



TOWN OF CORNELIUS

Cornelius Town Hall

BOARD OF COMMISSIONERS

September 5, 2017

Agenda

PRE-MEETING - 5:45 PM

- **Closed Session**

TOWN BOARD - 7:00 PM

1. **CALL TO ORDER**
2. **DETERMINATION OF QUORUM**
3. **APPROVAL OF AGENDA**
4. **MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE**
5. **PRESENTATIONS**
 - A. **Ramp Metering Presentation by NCDOT**
6. **MAYOR/COMMISSIONERS/MANAGER REPORTS**
7. **CITIZEN CONCERNS/COMMENTS**
8. **PUBLIC HEARING AND CONSIDERATION OF APPROVAL**
 - A. **FY2018 Public Works Facility Financing**
9. **CONSIDERATION OF APPROVAL**
 - A. **ANNEX 02-17 Bluestream Partners LLC**
 - B. **Land Development Code Advisory Board Appointment**
10. **CONSENT AGENDA**
 - A. **Approve Minutes - Regular Meeting**
 - B. **Tax Refunds**
11. **NEW BUSINESS**
 - A. **Mercator Draft Report**
12. **COMMISSIONER CONCERNS**
13. **ADJOURNMENT**

Please note that to speak during **CITIZENS CONCERNS/COMMENTS** or **PUBLIC COMMENT**, please use the signup sheet provided before the Board meeting and list your name, address and topic. Each speaker will be allowed 3 minutes to speak. A "hard stop" will occur after 3 minutes for each speaker. Any information displayed must be submitted to the Town Clerk within 48 hours prior meeting.

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 5, 2017

To: Mayor and Board of Commissioners

From: Andrew Grant, Asst. Town Manager

Action Requested:

Closed Session:

- Discuss a real estate acquisition matter
- Discuss a matter under attorney-client privilege

Manager's Recommendation:

Hold a closed session.

ATTACHMENTS:

Name:	Description:	Type:
No Attachments Available		

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 5, 2017

To: Mayor and Board of Commissioners

From: Andrew Grant, Asst. Town Manager

Action Requested:

Scott Cole with NCDOT will give a presentation on I-77 ramp metering.

Manager's Recommendation:

Hear presentation

ATTACHMENTS:

Name:	Description:	Type:
No Attachments Available		

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 5, 2017

To: Mayor and Board of Commissioners

From: Julie Niswonger, Finance Director

Action Requested:

As required by G.S. § 160A-20(g), the Town of Cornelius will hold a Public Hearing to receive public input on the proposed use of a finance contract with BB&T Bank to borrow \$2,000,000 at 2.03% interest for installment financing of a new Public Works Facility.

The Town Board also authorized a contract with a general contractor on the August 21, 2017 agenda. The Finance Department issued a RFP to borrow \$2,000,000 to fund the new Public Works Facility and received responses from three banks. A copy of the bid tab is attached. Finance staff recommends approval of the low bid submitted by BB&T Bank at 2.03% for 7 years. This bid does allow prepayment of the debt.





Staff recommends the Board take the following action:

- 1) Approve the resolution authorizing staff to finalize documents with BB&T.
- 2) Hold a public hearing and approve draft BB&T financing contract documents.
- 3) Approve the resolution authorizing filing of an application with the LGC to issue the debt.

Manager's Recommendation:

See staff recommendation above.

ATTACHMENTS:

Name:	Description:	Type:
 Bid Tab PW_building 8-21-17.pdf	Bid Tab	Cover Memo
 BBT_Resolution.pdf	Resolution regarding terms	Cover Memo
 LGC_Findings_of_Fact_Resolution.pdf	LGC Findings of Fact Resolution	Cover Memo
 Draft_Documents_00007.pdf	Financing Documents	Cover Memo

**Town of Cornelius
Public Works Vehicle
Bid opening 8/21/2017**

[illegible]

Resolution Approving Financing Terms

WHEREAS: The Town of Cornelius (the "Town") has previously determined to undertake a project for financing of public works facility, (the "Project"), and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The Town hereby determines to finance the Project through Branch Banking and Trust Company ("BB&T"), in accordance with the proposal dated August 21, 2017. The total amount financed shall not exceed \$2,000,000.00 and the term shall not exceed 7 years and the annual interest rate shall not exceed 2.03 %.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and Deed of Trust and a Project Fund Agreement as BB&T may request.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The Town shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BB&T financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's general fund, or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this _____ day of _____, 2017.

By: _____

By: _____

Title: _____

Title: _____

SEAL

RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR
APPROVAL OF A FINANCING AGREEMENT AUTHORIZED BY NORTH
CAROLINA GENERAL STATUTE 160A-20

WHEREAS, the Town of Cornelius, North Carolina desires to construct a Public Works Facility at 18521 Starcreek Drive, Cornelius (the "Project") to better serve the citizens of Cornelius and

WHEREAS, The Town of Cornelius desires to finance the Project by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

WHEREAS, findings of fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its findings of fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Cornelius, North Carolina, meeting in [regular/special] session on the 5th day of September, 2017, make the following findings of fact:

1. The proposed contract is necessary or expedient because the Town Board desires to provide an adequate public works facility for multiple town functions to meet the demands of our growing community.
2. The proposed contract is preferable to a bond issue for the same purpose because the financing can be finalized on a timelier basis at a favorable interest rate while also saving bond issuance costs.
3. The cost of financing under the proposed contract is less than the cost of issuing general obligation bonds. This method of financing is chosen due to its fewer administrative and legal considerations and more expedient issuance.
4. The sums to fall due under the contract are adequate and not excessive for the proposed purpose because the Town has secured financing at an interest rate under 2.5%.
5. The Town of Cornelius' debt management procedures and policies are valid because they are reviewed by Town Staff, the Town Board of Commissioners, the Local Government Commission, and periodically reviewed by external bond rating agencies with favorable outcomes. These procedures and policies are appropriate for our growing municipality because they spread the cost of capital projects over the life of the project.
6. There is no proposed tax increase associated with this debt financing as a result of estimated annual debt service payments in the current year's budget.
7. The Town of Cornelius is not in default in any of its debt service obligations.
8. The attorney for the Town of Cornelius will render an opinion that the proposed Project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Manager is hereby authorized to act on behalf of the Town of Cornelius in filing an application with the North Carolina Local Government Commission for approval of the Project and the proposed financing contract and other actions not inconsistent with this resolution.

This resolution is effective upon its adoption this 5th day of September, 2017.

The motion to adopt this resolution was made by Commissioner _____, seconded by Commissioner _____ and passed by a vote of _____ to _____.

Mayor

ATTEST:

Clerk

This is to certify that this is a true and accurate copy of Resolution No. _____ Adopted by the Cornelius Board of Commissioners on the 5th day of September, 2017.

Clerk

Date



Branch Banking and Trust Company

Governmental Finance
5130 Parkway Plaza Boulevard
Charlotte, North Carolina 28217
(704) 954-1700
Fax (704) 954-1799

VIA ELECTRONIC DELIVERY

jniswonger@cornelius.org

apeeler@bbandt.com

direct dial: 336-376-0254

redwards@bbandt.com

direct dial: 704-954-1708

August 28, 2017

Ms. Julie Niswonger
Finance Director
Town of Cornelius
21445 Catawba Avenue
Cornelius, North Carolina 27289

Dear Ms. Niswonger:

We at Branch Banking and Trust Company are pleased that we will be working with you to provide financing for the construction of a public works facility. By this letter we want to provide you with our proposed draft financing documents (please forward these to the Borrower's attorney for review, also), and to outline the additional documentation we will need from you to close the financing.

We have enclosed the following draft documents for this financing:

1. **Financing Agreement and Deed of Trust.** This is the main document for the financing. The Financing Agreement sets out the loan and repayment terms, provides for the security interest that secures the loan and contains other provisions related to the Borrower's care and use of the property being financed.
2. **Project Fund Agreement.** The Project Fund Agreement provides for the custody of financing proceeds pending their use on project costs. At closing, we will disburse the loan proceeds into a project fund escrow account, from which you may draw down funds as needed. Once a closing date has been scheduled, we will e-mail to you a requisition form and instructions for drawing down funds from the escrow account.
3. **Construction Contract Assignment.** This document allows us to complete the project with the existing plans, specifications and construction contracts should there be any trouble with the loan before the facilities are completed.
4. **Closing Certificate.** This certificate, among other things, identifies the officials authorized to sign financing documents.
5. **Use of Proceeds Certificate.** This certificate provides information regarding the Borrower's planned use and expenditure of financing proceeds, to document compliance with federal

rules for tax-exempt financing. You will see that there are some blanks in paragraph four; we need information from you to complete these blanks. In addition, we have enclosed Exhibit A, an estimated spending schedule that will need to be completed and brought to the closing. *The federal tax rules applicable to local government financings can be tricky and technical; please let us know if you want to discuss any aspect of the applicable tax rules.*

6. **Attorney's legal opinion.** The attorney's opinion must be on attorney letterhead and dated the day of funding (**the opinion will not be valid if it is dated prior to the date of funding**). We are able to accept either an original delivered at closing, or an e-mail copy.
7. **IRS Form 8038-G.** This form is used to provide the required notification to the IRS regarding the tax-exempt financing. We have partially completed this form based on information currently in our file. Please review this form and the companion instructions with your attorney and complete the remainder of the form, as well as make any needed revisions.
8. **BB&T's Closing/Legal Review Fee Invoice.** Please bring a check to closing in payment of this invoice.

To complete the set of required documents for this financing, we also need you e-mail to us prior to closing the following items:

1. **Copy of LGC approval letter.**
2. **Title Insurance Commitment.** Please provide us with a title insurance commitment as soon as possible so that we will have time to review it. We have attached a list of approved title insurance companies. The commitment and companion policy insured amount must in the full amount of the loan, and the insured should be set forth as "Branch Banking and Trust Company." We will be looking for a title commitment and loan title policy with no exceptions for construction-related liens. (Your attorney should obtain whatever documentation the title company requires so that no exceptions for materialmen's/laborer's liens appear on the loan title policy). Immediately after closing, your attorney should update title and record the Financing Agreement/Deed of Trust document in the Register of Deeds office. We will also require your attorney to provide to us a final loan policy of title insurance within 30 days after closing.
3. **Real Property and Facilities Description.** Please send us a legal description in *Word* format of the real property that is to be pledged. We will include that description in the Financing Agreement.
4. **Copy of Borrower's Certificate of Liability Insurance.** Please provide a certificate that evidences the Town currently has general liability insurance in place. An e-mail copy is sufficient for our records.
5. **Survey or GIS map showing real property boundaries.** Please provide either a GIS map or a survey that depicts the boundaries of the real property being pledged as collateral.

6. **Copy of Contractor's Payment and Performance Bonds listing BB&T as dual obligee.**
7. **Copy of Contractor's Certificate of Insurance evidencing Builder's Risk coverage.**
8. **Copy of Resolution approving the financing.** Please provide a copy of the approving resolution your governing board adopted for this financing (our suggested form of this resolution was attached to our financing proposal to you).

We appreciate your attention to these items. After reviewing the enclosed documents, please contact Alison Peeler at 336-376-0254 to review this package in detail, so that she may answer your questions about the documents and ensure everyone's full understanding of what has to be done for the closing. When you call, Alison will also determine a convenient day and time for closing.

Sincerely,

BRANCH BANKING AND TRUST COMPANY

A handwritten signature in cursive script that reads "Regina Edwards".

Regina Edwards
Documentation Specialist
Governmental Finance

Attachments

Approved Title Policy Underwriters

1. Chicago Title Insurance Company
2. Commonwealth Land Title Insurance Company
3. Fidelity National Title Insurance Company
4. First American Title Insurance Company
5. Old Republic National Title Insurance Company
6. Stewart Title Insurance Company
7. WestCor Land Title Insurance Company
8. WFG National Title Insurance Company

Branch Banking and Trust Company
Financing for the Town of Cornelius, North Carolina -- Document Checklist

1. Copy of LGC approval letter [or other evidence of LGC approval]
2. Financing Agreement and Deed of Trust, with Exhibits:
 - A) *Real property description
 - B) Project/Facilities description
 - C) Existing encumbrances
 - D) Payment schedule
3. Project Fund Agreement
4. *Title Insurance Commitment
5. Title Insurance Policy [to be provided by Borrower's attorney post-closing]
6. *Survey or GIS map depicting real property collateral boundaries
7. Flood Zone Certification [BB&T will obtain; please provide site address]
8. *Copy of City's Certificate of General Liability Insurance
9. *Copy of Contractors payment & performance bonds listing BB&T as dual obligee
10. *Copy of Contractor's Certificate of Insurance evidencing Builder's Risk coverage
11. Conditional Assignment of Construction Documents
12. Closing Certificate
13. *Copy of Resolution approving financing
14. Use of Proceeds Certificate
15. Borrower's Attorney's closing opinion
16. Internal Revenue Service Form 8038-G
17. Payment of Underwriting Fee Invoice [to be paid by check at closing]

Please e-mail items denoted with an asterisk to redwards@bbandt.com and apeeler@bbandt.com prior to closing.

Prepared By and
Return After Recording To:

Kenneth M. Scott
Senior Vice President
Branch Banking and Trust Company
5130 Parkway Plaza Boulevard, Building 9
Charlotte, NC 28217

FINANCING AGREEMENT AND DEED OF TRUST

STATE OF NORTH CAROLINA)	COLLATERAL IS OR
)	INCLUDES FIXTURES
MECKLENBURG COUNTY)	

THIS FINANCING AGREEMENT AND DEED OF TRUST (this "Agreement") is dated as of October __, 2017, and is granted by the **TOWN OF CORNELIUS, NORTH CAROLINA**, a public body of the State of North Carolina (the "Borrower"), to BB&T Collateral Service Corporation, a North Carolina business corporation (the "Deed of Trust Trustee"), for the benefit of **BRANCH BANKING AND TRUST COMPANY** ("BB&T").

RECITALS:

The Borrower has the power, pursuant to Section 160A-20 of the North Carolina General Statutes, to enter into installment contracts to finance the purchase or improvement of real or personal property, and to secure its obligations under such contracts by security interests in all or a portion of the property purchased or improved. This Agreement provides for BB&T to advance \$2,000,000.00 to the Borrower to enable the Borrower to acquire and construct the Facilities (as defined below) on and for the Site (as defined below), and provides for securing the Borrower's obligations under this Agreement by creating certain security interests in favor of BB&T.

This Agreement secures current advances of \$2,000,000.00. The current scheduled date for final repayment is on or about October __, 2024.

NOW, THEREFORE,

(1) in consideration of the execution and delivery of this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged;

(2) to secure the Borrower's performance of all its covenants under this Agreement, including the repayment of amounts advanced and to be advanced, together with interest on all such advances as provided in this Agreement or any amendments hereto, and all charges and expenses of collection (including court costs and reasonable attorneys' fees and expenses); and

(3) to charge the Mortgaged Property, as defined below, with such payment and performance,

the Borrower hereby sells, grants and conveys to the Deed of Trust Trustee, his heirs and assigns forever, in trust, with power of sale, the following (collectively, the "Mortgaged Property"):

(a) (i) the property described in Exhibit A, (ii) any other real property acquired by the Borrower with the proceeds made available to the Borrower pursuant to this Agreement, and (iii) all real property hereafter acquired by the Borrower in exchange for, or in consideration of the exchange of, or with the proceeds from any disposition of, all or any part of any property described in this subparagraph, and in all cases together with all easements, rights, liberties, rights-of-way and appurtenances belonging to any such property (collectively, the "Site");

(b) the improvements described in Exhibit B and all other improvements and fixtures now or hereafter attached or appurtenant to or used in or on those improvements or the Site, including (i) all renewals and replacements thereof and all additions thereto, (ii) all articles in substitution thereof, (iii) all building materials for construction or repair of such improvements upon their delivery to the Site, and (iv) all proceeds of all the foregoing in whatever form resulting from the loss or disposition of the foregoing, including all proceeds of and unearned premiums for any insurance policies covering the Site and such improvements, proceeds of title insurance and payments related to the exercise of condemnation or eminent domain authority, and all judgments or settlements in lieu of any of the foregoing (collectively, the "Facilities");

(c) the Equipment, as defined in Section 2.03; and

(d) the moneys on deposit from time to time in the Project Fund, as provided in Sections 2.02 and 2.03.

TO HAVE AND TO HOLD the Mortgaged Property with all privileges and appurtenances thereunto belonging, to the Deed of Trust Trustee, his heirs and assigns forever, upon the trusts, terms and conditions and for the purposes set out below, in fee simple in trust;

SUBJECT, HOWEVER, to the encumbrances described in Exhibit C (the "Existing Encumbrances");

BUT THIS CONVEYANCE IS MADE UPON THIS SPECIAL TRUST: if the Required Payments (as defined below) are paid in full in accordance with this Agreement, and the Borrower shall comply with all of the terms, covenants and conditions of this Agreement, this conveyance shall be null and void and shall be canceled of record at the Borrower's request and cost, and title shall revert as provided by law.

BUT IF, HOWEVER, THERE SHALL OCCUR AN EVENT OF DEFAULT UNDER THIS AGREEMENT, then BB&T shall have the remedies provided for in this Agreement, including directing the Deed of Trust Trustee to sell the Mortgaged Property under power of sale.

