discharges to waters of the United States or waters of the State.

(ii) Designed or used for collecting or conveying Stormwater;

(iii) Which is not a combined sewer; and

(iv) Which is not part of a Publicly Owned Treatment Works (POTW), as defined in 40 CFR 122.2

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit

A permit issued by the North Carolina Department of Environment and Natural Resources, Division of Water Quality* that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Stormwater Discharge

Any discharge to the storm drain system that is not composed entirely of storm water.

Person

Means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting either as the owner or as the owner's agent.

Pollutant

Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises

Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Water

Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Pollution Prevention Plan

A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater

Means water or other liquid, other than uncontaminated storm water, discharged from a facility.

*Ultimately the federal Environmental Protection Agency regulates the NPDES permit, but it has been delegated to the state for any non-tribal lands within North Carolina

704 ILLICIT DISCHARGES AND CONNECTIONS

(A) Illicit Discharges

No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any Stormwater conveyance, the waters of the State, or upon the land in manner and amount that the substance is likely to reach a Stormwater conveyance or the waters of the State, any liquid, solid, gas, or other substance, other than Stormwater; provided that non-Stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:

- (1) Water line flushing,
- (2) Landscape irrigation,
- (3) Diverted stream flows,
- (4) Rising ground waters,
- (5) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)),
- (6) Uncontaminated pumped ground water,
- (7) Discharges from potable water sources,
- (8) Foundation drains,
- (9) Flows from emergency firefighting,
- (10) Air conditioning condensation,
- (11) Irrigation water,
- (12) Springs,
- (13) Water from crawl space pumps,
- (14) Footing drains,
- (15) Lawn watering,
- (16) Individual residential car washing - Designated vehicle wash areas at multi-family residential complexes are not allowed if they connect, directly or indirectly, to the Stormwater System or surface waters. Charity Vehicle Washing performed by the same organization or at the same location on a routine basis (more than one time in a thirty-day period) is not allowed under this article.
- (17) Flows from riparian habitats and wetlands,
- (18) Dechlorinated swimming pool discharges - "Salt Water" swimming pools cannot be directly discharged into the storm drain due to the salinity, bromoform/bromine concentration, and chlorine generated.
- (19) Street wash water, and
- (20) Other non-Stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of North Carolina, and if any such discharges to the municipal separate storm, The Town of Sawmills shall authorize sewer system.
- (21) Removal of Stormwater System blockages with Unmodified Potable Water.

Prohibited substances include but are not limited to oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

(B) Illicit Connections

(1) Connections to a Stormwater conveyance or Stormwater conveyance system that allows the discharge of non-Stormwater, other than the exclusions described in section (a) above, are unlawful. Including but not limited to: prohibited washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and wastewater from septic systems.

(2) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of this ordinance. However, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

(3) Where it is determined that said connection:

- i. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat, or
- ii. Was made in violation of any applicable regulation or ordinance, other than this section:

The Stormwater Administrator/ Illicit Discharge Officer shall designate the time within which the connection shall be removed - in setting the time limit for compliance the Stormwater Administrator/ Illicit Discharge Officer shall take into consideration:

- i. The quantify and complexity of the work,
- iii. The consequences of delay,
- iv. The potential harm to the environment, to the public health, and to public and private property, and
- v. The cost of remedying the damage.

(C) Spills

Spills or leaks of polluting substances released, discharged to, or having the potential to be released or discharged to the Stormwater conveyance system, shall be contained, controlled, collected, and properly disposed of. All affected areas shall be restored to their pre-existing condition.

Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the Sawmills Fire Department of the release or discharge, as well as making any required notifications under state and federal law. Notification shall not relieve any person of any expenses related to the restoration, loss damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law.

(D) Industrial or Construction Activity Discharges

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit; Proof of compliance with said permit may be required in a form acceptable to the Town of Sawmills prior to the allowing of discharges to the MS4.

705 RIGHT OF ENTRY/POWERS AND AUTHORITY FOR INSPECTION

(A) Authority to Inspect and Monitor

The Stormwater Administrator/ Illicit Discharge Officer, bearing proper identification, may enter public or private properties at all reasonable times to inspect, investigate, or monitor activities and conditions subject to this article. Persons occupying premises to be inspected shall allow the Stormwater Administrator/ Illicit Discharge Officer ready access at all times to all parts of the premises to perform inspection, monitoring, records examination, copying, photography, video recording or other duties. Stormwater Administrator/ Illicit Discharge Officer shall have the right to set up on the Person's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a Person has security measures in force that would require identification and clearance before entry into the premises, the Person shall make arrangements with security personnel so that, upon presentation of identification, personnel from Stormwater Administrator/ Illicit Discharge Officer will be permitted to enter and perform their specific responsibilities without delay. Denial of Stormwater Administrator/ Illicit Discharge Officer access to the Person's premises or portions thereof shall be a violation of this article. Denial of access may also occur if a Person fails to provide, without unreasonable delay, such facilities, equipment, or devices as are reasonably necessary to permit Stormwater Administrator/ Illicit Discharge Officer personnel to perform their duties in a safe manner. Unreasonable delays may constitute denial of access. Any delay of more than five minutes may be considered unreasonable.

(B) Search Warrants

To the extent permitted by law, Administrator/ Illicit Discharge Officer may seek the issuance of a search warrant to determine compliance with this article.

(C) Confidential Information

- (1) To the extent permitted by applicable law and except as otherwise provided in this section, information and data on a Person obtained from reports, questionnaires, permit applications, permits, monitoring programs and inspections shall be available to the public or other government agencies without restriction, unless the Person specifically requests, and is able to demonstrate to the satisfaction of Administrator/ Illicit Discharge Officer, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the Person. Any such request must be asserted at the time of submission of the information or data.
- (2) To the extent permitted by applicable law, when requested by a Person furnishing a report, the portions of a report that might disclose trade secrets

or secret processes shall not be made available for inspection by the public, but shall be made available upon request to governmental agencies for uses related to this article provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the Person furnishing the report.

- (3) Documents that are not public records and the information set forth therein may be withheld and released only as provided by applicable law.

(D) Obstruction

No person shall obstruct, hamper, or interfere with Administrator/ Illicit Discharge Officer while carrying out official duties. Upon presentation of credentials by Administrator/ Illicit Discharge Officer, necessary arrangements shall be made to allow immediate access onto premises or into an area protected by security measures. Any obstruction to the safe and easy access to property, a facility or enclosure on property, or to monitoring devices shall immediately be removed. Unreasonable delays in providing safe and reasonable access or removing obstructions shall be a violation of this article.

706 ENFORCEMENT

(A) Notice of Violation

Whenever the Stormwater Administrator/ Illicit Discharge Officer finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Stormwater Administrator/ Illicit Discharge Officer may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring analyses, and reporting,
- (2) The elimination of illicit connections or discharges,
- (3) That violating discharges, practices, or operations shall cease and desist,
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property, and
- (5) Payment of a fine to cover administrative and remediation costs, and
- (6) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or the Town or a contractor designated by the Stormwater Administrator/ Illicit Discharge Officer will perform the restore, within the established deadline, the work and the expense thereof shall be charged to the violator.

(B) Violations Deemed a Public Nuisance

Illicit discharges and illicit connections which exist within the Sawmills Town Limits and

Extra-territorial Jurisdiction are hereby found, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances and may be summarily abated or restored by the Town at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the Town.

AGENDA ITEM 9A

MEMO

DATE:

November 19, 2019

SUBJECT:

Recognition:
AMI Loan Resolution and
Bank Contract

Discussion:

During the August 2019 meeting, Council agreed to partially fund the AMI water meter project with outside funding in the form of a loan. Along with this memo is a resolution authorizing the Interim Town Manager, Karen Clontz, to enter into a contract with First Citizens Bank & Trust company, on behalf of the Town of Sawmills, to purchase collateral with the total amount not to exceed \$400,000.00.

Also included with the resolution is the Installment Purchase Contract from First Citizens Bank & Trust Company. The contract has been reviewed, and approved, by Town Attorney Terry Taylor.

Recommendation:

Staff recommends Council approve the resolution and loan contract..

TOWN OF SAWMILLS

November 19, 2019

Prepared by: Terry M. Taylor, Attorney at Law

**Town of Sawmills
Caldwell County**

A RESOLUTION AUTHORIZING THE MAYOR AND INTERIM TOWN MANAGER TO EXECUTE AN INSTALLMENT PURCHASE CONTRACT to purchase Automated Metering Infrastructure ("Collateral") with the total amount financed not to exceed Four Hundred Thousand Dollars (\$400,000.00)

WHEREAS, the Town of Sawmills solicited and received a proposal from a financial institution, that being First Citizens Bank & Trust Company, to purchase the Collateral with the total amount financed not to exceed \$400,000.00;

WHEREAS, First-Citizens Bank & Trust Company offers the lowest fixed interest rate of **2.45%** for a Fifty-Nine (59) month term to provide part of the funds for this purchase;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Sawmills, that the Town Council authorizes the Mayor and Interim Town Manager to enter into a contract with First-Citizens Bank & Trust Company on behalf of the Town of Sawmills to finance a part of the funds necessary to purchase Collateral with the total amount financed not to exceed \$400,000.00.

BE IT FURTHER RESOLVED that the aforesaid contracts by and between the Town of Sawmills, vendors, and First-Citizens Bank & Trust Company, together with the amounts to be paid thereunder, be and the same are hereby designated as qualified tax-exempt obligations of the Town of Sawmills for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

BE IT FURTHER RESOLVED that the Town Council does not reasonably expect that the Purchaser (and any subordinate entities) will issue more than \$10,000,000 in qualified tax-exempt obligations pursuant to such Sections 265(b)(3)(ii) during the current calendar year.

(Signatures Appear on the Following Page)

Adopted this the 19th day of November, 2019.

TOWN OF SAWMILLS

By: _____
Johnnie Greene, Mayor

ATTEST:

By: _____
Julie A. Good, Clerk

[Clerk Seal]

Approved as to Form:

Terry M. Taylor, Attorney

Approved:

Karen Clontz, Interim Town Manager
and Finance Officer

This Resolution is effective upon its adoption this _____ day of _____, 2019. The Motion to adopt this Resolution was made by _____, seconded by _____, and was passed by a vote of _____ to _____.

I, _____, Clerk of the Governing Body of the Town of Sawmills, do hereby certify that the foregoing Resolution is a true and exact copy of the **RESOLUTION AUTHORIZING THE MAYOR AND INTERIM TOWN MANAGER TO EXECUTE AN INSTALLMENT PURCHASE CONTRACT**" duly adopted by the Governing Body of the Town of Sawmills at the regular meeting thereof duly called and held on _____, a quorum being present.

WITNESS my hand at _____, N. C., this the _____ day of _____, 2019.

Town Clerk

Date

INCUMBENCY AND AUTHORIZATION CERTIFICATE

In connection with the execution and delivery by the TOWN OF SAWMILLS, a North Carolina municipal corporation (the "Borrower"), a political subdivision and body corporate and politic existing under the laws of the State of North Carolina, of an Installment Purchase Contract (the "Contract") dated as of December 4, 2019 between the Borrower and First-Citizens Bank & Trust Company, I do hereby certify that I am the duly appointed Clerk of the Borrower, and as such, I am familiar with the official minutes and other pertinent records of that body.

I further certify that:

1. As of the date of this certificate, the persons named below hold the positions listed opposite their names.
2. The Borrower is authorized by a resolution of the Borrower's governing body, passed in a duly-called meeting held on November 19, 2019, at which a quorum was present and acting throughout, to enter into the Contract and carry out the transactions and obligations of the Borrower evidenced therein, including the purchase of the personal property identified in the Contract and the creation of a security interest therein.
3. The persons named below are authorized to execute and deliver on behalf of the Borrower the Contract and all other documents and instruments required or contemplated by the Contract, and to carry out the terms of all of the foregoing.
4. Attached hereto is a true, complete and accurate copy of such [resolution]/[ordinance] and the same has not been modified, amended, rescinded, terminated or otherwise revoked and is in full force and effect.
5. The representations and warranties of the Borrower as set forth in the Contract are true and correct as of the date of this Certificate.
6. The signatures set opposite the names and positions of the persons named below are such persons' true and authentic signatures.

<u>Name</u>	<u>Position</u>	<u>Signature</u>
Johnnie Greene	Mayor	<hr/>
Karen Clontz	Interim Town Manager	<hr/>

IN WITNESS WHEREOF, I have duly executed this certificate and have affixed to it the seal of the Town of Sawmills on this 4th day of December, 2019.

By: _____
Julie Good, Clerk to the Board

TOWN SEAL]

2019 INSTALLMENT PURCHASE CONTRACT
Not Exceeding \$400,000 for a term of 59 months at a Bank-Qualified rate of 2.45%

THIS INSTALLMENT PURCHASE CONTRACT, dated as of December 4, 2019 (the "Contract"), by and between FIRST-CITIZENS BANK & TRUST COMPANY (the "Bank") and Town of Sawmills (the "Borrower"), a body politic and corporate of the State of North Carolina (the "State").

WITNESSETH:

WHEREAS, the Borrower is a duly and validly created, organized and existing public body politic, duly created and existing under and by virtue of the Constitution and laws of the State; and

WHEREAS, the Borrower has the power to finance the acquisition of personal property by contracts that create in some or all of the property acquired a security interest to secure repayment of the financing; and

WHEREAS, the Borrower has determined it is in the best interest of the Borrower to acquire the Equipment (as hereinafter defined) and has requested the Bank advance funds to the Borrower to enable the Borrower to acquire the Equipment; and

WHEREAS, the Bank has agreed to advance or make available funds for the acquisition of the Equipment and has further agreed to make the Equipment available for use by the Borrower; and

WHEREAS, the Borrower will make Payments (as hereinafter defined) to the Bank to acquire unencumbered ownership interests in the Equipment from the Bank during the Term (as hereinafter defined); and

WHEREAS, in order to secure the obligations of the Borrower hereunder, the Borrower has agreed to grant the Bank a security interest in the Equipment.

NOW, THEREFORE, for and in consideration of the premises and of the covenants hereinafter contained, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

For purposes of this Contract, the following definitions will apply:

1.1 "Acceptance Certificate" means the final Disbursement Request Form executed by the Borrower which certifies that the Borrower has acquired and accepted all of the Equipment.

1.2 "Additional Payments" means all amounts, other than Payments, due from the Borrower to the Bank under this Contract.

1.3 "Advancement" means the aggregate amount as described on Exhibit B of this Contract, which will be advanced by the Bank to enable the Borrower to acquire the Equipment and pay the Closing Costs pursuant to the terms of this Contract.

1.4 "Bank Equipment" means the portion of the Equipment for which unencumbered title has not been purchased by the Borrower.

- 1.5 "Borrower Authorized Representative" means the individuals designated to act on behalf of the Borrower in matters relating to this Contract, as evidenced by a written certificate furnished to the Bank containing the specimen signature of the authorized individuals.
- 1.6 "Borrower Equipment" means that portion of the Equipment for which unencumbered title has been purchased by the Borrower.
- 1.7 "Change in Deductibility" has the meaning set forth in Section 14.3.
- 1.8 "Closing Costs" means all items of expense directly or indirectly payable by or reimbursable to the Borrower relating to the financing of the Equipment, including, but not limited to, filing and recording costs, settlement costs, printing costs, word processing costs, reproduction and binding costs, legal fees and charges and financing and other professional consultant fees.
- 1.9 "Date of Taxability" has the meaning set forth in Section 14.2.
- 1.10 "Determination of Taxability" has the meaning set forth in Section 14.2.
- 1.11 "Disbursement Request Form" means the form attached to this Contract as Exhibit C pursuant to which the Borrower requests all or a portion of the Advancement for the purchase of the Equipment in accordance with Article 2 hereunder.
- 1.12 "Equipment" means the personal property described in Exhibit A of this Contract.
- 1.13 "Escrow Agent" means First-Citizens Bank & Trust Company in its capacity as Escrow Agent.
- 1.14 "Escrow Fund" means the account created pursuant to Section 2.3 in which all or a portion of the Advancement is deposited by the Bank with the Escrow Agent.
- 1.15 "Event of Default" has the meaning set forth in Section 12.1.
- 1.16 "Event of Non-appropriation" has the meaning set forth in Section 5.2(a).
- 1.17 "Event of Taxability" has the meaning set forth in Section 14.2.
- 1.18 "Net Proceeds," when used with respect to any proceeds from policies of insurance required hereunder or proceeds of any condemnation award arising out of the condemnation of all or any portion of the Equipment, means the amount remaining after deducting from the gross proceeds thereof all expenses (including, without limitation, attorneys' fees and costs) incurred in the collection of such proceeds.
- 1.19 "Nonqualification Date" has the meaning set forth in Section 14.3.
- 1.20 "Payments" means those payments made by the Borrower to the Bank to obtain undivided unencumbered ownership interests in and to the Equipment as described in Article 4 of this Contract and in the Payment Schedule.
- 1.21 "Payment Schedule" means the schedule of Payments attached hereto as Exhibit B and incorporated herein by reference, which describes the Borrower's Payments due hereunder.

1.22 "Term" means the term of this Contract, which commences on the date first written above, and terminates, subject to Section 5.2, on the payment by Borrower of all Payments due under this Contract.

1.23 "Uniform Commercial Code" means the Uniform Commercial Code as adopted and codified in the laws of the State.

ARTICLE 2. ADVANCEMENT; ESCROW FUND

2.1 At closing, the Bank shall (i) advance all or a portion of the Advancement for the purpose of acquiring the Equipment, or paying Closing Costs, if any, pursuant to a Disbursement Request Form delivered by the Borrower to the Bank, and (ii) deposit the remainder of the Advancement, if any, in the Escrow Fund to be disbursed according to Section 2.2.

2.2 Requisition of Advancement Disbursement. If funds are deposited in the Escrow Fund pursuant to Section 2.1, then to receive a disbursement from the Escrow Fund, a Borrower Authorized Representative shall prepare and execute a Disbursement Request Form and deliver to the Bank and Escrow Agent. The Borrower shall attach to the Disbursement Request Form such documents as may be required by the terms of the Disbursement Request Form to support the request of funds from the Escrow Fund.

2.3 Escrow Fund. Prior to a deposit in the Escrow Fund pursuant to Section 2.1, if any, the Escrow Agent shall establish and hold the Escrow Fund separate and apart from all other funds and accounts of the Borrower. The portion of the Advancement, if any, deposited in the Escrow Fund constitutes the principal of the Escrow Fund. The Escrow Agent shall invest and reinvest the Escrow Fund in a Bank depository account and any interest earned on the principal amount on deposit in the Escrow Fund shall be accrued and retained in the Escrow Fund. Amounts on deposit in the Escrow Fund are subject to a lien and charge in favor of the Bank to secure the Borrower's obligation under this Contract. The Escrow Fund shall terminate on the earlier of (a) receipt by the Bank and Escrow Agent of an Acceptance Certificate from the Borrower, (b) written notice to the Escrow Agent from the Bank of a default by the Borrower under the Contract, or (c) termination of the Contract. Any funds on deposit in the Escrow Fund on termination of the Escrow Fund shall be applied first against the principal portion of the remaining Payments, then accrued but unpaid interest, and last to any other amounts due under this Contract. Any balance remaining shall be distributed to the Borrower.

ARTICLE 3. ACQUISITION OF EQUIPMENT

3.1 Acquisition of Equipment. The Borrower will acquire the Equipment with the Advancement. To the extent that the Advancement is insufficient to complete the acquisition of the Equipment, the Borrower is responsible for the balance of funds required or shall reduce the scope of the Equipment needed.

3.2 Acceptance of Equipment. The Borrower shall accept the Equipment when and if delivered and placed in good repair and working order and hereby authorizes the Bank to add to Exhibit A, the serial number of each item of Equipment so delivered and any other information necessary, in the Bank's sole determination, to fully describe each item of Equipment. Any delay in delivery of the Equipment does not affect the validity of this Contract or the Borrower's obligations hereunder. Borrower shall notify the Bank that all Equipment has been received and accepted by executing the Acceptance Certificate. For purposes of laws governing taxation and conditional sales, title to the Equipment is deemed to be in the Borrower, subject to immediate and automatic reversion to the Bank in accordance with Article 5 on default by the Borrower under this Contract, or failure to appropriate sufficient funds to make any Payment. Any such payments made against principal will be applied at the Bank's discretion and without adjustment to the payment amounts due under the Payment Schedule until the Contract is paid in full.

3.3 Equipment as Personal Property. The Equipment is, and shall at all times during the Term be and remain, personal property. No portion of the Equipment will become fixtures within the meaning of Article 9 of the Uniform Commercial Code.

3.4 No Alteration. The Borrower shall not make any alterations, additions, or improvements to the Equipment without the Bank's prior written consent, unless such alterations, additions or improvements may be removed without damage to the Equipment and without diminution of the subsequent value or utility of the Equipment. Any alterations, additions or improvements to the Equipment that the Bank reasonably deems cannot be removed without damage or diminution will be deemed permanently affixed to and for purposes of this Contract will become part of the Equipment and subject to all rights of the Bank herein.

ARTICLE 4. REPAYMENT OF ADVANCEMENT

4.1 Amounts and Times of Payments. The Borrower shall repay the Advancement as provided in the Payment Schedule. Each Payment as represented on the Payment Schedule includes a principal component and an interest component. Each Payment is payable without notice or demand.

4.2 Installment Payment. Each Payment is an installment payment, and on transmission of each Payment, unencumbered title to an undivided interest in the Equipment equal to that percentage of the Purchase Price represented by such Payment will transfer to the Borrower without further action by either party hereto.

4.3 Late Payments. On failure by the Borrower to make a timely Payment, interest on the then outstanding principal balance shall continue to accrue at the rate indicated on the Payment Schedule until paid by the Borrower. All payments shall be applied first to any late payment charges or other amounts due hereunder that are neither interest nor principal, then to interest accrued to the date of payment, and thereafter to the unpaid principal balance.

4.4 Place of Payments. All Payments required to be made to the Bank hereunder shall be made at the Bank's principal office or as may be otherwise directed by the Bank or its assignee.

4.5 No Abatement of Payments. The obligation of the Borrower to make Payments or Additional Payments is not subject to abatement or reduction of for any reason, including but not limited to, any defense, recoupment, setoff, counterclaim, or any claim (real or contingent) arising out of or related to the Equipment. The Borrower assumes the entire risk of loss and damage to the Equipment from any cause whatsoever, it being the intention of the parties that the Payments and Additional Payments shall be made in all events unless the obligation to make such Payments and Additional Payments is terminated as otherwise provided herein.

4.6 Optional Prepayment of Installment Payments. If the Borrower is not in default of its obligations under this Contract, then the Borrower may prepay the outstanding Payments designated as principal, in whole at a prepayment price equal to one hundred percent (100%) of the principal balance thereof, together with accrued interest to the date of prepayment. The Borrower shall provide 30 days' prior written notice to the Bank prior to exercising the option provided under this section.

4.7 Conveyance of Equipment. On payment by the Borrower of all amounts outstanding under this Contract, all of the Bank's right, title and interest in and to the Equipment will be conveyed to the Borrower and, if requested by Borrower, the Bank shall deliver such documents to evidence the transfer of the Bank's interest in the Equipment to Borrower.

ARTICLE 5. EVENT OF NON-APPROPRIATION; PARTITION

5.1 Limited Obligation of the Borrower. Subject at all times to Section 5.2, it is the Borrower's present intent, to make all Payments and Borrower reasonably believes that funds can be obtained sufficient to make all Payments. The Borrower agrees that funds, if any, which are legally available and appropriated for Payments and the performance of other obligations set forth in this Contract, will be applied to Payments and the performance of such obligations. NOTWITHSTANDING THE FOREGOING, THE FULL FAITH, CREDIT AND TAXING POWER OF THE BORROWER ARE NOT PLEDGED FOR THE REPAYMENT OF THE ADVANCEMENT. THE PARTIES AGREE THAT NOTHING CONTAINED IN THIS CONTRACT IS INTENDED TO CREATE, OR DOES CREATE, INDEBTEDNESS OF THE BORROWER WITHIN THE MEANING OF ANY STATE CONSTITUTIONAL OR STATUTORY LIMITATION OR RESTRICTION AND SHALL NOT BE SO CONSTRUED. NO PROVISION OF THIS CONTRACT IS TO BE CONSTRUED TO PLEDGE OR TO CREATE A LIEN ON ANY CLASS OR SOURCE OF BORROWER'S MONEYS OTHER THAN THE FUNDS THAT MAY BE HELD IN THE ESCROW FUND, NOR SHALL ANY PROVISION OF THIS CONTRACT RESTRICT THE FUTURE ISSUANCE OF ANY OF BORROWER'S BONDS OR OBLIGATIONS PAYABLE FROM ANY CLASS OR SOURCE OF BORROWER'S MONEYS (EXCEPT TO THE EXTENT THIS CONTRACT RESTRICTS THE INCURRENCE OF ADDITIONAL OBLIGATIONS SECURED BY THE EQUIPMENT).