THE BORROWER COVENANTS AND AGREES with the Deed of Trust Trustee and BB&T (and their respective heirs, successors and assigns), in consideration of the foregoing, as follows:

ARTICLE I

DEFINITIONS; INTERPRETATION

Unless the context clearly requires otherwise, capitalized terms used in this Agreement and not otherwise defined shall have the following meanings:

“Act” means Section 160A-20 of the General Statutes of North Carolina, as amended.

"Additional Payments" means any of BB&T's reasonable and customary fees and expenses related to the transactions contemplated by this Agreement, any of BB&T's expenses (including attorneys' fees) in prosecuting or defending any action or proceeding in connection with this Agreement, any required license or permit fees, state and local sales and use or ownership taxes or property taxes which BB&T is required to pay as a result of this Agreement, inspection and re-inspection fees, and any other amounts payable by the Borrower (or paid by BB&T on the Borrower's behalf) as a result of its covenants under this Agreement (together with interest that may accrue on any of the above if the Borrower shall fail to pay the same, as set forth in this Agreement).

"Amount Advanced" has the meaning assigned in Section 2.02.

“Bond Counsel Opinion” means a written opinion (in form and substance acceptable to BB&T) of an attorney or firm of attorneys acceptable to BB&T.

“Borrower” means Town of Cornelius, North Carolina.

“Borrower Representative” means the Borrower's finance officer or such other person or persons at the time designated, by a written certificate furnished to BB&T and signed on the Borrower's behalf by the presiding officer of the Borrower's Governing Board, to act on the Borrower's behalf for any purpose (or any specified purpose) under this Agreement.

"Budget Officer" means the Borrower's officer from time to time charged with preparing the Borrower's draft budget as initially submitted to the Governing Board for its consideration.

"Business Day" means any day on which banks in the State are not by law authorized or required to remain closed.

"Closing Date" means the date on which this Agreement is first executed and delivered by the parties.

"Code" means the Internal Revenue Code of 1986, as amended, including regulations, rulings and revenue procedures promulgated thereunder or under the Internal Revenue Code of 1954, as amended, as applicable to the Borrower's obligations under this Agreement and all proposed (including temporary) regulations which, if adopted in the form proposed, would apply to such obligations. Reference to any specific Code provision shall be deemed to include any successor provisions thereto.

"Construction Agreements" means any contracts with contractors related to the construction of the Facilities.

"Enforcement Limitation" means the provisions of the Act that provides that no deficiency judgment may be rendered against the Borrower in any action for breach of a contractual obligation incurred under the Act and that the taxing power of the Borrower is not and may not be pledged directly or indirectly to secure any moneys due under this Agreement.

"Event of Default" means one or more events of default as defined in Section 8.01.

"Event of Nonappropriation" means any failure by the Governing Board to adopt, by the first day of any Fiscal Year, a budget for the Borrower that includes an appropriation for Required Payments, or the Governing Board's amendment of the annual budget to remove an appropriation for Required Payments, in each case as contemplated by Section 3.05.

"Existing Encumbrances" means the encumbrances described in Exhibit C.

"Fiscal Year" means the Borrower's fiscal year beginning July 1, or such other fiscal year as the Borrower may later lawfully establish.

"Governing Board" means the Borrower's governing board as from time to time constituted.

"Installment Payments" means the payments payable by the Borrower pursuant to Section 3.01.

"LGC" means the North Carolina Local Government Commission.

"Mortgaged Property" means the Mortgaged Property, as defined above.

"Net Proceeds," when used with respect to any amounts derived from claims made on

account of insurance coverages required under this Agreement, any condemnation award arising out of the condemnation of all or any portion of the Mortgaged Property, payments on any bonds required by Section 5.03, any amounts recovered from any contractor on an action for default or breach, as described in Section 5.03, or any amounts received in lieu or in settlement of any of the foregoing, means the amount remaining after deducting from the gross proceeds thereof all expenses (including attorneys' fees and costs) incurred in the collection of such proceeds, and after reimbursement to the Borrower or BB&T for amount previously expended to remedy the event giving rise to such payment or proceeds.

"Payment Dates" means the dates indicated in Exhibit D.

"Permitted Encumbrances" means, as of any particular time, (a) the Existing Encumbrances, (b) liens for taxes and assessments not then delinquent, (c) this Agreement, and (d) easements, rights-of-way and other such minor defects or restrictions as normally exist with respect to property of the same general character as the Mortgaged Property which will not impair the Borrower's intended use of the Mortgaged Property.

"Plans and Specifications" means all plans and specifications for the Facilities prepared by architects, engineers and other consultants.

"Prime Rate" means the interest rate so denominated and set by Branch Banking & Trust Company (whether or not such Bank, or any affiliate thereof, is at any time the beneficiary under this Agreement) as its "Prime Rate," as in effect from time to time.

"Project Costs" means all costs of the design, planning, constructing, acquiring, installing and equipping of the Facilities as determined in accordance with generally accepted accounting principles and that will not adversely affect the exclusion from gross income for federal income tax purposes of the designated interest component of Installment Payments payable by the Borrower under this Agreement, including (a) sums required to reimburse the Borrower or its agents for advances made for any such costs, (b) interest during the construction process and for up to six months thereafter, and (c) all costs related to the financing of the Facilities through this Agreement and all related transactions

"Project Fund" has the meaning assigned in Section 2.02.

"Project Fund Agreement" has the meaning assigned in Section 2.02.

"Required Payments" means Installment Payments and Additional Payments.

"Section 160A-20" means Section 160A-20 of the North Carolina General Statutes, as amended, or any successor provision of law.

"State" means the State of North Carolina.

"UCC" means the Uniform Commercial Code or any successor law as in effect from time to time in the State, currently Chapter 25 of the North Carolina General Statutes.

All references in this Agreement to designated "Sections" and other subdivisions are to the designated sections and other subdivisions of this Agreement. The words "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Section or other subdivision unless the context indicates otherwise. Words importing the singular number shall include the plural number and vice versa.

ARTICLE II

SECURITY PROVIDED BY THIS AGREEMENT; ADVANCE

2.01. Security for Payment and Performance. This Agreement secures the Borrower's payment, as and when the same shall become due and payable, of all Required Payments and the Borrower's timely compliance with all terms, covenants and conditions of this Agreement.

2.02. Advance. BB&T advances \$2,000,000.00 (the "Amount Advanced") to the Borrower on the Closing Date, and the Borrower hereby accepts the Amount Advanced from BB&T. BB&T is advancing the Amount Advanced by making a deposit to a Project Fund (the "Project Fund") as provided in a Project Fund Agreement of even date (the "Project Fund Agreement") between the Borrower and BB&T. All amounts on deposit from time to time in the Project Fund, including the Amount Advanced and all investment earnings, shall be used only for Project Costs until the Project Fund is terminated as provided under the Project Fund Agreement.

2.03. UCC Security Agreement.

(a) This Agreement is intended as and constitutes a security agreement pursuant to the UCC with respect to the following:

- (i) all moneys on deposit from time to time in the Project Fund; and
- (ii) all personal property acquired by the Borrower with funds advanced by BB&T pursuant to this Agreement, all personal property obtained in substitution or replacement therefore, and all personal property obtained in substitution or replacement for any portion of the Mortgaged Property, and all proceeds of the foregoing (collectively, the "Equipment").

The Borrower hereby grants to BB&T a security interest in the Equipment and in the moneys on deposit from time to time in the Project Fund to secure the Required Payments.

(b) The security interest in the Equipment granted in this Section shall be in addition to, and not in lieu of, any lien upon or security interest in the Equipment acquired by real property law.

(c) The Borrower shall allow BB&T to deliver and file, or cause to be filed, in such place or places as may be required by law, financing statements (including any continuation statements required by the UCC or determined by BB&T) in such form as BB&T may reasonably require to perfect and continue the security interest in the Equipment and in the moneys on deposit from time to time in the Project Fund.

2.04. Borrower's Limited Obligation. (a) THE PARTIES INTEND THAT THIS TRANSACTION COMPLY WITH SECTION 160A-20. NO PROVISION OF THIS AGREEMENT SHALL BE CONSTRUED OR INTERPRETED AS CREATING A PLEDGE OF THE BORROWER'S FAITH AND CREDIT WITHIN THE MEANING OF ANY CONSTITUTIONAL DEBT LIMITATION. NO PROVISION OF THIS AGREEMENT SHALL BE CONSTRUED OR INTERPRETED AS A DELEGATION OF GOVERNMENTAL POWERS OR AS AN IMPROPER DONATION OR A LENDING OF THE BORROWER'S CREDIT WITHIN THE MEANING OF THE STATE CONSTITUTION. NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE BORROWER IN VIOLATION OF SECTION 160A-20. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of the Borrower's moneys (other than the funds held under the Project Fund Agreement or this Agreement), nor shall any provision of this Agreement restrict the future issuance of any of the Borrower's bonds or obligations payable from any class or source of the Borrower's moneys (except to the extent this Agreement restricts the incurrence of additional obligations secured by the Mortgaged Property). In the event of any conflict between this Section or Section 160A-20, and any other provision of this Agreement, this Section and Section 160A-20 take precedence over any other provision of this Agreement.

(b) Nothing in this Section is intended to impair or prohibit foreclosure on this Agreement if the Required Payments are not paid when due or otherwise upon the occurrence of an Event of Default under this Agreement or the Project Fund Agreement, and in any such event BB&T may request the Deed of Trust Trustee to foreclose on the Mortgaged Property as provided in this Agreement.

2.05. Borrower's Continuing Obligations. The Borrower shall remain liable for full performance of all its covenants under this Agreement (subject to the limitations described in Section 2.04), including payment of all Required Payments, notwithstanding the occurrence of any event or circumstances whatsoever, including any of the following:

- (a) BB&T's waiver of any right granted or remedy available to it;
- (b) The forbearance or extension of time for payment or performance of any obligation under this Agreement, whether granted to the Borrower, a subsequent owner of the Facilities or the Equipment or any other person;
- (c) The release of all or part of the Mortgaged Property or the release of any party who assumes all or any part of such performance;
- (d) Any act or omission by BB&T (but this provision does not relieve BB&T of any of its obligations under this Agreement or the Project Fund Agreement);
- (e) The sale of all or any part of the Mortgaged Property; or
- (f) Another party's assumption of the Borrower's obligations under this Agreement.

2.06. Construction Mortgage. The security interest evidenced hereby is a "construction mortgage".

2.07. Security Interest in Utility Equipment; Grant of Easements and Other Rights.

(a) The Borrower hereby grants BB&T a security interest in any pipes, valves, fittings, wires and poles or any other utility-type property to be financed with the proceeds made available to the Borrower pursuant to this Agreement, as well as in all substitutions, replacements and proceeds therefore or thereof (for the purposes of this Agreement, the "Utility Equipment"). The parties agree and intend that, even if all or any part of the Utility Equipment is installed in or on the ground, all the Utility Equipment shall be and remain personal property subject to the security interest granted in this Section. This Agreement is intended as and constitutes a security agreement pursuant to the UCC with respect to the Utility Equipment and the security interest therein. The Utility Equipment is part of the Equipment and therefore part of the Mortgaged Property.

(b) The Borrower may install the Utility Equipment over or across property as to which the Borrower owns only an easement interest or some other limited interest, such as rights under an encroachment agreement with the North Carolina Department of Transportation. The Borrower hereby sells and grants to BB&T (in connection with effecting remedies on default) such licenses or other rights as may be necessary or desirable for BB&T or its agents to enter the real estate that is subject to such easements and other interests to remove, construct, operate, maintain and inspect the Utility Equipment. The Borrower grants these licenses in connection with the other interests granted under this Agreement to BB&T with the intent that such licenses thereby qualify as licenses coupled with an interest so as to be irrevocable.

(c) The Borrower hereby makes a collateral assignment to BB&T of its rights under such easements and other interests. If any Event of Default shall be continuing, then to the extent permitted by law, BB&T shall have the Borrower's rights under the easements and other interests.

ARTICLE III

BORROWER'S PAYMENT OBLIGATION AND RELATED MATTERS

3.01. Installment Payments. The Borrower shall repay the Amount Advanced by making Installment Payments to BB&T in lawful money of the United States at the times and in the amounts set forth in Exhibit D, except as otherwise provided in this Agreement. As indicated in Exhibit D, the Installment Payments reflect the repayment of the Amount Advanced and include designated interest components.

3.02. Additional Payments. The Borrower shall pay all Additional Payments on a timely basis directly to the person or entity to which such Additional Payments are owed in lawful money of the United States.

3.03. Prepayment. The Borrower may prepay the outstanding principal component of the Amount Advanced, at its option at any time, in whole but not in part, by paying (a) all Additional Payments then due and payable, (b) all interest accrued and unpaid to the prepayment date, and (c) 100% of the outstanding principal amount.

3.04. Late Payments. If the Borrower fails to pay any Installment Payment when due, the Borrower shall pay additional interest on the principal component of the late Installment Payment (as permitted by law) at an annual rate equal to the Prime Rate from the original due date.

3.05. Appropriations. (a) The Budget Officer shall include in the initial proposal for each of the Borrower's annual budgets the amount of all Installment Payments and estimated Additional Payments coming due during the Fiscal Year to which such budget applies. Notwithstanding that the Budget Officer includes such an appropriation for Required Payments in a proposed budget, the Governing Board may determine not to include such an appropriation in the Borrower's final budget for such Fiscal Year.

(b) The Budget Officer shall deliver to BB&T, within 15 days after the beginning of each Fiscal Year, a certificate stating whether an amount equal to the Installment Payments and estimated Additional Payments coming due during the next Fiscal Year has been appropriated by the Borrower in such budget for such purposes. If such amount has not been so appropriated, the Budget Officer shall send a copy of such certificate to the LGC, to the attention of its Secretary, at 3200 Atlantic Avenue, Raleigh NC 27604.

(c) The actions required of the Borrower and its officers pursuant to this Section shall be deemed to be and shall be construed to be in fulfillment of ministerial duties, and it shall be the duty of each and every Borrower official to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the Borrower to carry out and perform the actions required pursuant to this Section and the remainder of this Agreement to be carried out and performed by the Borrower.

(d) The Borrower reasonably believes that it can obtain funds sufficient to pay all Required Payments when due.

3.06. No Abatement. There shall be no abatement or reduction of the Required Payments for any reason, including, but not limited to, any defense, recoupment, setoff, counterclaim, or any claim (real or imaginary) arising out of or related to the Site or of the Facilities, except as expressly provided in this Agreement. The Borrower assumes and shall bear the entire risk of completion, loss and damage to the Site and the Facilities from any cause whatsoever. The Installment Payments shall be made in all events unless the Borrower's obligation to make Installment Payments is terminated as otherwise provided in this Agreement.

3.07. Interest Rate and Payment Adjustment. (a) "Rate Adjustment Event" means any action by the Internal Revenue Service (including the delivery of a deficiency notice) or any other federal court or administrative body determining (i) that the interest component of Installment Payments, or any portion thereof, is includable in any beneficiary's gross income for federal income tax purposes or (ii) that the Borrower's obligations under this Agreement are not "qualified tax-exempt obligations" within the meaning of Code Section 265 (a "265 Event"), in any case as a result of any misrepresentation by the Borrower or as a result of any action the Borrower takes or fails to take.

(b) Upon any Rate Adjustment Event, (i) the unpaid principal portion of the Amount Advanced shall continue to be payable on dates and in amounts as set forth in Exhibit D, but (ii) the interest components of the Installment Payments shall be recalculated, at an interest rate equal to an annualized interest rate equal to the Prime Rate plus 2% (200 basis points), to the date (retroactively, if need be) determined pursuant to the Rate Adjustment Event to be the date interest became includable in any beneficiary's gross income for federal income tax purposes (in the case of a 265 Event, retroactively to the Closing Date).

(c) The Borrower shall pay interest at such adjusted rate (subject to credit for interest previously paid) to each affected beneficiary, notwithstanding the fact that any particular beneficiary may not be a beneficiary under this Agreement on the date of a Rate Adjustment Event. The Borrower shall additionally pay to all affected beneficiaries any interest, penalties or other charges assessed against or payable by such beneficiary and attributable to a Rate Adjustment Event notwithstanding the prior repayment of the entire Amount Advanced or any transfer to another beneficiary.

ARTICLE IV

BORROWER'S COVENANTS, REPRESENTATIONS AND WARRANTIES

4.01. Warranties of Title. The Borrower covenants with the Deed of Trust Trustee and BB&T that the Borrower is seized of and has the right to convey the Mortgaged Property in fee simple, that the Mortgaged Property is free and clear of all liens and encumbrances other than the Permitted Encumbrances, that title to the Mortgaged Property is marketable, and that the Borrower will forever warrant and defend title to the Mortgaged Property against the claims of all persons.

4.02. Indemnification. To the extent permitted by law, the Borrower shall indemnify, protect and save the Deed of Trust Trustee, BB&T and its officers and directors, and the LGC's members and employees, 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 Mortgaged Property or the transactions contemplated by this Agreement, including without limitation the possession, condition, construction or use of the Facilities or the Equipment. The indemnification arising under this Section shall survive the Agreement's termination.

4.03. Covenant as to Tax Exemption. (a) The Borrower shall not take or permit, or omit to take or cause to be taken, any action that would cause its obligations under this Agreement to be "arbitrage bonds" or "private activity bonds" within the meaning of the Code, or otherwise adversely affect the exclusion from gross income for federal income tax purposes of the designated interest component of Installment Payments to which such components would otherwise be entitled and, if it should take or permit, or omit to take or cause to be taken, any such action, the Borrower shall take or cause to be taken all lawful actions within its power necessary to rescind or correct such actions or omissions promptly upon having knowledge thereof.

(b) In particular, the Borrower covenants that it shall not permit the Amount Advanced, plus the investment earnings thereon (the "Proceeds"), to be used in any manner that would result in

5% or more of the Installment Payments being directly or indirectly secured by an interest in property, or derived from payments in respect of property or borrowed money, being in either case used in a trade or business carried on by any person other than a governmental unit, as provided in Code Section 141(b), or result in 5% or more of the Proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Code Section 141(c); provided, however, that if the Borrower receives a Bond Counsel Opinion that compliance with any such covenant is not required to prevent the interest components of Installment Payments from being includable in the beneficiary's gross income for federal income tax purposes under existing law, the Borrower need not comply with such covenant.

(c) Unless the Borrower qualifies for one or more exceptions to the arbitrage rebate requirement with respect to this financing, the Borrower shall provide for the rebate to the United States of (i) at least 90% of the required rebate amount (A) on or before 60 days after the date that is five years from the Closing Date, and (B) at least once during each five years thereafter while the Obligations remain outstanding, and (ii) the entire required rebate amount on or before 60 days after the date of final payment of the Obligations. Payments shall be made in the manner prescribed by the Internal Revenue Service. The Borrower shall cause the required rebate amount to be recomputed as of each fifth anniversary of the Closing Date, and again as of the date of final payment of the Obligations. The Borrower shall provide BB&T with a copy of the results of such computation within 20 days after the end of each computation period or final payment of the Obligations. Each computation shall be prepared or approved, at the Borrower's expense, by a person with experience in matters of accounting for federal income tax purposes, a bona fide arbitrage rebate calculating and reporting service, or nationally-recognized bond counsel, in any case reasonably acceptable to BB&T. The Borrower shall engage such rebate consultant to perform the necessary calculations not less than 60 days prior to the date of the required payment.

(d) The Borrower acknowledges that its personnel must be familiar with the arbitrage rebate rules, because the tax-exempt status of the interest on the Obligations depends upon continuing compliance with such rules. The Borrower therefore covenants to take all reasonable action to assure that Borrower personnel responsible for the investment of and accounting for financing proceeds comply with such rules.

4.04. Validity of Organization and Acts. The Borrower is validly organized and existing under State law, has full power to enter into this Agreement and has duly authorized and has obtained all required approvals and all other necessary acts required prior to the execution and delivery of this Agreement. This Agreement is a valid, legal and binding obligation of the Borrower.

4.05. Maintenance of Existence. The Borrower shall maintain its existence, shall continue to be a local governmental unit of the State, validly organized and existing under State law, and shall not consolidate with or merge into another local governmental unit of the State, or permit one or more other local governmental units of the State to consolidate with or merge into it, unless the local governmental unit thereby resulting assumes the Borrower's obligations under this Agreement.

4.06. Acquisition of Permits and Approvals. All permits, consents, approvals or authorizations of all governmental entities and regulatory bodies, and all filings and notices

required on the Borrower's part to have been obtained or completed as of today in connection with the authorization, execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and the acquisition and construction of the Facilities have been obtained and are in full force and effect, and there is no reason why any future required permits, consents, approvals, authorizations or orders cannot be obtained as needed.

4.07. No Breach of Law or Contract. Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, (a) to the best of the Borrower's knowledge, constitutes a violation of any provision of law governing the Borrower or (b) results in a breach of the terms, conditions or provisions of any contract, agreement or instrument or order, rule or regulation to which the Borrower is a party or by which the Borrower is bound.

4.08. No Litigation. There is no litigation or any governmental administrative proceeding to which the Borrower (or any official thereof in an official capacity) is a party that is pending or, to the best of the Borrower's knowledge after reasonable investigation, threatened with respect to (a) the Borrower's organization or existence, (b) its authority to execute and deliver this Agreement or to comply with the terms of this Agreement, (c) the validity or enforceability of this Agreement or the transactions contemplated hereby, (d) the title to office of any Governing Board member or any other Borrower officer, (e) any authority or proceedings relating to the Borrower's execution or delivery of this Agreement, or (f) the undertaking of the transactions contemplated by this Agreement.

4.09. No Current Default or Violation. (a) The Borrower is not in violation of any existing law, rule or regulation applicable to it, (b) the Borrower is not in default under any contract, other agreement, order, judgment, decree or other instrument or restriction of any kind to which the Borrower is a party or by which it is bound or to which any of its assets are subject, including this Agreement, and (c) no event or condition has happened or existed, or is happening or existing, under the provisions of any such instrument, including this Agreement, which constitutes or which, with notice or lapse of time, or both, would constitute an event of default hereunder or thereunder.

4.10. No Misrepresentation. No representation, covenant or warranty by the Borrower in this Agreement is false or misleading in any material respect.

4.11. Environmental Warranties and Indemnification. (a) The Borrower warrants and represents to BB&T as follows:

(i) The Borrower has no knowledge of, and after reasonable inquiry no reason to believe (A) that any industrial use has been made of the Mortgaged Property, (B) that the Mortgaged Property has been used for the storage, treatment or disposal of chemicals or any wastes or materials that are classified by federal, State or local laws as hazardous or toxic substances, or (C) that any manufacturing, landfilling or chemical production has occurred on the Mortgaged Property.

(ii) The Mortgaged Property is in compliance with all federal, State and local environmental laws and regulations, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), Public

Law No. 96-510, 94 Stat. 2767, 42 USC 9601 et seq., and the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), Public Law No. 99-499, 100 Stat. 1613.

(iii) The Borrower has fully disclosed to BB&T in writing the existence, extent and nature of any hazardous materials, substances, wastes or other environmentally regulated substances (including without limitation, any materials containing asbestos), which the Borrower is legally authorized and empowered to maintain on, in or under the Mortgaged Property or use in connection therewith, and the Borrower has obtained and will maintain all licenses, permits and approvals required with respect thereto, and is in compliance with all of the terms, conditions and requirements of such licenses, permits and approvals.

(iv) The Borrower will promptly notify BB&T of any change in the nature or extent of any hazardous materials, substances or wastes maintained on, in or under the Mortgaged Property or used in connection therewith, and will promptly send to BB&T copies of any citations, orders, notices or other material governmental or other communication received with respect to any other hazardous materials, substances, wastes or other environmentally regulated substances affecting the Mortgaged Property.

(b) To the extent permitted by law, the Borrower shall indemnify and hold BB&T and the Deed of Trust Trustee harmless from and against (i) any and all damages, penalties, fines, claims, liens, suits, liabilities, costs (including clean-up costs), judgments and expenses (including attorneys', consultants' or experts' fees and expenses) of every kind and nature suffered by or asserted against the Deed of Trust Trustee or BB&T as a direct or indirect result of any warranty or representation made by the Borrower in subsection (a) above being false or untrue in any material respect, or (ii) any requirement under any law, regulation or ordinance, local, State or federal, which requires the elimination or removal of any hazardous materials, substances, wastes or other environmentally regulated substances by the Deed of Trust Trustee, BB&T or the Borrower or any transferee or assignee of the Deed of Trust Trustee, BB&T or the Borrower.

(c) The Borrower's obligations under this Section shall continue in full effect notwithstanding full payment of the Required Payments or foreclosure under this Agreement or delivery of a deed in lieu of foreclosure.

4.12. Further Instruments. Upon BB&T's request, the Borrower shall execute, acknowledge and deliver such further instruments reasonably necessary or desired by BB&T to carry out more effectively the purposes of this Agreement or any other document related to the transactions contemplated hereby, and to subject to the liens and security interests hereof and thereof all or any part of the Mortgaged Property intended to be given or conveyed hereunder or thereunder, whether now given or conveyed or acquired and conveyed subsequent to the date of this Agreement.

4.13. BB&T's Advances for Performance of Borrower's Obligations. If the Borrower fails to perform any of its obligations under this Agreement, BB&T is hereby authorized, but not obligated, to perform such obligation or cause it to be performed. All expenditures incurred by BB&T (including any advancement of funds for payment of taxes, insurance premiums or other costs of maintaining the Mortgaged Property, and any associated legal or other expenses), together

with interest thereon at the Prime Rate, shall be secured as Additional Payments under this Agreement. The Borrower promises to pay all such amounts to BB&T immediately upon demand.

4.14. Facilities Will Be Used and Useful. The acquisition and construction of the Facilities is necessary and expedient for the Borrower, and will perform essential functions of the Borrower appropriate for units of local government. The Borrower has an immediate need for, and expects to make immediate use of, all of the Facilities, and does not expect such need or use to diminish in any material respect during the term of the Agreement. The Facilities will not be used in any private business or put to any private business use.

4.15. Financial Information. (a) The Borrower shall send to BB&T a copy of the Borrower's audited financial statements for each Fiscal Year within 30 days of the Borrower's acceptance of such statements, but in any event within 270 days of the completion of such Fiscal Year.

(b) The Borrower shall furnish BB&T, at such reasonable times as BB&T shall request, all other financial information (including, without limitation, the Borrower's annual budget as submitted or approved) as BB&T may reasonably request. The Borrower shall permit BB&T or its agents and representatives to inspect the Borrower's books and records and make extracts therefrom.

4.16. Taxes and Other Governmental Charges. The Borrower shall pay, as Additional Payments, the full amount of all taxes, assessments and other governmental charges lawfully made by any governmental body during the term of this Agreement. With respect to special assessments or other governmental charges which may be lawfully paid in installments over a period of years, the Borrower shall be obligated to provide for Additional Payments only for such installments as are required to be paid during the Agreement term. The Borrower shall not allow any liens for taxes, assessments or governmental charges with respect to the Mortgaged Property or any portion thereof to become delinquent (including, without limitation, any taxes levied upon the Mortgaged Property or any portion thereof which, if not paid, will become a charge on any interest in the Mortgaged Property, including BB&T's interest, or the rentals and revenues derived therefrom or hereunder).

4.17. Borrower's Insurance. (a) From and after substantial completion of each principal portion of the Facilities, the Borrower shall, at its own expense, acquire, carry and maintain broad-form extended coverage property damage insurance with respect to all improvements in or on the Site or otherwise related to the Facilities in an amount equal to the estimated replacement cost of such improvements. Such property damage insurance shall include standard mortgagee coverage in favor of BB&T. The Borrower shall provide evidence of such coverage to BB&T promptly upon such substantial completion. Any Net Proceeds of the insurance required by this subsection (a) shall be payable as provided in Section 6.10.

(b) The Borrower shall, at its own expense, acquire, carry and maintain comprehensive general liability insurance in an amount not less than \$2,000,000 for personal injury or death and \$2,000,000 for property damage.

(c) If the property (building) secured by this Agreement has been determined to be in a "Special Flood Hazard" area, shown on a map published by the Federal Emergency Management Agency (FEMA), the Borrower, at its own expense, must maintain an adequate policy for flood insurance for the life of the loan in compliance with the Flood Disaster Protection Act of 1973 (Federal law). If at any time during the term of the Agreement, such portion of the Mortgaged Property is classified by FEMA as being located in a special flood hazard area, flood insurance will be mandatory. Should BB&T become aware of such an event, federal law requires BB&T to notify the Borrower of the reclassification. If, within forty-five (45) days of receipt of notification from BB&T that any portion of the Mortgaged Property has been reclassified by the FEMA as being located in a special flood hazard area, the Borrower has not provided sufficient evidence of flood insurance, BB&T is mandated under federal law to purchase flood insurance on behalf of the Borrower, and any amounts so expended shall, subject to Section 3.05 and the Enforcement Limitation, immediately become debts of the Borrower, shall bear interest at the rate specified in the Agreement, and payment thereof shall be secured by the Agreement.

(d) The Borrower shall also maintain workers' compensation insurance issued by a responsible carrier authorized under State law to insure the Borrower against liability for compensation under applicable State law as in effect from time to time.

(e) All insurance shall be maintained with generally recognized responsible insurers and may carry reasonable deductible or risk-retention amounts. All such policies shall be deposited with BB&T, provided that in lieu of such policies there may be deposited with BB&T a certificate or certificates of the respective insurers attesting the fact that the insurance required by this Section is in full effect. Prior to the expiration of any such policy, the Borrower shall furnish BB&T evidence satisfactory to BB&T that the policy has been renewed or replaced or is no longer required by this Agreement.

(f) No Borrower agent or employee shall have the power to adjust or settle any property damage loss greater than \$50,000 with respect to the Mortgaged Property, whether or not covered by insurance, without BB&T's prior written consent.

(g) BB&T shall not be responsible for the sufficiency or adequacy of any required insurance and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by BB&T.

(h) The Borrower shall deliver to BB&T annually by June 30 of each year a certificate stating that the risk coverages required by this Agreement are in effect, and stating the carriers, policy numbers, coverage limits and deductible or risk-retention amounts for all such coverages.

ARTICLE V

TERMS OF CONSTRUCTION

5.01. Construction; Changes. (a) The Borrower shall comply with the provisions of Article 8 of Chapter 143 of the North Carolina General Statutes and enter into the Construction

Agreements. The Borrower shall cause the construction to be carried on continuously in accordance with the Plans and Specifications and all applicable State and local laws and regulations. The Borrower shall cause the Facilities to be constructed on the Site and shall insure (i) that the Facilities do not encroach upon nor overhang any easement or right-of-way and (ii) that the Facilities, when erected, will be wholly within any applicable building restriction lines, however established, and will not violate applicable use or other restrictions contained in prior conveyances or applicable protective covenants or restrictions. The Borrower shall cause all utility lines, septic systems and streets serving the Site to be completed in accordance with health department standards and other applicable regulations of any governmental agency having jurisdiction.

(b) The Borrower may approve changes to the Plans and Specifications and the Construction Agreements in its discretion except that the Borrower may not, without BB&T's consent, approve any changes which (i) result in the Facilities' use for purposes substantially different from those initially proposed or (ii) which increase total estimated Project Costs beyond amounts previously identified and designated for such purpose.

5.02. Construction within Funds Available. The Borrower represents that, based upon its examination of the Site and of the Plans and Specifications, estimated construction and equipment costs provided by licensed architects and engineers and the Facilities' anticipated configuration, the Facilities can be constructed, acquired and equipped for a total price within the total amount of funds to be available therefore in the Project Fund, income anticipated to be derived from the investment thereof and other funds previously identified and designated for such purposes. If the total amount available for such purposes in the Project Fund shall be insufficient to pay the entire cost of constructing, acquiring and equipping the Facilities, the Borrower promises to pay any such excess costs, with no resulting reduction or offset in the amounts otherwise payable by the Borrower under this Agreement.

5.03. Contractors' Performance and Payment Bonds. The Borrower shall require each contractor entering into a Construction Agreement to furnish a performance bond and a separate labor and material payment bond as required by Article 3, Chapter 44A of the North Carolina General Statutes. The Borrower shall provide copies of all such bonds to BB&T promptly upon the Borrower's receipt of each such bond. Each such bond shall include BB&T as a dual obligee.

Upon any material default by a contractor under any Construction Agreement, or upon any material breach of warranty with respect to any materials, workmanship or performance, the Borrower shall promptly proceed, either separately or in conjunction with others, to pursue diligently its remedies against such contractor or against the surety of any bond securing the performance of such Construction Agreement.

5.04. Contractors' General Public Liability and Property Damage Insurance. The Borrower shall require each contractor entering into a Construction Agreement to procure and maintain standard form (a) comprehensive general public liability and property damage insurance, at such contractor's own cost and expense, during the duration of such contractor's construction contract, in the amount of at least \$2,000,000, and (b) comprehensive automobile liability insurance on owned, hired and non-owned vehicles for not less than \$2,000,000. Such policies shall include standard mortgagee coverage in favor of BB&T. The Borrower shall provide to BB&T a certificate of insurance in a form acceptable to BB&T with respect to each contractor. Such insurance shall

provide protection from all claims for bodily injury, including death, property damage and contractual liability, products/completed operations, broad form property damage and XCU (explosive, collapse and underground damage), where applicable.

5.05. Contractors' Builder's Risk Completed Value Insurance. The Borrower shall require each contractor entering into a Construction Agreement to purchase and maintain property insurance (builder's risk) upon all construction, acquisition, installation and equipping of the Facilities (excluding contractor's tools and equipment) at the site thereof at the full insurable value thereof. This insurance shall include BB&T as loss payee, and shall insure against "all risk" subject to standard policy conditions and exclusions. The contractor shall purchase and maintain similar property insurance for portions of the work stored off the Site or in transit when such portions of the work are to be included in an application for payment. The contractor shall be responsible for the payment of any deductible amounts associated with this insurance.

5.06. Contractors' Workers' Compensation Insurance. The Borrower shall require each contractor entering into a Construction Agreement to procure and maintain workers' compensation insurance during the term of such Construction Agreement, covering his or her employees working thereunder. A certificate of insurance evidencing such coverage, in form acceptable to BB&T, shall be provided to the Borrower with respect to each contractor entering into a Construction Agreement. Each Construction Agreement shall also provide that each subcontractor of any contractor who is a party to such Construction Agreement shall be required to furnish similar workers' compensation insurance.