5.2 Non-appropriation.

(a) All payment and performance obligations of the Borrower under this Contract coming due during the fiscal years that follow the fiscal year in which the Term commences are subject to the availability and appropriation of funds by the governing body of the Borrower. If the governing body of the Borrower, on consideration of the budget submitted for approval by the chief financial officer of the Borrower, which budget shall include the amounts of all Payments and any Additional Payments to become due in the fiscal year in which the budget is applicable, determines in its sole discretion not to include the amounts for the Payments and Additional Payments in its final approved budget, then an "Event of Non-appropriation" is deemed to have occurred. The chief financial officer of the Borrower shall promptly notify the Bank in writing of the occurrence of an Event of Non-appropriation;

(b) On the occurrence of an Event of Non-appropriation that is not waived in accordance with subsection (c) below, without penalty or expense to Borrower of any kind whatsoever, as of the last day of the fiscal year in which the governing body of the Borrower lawfully budgeted funds to make Payments, Borrower shall have no further obligation to Payments under this Contract, except as to those Payments funds which have been lawfully budgeted and appropriated and remain unpaid. No right of action or damages will accrue to the benefit of the Bank, or its assignee, as to that portion of Payments which remain unpaid as a consequence of an Event of Non-appropriation;

(c) Bank may, in its sole discretion, on request by the chief administrative officer of the Borrower, temporarily waive the occurrence of an Event of Non-appropriation and suspend termination of this Contract for the purpose of allowing reconsideration by the Borrower's governing body of its decision to not appropriate funds with which to pay Payments. If such waiver is granted by Bank, then it is effective for thirty (30) days from the beginning of the fiscal year to which the Event of Non-appropriation applies (the "Waiver Period"). If the Borrower's governing body lawfully appropriates sufficient funds to make Payments prior to the expiration of the Waiver Period, then the Event of Non-appropriation is deemed to have been remedied, this Contract shall not terminate and the parties shall be restored to the status quo ante. If Borrower's governing body fails to lawfully appropriate sufficient funds for Payments during the Waiver Period, then this Contract terminates on the first day following the end of the Waiver Period;

(d) On the occurrence of an Event of Non-appropriation that is not waived in accordance with subsection (c), or following expiration of the Waiver Period in which such Event of Non-

Appropriation remains uncured, the Borrower agrees to peaceably surrender possession of the Bank Equipment as determined in accordance with subsection (f) below, to Bank or its assignee at such place as designated by the Bank or its assignee immediately following the termination of this Contract pursuant to this Section 5.2, and the Bank Equipment shall be packed at Borrower's cost for shipment at Borrower's cost in accordance with manufacturer specifications. If Borrower remains in possession of the Bank Equipment, or any portion thereof, more than five business days following termination of this Contract in accordance with this Section 5.2, then Borrower will be deemed a lessee-at-will and shall pay to the Bank a fair and reasonable amount as rental for use of the Bank Equipment during such period (as determined by Bank in its reasonable judgment);

(e) On termination of this Contract under this Article 5 and notwithstanding the provisions of subsection (d), Bank is authorized, to the extent permitted by applicable law, to, elect in its sole discretion (i) take possession of the Bank Equipment, with or without legal action, (ii) lease the Bank Equipment, (iii) collect all rents and profits therefrom, with or without taking possession of the Bank Equipment, and (iv) after deducting all costs of collection and administration expenses, apply the net rents and profits first to the payment of necessary maintenance and insurance costs, and then to Borrower's account and in reduction of the amounts due from Borrower to Bank hereunder, if any; and

(f) On termination of this Contract under this Article 5, unencumbered title to that portion of the Equipment which is Borrower Equipment, shall immediately (and with no further action by either party) be vested in the Borrower. The allocation of the Equipment percentage shall be based on the portion of Advancement spent on any piece of Equipment. To the extent that Equipment has been replaced due to casualty with other property, then the original proceeds shall follow to the replacement property. To the extent that Equipment has not been replaced after casualty, then said Equipment shall be allocated to the Borrower Equipment percentage. The Bank is vested with broad authority to partition the Equipment and to take unencumbered title to such portion of the Equipment the Bank deems necessary to satisfy its interests.

ARTICLE 6. REPRESENTATIONS AND WARRANTIES OF BORROWER AND THE BANK

6.1 Representation and Warranties of the Borrower. The Borrower represents and warrants that each of the following is true in all material respects:

(a) The Borrower is a public body corporate and politic duly created and existing under the laws of the State, and has all powers necessary to enter into the transactions contemplated by this Contract and to carry out its obligations hereunder;

(b) This Contract, and all other documents relating hereto, have been duly and validly authorized, approved, executed and delivered by the Borrower, and the performance by the Borrower of its obligations under such documents has been approved and authorized, under all laws, regulations and procedures applicable to the Borrower, including, but not limited to, compliance with all applicable public meeting and bidding requirements, and the transactions contemplated by this Contract and all other documents relating hereto constitute a public purpose for which public funds may be expended pursuant to the Constitution and laws of the State, and, assuming due authorization, execution and delivery hereof by the Bank, constitute valid, legal and binding obligations of the Borrower, enforceable in accordance with their respective terms, except as enforcement thereof may be limited by general principles of equity or by bankruptcy, insolvency and other laws affecting the enforcement of creditors' rights generally;

(c) No approval or consent is required from any governmental authority with respect to the entering into or performance by the Borrower of this Contract and the transactions contemplated hereby, or, if any such approval is required, it has been duly obtained;

(d) Since the date the Bank submitted its proposal to enter into this Contract with the Borrower, there has been no material change in the financial affairs of the Borrower which would affect its ability to make Payments and perform its other obligations under this Contract;

(e) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best of the Borrower's knowledge, threatened, against or affecting the Borrower that challenges or questions (i) the validity or enforceability of this Contract or any other documents relating hereto, (ii) the performance of the Borrower's obligations hereunder, (iii) the right of any member of the Borrower's governing body to hold office, (iv) the validity of the proceedings by which the Borrower's entry into this Contract has been authorized (v) the authority of the Borrower to acquire the Equipment or (vi) the authority of the Borrower to appropriate funds to make Payments;

(f) The Borrower's entry into and compliance with the provisions of this Contract, under the circumstances contemplated hereby, does not and will not in any material respect conflict with, or constitute on the part of the Borrower a breach of or default under any agreement or other instrument to which the Borrower is a party, or any existing law, regulation, court order or consent decree to which the Borrower is subject;

(g) There are no liens or encumbrances on the Equipment other than the lien created by this Contract;

(h) The purchase of the Equipment is essential to the proper, efficient and economical operation of the Borrower and the delivery of its service and the Equipment will provide an essential use and permit the Borrower to carry out public functions that it is authorized by law to perform;

(i) The Borrower has appropriated or otherwise has legally available and sufficient funds to pay all amounts due under this Contract within the Borrower's current fiscal year. The Borrower has not terminated any lease, rental agreement, payment agreement, equipment acquisitions, lease-purchase agreement or installment purchase contract to which the Borrower has been a party at any time during the past 10 years as a result of insufficient funds being appropriated in a fiscal year. During the past 10 years, no event has occurred which would constitute an event of default under any debt, revenue bond or obligation issued by or on behalf of the Borrower; and

(j) If this Contract is indicated as "Bank Qualified" on the first page of this Contract, then the Borrower designates its obligation hereunder as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended ("Code"). The Borrower (i) has not and does not expect to issue, directly or indirectly through subordinate units, more than \$10,000,000 of tax-exempt obligations (other than private activity bonds) during this calendar year and (ii) has not designated during this calendar year more than \$10,000,000 of its obligations (or of its subordinate units) as "qualified tax-exempt obligations."

6.2 Representations and Warranties of the Bank. The Bank represents and warrants that each of the following is true in all material respects:

(a) The Bank has the power and authority to enter into this Contract;

(b) Neither the execution and delivery of this Contract nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of the organizational documents of the Bank or any restriction or any agreement or instrument to which the Bank is now a party or by which the Bank is bound;

(c) The Bank is entering into this Contract as a vehicle for making a commercial loan and without a present view to the distribution thereof (subject, nevertheless, to any requirement of law that the disposition of its property shall at all times be under its control) within the meaning of the federal securities laws;

(d) The Bank is entering into this Contract solely for its own account and no other person now has any direct or indirect beneficial ownership or interest therein;

(e) The Bank is cognizant to the extent it deems necessary of the financial and business conditions of the Borrower; the Bank has a net worth substantially in excess of the cost of this Contract and in the event it should unexpectedly incur the loss of the entire value of this Contract, such loss would not materially adversely affect its financial condition; and

(f) The Bank has made such investigation as it deems necessary to make its investment decision, and all information, books and records requested by it have been furnished to it; the Bank acknowledges that, except for the financial information received by it and relied on by it from the Borrower concerning the financial position of the Borrower, no other representations have been made to it as to the financial condition of the Borrower.

ARTICLE 7. COVENANTS OF THE BORROWER

7.1 Care and Use. The Borrower shall use the Equipment in a careful and proper manner, in compliance with all applicable laws and regulations, and, at its sole cost and expense, shall service, repair and maintain the Equipment so as to keep the Equipment in good condition, repair, appearance and working order for the purposes intended, ordinary wear and tear expected, and shall replace any part of the Equipment as may from time to time become worn out, lost, stolen, destroyed or damaged or unfit for use. The Borrower shall use the Equipment only to perform the Borrower's governmental and proprietary functions.

7.2 Inspection. The Bank shall have the right on reasonable prior notice to the Borrower to enter into and upon the premises where the Equipment is located to inspect the Equipment and observe its use during normal business hours.

7.3 Utilities. The Borrower shall pay, when due, all charges for utility services used in connection with the Equipment. There shall be no abatement of the Payments on account of interruption of any such services.

7.4 Taxes. The Borrower shall pay, when due, all taxes levied by any governmental body as a result of the Borrower's ownership, possession, or use of the Equipment or as a direct or indirect result of the purchase of the Equipment by the Borrower.

7.5 Risk of Loss. The Borrower shall bear all risk of loss to and condemnation of the Equipment, and no such loss or damage and no defect or unfitness or obsolescence with respect to the Equipment shall relieve the Borrower of its obligation to make the Payments. In the event of loss or damage to or condemnation of the Equipment, the Borrower shall either (a) continue to make the Payments due hereunder and repair or replace the Equipment, or (b) prepay in full the principal components of the outstanding Payments. Said repair or replacement of the Equipment shall meet with the satisfaction of the Bank.

7.6 Performance by the Bank of the Borrower's Responsibilities. Any performance required of the Borrower or any payments required to be made by the Borrower may, if not timely performed or paid, be performed or paid by the Bank, and, in that event, the Bank shall be immediately

reimbursed by the Borrower for such payments and for any costs and expenses, legal or otherwise, associated with the payments or other performance by the Bank, with interest thereon at a per annum rate equal to the Bank's then-announced "Prime Rate" in effect on the last business day of the calendar month preceding the payment (but not exceeding the maximum rate, if any, permitted by applicable law).

7.7 Financial Statements; Budget. The Borrower agrees that it will furnish the Bank at such reasonable times as the Bank shall request current audited financial statements (including, without limitation, the Borrower's annual budget as submitted or approved), and permit the Bank or its agents and representatives to inspect the Borrower's books and records and make extracts therefrom at its own expense during regular business hours and in a manner which will not disrupt the normal business routine of the Borrower. The Borrower represents and warrants to the Bank that all financial statements which have been delivered to the Bank fairly and accurately reflect the Borrower's financial condition and there has been no material adverse change in the Borrower's financial condition as reflected in the financial statements since the date thereof.

7.8 Other Responsibilities and Conditions. Simultaneously with the execution of this Contract and prior to the disbursement of the Advancement, the Borrower shall cause to be provided to the Bank the following:

(a) Certified copies of resolutions of the Borrower's governing body authorizing the Borrower to enter into this Contract and carry out its terms;

(b) A certificate of the Borrower, executed by any of the Borrower's authorized officers, in form and substance satisfactory to the Bank that certifies (i) the Borrower is duly authorized to enter in the Contract; (ii) the resolution or ordinance authorizing the Contract and the transactions contemplated thereunder is in full force and effect and has not been modified, repealed or amended in whole or in part; (iii) each of the Borrower's representations and warranties in the Contract are true and correct in all material respects as of the date of the certificate; (iv) the names, specimen signatures and positions of the Borrower Authorized Representatives;

(c) An Opinion Letter from counsel to the Borrower, in form and substance satisfactory to the Bank, which opines that (i) the Borrower is a public body corporate and politic duly created and existing under the laws of the State, and has all powers necessary to enter into the Contract and to carry out its obligations thereunder; (ii) the Contract is duly authorized and a valid and enforceable obligation of the Borrower; (iii) there is no pending or threatened litigation challenging (A) the Contract, (B) the Borrower's performance of its obligations thereunder, (C) the right of any member of the Borrower's governing body to hold office, (D) the validity of the proceedings by which the Borrower's entry into the Contract has been authorized, (E) the authority of the Borrower to acquire the Equipment or (F) the authority of the Borrower to appropriate funds to make Payments; and (iv) the Borrower's entry into and compliance with the provisions of the Contract does not and will not in any material respect conflict with or constitute on the part of the Borrower a breach of or default under any agreement or other instrument to which the Borrower is a party, or any existing law, regulation, court order or consent decree to which the Borrower is subject;

(d) A certificate or other proof of insurance on the Equipment, in a form consistent with the requirements of Article 9 and satisfactory to the Bank; and

(e) Executed originals of any other documents and instruments required by this Contract or as may be requested by the Bank.