5.07. Disclaimer of Warranties. The Borrower agrees that BB&T has not designed the Facilities, that BB&T has not supplied any plans or specifications with respect thereto and that BB&T (a) is not a manufacturer of, nor a dealer in, any of the component parts of the Facilities or similar facilities, (b) has not made any recommendation, given any advice nor taken any other action with respect to (i) the choice of any supplier, vendor or designer of, or any other contractor with respect to, the Facilities or any component part thereof or any property or rights relating thereto, or (ii) any action taken or to be taken with respect to the Facilities or any component part thereof or any property or rights relating thereto at any stage of the acquisition, construction and equipping thereof, (c) has not at any time had physical possession of the Facilities or any component part thereof or made any inspection thereof or of any property or rights relating thereto, and (d) has not made any warranty or other representation, express or implied, that the Facilities or any component part thereof or any property or rights relating thereto (i) will not result in or cause injury or damage to persons or property, (ii) has been or will be properly designed, or will accomplish the results which the Borrower intends therefore, or (iii) is safe in any manner or respect.

BB&T MAKES NO EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION OF ANY KIND WHATSOEVER WITH RESPECT TO THE FACILITIES OR ANY COMPONENT PART THEREOF, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE MERCHANTABILITY OR THE FITNESS OR SUITABILITY THEREOF FOR ANY PURPOSE, and further including the design or condition thereof; the safety, quality or capacity thereof; compliance thereof with the requirements of any law, rule, specification or contract pertaining thereto; any latent defect; the Facilities' ability to perform any function; that the Amount Advanced will be sufficient to pay all costs of the acquisition,

construction and equipping of the Facilities; or any other characteristic of the Facilities; it being agreed that the Borrower is to bear all risks relating to the Facilities, the completion thereof and the transactions contemplated hereby, and the Borrower hereby waives the benefits of any and all implied warranties and representations of BB&T.

The provisions of this Section shall survive the Agreement's termination.

5.08. Right of Entry and Inspection. BB&T and its representatives and agents shall have the right to enter upon the Site and inspect the Mortgaged Property from time to time during construction and after the completion of construction, and the Borrower shall cause any vendor, contractor or sub-contractor to cooperate with BB&T and its representatives and agents during such inspections.

No right of inspection or approval granted in this Section shall be deemed to impose upon BB&T any duty or obligation whatsoever to undertake any inspection or to make any approval. No inspection made or approval given by BB&T shall be deemed to impose upon BB&T any duty or obligation whatsoever to identify or correct any defects in the Facilities or to notify any person with respect thereto, and no liability shall be imposed upon BB&T, and no warranties (either express or implied) are made by BB&T as to the quality or fitness of any improvement, any such inspection and approval being made solely for BB&T's benefit.

ARTICLE VI

CARE AND USE OF FACILITIES

6.01. Compliance with Requirements. (a) The Borrower shall cause the Facilities to be designed and constructed in compliance with all applicable legal requirements, including subdivision, building and zoning regulations. The Borrower shall not initiate or acquiesce in a change in the Site's zoning classification, except with respect to any change that may be appropriate to conform the actual zoning to that appropriate for the use of the Facilities contemplated as of the Closing Date.

(b) The Borrower shall observe and comply promptly with all current and future requirements relating to the Mortgaged Property's use or condition imposed by (i) any judicial, governmental or regulatory body having jurisdiction over the Facilities or any portion thereof or (ii) any insurance company writing a policy covering the Facilities or any portion thereof, whether or not any such requirement shall necessitate structural changes or improvements or interfere with the use or enjoyment of the Mortgaged Property.

(c) The Borrower shall obtain and maintain in effect all licenses and permits required for the Facilities' operation.

(d) The Borrower shall in no event use the Mortgaged Property or any part thereof, nor allow the same to be used, for any unlawful purpose, or suffer any act to be done or any condition to exist with respect to the Mortgaged Property or any part thereof, nor any article to be brought thereon, which may be dangerous, unless safeguarded as required by law, or which may, in law,

constitute a nuisance, public or private, or which may make void or voidable any insurance then in force with respect thereto.

6.02. Use and Operation. The Borrower shall use and operate the Facilities and related facilities as a public works facility, and for no other purpose unless required by law. The Borrower shall be solely responsible for the Facilities' operation, and shall not contract with any other person or entity for the Facilities' operation.

6.03. Maintenance and Repairs; Additions. (a) The Borrower shall keep the Mortgaged Property in good order and repair (reasonable wear and tear excepted) and in good operating condition, shall not commit or permit any waste or any other thing to occur whereby the value or usefulness of the Mortgaged Property might be impaired, and shall make from time to time all necessary or appropriate repairs, replacements and renewals.

(b) The Borrower may, also at its own expense, make from time to time any additions, modifications or improvements to the Mortgaged Property that it may deem desirable for its governmental or proprietary purposes and that do not materially impair the effective use, nor materially decrease the value or substantially alter the intended use, of the Mortgaged Property. The Borrower shall do, or cause to be done, all such things as may be required by law in order fully to protect the security of and all BB&T's rights under this Agreement.

(c) Any and all additions to or replacements of the Facilities and all parts thereof shall constitute accessions to the Facilities and shall be subject to all the terms and conditions of this Agreement and included in the "Facilities" for the purposes of this Agreement.

(d) Notwithstanding the provisions of subsection (c) above, however, the Borrower may, from time to time in its sole discretion and at its own expense, install machinery, equipment and other tangible property in or on the Facilities. All such property shall remain the Borrower's sole property in which BB&T shall have no interest; provided, however, that any such property which becomes permanently affixed to the Facilities shall be subject to the lien and security interest arising under this Agreement if BB&T shall reasonably determine that the Facilities would be damaged or impaired by the removal of such machinery, equipment or other tangible property.

6.04. Security. The Borrower shall take all reasonable steps necessary to safeguard the Equipment against theft. The security afforded the Equipment shall at all times be equal to or better than the security afforded the Borrower's personal property that is not subject to this Agreement.

6.05. Utilities. The Borrower shall pay all charges for utility services furnished to or used on or in connection with the Site and the Facilities.

6.06. Risk of Loss. The Borrower shall bear all risk of loss to and condemnation of the Site and the Facilities.

6.07. Condemnation.

(a) The Borrower shall immediately notify BB&T if any governmental authority shall institute, or shall notify the Borrower of any intent to institute, any action or proceeding for the taking of, or damages to, all or any part of the Mortgaged Property or any interest therein under the

power of eminent domain, or if there shall be any damage to the Mortgaged Property due to governmental action, but not resulting in a taking of any portion of the Mortgaged Property. The 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 BB&T, and to the extent permitted by law hereby irrevocably authorizes and empowers BB&T or the Deed of Trust Trustee, in the Borrower's name or otherwise, to collect and receipt for any such award or payment and to file and prosecute such claims. If the Borrower receives any Net Proceeds arising from any such action, the Borrower shall apply such Net Proceeds as provided in Section 6.10.

(b) If any of the real or personal property acquired or improved by the Borrower (in whole or in part) using any portion of the Amount Advanced consists of or is located on any real property acquired by the Borrower through the exercise of the power of eminent domain, or through the threat of the exercise of the power of eminent domain, then during the term of this Agreement the Borrower may not transfer any interest in such real property to any entity other than a local governmental unit without BB&T's prior express written consent.

6.08. Title. Title to the Site and the Facilities and any and all additions, repairs, replacements or modifications thereto shall at all times be in the Borrower, subject to the lien of this Agreement. Upon the Borrower's payment in full of all Required Payments, BB&T, at the Borrower's expense and request, shall cancel this Agreement.

6.09. No Encumbrance, Mortgage or Pledge of Site or Facilities.

(a) The Borrower shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics' and materialmen's liens), charge, encumbrance or other claim in the nature of a lien on or with respect to the Mortgaged Property, except Permitted Encumbrances. The Borrower shall promptly, at its own expense, take such action as may be duly necessary to discharge any such mortgage, pledge, lien, charge, encumbrance or claim not excepted above which it shall have created, incurred or suffered to exist.

(b) The Borrower shall reimburse BB&T for any expense incurred by BB&T to discharge or remove any such mortgage, pledge, lien, security interest, encumbrance or claim, with interest thereon at the Prime Rate.

6.10. Damage and Destruction; Use of Net Proceeds. (a) The Borrower shall promptly notify BB&T if (i) the Mortgaged Property or any portion thereof is stolen or is destroyed or damaged by fire or other casualty, (ii) a material defect in the construction of the Facilities shall become apparent, or (iii) title to or the use of all or any portion of the Mortgaged Property shall be lost by reason of a defect in title. Each notice shall describe generally the nature and extent of such damage, destruction or taking.

(b) If the Net Proceeds arising from any single event, or any single substantially related sequence of events, is not more than \$50,000, the Borrower shall retain such Net Proceeds and apply the same to the prompt completion, repair or restoration of the Mortgaged Property, and shall promptly thereafter report to BB&T regarding the use of such Net Proceeds.

(c) If the Net Proceeds arising from any single event, or any single substantially related sequence of events, is more than \$50,000, then the Borrower shall cause such Net Proceeds to be

paid to an escrow agent (which shall be a bank, trust company or similar entity exercising fiduciary responsibilities) for deposit in a special escrow fund to be held by such escrow agent. The Borrower shall thereafter provide for the application of all Net Proceeds to the prompt completion, repair or restoration of the Facilities, as the case may be. The escrow agent shall disburse Net Proceeds for the payment of such costs upon receipt of requisitions in substantially the form of Exhibit A to the Project Fund Agreement. If the Net Proceeds shall be insufficient to pay in full the cost of completion, repair or restoration, the Borrower shall either (i) complete the work and pay any cost in excess of the Net Proceeds, or (ii) not carry out such completion, repair or restoration, and instead apply the Net Proceeds, together with other available funds as may be necessary, to the prepayment of all outstanding Required Payments pursuant to Section 3.03.

(d) Any repair, restoration, modification, improvement or replacement paid for in whole or in part out of Net Proceeds shall be the Borrower's property and shall be part of the Facilities.

ARTICLE VII

THE DEED OF TRUST TRUSTEE

7.01. Deed of Trust Trustee's Liability. The Deed of Trust Trustee shall suffer no liability by virtue of his acceptance of this trust except such as may be incurred as a result of the Deed of Trust Trustee's failure to account for the proceeds of any sale under this Agreement.

7.02. Substitute Trustees. If the Deed of Trust Trustee, or any successor, shall die, become incapable of acting or renounce his trust, or if for any reason BB&T desires to replace the Deed of Trust Trustee, then BB&T shall have the unqualified right to appoint one or more substitute or successor Deed of Trust Trustees by instruments filed for registration in the office of the Register of Deeds where this Agreement is recorded. Any such removal or appointment may be made at any time without notice, without specifying any reason therefor and without any court approval. Any such appointee shall become vested with title to the Mortgaged Property and with all rights, powers and duties conferred upon the Deed of Trust Trustee by this Agreement in the same manner and to the same effect as though such Deed of Trust Trustee were named as the original Deed of Trust Trustee.

ARTICLE VIII

DEFAULTS AND REMEDIES; FORECLOSURE

8.01. Events of Default. An "Event of Default" is any of the following:

- (a) The Borrower's failing to make any Installment Payment when due.
- (b) The occurrence of an Event of Nonappropriation.
- (c) The Borrower's breaching or failing to perform or observe any term, condition or covenant of this Agreement or of the Project Fund Agreement on its part to be observed or

performed, other than as provided in subsections (a) or (b) above, including payment of any Additional Payment, for a period of 15 days after written notice specifying such failure and requesting that it be remedied shall have been given to the Borrower by BB&T, unless BB&T shall agree in writing to an extension of such time prior to its expiration.

(d) The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law by or against the Borrower as a debtor, or the appointment of a receiver, custodian or similar officer for the Borrower or any of its property, and the failure of such proceedings or appointments to be vacated or fully stayed within 30 days after the institution or occurrence thereof.

(e) Any warranty, representation or statement made by the Borrower in this Agreement or the Project Fund Agreement is found to be incorrect or misleading in any material respect on the Closing Date (or, if later, on the date made).

(f) Any lien, charge or encumbrance (other than Permitted Encumbrances) prior to or affecting the validity of this Agreement is found to exist, or proceedings are instituted against the Borrower to enforce any lien, charge or encumbrance against the Mortgaged Property and such lien, charge or encumbrance would be prior to the lien of this Agreement.

(g) The Borrower's failing to pay when due any principal of or interest on any of its general obligation debt.

8.02. Remedies on Default. Upon the continuation of any Event of Default, BB&T may, without any further demand or notice, exercise any one or more of the following remedies:

(a) Declare the unpaid principal components of the Installment Payments immediately due and payable;

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

(c) As provided in the Project Fund Agreement, pay over any balance remaining in the Project Fund to be applied against outstanding Required Payments in any manner BB&T may reasonably deem appropriate; and

(d) Avail itself of all available remedies under this Agreement, including execution and foreclosure as provided in Sections 8.03 and 8.04, and recovery of attorneys' fees and other expenses.

Notwithstanding any other provision of this Agreement, Borrower, the Deed of Trust Trustee and BB&T intend to comply with Section 160A-20. No deficiency judgment may be entered against the Borrower in violation of Section 160A-20.

8.03. Execution on Personal Property. Upon the continuation of any Event of Default and in addition to all other remedies granted in this Agreement, BB&T shall have all the rights and remedies of a secured party under the UCC and may proceed as to the personal property portion of the Mortgaged Property in the same manner as provided in this Agreement for the real property

portion, with BB&T having no obligation to proceed against real or personal property in preference to the other.

8.04. Foreclosure; Sale under Power of Sale.

(a) Right to foreclosure or sale. Upon the occurrence and continuation of an Event of Default, at BB&T's request, the Deed of Trust Trustee shall foreclose Mortgaged Property by judicial proceedings or, at BB&T's option, the Deed of Trust Trustee shall sell (and is hereby empowered to sell) all or any part of the Mortgaged Property (and if in part, any such sale shall in no way adversely affect the lien created hereby against the remainder) at public sale to the last and highest bidder for cash (free of any equity of redemption, homestead, dower, curtesy or other exemption, all of which the Borrower expressly waives to the extent permitted by law) after compliance with applicable State laws relating to foreclosure sales under power of sale. The Deed of Trust Trustee shall, at BB&T's request, execute a proper deed or deeds to the successful purchaser at such sale.

(b) Bank's bid. BB&T may bid and become the purchaser at any sale under this Agreement, and in lieu of paying cash therefor may make settlement for the purchase price by crediting against the Required Payments the proceeds of sale net of sale expenses, including the Deed of Trust Trustee's commission, and after payment of such taxes and assessments as may be a lien on the Mortgaged Property superior to the lien of this Agreement (unless the Mortgaged Property is sold subject to such liens and assessments, as provided by State law).

(c) Borrower's bid. The Borrower may bid for all or any part of the Mortgaged Property at any foreclosure sale; provided, however, that the price bid by the Borrower may not be less than an amount sufficient to provide for full payment of the Required Payments.

(d) Successful bidder's deposit. At any such sale the Deed of Trust Trustee may, at its option, require any successful bidder (other than BB&T) immediately to deposit with the Deed of Trust Trustee cash or a certified check in an amount equal to all or any part of the successful bid, and notice of any such requirement need not be included in the advertisement of the notice of such sale.

(e) Application of sale proceeds. The proceeds of any foreclosure sale shall be applied in the manner and in the order prescribed by State law, it being agreed that the expenses of any such sale shall include a commission to the Deed of Trust Trustee of five percent of the gross sales price for making such sale and for all services performed under this Agreement. Any proceeds of any such sale remaining after the payment of all Required Payments and the prior application thereof in accordance with State law shall be paid to the Borrower.

8.05 Possession of Mortgaged Property. During the continuation of an Event of Default, the Borrower shall immediately lose the right to possess, use and enjoy the Mortgaged Property (but may remain in possession of the Mortgaged Property as a tenant at will of BB&T), and thereupon the Borrower (a) shall pay monthly in advance to BB&T a fair and reasonable rental value for the use and occupation of the Mortgaged Property (in an amount BB&T shall determine in its reasonable judgment), and (b) upon BB&T's demand, shall deliver possession of the Mortgaged Property to BB&T or, at BB&T's direction, to the purchaser of the Mortgaged Property at any judicial or foreclosure sale under this Agreement.

In addition, upon the continuation of any Event of Default, BB&T, to the extent permitted by law, is hereby authorized to (i) take possession of the Mortgaged Property, with or without legal action, (ii) lease the Mortgaged Property, (iii) collect all rents and profits therefrom, with or without taking possession of the Mortgaged Property, 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 the Borrower's account and in reduction of the Borrower's corresponding Required Payments in such fashion as BB&T shall reasonably deem appropriate. BB&T shall be liable to account only for rents and profits it actually receives.

8.06. Due on Sale Provision; Acceleration. BB&T may, at its option, require the immediate payment in full of the Required Payments and the Amount Advanced and all other sums secured by this Financing Agreement upon the sale, transfer, conveyance or encumbrance of all or any part of the Mortgaged Property, or any legal or beneficial interest in the Mortgaged Property, without BB&T's prior written consent. This option applies whether the sale, transfer, conveyance or encumbrance is voluntary, involuntary, by operation of law or otherwise, and includes (i) any creation of lien or encumbrance, whether or not subordinate to the lien created pursuant to this Financing Agreement, (ii) the creation of any easement, right-of-way or similar interest other than such as would constitute a Permitted Encumbrance, or (iii) the grant of any leasehold or similar interest or any option to purchase, right of first refusal or similar interest.

8.07. No Remedy Exclusive; Delay Not Waiver. All remedies under this Agreement 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. If any Event of Default shall occur and thereafter be waived by the other parties, such waiver shall be limited to the particular breach so waived and shall not be deemed a waiver of any other breach under this Agreement.

8.08. Payment of Costs and Attorney's Fees. If BB&T employs an attorney to assist in the enforcement or collection of Required Payments, or if the Deed of Trust Trustee or BB&T voluntarily or otherwise shall become a party or parties to any suit or legal proceeding (including a proceeding conducted under any state or federal bankruptcy or insolvency statute) to protect the Mortgaged Property, to protect the lien of this Agreement, to enforce collection of the Required Payments or to enforce compliance by the Borrower with any of the provisions of this Agreement, the Borrower agrees to pay reasonable attorneys' fees and all of the costs that may reasonably be incurred (whether or not any suit or proceeding is commenced), and such fees and costs (together with interest at the Prime Rate) shall be secured as Required Payments.

ARTICLE IX

MISCELLANEOUS

9.01. Notices. (a) Any communication required or permitted by this Agreement must be in writing.

(b) Any communication under this Agreement shall be sufficiently given and deemed given when delivered by hand or on the date shown on a certified mail receipt, or delivery receipt from a national commercial package delivery service, if addressed as follows:

(i) if to the Borrower, to P.O. Box 399 Cornelius, North Carolina 28031, Attention: Finance Officer;

(ii) if to the Deed of Trust Trustee, to 5130 Parkway Plaza Boulevard, Charlotte, North Carolina 28217, Attention: Governmental Finance; or

(iii) if to BB&T, to 5130 Parkway Plaza Boulevard, Charlotte, North Carolina 28217, Attention: Governmental Finance.

(c) Any communication to the Deed of Trust Trustee shall also be sent to BB&T.

(d) Any addressee may designate additional or different addresses for communications by notice given under this Section to each of the others.

9.02. No Assignments by Borrower. The Borrower shall not sell or assign any interest in this Agreement.

9.03. Assignments by BB&T. BB&T may, at any time and from time to time, assign all or any part of its interest in the Site, the Facilities or this Agreement, including, without limitation, BB&T's rights to receive Required Payments. Any assignment made by BB&T or any subsequent assignee shall not purport to convey any greater interest or rights than those held by BB&T pursuant to this Agreement.

The Borrower agrees that this Agreement may become part of a pool of obligations at BB&T's or its assignee's option. BB&T or its assignees may assign or reassign all or any part of this Agreement, including the assignment or reassignment of any partial interest through the use of certificates evidencing participation interests in this Agreement. Any assignment by BB&T may be only to a bank, insurance company, or similar financial institution or any other entity approved by the LGC. Notwithstanding the foregoing, no assignment or reassignment of BB&T's interest in the Mortgaged Property or this Agreement shall be effective unless and until the Borrower shall receive a duplicate original counterpart of the document by which such assignment or reassignment is made disclosing the name and address of each such assignee.

The Borrower further agrees that BB&T's interest in this Agreement may be assigned in whole or in part upon terms which provide in effect that the assignor or assignee will act as a collection and paying agent for any holders of certificates of participation in this Agreement, provided the Borrower receives a copy of such agency contract and such collection and paying agent covenants and agrees to maintain for the full remaining term of this Agreement a written record of each assignment and reassignment of such certificates of participation.

The Borrower agrees to execute any document reasonably required in connection with any assignment. Any assignor must provide notice of any assignment to the Borrower, and the Borrower shall keep a complete and accurate record of all assignments as required by the Code. After the giving of any such notice, the Borrower shall thereafter make all payments in accordance with the notice to the assignee named therein and shall, if so requested, acknowledge such assignment in writing, but such acknowledgment shall in no way be deemed necessary to make the assignment effective.

9.04. Amendments. No term or provision of this Agreement may be amended, modified or waived without the prior written consent of the Borrower and BB&T.

9.05. No Marshalling. The Borrower hereby waives any and all rights to require marshalling of assets in connection with the exercise of any remedies provided in this Agreement or as permitted by law.

9.06. Governing Law. The Borrower, BB&T and the Deed of Trust Trustee intend that State law shall govern this Agreement.

9.07. Liability of Officers and Agents. No officer, agent or employee of the Borrower shall be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers or agents shall be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section shall not relieve an officer, agent or employee of the Borrower from the performance of any official duty provided by law.

9.08. Covenants Running with the Land. All covenants contained in this Agreement shall run with the real estate encumbered by this Agreement.

9.09. Severability. If any provision of this Agreement shall be determined to be unenforceable, that shall not affect any other provision of this Agreement.

9.10. Non-Business Days. If the date for making any payment or the last day for performance of any act or the exercising of any right shall not be a Business Day, such payment shall be made or act performed or right exercised on or before the next preceding Business Day.

9.11. Entire Agreement. This Agreement constitutes the Borrower's entire agreement with respect to the general subject matter covered hereby.

9.12. Binding Effect. Subject to the specific provisions of this Agreement, and in particular Section 9.03, this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

9.13 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 North Carolina, as amended. The Bank uses E-Verify to verify the work authorization of its employees in accordance with Section 64-26(a) of the General Statutes of North Carolina, as amended. The

Bank will require that any subcontractor that it uses in connection with the transactions contemplated by this Contract certify to such subcontractor's compliance with E-Verify.

9.14 Iran Divestment Act Certification. BB&T hereby certifies that BB&T is not on the Iran Final Divestment List (“List”) created by the North Carolina State Treasurer pursuant to Section 147-86.58 of the North Carolina General Statutes.

IN WITNESS WHEREOF, the Borrower has caused this instrument to be executed as of the day and year first above written by duly authorized officers.

(SEAL)

ATTEST:

**TOWN OF CORNELIUS,
NORTH CAROLINA**

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

* * * * *

**STATE OF NORTH CAROLINA;
MECKLENBURG COUNTY**

I, a Notary Public of such Borrower and State, certify that _____ and _____ personally came before me this day and acknowledged that they are the _____ and _____, of Town of Cornelius, North Carolina, and that by authority duly given and as the act of Town of Cornelius, North Carolina, the foregoing instrument was signed in the Borrower's name by such _____, sealed with its corporate seal and attested by such _____.

WITNESS my hand and official stamp or seal, this ____ day of October, 2017.

[SEAL]

Notary Public

Notary's printed name: _____

My commission expires: _____

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

By: _____
Finance Officer
Town of Cornelius, North Carolina

[Financing Agreement and Deed of Trust for \$2,000,000.00 from the Town of Cornelius, North Carolina, for the benefit of Branch Banking and Trust Company]

**BRANCH BANKING AND
TRUST COMPANY**

By: _____

Printed Name: _____

Title: _____

This contract has been approved under the provisions of Article 8, Chapter 159 of the General Statutes of North Carolina.

Greg C. Gaskins
Secretary, North Carolina
Local Government Commission

By _____
[Greg C. Gaskins or Designated Assistant]

[Financing Agreement and Deed of Trust for \$2,000,000.00 from the Town of Cornelius, North Carolina, for the benefit of Branch Banking and Trust Company]

EXHIBIT A -- SITE DESCRIPTION

[LEGAL DESCRIPTION TO BE PROVIDED BY ATTORNEY IN WORD FORMAT PRIOR TO CLOSING]

EXHIBIT B -- IMPROVEMENTS DESCRIPTION

Construction of a Public Works Facility, in accordance with the plans and specifications for the project. The proposed construction project includes building a new 10,109 sq. ft. building which includes 2,313 sq. ft. of office space and 7,796 sq. ft. of service bay and storage bay areas. The facility will also include a 12,000 sq. ft. open storage building and 3,000 sq. ft. of conditioned secured police storage. The facility will be constructed on a 4.16 acre site that the Town previously purchased.

EXHIBIT C -- EXISTING ENCUMBRANCES

[FROM TITLE COMMITMENT – TO BE PROVIDED BY ATTORNEY PRIOR TO CLOSING]

EXHIBIT D-- PAYMENT SCHEDULE

Payment Schedule to Financing Agreement and Deed of Trust dated as of October __, 2017 (the "Financing Agreement"), granted by the Town of Cornelius, North Carolina, to BB&T Collateral Service Corporation, Deed of Trust Trustee, for the benefit of Branch Banking and Trust Company

Contract Number: 9933000939-00007

The payments required to repay the advance made pursuant to the Financing Agreement call for an amortization period of approximately seven (7) years. Payments are semi-annual in arrears in variable amounts with a fixed principal component of \$142,857.14. A portion of each payment is paid as and represents payment of interest at an annual interest rate of 2.03%.

Payments are due beginning on April __, 2018 and semi-annually thereafter, with a final payment of all outstanding principal and accrued and unpaid interest due on October __, 2024, all as set forth in the attached amortization schedule.

Town of Cornelius, North Carolina
 \$2,000,000.00 Construction of Public Works Facility
 9933000939-00007

DRAFT AMORTIZATION SCHEDULE—TO BE UPDATED TO REFLECT FUNDING DATE

Compound Period: Semiannual

Nominal Annual Rate: 2.030 %

CASH FLOW DATA

	Event	Date	Amount	Number	Period	End Date
1	Loan	10/01/2017	2,000,000.00	1		
2	Payment Fixed Principal (+Int.)	04/01/2018	142,857.14	14	Semiannual	10/01/2024

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

		Date	Payment	Interest	Principal	Balance
	Loan	10/01/2017				2,000,000.00
	1	04/01/2018	163,157.14	20,300.00	142,857.14	1,857,142.86
	2018 Totals		163,157.14	20,300.00	142,857.14	
	2	10/01/2018	161,707.14	18,850.00	142,857.14	1,714,285.72
	3	04/01/2019	160,257.14	17,400.00	142,857.14	1,571,428.58
	2019 Totals		321,964.28	36,250.00	285,714.28	
	4	10/01/2019	158,807.14	15,950.00	142,857.14	1,428,571.44
	5	04/01/2020	157,357.14	14,500.00	142,857.14	1,285,714.30
	2020 Totals		316,164.28	30,450.00	285,714.28	
	6	10/01/2020	155,907.14	13,050.00	142,857.14	1,142,857.16
	7	04/01/2021	154,457.14	11,600.00	142,857.14	1,000,000.02
	2021 Totals		310,364.28	24,650.00	285,714.28	
	8	10/01/2021	153,007.14	10,150.00	142,857.14	857,142.88
	9	04/01/2022	151,557.14	8,700.00	142,857.14	714,285.74
	2022 Totals		304,564.28	18,850.00	285,714.28	
	10	10/01/2022	150,107.14	7,250.00	142,857.14	571,428.60
	11	04/01/2023	148,657.14	5,800.00	142,857.14	428,571.46
	2023 Totals		298,764.28	13,050.00	285,714.28	

12	10/01/2023	147,207.14	4,350.00	142,857.14	285,714.32
13	04/01/2024	145,757.14	2,900.00	142,857.14	142,857.18
2024 Totals		292,964.28	7,250.00	285,714.28	
14	10/01/2024	144,307.14	1,449.96	142,857.18	0.00
2025 Totals		144,307.14	1,449.96	142,857.18	
Grand Totals		2,152,249.96	152,249.96	2,000,000.00	

PROJECT FUND AGREEMENT

THIS PROJECT FUND AGREEMENT is dated as of October __, 2017, and is by and between the **TOWN OF CORNELIUS, NORTH CAROLINA**, a public body of the State of North Carolina (the "Borrower"), and **BRANCH BANKING AND TRUST COMPANY** ("BB&T").

RECITALS

The Borrower is, simultaneously with the execution and delivery of this Project Fund Agreement, executing and delivering a Financing Agreement and Deed of Trust dated as of October __, 2017 (the "Financing Agreement"), to a deed of trust trustee for BB&T's benefit. The purpose of the Financing Agreement is to provide for BB&T's advance of \$2,000,000.00 to the Borrower to finance the Borrower's acquisition and construction of the "Facilities," as defined in the Financing Agreement. In partial consideration for BB&T's entering into the Financing Agreement, the Borrower has agreed to provide for financing proceeds to be deposited and disbursed pursuant to this Project Fund Agreement.

NOW, THEREFORE, the parties agree as follows:

SECTION 1. DEFINITIONS

In this Project Fund Agreement, the term "***Project Costs***" means all costs of the design, planning, constructing, acquiring, installing and equipping of the Facilities as determined in accordance with generally accepted accounting principles and that will not adversely affect the exclusion from gross income for federal income tax purposes of the designated interest component of Installment Payments payable by the Borrower under the Financing Agreement, including (a) sums required to reimburse the Borrower or its agents for advances made for any such costs, (b) interest during the construction process and for up to six months thereafter, and (c) all costs related to the financing of the Facilities through the Financing Agreement and all related transactions.

In addition, any capitalized terms used in this Project Fund Agreement and not otherwise defined shall have the meanings assigned thereto in the Financing Agreement.

SECTION 2. PROJECT FUND.

2.1. Project Fund. On the Closing Date, BB&T will deposit \$2,000,000.00 into a special account of the Borrower at Branch Banking and Trust Company to be designated "2017-00007 Town of Cornelius Project Fund" (the "Project Fund"). This account shall be held separate and apart from all other funds of the Borrower. The Project Fund is the Borrower's property, but the Borrower will withdraw amounts on deposit in the Project Fund only as provided in the Project Fund Agreement and only for application from time to time to the payment of Project Costs. Pending such application, such amounts shall be subject to a lien and charge in favor of BB&T to secure the Borrower's obligations under the Financing Agreement.

2.2. Requisitions from Project Fund. (a) The Borrower may withdraw funds from the Project Fund only after authorization from BB&T. BB&T will disburse funds from the Project Fund only to the Borrower and only upon its receipt of written requisitions from one of the designated Authorized Representatives named in the Certificate of Authorized Representatives contained herein and substantially in the form of Exhibit A attached hereto.

(b) Notwithstanding any other provision of this Project Fund Agreement, BB&T will not be obligated to honor any requisition for disbursements after 30 days from the Closing Date until the Borrower provides to BB&T a loan policy of title insurance, in form and substance reasonably acceptable to BB&T, insuring the priority of BB&T's lien position under the Financing Agreement.

2.3. Disposition of Project Fund Balance.

(a) *Upon completion* -- Promptly after the Facilities have been completed to the point that they are suitable for carrying out substantially all the purposes they are to serve for the Borrower, the Borrower must deliver to BB&T (i) a certificate to such effect signed by a Borrower Representative and by a licensed architect or engineer reasonably acceptable to BB&T, and (ii) an opinion of counsel to the Borrower that there are no liens or encumbrances on the Site other than Permitted Encumbrances. BB&T will then withdraw any balance remaining in the Project Fund (and not required to be retained to pay Project Costs incurred but not yet paid) and apply such balance against outstanding Required Payments.

(b) *Upon default* -- Upon the occurrence of an Event of Default, BB&T may withdraw any balance remaining in the Project Fund and apply such balance against outstanding Required Payments.

(c) *After delay or inactivity* -- If (i) more than two years have elapsed from the Closing Date or (ii) at least six months has passed from BB&T's most recent receipt of a requisition for Project Costs, then BB&T, upon 30 days' notice from BB&T to the Borrower, may withdraw any balance remaining in the Project Fund and apply such balance against outstanding Required Payments.

(d) *Application of Project Fund balance* -- BB&T will apply any amounts paid to it pursuant to this section (i) first against all Additional Payments then due and payable, (ii) then to interest accrued and unpaid to the prepayment date, and (iii) then to the prepayment, in inverse order of maturity and without premium (notwithstanding any contrary provisions of Section 3.03 of the Financing Agreement), of the outstanding principal components of Installment Payments. Such prepayment, however, will not affect any other Borrower payment obligation under the Financing Agreement. BB&T will notify the Borrower of any withdrawal from the Project Fund made under this Section 2.3, and in the notice will describe its application of the funds withdrawn.

2.4. Investment. (a) The Borrower and BB&T agree that money in the Project Fund will be continuously invested and reinvested in a public funds money rate savings account.

(b) From and after the date that is three years from the Closing Date, the Borrower will not purchase or hold any investment which has a "yield," as determined under the Code, in excess of the "yield" on the Borrower's obligations under the Financing Agreement, unless the Borrower has supplied BB&T with a Bond Counsel Opinion to the effect that such investment will not adversely affect the exclusion from gross income for federal income tax purposes to which the interest components of Installment Payments would otherwise be entitled.

(c) Investment obligations acquired with money in the Project Fund shall be deemed at all times to be part of the Project Fund. The interest accruing thereon and any profit or loss realized upon the disposition or maturity of any such investment shall be credited to or charged against the Project Fund.

(d) All earnings on moneys in the Project Fund must be used for Project Costs.

SECTION 3. MISCELLANEOUS.

3.1. Notices. Any notice or other communication required or contemplated by this Project Fund Agreement shall be deemed to be delivered if in writing, addressed as provided below and if (a) actually received by such addressee, or (b) in the case of mailing, when indicated to have been delivered by a signed receipt returned by the United States Postal Service after deposit in the United States mails, postage and registry fees prepaid, and clearly directed to be transmitted as registered or certified mail:

(i) If intended for the Borrower, addressed to it at the following address: Town of Cornelius, Attention: Finance Officer, P.O. Box 399 Cornelius, North Carolina 28031.