ARTICLE 8. SECURITY INTEREST; LIENS

8.1 Security Interest. To secure all of its obligations under this Contract, the Borrower grants to the Bank a first and priority security interest in the Equipment, in any and all additions, accessions, repairs, replacements, substitutions, and modifications to the Equipment, and all proceeds of all the foregoing, including any insurance proceeds paid because of loss or damage to the Equipment. The Bank may file a financing statement with respect to the Equipment and this Contract without the Borrower's signature. If the Equipment is or includes one or more motor vehicles, the ownership of which evidenced by a certificate of title, the Borrower shall cause the Bank's lien to be properly shown on each certificate as a first lien security interest.

8.2 Security Agreement. This Contract is a security agreement pursuant to the Uniform Commercial Code.

8.3 No Other Liens. The Borrower shall not directly or indirectly create, incur, assume or suffer to exist any lien, charge, security interest, encumbrance or claim on or with respect to the Equipment (except the security interest granted to the Bank). The Borrower shall promptly, at its own expense, take such action as may be necessary to duly discharge any such lien, security interest, charge, encumbrance or claim if the same shall arise at any time. The Borrower shall reimburse the Bank for any expense incurred by the Bank in order to discharge or remove any such lien, security interest, encumbrance or claim.

ARTICLE 9. INSURANCE; DAMAGE; CONDEMNATION; USE OF NET PROCEEDS

9.1 Insurance. The Borrower shall obtain and maintain, at its expense, at all times until termination of this Contract a primary policy of insurance covering the Equipment and providing the insurance protection described in this Section 9.1. The Borrower shall maintain fire, casualty, public liability, property damage and theft insurance, and such other insurance as required by the Bank. The Borrower shall maintain such insurance in such amounts and with such deductibles, if any, as required by the Bank from time to time. The Equipment shall be insured in an amount at least equal to its replacement value. All policies of insurance required under this Article 9 shall be maintained with an insurance company or companies satisfactory to the Bank and shall provide that losses shall be payable to the Bank and the Bank shall be named as an additional insured with respect to all such insurance.

On acceptance of any Equipment, the Borrower shall deliver to the Bank the policies of insurance or duplicates thereof or other evidence satisfactory to the Bank of such insurance coverage as required under this Section 9.1 for such Equipment. Each insurer shall agree by endorsement on the policy or policies issued by it that (i) it will give 30 days' prior written notice to the Bank of the cancellation or material modification of such policy; and (ii) the coverage of the Bank will not be terminated, reduced or affected in any manner regardless of any breach or violation by the Borrower of any warranties, declarations and conditions of such insurance. The Borrower hereby appoints the Bank as the Borrower's attorney-in-fact (i) to make claim for, receive payment of, and execute and endorse all documents, checks or drafts received in payment under any insurance policies with respect to the Equipment; and (ii) to make, adjust, settle or release any claims under or relating to such insurance. The Borrower agrees to cooperate fully in all accident insurance investigations, claims and litigation proceedings. The Borrower shall cooperate fully with the Bank in filing any proof of loss with respect to any insurance policy described above. The Borrower shall not voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim with respect to the Equipment without the written consent of the Bank.

The Bank may, but shall not be required, to permit the Borrower, in lieu of obtaining the foregoing policies of insurance, to adopt alternative risk management programs including, without limitation, to self-insure in whole or in part, individually or in connection with other units of local government or other institutions, to participate in programs of captive insurance companies, to participate

with other units of local government or other institutions in mutual or other cooperative insurance or other risk management programs, to participate in State or federal insurance programs, to take advantage of State or federal laws now or hereafter in existence limiting liability, or to establish or participate in other alternative risk management programs.

9.2 Loss and Damage. In the event of damage or loss to any item of Equipment, Borrower shall within five business days notify the Bank in writing of such loss or damage in all material particulars, and within 15 business days thereafter notify the Bank in writing of the course of action, consistent with this Section 9.2, which it intends to take with respect to such lost or damaged Equipment. The Borrower shall within thirty (30) days, deposit any Net Proceeds received with respect to such damaged or lost Equipment in accordance with Section 9.4, or if no Net Proceeds shall:

(a) Place the damaged Equipment in good repair at Borrower's sole expense, the adequacy of such repairs being subject to Bank's reasonable approval;

(b) Replace at Borrower's sole expense the lost or damaged Equipment with equipment having substantially similar specifications and of equal or greater value to the lost or damaged Equipment immediately prior to the time of the loss or damage, such replacement equipment to be subject to Bank's reasonable approval, whereupon such replacement equipment shall be substituted on Exhibit A hereto; or

(c) Pay Bank in cash all of the following: (i) all amounts owed by Borrower to Bank under this Contract in the then-current fiscal year, and (ii) following such payment in subsection (i) (A) the remaining principal balance payable under this Contract or (B) the principal portion, accrued but unpaid interest, and any other amounts due under this Contract related to the lost or damaged Equipment. On Bank's receipt of such payment, Borrower shall be entitled to whatever interest Bank may have in the Equipment, or portion thereof, in its then condition and location, without warranty expressed or implied.

9.3 Condemnation. Borrower shall immediately notify Bank if any governmental authority shall institute, or shall notify Borrower of any intent to institute, any action or proceeding for the taking of, or damages to, all or any part of the Equipment or any interest therein under the power of eminent domain, or if there shall be any damage to the Equipment due to governmental action, but not resulting in a taking of any portion of the Equipment. Borrower shall file and prosecute its claims for any such awards or payments in good faith and with due diligence and cause the same to be collected and paid over to Bank, and to the extent permitted by law hereby irrevocably authorizes and empowers Bank, in the Borrower's name or otherwise, to collect and receipt for any such award or payment and to file and prosecute such claims. Any condemnation award shall be applied in the same manner as insurance proceeds as if the Equipment was lost or damaged as further provided in Section 9.4.

9.4 Use of Net Proceeds. The Net Proceeds of any insurance policies or condemnation awards shall be deposited in the Escrow Fund or, if no Escrow Fund exists, in a separate fund held by the Bank.

(a) Unless the Borrower exercises its option to prepay all or a portion of the outstanding Payments in accordance with Section 9.4(b), all Net Proceeds shall be applied to the prompt repair or replacement of the Equipment so condemned, lost or damaged. The Bank shall disburse Net Proceeds to the Borrower for such repair or replacement on receipt of a Disbursement Request Form from a Borrower Authorized Representative;

(b) The Borrower may apply the Net Proceeds to pay the principal, accrued but unpaid interest, and any other amounts due under this Contract related to the Equipment so condemned, lost or damaged;

(c) Any balance of Net Proceeds remaining following application in subsection (a) or (b) shall be applied first against the principal portion of any remaining Payments due under this Contract, accrued but unpaid interest, and last to any other amounts due under this Contract. Any balance of Net Proceeds remaining shall be distributed to the Borrower. Any such payments made against principal will be applied at the Bank's discretion and without adjustments to the payment amounts due under the Payment Schedule until the Contract is paid in full.

ARTICLE 10. INDEMNIFICATION

To the extent permitted by applicable law, the Borrower hereby agrees to indemnify, protect and save the Bank and the Escrow Agent harmless from all liability, obligations, losses, claims, damages, actions, suits, proceedings, costs and expenses, including attorneys' fees, arising out of, connected with, or resulting directly or indirectly from the Equipment, including without limitation, the possession, condition or use thereof.

The indemnification arising under this Section shall continue in full force and effect notwithstanding the payment in full of all obligations under this Contract.

ARTICLE 11. DISCLAIMER OF WARRANTIES

11.1 No Representations by the Bank. The Borrower acknowledges that it has inspected the Equipment and found the Equipment to be satisfactory and acknowledges and agrees that it has selected the Equipment based upon its own judgment and disclaims any reliance upon any statements or representations made by the Bank with respect thereto.

11.2 Disclaimer by the Bank. THE BANK MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, AS TO THE CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE EQUIPMENT OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE EQUIPMENT.

ARTICLE 12. DEFAULT AND REMEDIES

12.1 Definition of Event of Default. The Borrower is deemed to be in default under this Contract on the happening of any of the following events (each, an "Event of Default"):

(a) The Borrower fails to make any Payment or fails to pay any Additional Payment when due (provided, however, that an Event of Non-appropriation is not an Event of Default under this Contract); or

(b) The Borrower shall fail to perform or observe any term, condition or covenant of this Contract or shall breach any warranty by the Borrower herein or therein contained; or

(c) Proceedings under any bankruptcy, insolvency, reorganization or similar litigation shall be instituted by or against the Borrower, or a receiver, custodian or similar officer shall be appointed for the Borrower or any of its property, and such proceedings or appointments shall not be vacated or fully stayed after the institution or occurrence thereof; or

(d) Any warranty, representation or statement made by the Borrower herein or in any other document executed or delivered in connection herewith is found to be incorrect or misleading in any material respect on the date made; or

(e) An attachment, levy or execution of a security interest or lien is levied upon or against the Equipment.

12.2 Remedies on Default. Upon the occurrence of any Event of Default, the Bank may exercise any one or more of the following remedies as the Bank in its sole discretion shall elect:

(a) Subject to Article 5, declare the entire principal amount of the Payments and all accrued interest and other charges immediately due and payable without notice or demand to the Borrower;

(b) Proceed by appropriate court action to enforce performance by the Borrower of the applicable covenants of this Contract or to recover for the breach thereof;

(c) Exercise all the rights and remedies at law or in equity, including those rights and remedies of a secured party or creditor under the Uniform Commercial Code and the general laws of the State with respect to the enforcement of the security interest granted or reserved hereunder; and

(d) Terminate this Contract and give notice to the Borrower to surrender possession of the Bank Equipment and use, operate, lease or hold all or any part of the Bank Equipment in its sole discretion. If Borrower remains in possession of the Bank Equipment or any portion thereof, more than five business days following termination of the Contract in accordance with this subsection (d), the Borrower is deemed a lessee-at-will and will pay to the Bank a fair and reasonable amount as rental for the use of the Bank Equipment during such period, as determined by the Bank.

12.3 Further Remedies. All remedies of the Bank are cumulative and may be exercised concurrently or separately. The exercise of any one remedy shall not be deemed an election of such remedy or preclude the exercise of any other remedy. The Borrower agrees to pay to the Bank all court costs and reasonable attorney fees incurred by Bank in enforcing the Bank's rights and remedies under this Contract.

12.4 Agreement to Pay Attorneys' Fees and Expenses. In the event of a default by the Borrower under the provisions of this Contract, the Borrower agrees, subject to the limitations and provisions of State law, that it will pay on demand to the Bank, the reasonable costs and expenses, including attorneys' fees, incurred by the Bank in the collection of Payments and Additional Payments or the enforcement of performance or observation of any obligation or agreement by the Borrower.

ARTICLE 13. ASSIGNMENT

13.1 Assignment by the Borrower. The Borrower shall not sell, assign, lease, sublease, pledge or otherwise encumber or suffer a lien or encumbrance upon or against any interest in the Equipment or this Contract (except for the lien and security interest of the Bank therein) without the Bank's prior written consent.

13.2 Assignment by the Bank. The Bank may, at any time and from time to time, assign all or any part of its interest in the Equipment, this Contract, including without limitation, the Bank's rights to receive the Payments and any Additional Payments due and to become due hereunder. Any assignment made by the Bank or any subsequent assignee shall not purport to convey any greater interest or rights than those held by the Bank pursuant to this Contract. The Bank or its assignees may assign or reassign either this entire Contract or a partial interest herein. All assignments by the Bank shall be subject to the conditions set forth below. After the Bank gives the notice described below to the Borrower, the Borrower shall thereafter make all payments in accordance with the notice to the assignee named therein.

(a) The Bank shall send written notice of the assignment and its effective date to the Borrower before it makes the assignment. Such notification shall be forwarded to the Borrower at least

30 days before the effective date of the assignment. The notification shall include an executed copy of the assignment documents, shall specify the assignee's name and address, and shall provide the Borrower with instructions for making payments after the effective date of the assignment. The requirement of 30 days' notice may be waived in writing by the Borrower;

(b) The Borrower shall not be obligated to make Payments or Additional Payments to anyone other than the Bank until the notification specified in subsection (a) is received by the Borrower or until the effective date of the assignment, whichever is later. Should the Borrower incorrectly make Payments or Additional Payments to the Bank after the conditions specified in the preceding sentence are met, the Bank shall return those payments to the Borrower; and

(c) The Borrower shall execute, at the Bank's request, notice of assignment and other related documents that are reasonably necessary to protect the security interest in the Equipment or in this Contract, and to maintain those security interests in perfected form. If so requested, the acknowledgment shall in no way be deemed necessary to make the assignment effective.