(ii) if to BB&T, to 5130 Parkway Plaza Boulevard, Charlotte, North Carolina 28217, Attention: Governmental Finance.

Any party may designate a different or alternate address for notices by notice given under this Project Fund Agreement.

3.2. Survival of Covenants and Representations. All covenants, representations and warranties made by the Borrower in this Project Fund Agreement and in any certificates delivered pursuant to this Project Fund Agreement shall survive the delivery of this Project Fund Agreement.

3.3. Choice of Law. The parties intend that North Carolina law shall govern this Project Fund Agreement.

3.4. Amendments. This Project Fund Agreement may not be modified or amended unless such amendment is in writing and signed by BB&T and the Borrower.

3.5. No Third-Party Beneficiaries. There are no parties intended to be or which shall be deemed to be third-party beneficiaries of this Project Fund Agreement.

3.6. Successors and Assigns. All of the covenants and conditions of this Project Fund Agreement shall be binding upon and inure to the benefit of the parties to this Project Fund Agreement and their respective successors and assigns.

3.7. Severability. If any court of competent jurisdiction shall hold any provision of this Project Fund Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Project Fund Agreement.

3.8. Counterparts. This Project Fund Agreement may be executed in any number of counterparts, including separate counterparts, each executed counterpart constituting an original but all together only one agreement.

3.9. Termination. Except as otherwise provided in this Project Fund Agreement, this Project Fund Agreement shall cease and terminate upon payment of all funds (including investment proceeds) from the Project Fund.

(The remainder of this page has been left blank intentionally.)

CERTIFICATE DESIGNATING AUTHORIZED REPRESENTATIVES

In accordance with the terms herein, the Borrower designates the following persons as Authorized Representatives authorized to sign requisitions to withdraw funds from the Project Fund account:

Printed Name:

Signature:

The Borrower may designate additional Representatives to sign requisitions upon written notification to BB&T.

IN WITNESS WHEREOF, each of the parties has caused this Project Fund Agreement to be signed and delivered by a duly authorized officer, all as of the date first above written.

ATTEST:

**TOWN OF CORNELIUS,
NORTH CAROLINA**

By: _____ By: _____

Printed Name: _____ Printed Name: _____

Title: _____ Title: _____

SEAL

BRANCH BANKING AND TRUST COMPANY

By: _____

Printed Name: _____

Title: _____

[Project Fund Agreement dated as of October ____, 2017]

EXHIBIT A

[To Be Prepared on Borrower's Letterhead for Submission]

PROJECT FUND REQUISITION

[Date] _____

E-mail requisitions to: GFProjectfunds@bbandt.com

Requisition Team telephone: 252-296-0653 or 252-296-0452
Branch Banking and Trust Company
(Governmental Finance)

RE: Request for disbursement of funds from the Project Fund related to
 Contract No. 9933000939-00007 with the Town of Cornelius, North Carolina,
 dated October ____, 2017.

To Whom It May Concern:

Pursuant to the terms and conditions of the Project Fund Agreement dated as of October ____, 2017, the Town of Cornelius, North Carolina (the "Borrower"), requests the disbursement of funds from the Project Fund established under the Project Fund Agreement for the following Project Costs:

This is requisition number ____ from the Project Fund.

Disbursements will be to the Town of Cornelius, North Carolina.

Amount: \$

Attach copies of applicable vendor invoices or spreadsheet of expenditures to requisition when submitting.

Project Description: Construction of Public Works Facility

Location of Equipment/Facilities:

To receive funds via wire transfer please include:

ABA Routing Number:

Account Number:

Physical address of Borrower:

The Town of Cornelius makes this requisition pursuant to the following representations:

1. The Borrower has appropriated in its current fiscal year funds sufficient to pay the Installment Payments and estimated Additional Payments due in the current fiscal year.
2. The purpose of this disbursement is for partial payment on the project provided for under the Contract referenced above.
3. The requested disbursement has not been subject to any previous requisition.
4. 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 herein 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 requisition.
5. This requisition contains no items representing payment on account of any percentage entitled to be retained on the date of this requisition.
6. No Event of Default is continuing under the Financing Agreement, and no event or condition is existing which, with notice or lapse of time or both, would become an Event of Default.
7. The Borrower authorizes BB&T to file or cause to be filed any Uniform Commercial Code financing statements with respect to this portion of the Facilities that BB&T may request to evidence its security interest.
8. The Borrower has in place insurance on this portion of the Facilities that complies with the insurance provisions of the above-referenced Contract.

Each amount requested for payment in this requisition either (a) represents reimbursement to the Borrower for a Project Cost expenditure previously made, or (b) will be used by the Borrower promptly upon the receipt of funds from BB&T to make the payments to third parties described in this requisition.

Attached is evidence that the amounts shown in this requisition are properly payable at this time, such as bills, receipts, invoices, architects' payment certifications or other appropriate documents.

**TOWN OF CORNELIUS,
NORTH CAROLINA**

By: _____

Printed Name: _____

Title:_____

CONDITIONAL ASSIGNMENT OF CONSTRUCTION DOCUMENTS

THIS ASSIGNMENT (the "Assignment") is made as of October ___, 2017, by the **TOWN OF CORNELIUS, NORTH CAROLINA** (the "Borrower"), to **BRANCH BANKING AND TRUST COMPANY** ("BB&T").

RECITALS:

The Borrower has entered into a Financing Agreement and Deed of Trust (the "Agreement") dated as of October ___, 2017, with a deed of trust trustee for BB&T's benefit, providing for the financing and construction of the "Facilities," as defined in the Agreement.

As a condition to entering into the Agreement, BB&T has required that the Borrower conditionally assign to BB&T all the contracts, plans and specifications for the Facilities.

NOW THEREFORE, as an inducement to BB&T to enter into the Agreement and in consideration thereof and of the covenants herein, and subject to the conditions described below, the Borrower hereby sells, transfers, assigns and sets over unto BB&T, its successors and assigns, all of its right, title and interest in and to the following:

- (1) The contracts pertaining to the Facilities with architects, construction managers and similar professionals (the "Architects' Agreements");
- (2) All plans, specifications and other drawings or documents prepared or to be prepared by such professionals and pertaining to the Facilities (the "Plans"); and
- (3) All construction contracts and related documents concerning the construction of the Facilities, and all amendments, revisions or modifications of such contracts, in all cases whether now existing or entered into later (the "Contractors' Agreements").

The Architects' Agreements, the Plans and the Contractors' Agreements are referred to herein collectively as the "Construction Documents."

This Assignment is made as additional security for the Borrower's performance of all its obligations under the Agreement and other documents evidencing or securing the Borrower's obligations under the Agreement (together, the "Financing Documents").

The Borrower covenants and agrees that the Borrower will (a) fulfill, perform and observe each and every condition and covenant of the Borrower contained in the Construction Documents, (b) give immediate notice to BB&T of any default by anyone under the Construction Documents, and (c) enforce the performance and observance of each and every covenant and condition to be performed or observed by anyone under the Construction Documents.

The Borrower further covenants and agrees with BB&T that it will not, without BB&T's prior written consent, (a) modify or amend the terms of any of the Construction Documents, or (b) waive or release the performance of any obligation to be performed by anyone under the terms of the Construction Documents.

Unless and until the Borrower shall default in the performance or observance of any obligation under the Financing Documents, the Borrower shall be entitled to enjoy and enforce all of its rights under the Construction Documents.

If the Borrower shall default in the performance or observance of any obligation under the Financing Documents, BB&T shall be entitled to have, use and copy the Plans and, after first having given written notice to the counterparty to any such Agreement, shall be entitled from and after such notice to enjoy and enforce all of the Borrower's respective rights under the Architects' Agreements and the Contractors' Agreements, and BB&T shall become bound to perform all the respective obligations of the Borrower under such Agreements that arise from and after the date of BB&T's notice to such counterparty. Unless and until BB&T gives such notice to such counterparty, BB&T shall not be obligated to perform any of the Borrower's obligations under the related contracts.

The Borrower warrants as follows: there is not any other assignment of any of its rights under any of the Construction Documents to any other person or party; it has done no act nor omitted to do any act that might prevent BB&T from exercising any of the rights, powers and privileges conferred by this Assignment; and, to the best of its knowledge, no default exists under the provisions of the Architects' Agreements or the Contractors' Agreements.

IN WITNESS WHEREOF, the Borrower has caused this assignment to be duly executed.

**TOWN OF CORNELIUS,
NORTH CAROLINA**

By: _____

Printed Name: _____

Title: _____

CLOSING CERTIFICATE

The undersigned officers of the Town of Cornelius, North Carolina (the "Borrower"), hereby certify as follows:

1. The Borrower's governing board (the "Board") adopted the attached resolution (the "Resolution"), authorizing and providing for an installment financing with Branch Banking and Trust Company. The Resolution was duly adopted at a meeting duly called and held at which a quorum was present and acting throughout. The Resolution has not been repealed, revoked, rescinded or amended, but remains in full effect as of today. Pursuant to N.C. Gen. Stat. § 143-318.12(a), a current copy of the Board's regular meeting schedule was on file with the Clerk for at least seven days prior to the date of the meeting.

2. The signatures set forth below are the true and genuine signatures of the persons holding the indicated offices. The indicated persons have held such offices at all times since the Resolution was adopted.

<u>Printed Name</u>	<u>Title</u>	<u>Signature</u>
_____	Mayor or Town Manager	_____
_____	Finance Officer	_____
_____	Clerk	_____

4. The Borrower has duly authorized, executed and delivered the Financing Agreement and the Project Fund Agreement provided for by the Resolution. We have reviewed the Borrower's representations as set forth in such Agreements, and all of such representations are correct and complete in all material respects as if made today. The Borrower has appropriated at least \$153,970.02 for Installment Payments under the Financing Agreement coming due between today and the end of the Borrower's current fiscal year.

5. The seal impressed below is the Borrower's official seal, and has been the Borrower's official seal since prior to the adoption of the Resolution.

WITNESS our signatures and the seal of the Town of Cornelius, North Carolina, this ____ day of October, 2017.

(SEAL)

By: _____	By: _____	By: _____
Mayor or Town Manager	Finance Officer	Clerk

USE OF PROCEEDS CERTIFICATE

The undersigned Finance Officer of the Town of Cornelius, North Carolina (the "Borrower"), is among the Borrower officers charged with responsibility for the Borrower's entering into a Financing Agreement and Deed of Trust dated as of October __, 2017 (the "Agreement"), for the benefit of Branch Banking and Trust Company ("BB&T"). This Certificate is delivered as part of the official record of the proceedings for the delivery of the Agreement. I am executing and delivering this Certificate on behalf of the Borrower to set forth in good faith the Borrower's reasonable expectations concerning the use and investment of financing proceeds and other related matters, in order to assure that interest on the Obligations, as defined below, will be excluded from gross income for federal income tax purposes. I understand that I have an obligation to make the representations in this Certificate both correct and complete.

All capitalized terms used in this Certificate and not otherwise defined have the meanings assigned to such terms under the Treasury Regulations applicable to tax-exempt bonds.

PURPOSE OF AGREEMENT

1. The Borrower is executing and delivering the Agreement today to provide funds to finance the construction (the "Project") of the facility set forth in the Agreement (the "Financed Facilities"), and to pay certain financing costs. BB&T will advance funds to the Borrower pursuant to the Agreement for the Project. BB&T is entering into the Agreement for its own account with no current intention of reselling its rights under the Agreement or any interest therein, except that BB&T may make an assignment of payment rights to an affiliate, in whole, at par and without recourse.

PROCEEDS; PAYMENT OBLIGATIONS

2. (a) BB&T will today advance the full principal amount to be advanced under the Agreement of \$2,000,000.00 (the "Proceeds") by making a deposit into a Project Fund created under a Project Fund Agreement between the Borrower and BB&T.

(b) Under the Agreement, the Borrower is obligated to pay Installment Payments, as defined in the Agreement, on the dates and in the amounts set forth in the Agreement (the Borrower's obligations to pay Installment Payments are referred to in this Certificate as the "Obligations"), subject to prepayment as provided in the Agreement.

(c) The Installment Payments reflect the repayment of the Proceeds and include a designated interest component corresponding to an annual interest rate as set forth in the Agreement. The Borrower does not expect to prepay any of the Obligations prior to the scheduled payment dates.

USE OF PROCEEDS; REIMBURSEMENT

3. (a) All of the Proceeds and all investment earnings thereon will be used to pay Project Costs, including costs incurred in connection with the execution and delivery of the Agreement and interest on the Obligations during the construction period.

(b) All of such costs will be incurred and expenditures made subsequent to today, except for reimbursement to the Borrower for amounts (i) paid not more than 60 days prior to today, (ii) representing engineering, design and similar preliminary expenses in an aggregate amount not exceeding 20% of the principal amount of the Obligations, or (iii) otherwise in an amount not exceeding 5% percent of the Proceeds.

(c) All expenditures to be reimbursed occurred not more than 18 months prior to today. None of the Financed Facilities were placed in service more than one year before today.

(d) All of the costs to be paid or reimbursed from Proceeds will be Capital Expenditures, and none will be Working Capital Expenditures. No portion of the Gross Proceeds will be used, directly or indirectly, to make or finance loans to two or more ultimate borrowers.

QUALIFICATION FOR TEMPORARY PERIOD

4. Work on the Project will begin, or did begin, on or about _____. Work on the Project will proceed with due diligence, and the Financed Facilities will be placed in service beginning on or about _____. Within 90 days of today (if it has not already done so), the Borrower will enter into substantial binding obligations to third parties to spend Proceeds on Project Costs that are Capital Expenditures in an amount exceeding 5% of the amount financed. The Borrower estimates that all the Proceeds and all the investment earnings thereon will be fully expended within _____ months from today.

INVESTMENT PROCEEDS

5. (a) Any earnings or net profit derived from the investment of the Proceeds will be used to pay additional Project Costs or interest on the Obligations not later than the date that is the later of (i) three years from today or (ii) twelve months from the date of the receipt of such earnings.

(b) After the date that is three years from today, the Borrower will not invest any of the Gross Proceeds at a Yield in excess of the Yield on the Obligations.

(c) No investment will be acquired or disposed of at a cost or price that exceeds its Fair Market Value as of the acquisition date, or which is less than its Fair Market Value as of the disposition date. No portion will be invested in any investment as to which the economic return is substantially guaranteed for more than three years.

(d) No portion of the Gross Proceeds will be used, directly or indirectly, to replace funds that the Borrower used (directly or indirectly) to acquire securities or obligations producing (or expected to produce) a Yield higher than the Yield on the Obligations.

NO OVER-ISSUANCE OR EXCESSIVE MATURITY

6. (a) The sum of the Proceeds and the reasonably expected investment earnings thereon does not exceed the amount reasonably expected to be required to pay Project Costs, including interest on the Obligations during construction and financing costs.

(b) The term of the Obligations is not longer than reasonably necessary for the governmental purposes thereof, and is not longer than the expected useful life of the Financed Facilities.

(c) In connection with the issuance of the Obligations, the Borrower has not utilized any device (not described in this Certificate) which attempts to circumvent the restrictions of the Code to exploit the difference between tax-exempt and taxable interest rates to obtain a material financial advantage. The Borrower has not attempted to increase improperly the burden on the market for tax-exempt securities (for example, by selling its obligations in larger amounts or with longer maturities, or selling them sooner, than would otherwise be necessary).

COMPLIANCE WITH REBATE REQUIREMENT

7. In the Agreement, the Borrower has agreed to comply with provisions of the Code which in some circumstances require the Borrower to pay some of its investment earnings to the United States, as provided in Code Section 148.

PRIVATE ACTIVITY TESTS

8. No payment on the Obligations is secured by property to be used in any private business. None of the Proceeds are to be used for any such private business use. The Borrower has no leases, management contracts or other agreements with private entities or the federal government for either (a) management or operation of the Financed Facilities, or (b) the use of designated portions of the Financed Facilities.

QUALIFIED TAX-EXEMPT OBLIGATIONS

9. (a) None of the Obligations are "private activity bonds" within the meaning of Code Section 141. The aggregate amount of tax-exempt obligations, including the Obligations, issued and reasonably expected as of today to be issued in calendar year 2017 by (i) the Borrower, (ii) all entities on behalf of which the Borrower issues tax-exempt obligations, (iii) all governmental units that are "subordinate" to the Borrower, within the meaning of Code Section 265(b)(3), and (iv) all entities that issue tax-exempt obligations on behalf of the same such entities, does not exceed \$10,000,000. The Borrower has no reason to believe that the Borrower and such other entities will issue tax-exempt obligations in 2017 in an aggregate amount that will exceed such \$10,000,000 limit.

(b) In making the statements in subparagraph (a) above, I have taken into account (i) all the Borrower's departments and agencies and (ii) all political subdivisions or other entities (x) which have the power to borrow money or enter into contracts and (y) of which the Borrower is a member or over which it has legal or practical control. For all of such entities, I have taken into account all bonds, bond anticipation notes, installment or lease-purchase contracts and all other obligations to pay money (excluding only current accounts payable and private activity bonds) issued or to be issued or contracted by such entities in calendar year 2017. I have not included those private activity bonds or those refunding obligations excluded from the annual \$10,000,000 calculation by Code Section 265(b)(3).