13.3 Book-Entry System. During the term of this Contract, Borrower shall keep a complete and accurate record of all assignments and other transfers in form and substance necessary to comply with Section 149(a) of the Internal Revenue Code. On receipt of notice of assignment from the Bank as described in Section 13.2(a), Borrower shall record the assignment in Borrower's "book entry system" as that term is defined in Section 149(a) of the Code. This Contract, or any interest herein, is not subject to assignment through a public offering.

13.4 Escrow Fund Assignment by the Bank. The Bank may freely assign all or any part of its interest in the Escrow Fund and its duties as Escrow Agent in connection with an assignment by the Bank of this Contract.

ARTICLE 14. TAX COVENANTS

14.1 Intent of Parties. If the Contract is designated as "tax-exempt" as indicated on the first page hereof, it is the intention of the parties hereto that the interest portion of the Payments paid by the Borrower to the Bank under this Contract are to be tax-exempt under Section 103 of the Internal Revenue Code. Borrower acknowledges that the continued exclusion of the interest component of the Payment from the Bank's gross income for federal income tax purposes depend in part, on the Borrower's compliance with certain provisions and requirements of the Internal Revenue Code of 1986, as amended (the "Code"), and Treasury Regulations promulgated thereunder. To that end, the Borrower covenants that it will comply with all requirements of the Code that must be satisfied subsequent to the execution of this Contract so that the interest component of each Payment is and remains excludable from gross income for federal income tax purposes, and further, specifically covenants as follows:

(a) The Borrower will make no use of the Advancement (the "Proceeds") which would cause this Contract to be an "arbitrage bond" within the meaning of Section 148 of the Code;

(b) The Equipment shall be used exclusively for essential governmental purposes of the Borrower and no use shall be made of the proceeds or of the Equipment, directly or indirectly, which would cause this Contract to be a "private activity bond" within the meaning of Section 141 of the Code;

(c) No part of the payment of principal or interest under this Contract is or shall be guaranteed, in whole or in part, by the United States or any agency or instrumentality thereof, and

(d) The Borrower shall timely file such reports and information as required by the Code, including a Form 8038-G or 8038-GC, or other comparable forms, as applicable, and shall furnish the Bank copies of such filings.

14.2 Determination or Event of Taxability. If the Contract is designated as "Bank Qualified" on the first page hereof, then if at any time there is a Determination of Taxability or Event of Taxability, as hereinafter defined, the interest rate under this Contract, from and after the Date of Taxability, as hereinafter defined, shall increase by a factor of 1.50. If the Contract is designated as "Non-Bank Qualified" on the first page hereof, then if at any time there is a Determination of Taxability or Event of Taxability, the interest rate under this Contract, from and after the Date of Taxability, shall increase by a factor of 1.30.

In either case, on a Determination of Taxability or Event of Taxability, the Borrower shall pay to the Bank all amounts, if any, which may be necessary to reimburse the Bank for any interest, penalties or other charges assessed by the Internal Revenue Service and by any State tax department against the Bank by reason of the Bank's failure to include the interest portion of the Payments in its gross income for income tax purposes. Payment amounts under this Contract will be increased as a result of the increased interest rate and additional interest as a result of said rate increase on all previous Payments shall be paid to the Bank upon demand therefor. The Borrower shall pay to the Bank the above-mentioned alternative rate of interest notwithstanding any transfer by the Bank or payment or prepayment by the Borrower prior to the date such Determination of Taxability was made.

An "Event of Taxability" shall mean any event, occurrence or situation, resulting from an action, or failure to act, by the Borrower, the effect of which is to cause the interest portion of the Payments to be includible in the gross income of the Bank for federal income tax purposes. A "Determination of Taxability" shall mean a determination that the interest portion of the Payments is included in gross income of the Bank for federal income tax purposes, which determination shall be deemed to have been made upon the occurrence of the earlier of the following: (a) the date on which the Bank is advised in writing by the Internal Revenue Service that, as a consequence of an action, or failure to act, by the Borrower, the interest portion of the Payments (hereinafter called "Interest") is included in the gross income of the Bank for federal income tax purposes; (b) the date on which the Borrower receives notice from the Bank that the Bank has been advised (i) in writing that the Internal Revenue Service has issued a statutory notice of deficiency or similar notice to the Bank which asserts, in effect, that Interest received by the Bank is included in the gross income of the Bank for federal income tax purposes, as a result of an action, or failure to act, by the Borrower, or (ii) by an opinion of counsel (approved by the Bank and Borrower) received by the Bank which concludes, in effect, that Interest is included in the gross income of the Bank for federal income tax purposes as a result of an action, or failure to act, by the Borrower; (c) the day on which the Borrower is advised in writing by the Internal Revenue Service that there has been issued a public or private ruling of the Internal Revenue Service that the Interest is included in the gross income of the Bank for federal income tax purposes as a result of an action, or failure to act, by the Borrower; or (d) the day on which the Borrower is advised in writing by counsel to the Bank that a final determination, from which no further right of appeal exists, has been made by a court of competent jurisdiction in the United States of America in a proceeding with respect to which the Borrower has been given written notice and an opportunity to participate and defend that the Interest is included in the gross income of the Bank for federal income tax purposes, as a result of an action, or failure to act, by the Borrower.

The "Date of Taxability" shall mean the first date on which Interest is included in the gross income of the Bank for federal income tax purposes as a result of an Event of Taxability or a Determination of Taxability.

14.3 Bank Qualification. If the Contract is designated as "Bank Qualified" on the first page hereof and there is not an Event or Determination of Taxability, as defined above, then at any time

there is a Change in Deductibility, as hereinafter defined, the interest rate payable under this Contract shall increase, from and after the Nonqualification Date as hereinafter defined, by a factor of 1.15 times. A "Change in Deductibility" means any determination by the Internal Revenue Service or any court of competent jurisdiction that the obligation of the Borrower hereunder is not a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code as a result or as a consequence of (i) an action, or failure to act, by the Borrower or (ii) a breach of any representation or warranty made by the Borrower to the Bank relating to the status of this Contract as a qualified tax-exempt obligation (including but not limited to the representations and warranties contained in Section 6.1(j) of this Contract). "Nonqualification Date" means that date that this Contract is determined not to be a "qualified tax-exempt obligation" as a result of a Change in Deductibility.

14.4 Duty to Notify the Bank. The Borrower agrees to give prompt written notice to the Bank on the Borrower's receipt of any oral or written notice or information from any source whatsoever to the effect that an Event of Taxability or a Determination of Taxability or a Change in Deductibility has occurred.

ARTICLE 15. MISCELLANEOUS

15.1 Waiver. No covenant or condition of this Contract can be waived except by the written consent of the Bank. Any failure of the Bank to require strict performance by the Borrower or any waiver by the Bank of any of the terms, covenants or conditions herein are not a waiver of any other breach of the same or any other term, covenant or condition herein.

15.2 Severability. If any provision in this Contract is determined to be invalid or unenforceable by a court of competent jurisdiction, such ruling shall not affect any other term or provision herein, except that the invalid or unenforceable provision and the other provisions in this Contract automatically shall be modified as minimally as possible so as to be valid and enforceable and to effectuate the intent of the parties, provided that such modification can be made while still preserving the intent of the parties, and the remaining terms and provisions, as modified, if modified, shall remain binding on the parties. In the event that no such modification can be made while still preserving the intent of the parties hereto, then the invalid or unenforceable provision shall be stricken from this Contract, and the remaining terms, if sufficient to constitute a binding contract, shall remain in full force and effect.

15.3 Governing Law. This Contract shall be construed, interpreted and enforced in accordance with the laws of the State.

15.4 Notices. Any and all notices, requests, demands, and other communications given under or in connection with this Contract shall be in writing and shall be deemed to have been given when the writing is delivered, if given or delivered by hand, overnight delivery service, or facsimile or electronic transmitter (with confirmed receipt), or three (3) days after being mailed, or on the day it was actually received, whichever is earlier, if mailed by first class United States mail, postage prepaid, to the mailing address, telecopy number or email addresses set forth below:

If to the Bank, address to:

First-Citizens Bank & Trust Company
1230 Main Street, MC 994082
Columbia, SC 29201
Telephone for Overnight: 803-931-1721
Facsimile: 803-931-8648
Email: courtney.dunlap@firstcitizens.com
Attention: Courtney Dunlap, Government Lending Coordinator

If to the Borrower, address to:

Karen Clontz, Interim Town Manager
4076 US Hwy. 321A
Sawmills, NC 28630
Telephone for Overnight: (828) 396-7903
Facsimile: _____
Email: Kclontz@townofsawmills.com
Attention: Finance Officer

The Borrower or the Bank may, by notice given hereunder, designate any further or different addresses or telecopy numbers to which subsequent demands, notices, approvals, consents, requests or other communications shall be sent or persons to whose attention the same shall be directed. The Bank also may give notice to the Borrower at any updated address for the Borrower of which the Borrower gives the Bank informal notice which the Bank maintains in its records.

15.5 Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Contract.

15.6 Entire Contract. This Contract, together with the exhibits and attachments hereto, which are incorporated herein by reference, constitutes the entire Contract between the parties and this Contract shall not be modified, amended, altered or changed except by written agreement signed by the parties.

15.7 Binding Effect. This Contract shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

15.8 Time. Time is of the essence of this Contract and each and all of its provisions.

15.9 Execution in Counterparts. This Contract may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

15.10 Reliance of the Bank on Document. The Bank may act in reliance on any writing, instrument or signature which it, in good faith, believes to be genuine and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. The Bank is not liable in any manner for the sufficiency or correctness as to the form, manner of execution, or validity of any instrument or as to the identity, authority, or right of any person executing the same; and the Bank's duties hereunder shall be limited to the receipt of such moneys, instruments or other documents received by it as the Bank, and for the disposition of the same in accordance herewith.

15.11 E-Verify. The Bank understands that "E-Verify" is a federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with Section 64-25(5) of the General Statutes of the State, as amended. The Bank agrees to comply with Section 64-26 of the General Statutes of the State, as amended. The Bank will not use any subcontractors in connection with this Contract.

15.12 Iran Divestment Certification. The Bank acknowledges that the execution and delivery of this Contract constitutes the Bank's certification to the State Treasurer that, as of the date of execution and delivery, the Bank is not listed on the Final Divestment List created and maintained by the State Treasurer pursuant to the Iran Divestment Act of 2015, Chapter 143C-6A-1 et seq. of the General Statutes of the State.

[REMAINDER OF PAGE INTENTIONALLY BLANK. SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed as of the day and year first above written.

[SEAL]

Town of Sawmills

By: _____

Name: Johnnie Greene

Title: Mayor

ATTEST:

By: _____

Name: Julie Good

Title: Clerk

FIRST-CITIZENS BANK & TRUST COMPANY,
as Bank and Escrow Agent

By: _____

Name: Steve Groth

Title: Senior Vice President

(if LGC approval is required)

This Contract has been approved under the provisions of Section 160A-20 and Article 9, Chapter 25 of the General Statutes of North Carolina.

Secretary
Local Government Commission

OR *(Pre-audit certification if LGC approval not required)*

This instrument has been preaudited in the manner required by The Local Government Budget and Fiscal Control Act.

By: _____
Its: Karen Clontz, Finance Officer
and Interim Town Manager

[SIGNATURE PAGE TO INSTALLMENT PURCHASE CONTRACT]

EXHIBIT A
DESCRIPTION OF EQUIPMENT

Contract Date: December 4, 2019

Borrower: Town of Sawmills

Advancement: \$400,000

Description and Serial Number (if available)	Purchase Price	Department and Purpose or Function of Equipment	Location of Equipment After Delivery
---	-------------------	--	---

Town of Sawmills

By: _____

Name: Karen Clontz

Title: Interim Town Manager

Date: December 4, 2019

EXHIBIT A

AMI Technology Advanced Metering System to include roughly 2,250 Water Meters.