INVESTED SINKING FUNDS

10. There are no funds (a) to be held under the Agreement or (b) which are pledged as security for the Obligations (including by way of negative pledges), or which will be used to pay the Obligations, or which could be reasonably be expected to be available to pay the Obligations if the Borrower were to encounter financial difficulty, other than the Project Fund referenced above. The Borrower will pay the Obligations from its general funds, with there being no obligation (or expectation) on the part of the Borrower or any other entity to segregate or identify any particular funds or accounts for the payment of or security for the Obligations.

MISCELLANEOUS

11. (a) No substantial part of the Financed Facilities will be sold, no arrangement has been or will be entered into with respect to the Financed Facilities that would be treated as a sale for federal income tax purposes, and the Borrower expects to use the Financed Facilities for their currently-intended purpose at least until the stated date for final payment of the Obligations, in all cases other than such insubstantial portions as may be disposed of in the ordinary course of business due to normal wear or obsolescence.

(b) There are no other tax-exempt bonds, notes or obligations of the Borrower which (1) were or will be sold within 15 days of the date of sale of the Agreement, (2) were or will be sold pursuant to a plan of financing common with the plan of financing for the Agreement, and (3) are reasonably expected to be paid from substantially the same source of funds as the Agreement.

(c) None of the Proceeds will be used to make any payment on any other Borrower obligation that was contracted in the exercise of the Borrower's borrowing power.

(d) No portion of the Obligations is Federally Guaranteed.

REASONABLENESS; BINDING EFFECT

12. To the best of my knowledge and belief, the expectations set forth above are reasonable and the statements set forth above are correct. The Borrower's covenants made as described in this Certificate are intended as binding covenants of the Borrower.

WITNESS my signature this ____ day of October, 2017.

Finance Officer
Town of Cornelius, North Carolina

Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 149(e)
► See separate instructions.
Caution: If the issue price is under \$100,000, use Form 8038-GC.

OMB No. 1545-0720

Part I Reporting Authority		If Amended Return, check here <input type="checkbox"/>	
1 Issuer's name		2 Issuer's employer identification number (EIN)	
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a	
4 Number and street (or P.O. box if mail is not delivered to street address)	Room/suite	5 Report number (For IRS Use Only)	
6 City, town, or post office, state, and ZIP code		7 Date of issue	
8 Name of issue		9 CUSIP number	
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions)		10b Telephone number of officer or other employee shown on 10a	

Part II Type of Issue (enter the issue price). See the instructions and attach schedule.			
11 Education		11	
12 Health and hospital		12	
13 Transportation		13	
14 Public safety		14	
15 Environment (including sewage bonds)		15	
16 Housing		16	
17 Utilities		17	
18 Other. Describe ►		18	
19 If obligations are TANs or RANs, check only box 19a	► <input type="checkbox"/>		
If obligations are BANs, check only box 19b	► <input type="checkbox"/>		
20 If obligations are in the form of a lease or installment sale, check box	► <input type="checkbox"/>		

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.					
	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21		\$	\$	years	%

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)				
22	Proceeds used for accrued interest		22	
23	Issue price of entire issue (enter amount from line 21, column (b))		23	
24	Proceeds used for bond issuance costs (including underwriters' discount)	24		
25	Proceeds used for credit enhancement	25		
26	Proceeds allocated to reasonably required reserve or replacement fund	26		
27	Proceeds used to currently refund prior issues	27		
28	Proceeds used to advance refund prior issues	28		
29	Total (add lines 24 through 28)		29	
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)		30	

Part V Description of Refunded Bonds. Complete this part only for refunding bonds.			
31	Enter the remaining weighted average maturity of the bonds to be currently refunded	►	years
32	Enter the remaining weighted average maturity of the bonds to be advance refunded	►	years
33	Enter the last date on which the refunded bonds will be called (MM/DD/YYYY)	►	
34	Enter the date(s) the refunded bonds were issued ► (MM/DD/YYYY)		

Part VI Miscellaneous

- | | | |
|------------|--|--|
| 35 | | |
| 36a | | |
| 37 | | |
- 35** Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)
- 36a** Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions)
- b** Enter the final maturity date of the GIC ▶ _____
- c** Enter the name of the GIC provider ▶ _____
- 37** Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units
- 38a** If this issue is a loan made from the proceeds of another tax-exempt issue, check box ☐ and enter the following information:
- b** Enter the date of the master pool obligation ▶ _____
- c** Enter the EIN of the issuer of the master pool obligation ▶ _____
- d** Enter the name of the issuer of the master pool obligation ▶ _____
- 39** If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box ☐
- 40** If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ☐
- 41a** If the issuer has identified a hedge, check here ☐ and enter the following information:
- b** Name of hedge provider ▶ _____
- c** Type of hedge ▶ _____
- d** Term of hedge ▶ _____
- 42** If the issuer has superintegrated the hedge, check box ☐
- 43** If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box ☐
- 44** If the issuer has established written procedures to monitor the requirements of section 148, check box ☐
- 45a** If some portion of the proceeds was used to reimburse expenditures, check here ☐ and enter the amount of reimbursement ▶ _____
- b** Enter the date the official intent was adopted ▶ _____

Signature and Consent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.

▶ _____ Date _____ ▶ _____
 Signature of issuer's authorized representative Type or print name and title

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
Firm's name ▶ _____			Firm's EIN ▶ _____	
Firm's address ▶ _____			Phone no. _____	

Instructions for Form 8038-G

(Rev. September 2011)

Information Return for Tax-Exempt Governmental Obligations



Department of the Treasury
Internal Revenue Service

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

Purpose of Form

Form 8038-G is used by issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150.

Who Must File

IF the issue price (line 21, column (b)) is...	THEN, for tax-exempt governmental obligations issued after December 31, 1986, issuers must file...
\$100,000 or more	A separate Form 8038-G for each issue
Less than \$100,000	Form 8038-GC, Information Return for Small Tax-Exempt Governmental Bond Issues, Leases, and Installment Sales



CAUTION For all build America bonds and recovery zone economic development bonds use Form 8038-B, Information Return for Build America Bonds and Recovery Zone Economic Development Bonds. For tax credit bonds and specified tax credit bonds use Form 8038-TC, Information Return for Tax Credit Bonds and Specified Tax Credit Bonds.

When To File

File Form 8038-G on or before the 15th day of the 2nd calendar month after the close of the calendar quarter in which the bond is issued. Form 8038-G may not be filed before the issue date and must be completed based on the facts as of the issue date.

Late filing. An issuer may be granted an extension of time to file Form 8038-G under Section 3 of Rev. Proc. 2002-48, 2002-37 I.R.B. 531, if it is determined that the failure to file timely is not due to willful neglect. Type or print at the top of the form "Request for Relief under section 3 of Rev. Proc. 2002-48" and attach a letter explaining why Form 8038-G was not submitted to the IRS on time. Also indicate whether the bond issue in question is under examination by the IRS. Do not submit copies of the trust

indenture or other bond documents. See *Where To File* next.

Where To File

File Form 8038-G, and any attachments, with the Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201.

Private delivery services. You can use certain private delivery services designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. These private delivery services include only the following:

- DHL Express (DHL): DHL Same Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The private delivery service can tell you how to get written proof of the mailing date.

Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the Federal government, use Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate.

For private activity bonds, use Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

For build America bonds (Direct Pay), build America bonds (Tax Credit), and recovery zone economic development bonds, complete Form 8038-B, Information Return for Build America Bonds and Recovery Zone Economic Development Bonds.

For qualified forestry conservation bonds, new clean renewable energy bonds, qualified energy conservation bonds, qualified zone academy bonds, qualified school construction bonds, clean renewable energy bonds, Midwestern tax credit bonds, and all other qualified tax credit bonds (except build America bonds), file Form 8038-TC, Information Return for Tax Credit Bonds and Specified Tax Credit Bonds.

Rounding to Whole Dollars

You may show amounts on this return as whole dollars. To do so, drop amounts less than 50 cents and increase amounts from 50 cents through 99 cents to the next higher dollar.

Questions on Filing Form 8038-G

For specific questions on how to file Form 8038-G send an email to the IRS at TaxExemptBondQuestions@irs.gov and put "Form 8038-G Question" in the subject line. In the email include a description of your question, a return email address, the name of a contact person, and a telephone number.

Definitions

Tax-exempt obligation. This is any obligation, including a bond, installment purchase agreement, or financial lease, on which the interest is excluded from income under section 103.

Tax-exempt governmental obligation. A tax-exempt obligation that is not a private activity bond (see below) is a tax-exempt governmental obligation. This includes a bond issued by a qualified volunteer fire department under section 150(e).

Private activity bond. This includes an obligation issued as part of an issue in which:

- More than 10% of the proceeds are to be used for any private activity business use, **and**
- More than 10% of the payment of principal or interest of the issue is **either (a)** secured by an interest in property to be used for a private business use (or payments for such property) **or (b)** to be derived from payments for property (or borrowed money) used for a private business use.

It also includes a bond, the proceeds of which **(a)** are to be used directly or indirectly to make or finance loans (other than loans described in section 141(c)(2)) to persons other than governmental units and **(b)** exceeds the lesser of 5% of the proceeds **or** \$5 million.

Issue price. The issue price of obligations is generally determined under Regulations section 1.148-1(b). Thus, when issued for cash, the issue price is the first price at which a substantial amount of the obligations are sold to the public. To determine the issue price of an obligation issued for property, see sections 1273 and 1274 and the related regulations.

Issue. Generally, obligations are treated as part of the same issue if they are issued by the same issuer, on the same date, and in a single transaction, or a series of related transactions. However, obligations issued during the same calendar year **(a)** under a loan agreement under which amounts are to be advanced periodically (a “draw-down loan”) or **(b)** with a term not exceeding 270 days, may be treated as part of the same issue if the obligations are equally and ratably secured under a single indenture or loan agreement and are issued under a common financing arrangement (for example, under the same official statement periodically updated to reflect changing factual circumstances). Also, for obligations issued under a draw-down loan that meet the requirements of the preceding sentence, obligations issued during different calendar years may be treated as part of the same issue if all of the amounts to be advanced under the draw-down loan are reasonably expected to be advanced within 3 years of the date of issue of the first obligation. Likewise, obligations (other than private activity bonds) issued under a single agreement that is in the form of a lease or installment sale may be treated as part of the same issue if all of the property covered by that agreement is reasonably expected to be delivered within 3 years of the date of issue of the first obligation.

Arbitrage rebate. Generally, interest on a state or local bond is not tax-exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

Construction issue. This is an issue of tax-exempt bonds that meets both of the following conditions:

1. At least 75% of the available construction proceeds are to be used for construction expenditures with respect to property to be owned by a governmental unit or a section 501(c)(3) organization, **and**
2. All the bonds that are part of the issue are qualified 501(c)(3) bonds, bonds that are not private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a section 501(c)(3) organization.

In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1½% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C) and the Instructions for Form 8038-T.

Specific Instructions

Part I—Reporting Authority

Amended return. An issuer may file an amended return to change or add to the information reported on a previously filed

return for the same date of issue. If you are filing to correct errors or change a previously filed return, check the *Amended Return* box in the heading of the form.

The amended return must provide all the information reported on the original return, in addition to the new or corrected information. Attach an explanation of the reason for the amended return and write across the top, “Amended Return Explanation.” Failure to attach an explanation may result in a delay in processing the form.

Line 1. The issuer’s name is the name of the entity issuing the obligations, not the name of the entity receiving the benefit of the financing. For a lease or installment sale, the issuer is the lessee or the purchaser.

Line 2. An issuer that does not have an employer identification number (EIN) should apply for one on Form SS-4, Application for Employer Identification Number. You can get this form on the IRS website at IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676). You may receive an EIN by telephone by following the instructions for Form SS-4.

Line 3a. If the issuer wishes to authorize a person other than an officer or other employee of the issuer (including a legal representative or paid preparer) to communicate with the IRS and whom the IRS may contact about this return (including in writing or by telephone), enter the name of such person here. The person listed in line 3a must be an individual. Do not enter the name and title of an officer or other employee of the issuer here (use line 10a for that purpose).

Note. By authorizing a person other than an authorized officer or other employee of the issuer to communicate with the IRS and whom the IRS may contact about this return, the issuer authorizes the IRS to communicate directly with the individual entered on line 3a and consents to disclose the issuer’s return information to that individual, as necessary, to process this return.

Lines 4 and 6. If you listed an individual on line 3a to communicate with the IRS and whom the IRS may contact about this return, enter the number and street (or P.O. box if mail is not delivered to street address), city, town, or post office, state, and ZIP code of that person. Otherwise, enter the issuer’s number and street (or P.O. box if mail is not delivered to street address), city, town, or post office, state, and ZIP code.

Note. The address entered on lines 4 and 6 is the address the IRS will use for all written communications regarding the processing of this return, including any notices.

Line 5. This line is for IRS use only. Do not make any entries in this box.

Line 7. The date of issue is generally the date on which the issuer physically

exchanges the bonds that are part of the issue for the underwriter’s (or other purchaser’s) funds. For a lease or installment sale, enter the date interest starts to accrue in a MM/DD/YYYY format.

Line 8. If there is no name of the issue, please provide other identification of the issue.

Line 9. Enter the CUSIP (Committee on Uniform Securities Identification Procedures) number of the bond with the latest maturity. If the issue does not have a CUSIP number, write “None.”

Line 10a. Enter the name and title of the officer or other employee of the issuer whom the IRS may call for more information. If the issuer wishes to designate a person other than an officer or other employee of the issuer (including a legal representative or paid preparer) whom the IRS may call for more information about the return, enter the name, title, and telephone number of such person on lines 3a and 3b.



Complete lines 10a and 10b even if you complete lines 3a and 3b.

Part II—Type of Issue



Elections referred to in Part II are made on the original bond documents, not on this form.

Identify the type of obligations issued by entering the corresponding issue price (see *Issue price* under *Definitions* earlier). Attach a schedule listing names and EINs of organizations that are to use proceeds of these obligations, if different from those of the issuer, include a brief summary of the use and indicate whether or not such user is a governmental or nongovernmental entity.

Line 18. Enter a description of the issue in the space provided.

Line 19. If the obligations are short-term tax anticipation notes or warrants (TANs) or short-term revenue anticipation notes or warrants (RANs), check box 19a. If the obligations are short-term bond anticipation notes (BANs), issued with the expectation that they will be refunded with the proceeds of long-term bonds at some future date, check box 19b. Do not check both boxes.

Line 20. Check this box if property other than cash is exchanged for the obligation, for example, acquiring a police car, a fire truck, or telephone equipment through a series of monthly payments. (This type of obligation is sometimes referred to as a “municipal lease.”) Also check this box if real property is directly acquired in exchange for an obligation to make periodic payments of interest and principal. **Do not** check this box if the proceeds of the obligation are received in the form of cash, even if the term “lease” is used in the title of the issue.

Part III—Description of Obligations

Line 21. For column (a), the final maturity date is the last date the issuer must redeem the entire issue.

For column (b), see *Issue price* under *Definitions* earlier.

For column (c), the stated redemption price at maturity of the entire issue is the sum of the stated redemption prices at maturity of each bond issued as part of the issue. For a lease or installment sale, write "N/A" in column (c).

For column (d), the weighted average maturity is the sum of the products of the issue price of each maturity and the number of years to maturity (determined separately for each maturity and by taking into account mandatory redemptions), divided by the issue price of the entire issue (from line 21, column (b)). For a lease or installment sale, enter instead the total number of years the lease or installment sale will be outstanding.

For column (e), the yield, as defined in section 148(h), is the discount rate that, when used to compute the present value of all payments of principal and interest to be paid on the obligation, produces an amount equal to the purchase price, including accrued interest. See Regulations section 1.148-4 for specific rules to compute the yield on an issue. If the issue is a variable rate issue, write "VR" as the yield of the issue. For other than variable rate issues, carry the yield out to four decimal places (for example, 5.3125%). If the issue is a lease or installment sale, enter the effective rate of interest being paid.

Part IV—Uses of Proceeds of Bond Issue

For a lease or installment sale, write "N/A" in the space to the right of the title for Part IV.

Line 22. Enter the amount of proceeds that will be used to pay interest from the date the bonds are dated to the date of issue.

Line 24. Enter the amount of the proceeds that will be used to pay bond issuance costs, including fees for trustees and bond counsel. If no bond proceeds will be used to pay bond issuance costs, enter zero. Do not leave this line blank.

Line 25. Enter the amount of the proceeds that will be used to pay fees for credit enhancement that are taken into account in determining the yield on the issue for purposes of section 148(h) (for example, bond insurance premiums and certain fees for letters of credit).

Line 26. Enter the amount of proceeds that will be allocated to such a fund.

Line 27. Enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds within 90 days of the date of issue.

Line 28. Enter the amount of the proceeds that will be used to pay

principal, interest, or call premium on any other issue of bonds after 90 days of the date of issue, including proceeds that will be used to fund an escrow account for this purpose.

Part V—Description of Refunded Bonds

Complete this part only if the bonds are to be used to refund a prior issue of tax-exempt bonds. For a lease or installment sale, write "N/A" in the space to the right of the title for Part V.

Lines 31 and 32. The remaining weighted average maturity is determined without regard to the refunding. The weighted average maturity is determined in the same manner as on line 21, column (d).