EXHIBIT B

PAYMENT SCHEDULE

Contract Date: December 4, 2019

Borrower: Town of Sawmills

Advancement: \$400,000

Interest Rate: 2.45%

Cash Flow Data - Loans and Payments

	Event	Date	Amount	Number	Period	End Date
1	Loan	12/04/2019	400,000.00	1		
2	Payment	11/04/2020	85,803.52	4	Annual	11/04/2023
3	Payment	11/04/2024	85,803.54	1		

TValue Amortization Schedule - Normal, 30E3/360

	Date	Payment	Interest	Principal	Balance
Loan	12/04/2019				400,000.00
2019 Totals		0.00	0.00	0.00	
1	11/04/2020	85,803.52	8,983.33	76,820.19	323,179.81
2020 Totals		85,803.52	8,983.33	76,820.19	
2	11/04/2021	85,803.52	7,917.91	77,885.61	245,294.20
2021 Totals		85,803.52	7,917.91	77,885.61	
3	11/04/2022	85,803.52	6,009.71	79,793.81	165,500.39
2022 Totals		85,803.52	6,009.71	79,793.81	
4	11/04/2023	85,803.52	4,054.76	81,748.76	83,751.63
2023 Totals		85,803.52	4,054.76	81,748.76	
5	11/04/2024	85,803.54	2,051.91	83,751.63	0.00
2024 Totals		85,803.54	2,051.91	83,751.63	
Grand Totals		429,017.62	29,017.62	400,000.00	

Town of Sawmills

By: _____

Name: Karen Clontz

Title: Interim Town Manager

Date: December 4, 2019

EXHIBIT C

DISBURSEMENT REQUEST FORM

Date: _____

1. The amount of the requested disbursement to be paid to Town of Sawmills \$ _____

2. The method of disbursement (limited to two draws per month):

☐ First Citizens Bank Account Transfer to Acct #: _____

Acct name: _____

☐ Wire Transfer Bank Name: _____ ABA#: _____

Credit Acct Name: _____

Credit Acct #: _____

Special Instructions: _____

3. A brief description of the purpose of the disbursement: _____

4. The undersigned certifies as follows:

a. Payment of the disbursement for the purpose requested will not cause the undersigned to be in violation of any of terms of the 2019 Installment Purchase Contract dated December 4, 2019 (the "Contract").

b. The amounts requested to be disbursed were properly incurred in connection with the acquisition of the Equipment and were not subject of any previous request for disbursement.

c. The Equipment for which the disbursement is requested has been finally accepted by the Borrower.

d. No notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable under the Contract to any of the persons, firms or corporations named herein has been received, or if any notice of any such lien, attachment or claim has been received, such lien, attachment or claim has been released or discharged or will be released or discharged upon payment of this disbursement.

e. This disbursement contains no items representing payment on account of any percentage entitled to be retained on the date of this requisition.

f. No Event of Default is continuing under the Contract, and no event or condition is existing which, with notice or lapse of time or both, would become an Event of Default.

g. The Borrower has in place insurance on this portion of the Equipment that complies with the insurance provisions of the Contract.

5. Attached hereto are the following: proof of insurance, bills, receipts, invoices, or other documents evidencing the amounts and purposes for which the disbursement is requested.
 6. Also attached hereto is a list of the Equipment to which this Disbursement Request applies, including descriptions, quantities and serial numbers.
 7. Borrower agrees that the Equipment subject to this Disbursement Request shall be added to the Description of Equipment List (Exhibit A to the Contract) without further notice to or request by Borrower.
 8. Borrower acknowledges that the delivery and any required installation of the Equipment subject to this Disbursement Request has been or will be completed in accordance with the terms of the Contract, and that such Equipment has been or will be inspected and accepted by Borrower on _____ (date).
- ☐ (check if the following sentence is true): Acceptance Certificate. The items of Equipment subject to this Disbursement Request represent the final items of the Equipment to be accepted by Borrower. The Borrower has acquired and accepted all of the Equipment.

By: _____
Title: _____
Date: _____

Send Completed Form and Attachments to:
courtney.dunlap@firstcitizens.com
OR mail to: Courtney Dunlap, MC994082
Government Lending Coordinator
First-Citizens Bank & Trust Company
1230 Main Street, Columbia, SC 29201
OR Fax: 803.931.8648

Original Loan Amount: \$400,000

File Lien Holder (Title) and Certificate Holder & Loss Payee (Certificate of Insurance) as follows:

**First-Citizens Bank & Trust Company
PO Box 26592-DAC20
Raleigh, NC 27611**

YOUNG, MORPHIS, BACH & TAYLOR, LLP
ATTORNEYS AT LAW

858 SECOND STREET NE, SUITE 200 (28601)
POST OFFICE DRAWER 2428
HICKORY, NORTH CAROLINA 28603-2428
www.hickorylaw.com

CHARLES R. YOUNG, SR. (RETIRED) ♦
THOMAS C. MORPHIS (1947 - 2009)

WAYNE M. BACH
TERRY M. TAYLOR ♦
PAUL E. CULPEPPER
KEVIN C. MCINTOSH
JIMMY R. SUMMERLIN, JR.
TIMOTHY D. SWANSON
JOHN W. CRONE, III
J. STEVEN BRACKETT
JORDAN L. FAULKNER
JAMES R. HAWES
JESSICA M. FRENCH WATSON
JARRYD A. DE BOER

TELEPHONE: 828.322.4663
FACSIMILE: 828.324.6410
EMAIL: kellys@hickorylaw.com

♦ CERTIFIED MEDIATOR

♦ BOARD CERTIFIED SPECIALIST IN
REAL PROPERTY LAW-RESIDENTIAL,
BUSINESS, COMMERCIAL &
INDUSTRIAL TRANSACTIONS

November 20, 2019

First-Citizens Bank & Trust Company
1230 Main Street
Columbia, South Carolina 29201

RE: Not Exceeding \$400,000 Installment Purchase Contract between First-Citizens Bank & Trust Company and Town of Sawmills (the "Contract"), a North Carolina Municipal Corporation

Ladies and Gentlemen:

I am legal counsel for the Town of Sawmills (the "Borrower") and am familiar with the above-referenced Contract, and all other documents to be executed by the Borrower in connection therewith (together with the Contract, the "Transaction Documents") I have examined the Transaction Documents, the resolution of the Borrower's governing body adopted on November 19, 2019 and authorizing the entry by the Borrower into the Contract (the "Resolution"), North Carolina General Statute § 160A-20 as amended, and such other documents, records, and provisions of law as I deem relevant and necessary as a basis for rendering the following opinions:

On the basis of the foregoing examination it is my opinion that:

1. The Borrower is a duly organized or created and validly existing political subdivision of the State of North Carolina (the "State") and has all power and authority necessary under the Constitution and laws of the State to enter into the Contract and to perform its obligations under the Contract.
2. The Transaction Documents have been duly authorized, executed and delivered by the Resolution and the Contract is a valid and legally binding obligation of the Borrower, enforceable according to its terms. The Borrower has duly adopted the Resolution and it has not been modified, amended or repealed.
3. The Borrower has designated the Contract as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code, and, in the case of certain financial

institutions (within the meaning of Section 265(b)(5) of the Code), a deduction is allowed for 80% of that portion of such financial institutions' interest expense allocable to interest on the Payments.

4. There is no pending or threatened litigation in any court or other tribunal, State or federal, of any nature, restraining, enjoining or challenging the execution and delivery of the Contract, the Borrower's performance of its obligations thereunder, the right of any member of the Borrower's governing body to hold office, the validity of the proceedings by which the Borrower's entry into the Contract has been authorized, the authority of the Borrower to acquire the Equipment, as defined in the Contract, or the authority of the Borrower to appropriate funds to make Payments.

5. The Borrower's entry into and compliance with the provisions of the Contract does not and will not in any material respect conflict with or constitute on the part of the Borrower a breach of or default under any agreement or other instrument to which the Borrower is a party, or any existing law, regulation, court order or consent decree to which the Borrower is subject.

Very Truly Yours,

YOUNG, MORPHIS, BACH & TAYLOR, LLP

Terry M. Taylor
Town Attorney

AGENDA ITEM 9B

MEMO

DATE:

November 19, 2019

SUBJECT:

Financial Matters:
Employee Longevity Pay

Discussion:

The Town of Sawmills has an employee longevity pay plan that has been historically paid out during the first pay period in December.

The pay schedule is as follows:

26 years and up	\$900.00
21-25 years	\$750.00
16-20 years	\$600.00
10-15 years	\$450.00
6-9 years	\$300.00
2-5 years	\$150.00
7 months-1 year	\$ 50.00
0 months-6 months	\$ 0.00

There are sufficient funds in the budget to cover this expenditure.

Recommendation:

Staff recommends Council approve the issuance of longevity paychecks to Town employees paid out the first pay period in December.

AGENDA ITEM 9C

MEMO

DATE:

November 19, 2019

SUBJECT:

Financial Matters:
Request for Donation

Discussion:

The Town has received a request from the Caldwell County Veterans Honor Guard for a donation in the amount of \$100.00 (one hundred dollars).

There are sufficient funds in the budget for this request.

Recommendation:

Staff recommends Council discuss this matter and decide how they wish to proceed.



Town of Sawmills

Johnnie Greene, Mayor

Karen Clontz/Interim Town Administrator

Funding Request:

Name of Organization: <u>Caldwell County Veterans Honor Guard</u>		Phone #: <u>(898) 394-8072</u>
Permanent Address: <u>PO Box 702</u>		
City: <u>Hudson</u>	State: <u>NC</u>	Zip Code: <u>28638</u>
Contact Name: <u>Jimmy Rader</u>	Fed Tax ID #: _____	

Amount Requested: <u>\$100.00</u>	Amount needed for the Project: _____
Date Funds Needed: _____	Project Begin/End Dates: _____
Complete description of project: <u>Ammo for Veterans Celebration</u>	
How will the funds be used? _____ _____	
How will this project benefit the community? _____ _____	

Official Town Use Only

Date application received: <u>10/23/19</u>	Date presented to Council: <u>11/19/19</u>
Date approved/denied (circle one): _____	Amount approved: _____
Available balance in Governing Body Expense Acct: <u>\$1100.00</u>	
Date check written: _____	Check #: _____ Amount: _____

This Instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Karen Clontz

AGENDA ITEM 9D

MEMO

DATE:

November 19, 2019

SUBJECT:

Financial Matters:
Request for Donation

Discussion:

The Town has received a request from Caldwell County 4-H Saddle Club for a donation in the amount of one hundred dollars (\$100.00).

There are sufficient funds in the budget for this request.

Recommendation:

Staff recommends Council discuss this matter and decide how they wish to proceed.



Town of Sawmills

Johnnie Greene, Mayor

Karen Clontz/Interim Town Administrator

Funding Request:

Name of Organization:		Phone
<u>Caldwell County 4-H Saddle Club</u>		#: <u>828-612-5324</u>
Permanent Address: <u>4509 Sawmills School Rd</u>		
City:	State:	Zip Code:
<u>Granite Falls</u>	<u>NC</u>	<u>28630</u>
Contact Name:	Fed Tax ID #:	
<u>Robbie Denning</u>	<u>27 531 4397</u>	

Amount Requested: <u>\$100.00</u>	Amount needed for the Project: _____
Date Funds Needed: _____	Project Begin/End Dates: _____
Complete description of project: _____ _____ _____	
How will the funds be used? <u>To fund programs to support youth development.</u>	
How will this project benefit the community? <u>Youth will be taught leadership skills.</u>	

Official Town Use Only	
Date application received: <u>10/18/19</u>	Date presented to Council: _____
Date approved/denied (circle one): _____	Amount approved: <u>100.00</u>
Available balance in Governing Body Expense Acct: _____	
Date check written: _____	Check #: _____ Amount: _____

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

Karen Clontz

AGENDA ITEM 9E

MEMO

DATE:

November 19, 2019

SUBJECT:

Financial Matters:
Request for Donation

Discussion:

The Town has received a request from Granite Falls Booster Club for a donation in the amount of one hundred fifty dollars (\$150.00).

There are sufficient funds in the budget for this request.

Recommendation:

Staff recommends Council discuss this matter and decide how they wish to proceed.



Town of Sawmills

Johnnie Greene, Mayor

Christopher Todd, Town Administrator

Funding Request:

Name of Organization: <u>Granite Falls Boosters Club</u>		Phone #: <u>381-4805</u>
Permanent Address: <u>2192 Atlas Drive</u>		
City: <u>Granite Falls</u>	State: <u>NC</u>	Zip Code: <u>28630</u>
Contact Name: _____	Fed Tax ID #: _____	

Amount Requested: <u>\$150</u>	Amount needed for the Project: <u>\$150</u>
Date Funds Needed: <u>ASAP</u>	Project Begin/End Dates: _____
Complete description of project: _____ _____ _____	
How will the funds be used?: <u>To purchase uniforms for the middle school students</u>	
How will this project benefit the community?: <u>To help maintain field</u>	

Date application received: <u>10/15/19</u>	Official Town Use Only
Date approved/denied (circle one): _____	Date presented to Council: <u>11/19/19</u>
Available balance in Governing Body Expense Acct: <u>\$1400.00</u>	Amount approved: _____
Date check written: _____	Check #: _____ Amount: _____

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act. Karen Clonf

AGENDA ITEM 9F

MEMO

DATE:

November 19, 2019

SUBJECT:

Financial Matters:
Request for Donation

Discussion:

The Town has received a request from South Caldwell Boosters for a donation in the amount of one hundred fifty dollars (\$150.00).

There are sufficient funds in the budget for this request.

Recommendation:

Staff recommends Council discuss this matter and decide how they wish to proceed.



Town of Sawmills

Johnnie Greene, Mayor

Christopher Todd, Town Administrator

Funding Request:

Name of Organization:	<u>South Caldwell Boosters</u>		Phone	<u>381-4805</u>
Permanent Address:	<u>2192 Atlas Drive</u>			
City:	<u>Granite Falls</u>	State:	<u>NC</u>	Zip Code: <u>28630</u>
Contact Name:	<u>Terry Cannon</u>		Fed Tax ID #:	

Amount Requested:	<u>\$ 150</u>	Amount needed for the Project:	<u>\$150 Football Program</u>
Date Funds Needed:	<u>ASAP</u>	Project Begin/End Dates:	
Complete description of project:			
How will the funds be used?:			
<u>To advertise town in football program</u>			
How will this project benefit the community?:			
<u>To help to purchase uniforms and keep fields up at South Caldwell</u>			

Date application received: <u>10/15/19</u>		Official Town Use Only	
Date approved/denied (circle one):		Date presented to Council: <u>11/19/19</u>	
Available balance in Governing Body Expense Acct: <u>\$ 1100.00</u>		Amount approved:	
Date check written:	Check #:	Amount:	

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

AGENDA ITEM 9G

MEMO

DATE:

November 19, 2018

SUBJECT:

Financial Matters:
Approve Auditors
Contract for
FY 2019-2020

Discussion:

Enclosed with this memo is a contract from our current auditing firm Lowdermilk, Church & Co., L.L.P. The contract, in the amount of \$11,350.00 (eleven thousand three hundred fifty dollars), will cover the period of July 1, 2019 to June 30, 2020.

The amount of \$11,350.00 (eleven thousand three hundred fifty dollars) includes the following:

Audit:	\$7,375.00
Preparation of annual financial statements:	\$3,975.00

This amount includes continual guidance, advice and directives throughout the year from the auditors concerning any issues that may arise throughout the fiscal year.

Recommendation:

Staff recommends Council approve a contract with Lowdermilk, Church & Co., L.L.P. in the amount of \$11,350.00 (eleven thousand three hundred fifty dollars) and covering the period of July 1, 2019 to June 30, 2020.

The	Governing Board Town Council
of	Primary Government Unit (or charter holder) Town of Sawmills
and	Discretely Presented Component Unit (DPCU) (if applicable) N/A

Primary Government Unit, together with DPCU (if applicable), hereinafter referred to as Governmental Unit(s)

and	Auditor Name Lowdermilk Church and Co., LLP
	Auditor Address 121 North Sterling Street, Morganton, NC 28655

Hereinafter referred to as Auditor

for	Fiscal Year Ending 06/30/20	Audit Report Due Date 10/31/20
-----	--------------------------------	-----------------------------------

Must be within four months of FYE

hereby agree as follows:

1. The Auditor shall audit all statements and disclosures required by U.S. generally accepted auditing standards (GAAS) and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit(s). 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 shall 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 GAAS. 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 *Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) and the State Single Audit Implementation Act, the Auditor shall perform a Single Audit. This audit and all associated audit documentation 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 requires a federal single audit performed under the requirements found in Subpart F of the Uniform Guidance (§200.501), it is recommended that the Auditor and Governmental Unit(s) jointly agree, in advance of the execution of this contract, which party is responsible for submission of the audit and the accompanying data collection form to the Federal Audit Clearinghouse as required under the Uniform Guidance (§200.512).

If the audit and Auditor communication 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 State Board).

3. If an entity is determined to be a component of another government as defined by the group audit standards, the entity's auditor shall 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 unmodified opinion being rendered. If during the process of conducting the audit, the Auditor determines that it will not be possible to render an unmodified opinion on the financial statements of the unit, the Auditor shall contact the LGC staff to discuss the circumstances leading to that conclusion as soon as is practical and before the final report is issued. 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*, 2018 revision, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he/she has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of the most recent peer review report to the Governmental Unit(s) and the Secretary of the LGC prior to the execution of an audit contract. Subsequent submissions of the report are required only upon report expiration or upon auditor's receipt of an updated peer review report. If the audit firm received a peer review rating other than pass, the Auditor shall not contract with the Governmental Unit(s) 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 U.S. generally accepted accounting principles (GAAP) and fail to include all disclosures required by GAAP, the Auditor shall provide an explanation as to why in an attachment to this contract or in an amendment.

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 LGC staff within four months of fiscal year end. If it becomes necessary to amend this due date or the audit fee, an amended contract along with a written explanation of the delay shall be submitted to the Secretary of the LGC for approval.

7. It is agreed that GAAS include a review of the Governmental Unit's (Units') 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 shall 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/her findings, together with his recommendations for improvement. That written report shall 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 (Units') records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina. Approval is not required on contracts and invoices for system improvements and similar services of a non-auditing nature.

9. Invoices for services rendered under these contracts shall not be paid by the Governmental Unit(s) 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 shall be submitted in PDF format to the Secretary of the LGC for approval. The invoice marked 'approved' with approval date shall be returned to

the Auditor to present to the Governmental Unit(s) for payment. This paragraph is not applicable to contracts for audits of hospitals.

10. In consideration of the satisfactory performance of the provisions of this contract, the Governmental Unit(s) shall pay to the Auditor, upon approval by the Secretary of the LGC if required, the fee, which includes any costs 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. This does not include fees for any pre-issuance reviews that may be required by the NC Association of CPAs (NCACPA) Peer Review Committee or NC State Board of CPA Examiners (see Item 13).

11. If the Governmental Unit(s) has/have outstanding revenue bonds, the Auditor shall submit to LGC staff, either in the notes to the audited financial statements or as a separate report, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the Auditor shall submit to LGC staff simultaneously with the Governmental Unit's (Units') audited financial statements any other bond compliance statements or additional reports required by the authorizing bond documents, unless otherwise specified in the bond documents.

12. 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(s) and all of its component units prepared in accordance with GAAP, (c) supplementary information requested by the Governmental Unit(s) 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 upon completion.

13. If the audit firm is required by the NC State Board, the NCACPA Peer Review Committee, or the Secretary of the LGC to have a pre-issuance review of its audit work, there shall be a statement in the engagement letter indicating the pre-issuance review requirement. There also shall be a statement that the Governmental Unit(s) shall not be billed for the pre-issuance review. The pre-issuance review shall be performed prior to the completed audit being submitted to LGC Staff. The pre-issuance review report shall accompany the audit report upon submission to LGC Staff.

14. The Auditor shall submit the report of audit in PDF format to LGC Staff. For audits of units other than hospitals, the audit report should be submitted when (or prior to) submitting the final 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 LGC by any interested parties. Any subsequent revisions to these reports shall be sent to the Secretary of the LGC along with an Audit Report Reissued Form (available on the Department of State Treasurer website). 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 for other lawful purposes of the Governmental Unit(s) without requiring consent of the Auditor. If the LGC Staff determines that corrections need to be made to the Governmental Unit's (Units') financial statements, those corrections shall be provided within three business days of notification unless another deadline is agreed to by LGC staff.

15. 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 modified or amended to include the increased time, compensation, or both as may be agreed upon by the Governing Board and the Auditor.

16. If an approved contract needs to be modified or amended for any reason, the change shall be made in writing, on the Amended LGC-205 contract form and pre-audited if the change includes a change in audit fee (pre-audit requirement does not apply to charter schools or hospitals). This amended contract shall be completed in full, including a written explanation of the change, signed and dated by all original parties to the contract. It shall then be submitted to the Secretary of the LGC for approval. No change to the audit contract shall be effective unless approved by the Secretary of the LGC, the Governing Board, and the Auditor.

17. A copy of the engagement letter, issued by the Auditor and signed by both the Auditor and the Governmental Unit(s), shall be attached to this contract, and except for fees, work, and terms not related to audit services, shall be incorporated by reference as if fully set forth herein as part of this contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract shall take precedence. Engagement letter terms that conflict with the contract are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 28 of this contract. Engagement letters containing indemnification clauses shall not be accepted by LGC Staff.

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

19. 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 shall be named along with the parent government on this audit contract. DPCU Board approval date, signatures from the DPCU Board chairman and finance officer also shall be included on this contract.

20. The contract shall be executed, pre-audited (pre-audit requirement does not apply to charter schools or hospitals), and physically signed by all parties including Governmental Unit(s) and the Auditor, then submitted in PDF format to the Secretary of the LGC.

21. The contract is not valid until it is approved by the Secretary of the LGC. 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.

22. Retention of Client Records: Auditors are subject to the NC State Board of CPA Examiners' Retention of Client Records Rule 21 NCAC 08N .0305 as it relates to the provision of audit and other attest services, as well as non-attest services. Clients and former clients should be familiar with the requirements of this rule prior to requesting the return of records.

23. This contract may be terminated at any time by mutual consent and agreement of the Governmental Unit(s) and the Auditor, provided that (a) the consent to terminate is in writing and signed by both parties, (b) the parties have agreed on the fee amount which shall be paid to the Auditor (if applicable), and (c) no termination shall be effective until approved in writing by the Secretary of the LGC.

24. The Governmental Unit's (Units') failure or forbearance to enforce, or waiver of, any right or an event of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.

25. 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.

26. 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.

27. For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct and Governmental Auditing Standards, 2018 Revision (as applicable). Financial statement preparation assistance shall be deemed a "significant threat" requiring the Auditor to apply safeguards sufficient to reduce the threat to an acceptable level. If the Auditor cannot reduce the threats to an acceptable level, the Auditor cannot complete the audit. If the Auditor is able to reduce the threats to an acceptable level, the documentation of this determination, including the safeguards applied, must be included in the audit workpapers.

All non-attest service(s) being performed by the Auditor that are necessary to perform the audit must be identified and included in this contract. The Governmental Unit shall designate an individual with the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the services and accept responsibility for the results of the services performed. If the Auditor is able to identify an individual with the appropriate SKE, s/he must document and include in the audit workpapers how he/she reached that conclusion. If the Auditor determines that an individual with the appropriate SKE cannot be identified, the Auditor cannot perform both the non-attest service(s) and the audit. See "Fees for Audit Services" page of this contract to disclose the person identified as having the appropriate SKE for the Governmental Unit.

28. Applicable to charter school contracts only: No indebtedness of any kind incurred or created by the charter school shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions.

29. 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).

30. The process for submitting contracts, audit reports and invoices is subject to change. Auditors and units should use the submission process and instructions in effect at the time of submission. Refer to the N.C. Department of State Treasurer website at <https://www.nctreasurer.com/slg/Pages/Audit-Forms-and-Resources.aspx>.

31. All communications regarding audit contract requests for modification or official approvals will be sent to the email addresses provided on the signature pages that follow.

32. Modifications to the language and terms contained in this contract form (LGC-205) are not allowed.

FEES FOR AUDIT SERVICES

1. For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct (as applicable) and *Governmental Auditing Standards, 2018 Revision*. Refer to Item 27 of this contract for specific requirements. The following information must be provided by the Auditor; contracts presented to the LGC without this information will be not be approved.

Financial statements were prepared by: ☒ Auditor ☐ Governmental Unit ☐ Third Party

If applicable: Individual at Governmental Unit designated to have the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the non-attest services and accept responsibility for the results of these services:

Name:

Title:

Email Address:

Karen Clontz

Finance Officer

kclontz@townofsawmills.com

2. Fees may not be included in this contract for work performed on Annual Financial Information Reports (AFIRs), Form 990s, or other services not associated with audit fees and costs. Such fees may be included in the engagement letter but may not be included in this contract or in any invoices requiring approval of the LGC. See Items 8 and 13 for details on other allowable and excluded fees.

3. 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 below. 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 billings. Should the 75% cap provided below conflict with the cap calculated by LGC staff based on the prior year billings on file with the LGC, the LGC calculation prevails. All invoices for services rendered in an audit engagement as defined in 20 NCAC 3.0503 shall be submitted to the Commission for approval before any payment is made. Payment before approval is a violation of law. (This paragraph not applicable to contracts and invoices associated with audits of hospitals).

PRIMARY GOVERNMENT FEES

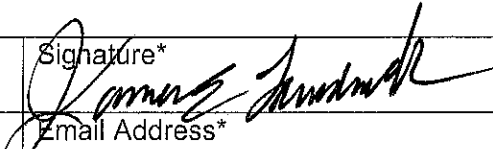
Primary Government Unit	Town of Sawmills
Audit Fee	\$ 7,375
Additional Fees Not Included in Audit Fee:	
Fee per Major Program	\$
Writing Financial Statements	\$ 3,975
All Other Non-Attest Services	\$
75% Cap for Interim Invoice Approval (not applicable to hospital contracts)	\$ 8,510

DPCU FEES (if applicable)

Discretely Presented Component Unit	N/A
Audit Fee	\$
Additional Fees Not Included in Audit Fee:	
Fee per Major Program	\$
Writing Financial Statements	\$
All Other Non-Attest Services	\$
75% Cap for Interim Invoice Approval (not applicable to hospital contracts)	\$

SIGNATURE PAGE

AUDIT FIRM

Audit Firm*	
Lowdermilk Church and Co., LLP	
Authorized Firm Representative (typed or printed)*	Signature*
James E Lowdermilk	
Date*	Email Address*
10/24/19	jim.lowdermilk@lowdermilkchurchcpa.com

GOVERNMENTAL UNIT

Governmental Unit*	
Town of Sawmills	
Date Primary Government Unit Governing Board Approved Audit Contract* (G.S.159-34(a) or G.S.115C-447(a))	
Mayor/Chairperson (typed or printed)*	Signature*
Johnnie Greene	
Date	Email Address
	jgreene@townofsawmills.com

Chair of Audit Committee (typed or printed, or "NA")	Signature
N/A	
Date	Email Address

GOVERNMENTAL UNIT – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).
Not applicable to hospital contracts.

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.

Primary Governmental Unit Finance Officer* (typed or printed)	Signature*
Karen Clontz	
Date of Pre-Audit Certificate*	Email Address*
	kclontz@townofsawmills.com

SIGNATURE PAGE – DPCU
(complete only if applicable)

DISCRETELY PRESENTED COMPONENT UNIT

DPCU* N/A	
Date DPCU Governing Board Approved Audit Contract* (Ref: G.S. 159-34(a) or G.S. 115C-447(a))	
DPCU Chairperson (typed or printed)*	Signature*
Date*	Email Address*

Chair of Audit Committee (typed or printed, or "NA")	Signature
Date	Email Address

DPCU – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).
 Not applicable to hospital contracts.

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.

DPCU Finance Officer (typed or printed)*	Signature*
Date of Pre-Audit Certificate*	Email Address*

Remember to print this form, and obtain all
 required signatures prior to submission.

PRINT

Lowdermilk Church & Co., L.L.P.
Certified Public Accountants

121 N. Sterling Street
Morganton, North Carolina 28655
Phone: (828) 433-1226
Fax: (828) 433-1230

To Honorable Mayor and Members of the Town Council
Town of Sawmills
Sawmills, North Carolina

October 21, 2019

We are pleased to confirm our understanding of the services we are to provide Town of Sawmills for the year ended June 30, 2020. We will audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements of Town of Sawmills as of and for the year ending June 30, 2020. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as Management's Discussion and Analysis (MD&A), to supplement Town of Sawmills' basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to Town of Sawmills' RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by U.S. generally accepted accounting principles, and will be subjected to certain limited procedures, but will not be audited:

- 1) Management's Discussion and Analysis
- 2) Budgetary Comparison Information
- 3) Local Government Employees' Retirement System Schedule of the Proportionate Share of Net Pension Liability (Asset) and Schedule of Contributions

We have also been engaged to report on supplementary information other than RSI that accompanies Town of Sawmills' financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements, and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements, or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America, and we will provide an opinion on it in relation to the financial statements as a whole, in a report combined with our auditor's report on the financial statements:

- 1) Combining and Individual Fund Financial Statements
- 2) Budgetary Schedules
- 3) Other Schedules

Audit Objectives

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and the standards for financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States, and will include tests of the accounting records of Town of Sawmills and other procedures we consider necessary to enable us to express such opinions. We will issue a written report upon completion of our audit of Town of Sawmills' financial statements. Our report will be addressed to the Town Council of Town of Sawmills. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit, or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or we may withdraw from this engagement.

If circumstances occur related to the condition of your records, the availability of sufficient, appropriate audit evidence, or the existence of a significant risk of material misstatement of the financial statements caused by error, fraudulent financial reporting, or misappropriation of assets, which in our professional judgement, prevent us from completing the audit or forming an opinion on the financial statements, we retain the right to take any course of action permitted by professional standards, including declining to express an opinion or issue a report, or withdrawing from the engagement.

We will also provide a report (that does not include an opinion) on internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements as required by Government Auditing Standards. The report on internal control, and on compliance and other matters, will include a paragraph that states (1) that the purpose of the report is solely to describe the scope of testing of internal control and compliance, and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control on compliance, and (2) that the report is an integral part of an audit performed in accordance with Government Auditing Standards in considering the entity's internal control and compliance. The paragraph will also state that the report is not suitable for any other purpose. If, during our audit, we become aware that Town of Sawmills is subject to an audit requirement that is not encompassed in the terms of this engagement, we will communicate to management and those charged with governance that an audit in accordance with U.S. generally accepted auditing standards, and the standards for financial audits contained in Government Auditing Standards, may not satisfy the relevant legal, regulatory, or contractual requirements.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of abuse is subjective, Government Auditing Standards do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and Government Auditing Standards. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or any misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. Our responsibility as auditors is limited to the period covered by our audit and does not extend to later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to Government Auditing Standards.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards and Government Auditing Standards.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of Town of Sawmills' compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants. However, the objective of our audit will not be to provide an opinion on overall compliance, and we will not express such an opinion in our report on compliance issued pursuant to Government Auditing Standards.

Other Services

We will also assist in preparing the financial statements and related notes of Town of Sawmills in conformity with U.S. generally accepted accounting principles based on information provided by you. We will also prepare the following based on information provided by you: AFIR, Data Collection Form and Unit Data Input Worksheet. These nonaudit services do not constitute an audit under Government Auditing Standards, and such services will not be conducted in accordance with Government Auditing Standards. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statement services previously defined. We, in our sole professional judgement, reserve the right to refuse to perform any procedures or take any action that could be construed as assuming management responsibilities.

Management Responsibilities

Management is responsible for designing, implementing, establishing, and maintaining effective internal controls, relevant to the preparation and fair presentation of financial statements that are free from material misstatements, whether due to fraud or error, including evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; following laws and regulations; and ensuring that management is reliable and the financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles, for the preparation and fair presentation of the financial statements and all accompanying information in conformity with U.S. generally accepted accounting principles, and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information, of which you are aware, that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and for confirming to us in the written representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud, or suspected fraud, affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants and for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts or grant agreements, or abuse that we report.

You are responsible for the preparation of the supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon OR make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions for the report and for the timing and format for providing that information.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

You agree to assume all management responsibilities relating to the financial statements and related notes and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements and related notes and that you have reviewed and approved the financial statements and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; to evaluate the adequacy and results of those services; and to accept responsibility for them.

In connection with this engagement, we may communicate with you or others via email transmission. As emails can be intercepted and read, disclosed, or otherwise used or communicated by an unintended third party, or may not be delivered to each of the parties to whom they are directed and only to such parties, we cannot guarantee or warrant that emails from us will be properly delivered and read only by the addressee. Therefore, we specifically disclaim and waive any liability or responsibility whatsoever for the interception or unintentional disclosure of emails transmitted by us in connection with the performance of this engagement. In that regard, you agree that we shall have no liability for any loss or damage to any person or entity resulting from the use of email transmissions, including any consequential, incidental, direct, indirect, or special damages, such as loss of revenues or anticipated profits, or disclosure or communication of confidential or proprietary information.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash, accounts receivable, or other confirmations and schedules we request and will locate any documents selected by us for testing.

We will provide copies of our reports to the Town; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Lowdermilk Church & Co., L.L.P. and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request, and in a timely manner, to the Local Government Commission or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Lowdermilk Church & Co., L.L.P. personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the Local Government Commission. If we are aware that a federal awarding agency or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

James E. Lowdermilk is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. To ensure that Lowdermilk Church & Co., L.L.P.'s independence is not impaired under the AICPA Code of Professional Conduct, you agree to inform the engagement partner before entering into any substantive employment discussions with any of our personnel.

Our fee for these services will be at our standard hourly rates, plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our gross fee, including expenses, will not exceed \$11,350. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. We are required to inform you that we charge interest at a rate of 18% per annum on all invoices over 30 days old.

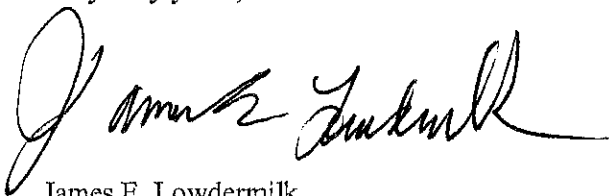
You may request that we perform additional services not addressed in this engagement letter. If this occurs, we will communicate with you regarding the scope of the additional services and the estimated fees. We also may issue a separate engagement letter covering the additional services. In the absence of any other written communication from us documenting such additional services, our services will continue to be governed by the terms of this engagement letter.

Our audit engagement ends on delivery of our audit report. Any follow-up services that might be required will be a separate, new engagement. The terms and conditions of that new engagement will be governed by a new, specific engagement letter for that service.

We are providing you with a copy of our 2018 external peer review report which accompanies this letter.

We appreciate the opportunity to be of service to Town of Sawmills and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,



James E. Lowdermilk
Partner

RESPONSE:

This letter correctly sets forth the understanding of Town of Sawmills.

Management signature: _____

Title: _____

Date: _____

Governance signature: _____

Title: _____

Date: _____



Bernard Robinson & Company, L.L.P.

Report on the Firm's System of Quality Control

October 30, 2018

To the Partners of Lowdermilk Church & Co., L.L.P.
and the Peer Review Committee of the North Carolina
Association of Certified Public Accountants

We have reviewed the system of quality control for the accounting and auditing practice of Lowdermilk Church & Co., L.L.P. (the firm) in effect for the year ended May 31, 2018. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

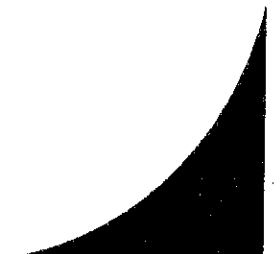
Required Selections and Considerations

Engagements selected for review included an engagement performed under *Government Auditing Standards*, including a compliance audit under the Single Audit Act.

As a part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

1501 Highwoods Blvd., Ste. 300 (27410)
P.O. Box 19608 | Greensboro, NC 27419
P: 336-294-4494 • F: 336-294-4495

brccpa.com



Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Lowdermilk Church & Co., L.L.P. in effect for the year ended May 31, 2018, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Lowdermilk Church & Co., L.L.P. has received a peer review rating of *pass*.

Bernard Robinson & Company, L.L.P.

BERNARD ROBINSON & COMPANY, L.L.P.

AGENDA ITEM 11A

MEMO

DATE:

November 19, 2019

SUBJECT:

Updates:
Code Enforcement
Monthly Report

Discussion:

The attached report shows the progress that Planner Hunter Nestor continues to make throughout the town.

Recommendation:

No Council action required.

Code Enforcement Report			
Property Address	Property Owner	Issue	Notes
4200 Crotts MHP DR	Charles and Pansy Crotts	Overgrown Vegetation	Complaint made on 5/21. Deadline was 6/3. Letter came back and was resent to updated address on 5/28. A second warning letter was sent on 7/30 with new deadline of 8/9. No response and no progress as of 8/8. Call was received on 9/17 asking if this is going to be abated. Sent a final notice to all members we could identify that had a stake in property on 9/19. One of the daughters said the property was sold in 2006 and should not be in their name. No other complaints have been made. The complainant is trying to purchase property.
4476 Rural DR	Deborah Barker	Overgrown Vegetation/Garbage and Rubbish	Complaint made on 5/22. Deadline 6/11. additional letter was sent 6/20. No response and property has been mowed as of 8/13 but rest of property is still not in compliance (Garbage and Rubbish) but no other complaints have been made.
4221 US HWY 321A	Timberline Lumber CO INC	Overgrown Vegetation/ Property Maintenance	Complaint Received 7/2. Original letter was sent 7/16 and no response or no progress as of 8/8. Second warning letter was sent on 8/8 with new deadline of 8/20. Some progress has been made. No other complaints have been made since original complaint. Property is also in foreclosure.
2141 STAMEY ROAD	William and Lana Barlow	Living in RV/Camper	Complaint Received 9/27. Staff checked the property and the RV seems to be occupied. Letter was sent on 10/1. Deadline of 10/17. Trailer is still on property and no one has contacted me about the letter. No other complaints have been made but will continue to monitor and follow up with complainant.
4438 RURAL DR	Timothy Cowick	Living in Shed/Property Maintenance/illicit Discharge in creek	Complaint Received 10/11. Letter was sent on 10/15. Deadline was 11/1. Mr. Cowick met with Planner on 11/5. He claims to not be living in shed. Claims the illicit discharge is not from him. Will have WPCOG Storm water Officer investigate and notify the County Environmental Health. Will continue to monitor.