Line 34. If more than a single issue of bonds will be refunded, enter the date of issue of each issue. Enter the date in an MM/DD/YYYY format.

Part VI—Miscellaneous

Line 35. An allocation of volume cap is required if the nonqualified amount for the issue is more than \$15 million but is not more than the amount that would cause the issue to be private activity bonds.

Line 36. If any portion of the gross proceeds of the issue is or will be invested in a guaranteed investment contract (GIC), as defined in Regulations section 1.148-1(b), enter the amount of the gross proceeds so invested, as well as the final maturity date of the GIC and the name of the provider of such contract.

Line 37. Enter the amount of the proceeds of this issue used to make a loan to another governmental unit, the interest of which is tax-exempt.

Line 38. If the issue is a loan of proceeds from another tax-exempt issue, check the box and enter the date of issue, EIN, and name of issuer of the master pool obligation.

Line 40. Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Do not make any payment of penalty in lieu of arbitrage rebate with this form. See Rev. Proc. 92-22, 1992-1 C.B. 736 for rules regarding the "election document."

Line 41a. Check this box if the issuer has identified a hedge on its books and records according to Regulations sections 1.148-4(h)(2)(viii) and 1.148-4(h)(5) that permit an issuer of tax-exempt bonds to identify a hedge for it to be included in yield calculations for computing arbitrage.

Line 42. In determining if the issuer has super-integrated a hedge, apply the rules of Regulations section 1.148-4(h)(4). If the hedge is super-integrated, check the box.

Line 43. If the issuer takes a "deliberate action" after the issue date that causes

the conditions of the private business tests or the private loan financing test to be met, then such issue is also an issue of private activity bonds. Regulations section 1.141-2(d)(3) defines a deliberate action as any action taken by the issuer that is within its control regardless of whether there is intent to violate such tests. Regulations section 1.141-12 explains the conditions to taking remedial action that prevent an action that causes an issue to meet the private business tests or private loan financing test from being treated as a deliberate action. Check the box if the issuer has established written procedures to ensure timely remedial action for all nonqualified bonds according to Regulations section 1.141-12 or other remedial actions authorized by the Commissioner under Regulations section 1.141-12(h).

Line 44. Check the box if the issuer has established written procedures to monitor compliance with the arbitrage, yield restriction, and rebate requirements of section 148.

Line 45a. Check the box if some part of the proceeds was used to reimburse expenditures. Figure and then enter the amount of proceeds that are used to reimburse the issuer for amounts paid for a qualified purpose prior to the issuance of the bonds. See Regulations section 1.150-2.

Line 45b. An issuer must adopt an official intent to reimburse itself for preissuance expenditures within 60 days after payment of the original expenditure unless excepted by Regulations section 1.150-2(f). Enter the date the official intent was adopted. See Regulations section 1.150-2(e) for more information about official intent.

Signature and Consent

An authorized representative of the issuer must sign Form 8038-G and any applicable certification. Also print the name and title of the person signing Form 8038-G. The authorized representative of the issuer signing this form must have the authority to consent to the disclosure of the issuer's return information, as necessary to process this return, to the person(s) that have been designated in Form 8038-G.

Note. If the issuer in Part 1, lines 3a and 3b authorizes the IRS to communicate (including in writing and by telephone) with a person other than an officer or other employee of the issuer, by signing this form, the issuer's authorized representative consents to the disclosure of the issuer's return information, as necessary to process this return, to such person.

Paid Preparer

If an authorized officer of the issuer filled in this return, the paid preparer's space should remain blank. Anyone who prepares the return but does not charge the organization should not sign the return. Certain others who prepare the

return should not sign. For example, a regular, full-time employee of the issuer, such as a clerk, secretary, etc., should not sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the *Paid Preparer Use Only* area of the return.

The paid preparer must:

- Sign the return in the space provided for the preparer's signature (a facsimile signature is acceptable),
- Enter the preparer information, and
- Give a copy of the return to the issuer.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us

the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form varies depending on individual circumstances. The estimated average time is:

Learning about the law or the form	2 hr., 41 min.
Preparing, copying, assembling, and sending the form to the IRS	3 hr., 3 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:M:S, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. **Do not** send the form to this office. Instead, see *Where To File*.



Branch Banking and Trust Company

Governmental Finance
5130 Parkway Plaza Boulevard
Charlotte, North Carolina 28217
(704) 954-1700
Fax (704) 954-1799

INVOICE

Contract Number 9933000939-00007

**Town of Cornelius, North Carolina
P.O. Box 399
Cornelius, NC 28031**

Closing Fee

\$1,900.00

Payment due at October ____, 2017 closing [to be paid by check at closing]

Make check payable to:

BB&T GOVERNMENTAL FINANCE

REQUEST FOR BOARD ACTION

 Print

Date of Meeting: September 5, 2017

To: Mayor and Board of Commissioners

From: Wayne Herron, AICP

Director of Planning

Action Requested:

Bluestream Partners LLC has petitioned the Town of Cornelius to voluntarily annex 51.482 acres of property located on the northeast quadrant of Bailey Road and Barnhardt Road, associated with the Forest at Bailey's Glen II, Phase 2 development.

At this time the following are required to be approved by the Town Board, if you choose to consider the requested annexation:

1. Resolution directing the Clerk to investigate the sufficiency of the Petition; and
2. Resolution setting the date for Public Hearing on October 2, 2017.

Manager's Recommendation:

Approve Resolutions as Presented.

ATTACHMENTS:

Name:	Description:	Type:
 ANNEX_02-17_RESOLUTION_DIRECTING_THE_CLERK_TO_INVESTIGATE_SUFFICIENCY.docx	ANNEX 02-17 Resolution Directing the Clerk to Investigate Sufficiency	Resolution Letter
 RESOLUTION_ON_FIXING_DATE_OF_PUBLIC_HEARING_ON_QUESTION_OF_ANNEXATION_ANNEX_02-17.docx	ANNEX 02-17 Resolution on Fixing Date of Public Hearing	Resolution Letter
 02-17_Bailey_sGlennPhII_Zoning.pdf	ANNEX 02-17 Zoning Map	Backup Material
 Annex_02-17_Plat.pdf	ANNEX 02-17 Plat	Backup Material
 ANNEX_02-17_Petition.pdf	ANNEX 02-17 Petition	Backup Material

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G.S. 160A-31

ANNEX 02-17: BLUESTREAM PARTNERS LLC

WHEREAS, a petition requesting annexation of an area described in said petition was received on July 21, 2017 by the Board of Commissioners; and

WHEREAS, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the Town Clerk before further annexation proceedings may take place; and

WHEREAS, the Board of Commissioners of the Town of Cornelius deem it advisable to proceed in response to this request for annexation;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Cornelius that:

The Town Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the Board of Commissioners the result of her investigation.

Adopted this 5th day of September, 2017.

Charles L. Travis, III, Mayor

ATTEST:

Lori A. Harrell, Town Clerk

APPROVED AS TO FORM:

Karen Wolter, Town Attorney

**RESOLUTION ON FIXING DATE OF PUBLIC HEARING ON QUESTION
OF ANNEXATION PURSUANT TO G.S. 160A-31**

ANNEX 02-17: BLUESTREAM PARTNERS LLC

WHEREAS, a petition requesting annexation of the area referenced above and described herein has been received; and

WHEREAS, the Board of Commissioners has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, certification by the Town Clerk as to the sufficiency of the petition has been made;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Cornelius that:

Section I. A public hearing on the question of annexation of the area described herein will be held at Town Hall at 7:00 PM on Monday October 2, 2017.

Section II. The proposed area for annexation is described as follows:

Annexation Metes and Bounds Description

BEGINNING at a #4 Rebar Comer Found, said point being in the Northern margin of the Barnhardt Road, a 60' Public Right-of-Way, being a common point with the Hopewell Baptist Church Property, now or formerly, and continuing with the next three distances running along a line with the Barnhardt Road, (1) South 60-28-21 West 102.78 feet to a computed point; (2) South 64-55-00 West 195.14 feet to a computed point; (3) with a curve to the left with a radius of 681.72 feet and an arc distance of 264.82 feet with a chord bearing of South 53-47-17 West and a chord distance of 263.16 feet to a computed point, said point being a common point with the William T. Clawson, Jr. and Jeanne Clawson Property, now or formerly; thence turning and running North 67-50-09 West 556.20 feet to a #4 Rebar Found, being a common point with the Clawson Property and the Bailey Forest Development, Inc., Property, now or formerly; thence turning and running with said line of the Bailey Forest Development, Inc., North 12-14-26 East 448.53 feet to an Axle; thence turning and running North 40-55-42 West 683.03 feet to a 2.5" Iron Pipe Found at Base; thence turning and running South 57-11-20 West 498.56 feet to an Axle; thence turning North 47-01-04 West 678.56 feet to a computed point; thence turning and running North 71-59-56 East 113.24 to a computed point; thence turning and running North 35-48-56 East 308.34 feet to a computed point; thence continuing North 35-48-56 East 149.71 feet to a computed point; thence turning and running North 32-21-56 East 345.94 feet to a computed point; thence turning and running North 10-47-56 East 58.85 feet to a computed point; thence turning and running North 26-10-56 East 51.23 feet to a computed point; thence turning and running North 12-05-04 West 46.31 feet to a computed point; thence turning and running North 42-05-56 East 59.96 feet to a computed point; thence turning and running North 31-11-56 East 222.44 feet to a computed point, being a common point with the Heather Helms Property, now or formerly; thence turning and running South 46-16-45 East 1702.19 to a #4 Rebar Found, running through a #5 Rebar Found at 51.05 feet, said #4 Rebar Found being a common point with the Susan C. Pope Property, now or formerly and the James E. Bacchus and Adrienne S. Bacchus Property, now or formerly; thence turning and running South 46-33-58 West 249.53 feet to a #4 Rebar Found; thence turning and running South 31-11-26 East 783.77 feet to a #5 Rebar Comer Set; thence turning and running South 26-40-02 East 147.49 feet to the POINT AND

PLACE OF BEGINNING, containing 51.482 acres, more or less, according to the survey prepared by Taylor, Wiseman & Taylor, dated October 16, 2015.

Adopted this 5th day of September, 2017.

Charles L. Travis, III, Mayor

ATTEST:

Lori A. Harrell, Town Clerk

APPROVED AS TO FORM:

Karen Wolter, Town Attorney

Annexation 02-17 Zoning Map

REZ 09-15

REZ 01-14

REZ 08-16

Dumbarton Oaks Dr

Avery Park Dr

Cranberry Glades Dr

Old Westbury Dr

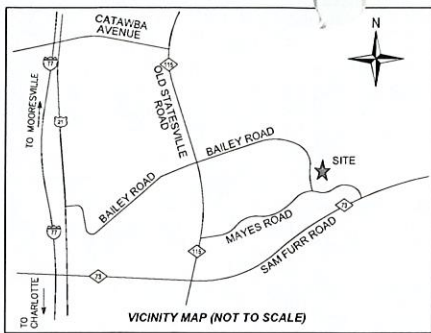
Bailey Rd

Barnhardt Rd

- Annexation Boundary
- Cornelius Town Limits
- Conditonal District Overlay
- Conditional Zoning Overlay
- Parcels

CorneliusZoning

- Rural Preservation (RP)
- General Residential (GR)
- Neighborhood Residential (NR)
- Traditional Neighborhood (TN)
- Neighborhood Mixed Use (NMX)
- Village Center (VC)
- Town Center (TC)
- Highway Commercial (HC)
- Business Campus (BC)
- Industrial Campus (IC)
- Conditional Zoning District



ABBREVIATIONS
DB DEED BOOK
FB PLAT BOOK
PG PAGE
N/F NOW OR FORMERLY
R/W RIGHT-OF-WAY
SF SQUARE FEET

SURVEY REFERENCES
DEED BOOK 2605 PAGE 296
DEED BOOK 3116 PAGE 247
DEED BOOK 2648 PAGE 442
DEED BOOK 2880 PAGE 429
DEED BOOK 2978 PAGE 365
DEED BOOK 11735 PAGE 613
DEED BOOK 2804 PAGE 319
DEED BOOK 28322 PAGE 408
DEED BOOK 2658 PAGE 348
DEED BOOK 3729 PAGE 568
DEED BOOK 30220 PAGE 810
MAP BOOK 34 PAGE 282
MAP BOOK 52 PAGE 885
UNRECORDED DRAWING BY TWT

I, JAMES M. PEARSON, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION; THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DASHED LINES, DRAWN FROM INFORMATION REFERENCED ON THE FACE OF THIS PLAT, THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY EXCEEDS 1/10000, THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 58 1600), THIS 16th DAY OF OCTOBER, 2015.



TOTAL AREA OF SURVEY
51.482 ACRES



GENERAL NOTES

- 1) PROPERTIES SHOWN HEREON ARE SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD THAT WOULD BE REVEALED BY A THOROUGH TITLE SEARCH. THIS PLAT SHOULD NOT BE RELIED UPON AS A COMPLETE RECORD OF ALL EASEMENTS THAT MAY AFFECT THESE PROPERTIES.
- 2) UNIT OF MEASUREMENT IS U.S. SURVEY FEET (FT) UNLESS SPECIFICALLY NOTED AS METERS (M).
- 3) ALL DISTANCES AND COORDINATES SHOWN HEREON ARE LOCALIZED, GROUND INFORMATION, UNLESS SPECIFICALLY NOTED AS "GRID".
- 4) AREA(S) CALCULATED BY THE COORDINATE METHOD.
- 5) THE PURPOSE OF THIS PLAT IS TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF CORNELIUS.

LINE LEGEND

- PROPERTY LINE (PL)
- - - PL NOT SURVEYED
- - - R/W R/W RIGHT-OF-WAY LINE
- - - MUNICIPAL BOUNDARY

SYMBOL LEGEND

- PROPERTY CORNER FOUND
- PROPERTY CORNER SET



TOWN BOARD APPROVAL:

THE TOWN BOARD OF THE TOWN OF CORNELIUS, MEETING IN REGULAR SESSION ON THE ____ DAY OF ____ 2017, APPROVED THE EXTENSION OF THE CORPORATE LIMITS OF THE TOWN OF CORNELIUS AS SHOWN ON THIS PLAN AND RECORDED IN MINUTE BOOK ____ PAGE ____

TOWN CLERK _____ MAYOR _____

REVIEW OFFICER CERTIFICATE

STATE OF NORTH CAROLINA, COUNTY OF MECKLENBURG
I, _____, REVIEW OFFICER OF MECKLENBURG COUNTY, NORTH CAROLINA, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER _____ DATE _____

CERTIFICATE OF APPROVAL FOR RECORDING

I, _____, PLANNING DIRECTOR, TOWN OF CORNELIUS, NORTH CAROLINA, HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON IS EXEMPT FROM THE SUBDIVISION PROVISIONS OF THE CORNELIUS LAND DEVELOPMENT CODE, AND IS THEREFORE EXEMPT FROM ITS PROVISIONS. THE PLAT HAS BEEN FOUND TO COMPLY WITH THE ZONING REGULATIONS OF THE CORNELIUS LAND DEVELOPMENT CODE, AND HAS BEEN APPROVED BY THE TOWN OF CORNELIUS FOR RECORDING IN THE OFFICE OF THE REGISTER OF DEEDS OF MECKLENBURG COUNTY.

PLANNING DIRECTOR, CORNELIUS, NORTH CAROLINA _____ DATE _____

TAYLOR WISEMAN & TAYLOR
ENGINEERS

1 SURVEYORS
1 SCIENTISTS
SUBSURFACE UTILITY ENGINEERS
700 FOREST POINT CIRCLE, SUITE 116
CHARLOTTE, NC 28273
PHONE (704) 527-2535 FAX (704) 527-2537
NORTH CAROLINA LICENSE NUMBER: F-0362



ANNEXATION BOUNDARY SURVEY FOR:

BLUESTREAM PARTNERS, LLC.
BARNHARDT ROAD EXTENSION
DEWESE TWP., MECKLENBURG COUNTY - NC

REVISIONS

DATE OF SURVEY: 10/16/2015
SCALE: 1" = 100'
DRAWN BY: V. WALKER
CHECKED BY: J. PEARSON, PLS
PROJECT: 05781.0001.01

SHEET

1 / 1

ANNEXATION PETITION
Town of Cornelius
Mecklenburg County – North Carolina

WE THE UNDERSIGNED OWNERS of the real property as contained in the METES AND BOUNDS DESCRIPTION with PLAT ATTACHED hereto, respectfully request that the area described below be annexed and made part of the Town of Cornelius, North Carolina.

Items below are required in order to complete your application and shall be submitted when your application is filed.

1. A complete copy of the last deed of record (a written metes and bounds description is required if the description contained in the deed is different from the boundary survey of the property to be annexed), and
2. One of the following: *see "Calculated acreage..." below
 - a copy of the plat outlining in red the property to be annexed (if property is split according to Mecklenburg County Tax Map parcels), or
 - a copy of the Mecklenburg County Tax Map 1"=200' scale or 1"=100' inserts (if the property is entire Tax Map/Parcels).

PROPERTY INFORMATION – Please complete (print or type) all of the following:

Mecklenburg County Real Estate Identification	Deed Book & Page Number	Acreage Annexed	Existing Population	Assessed \$
	See Attached			

*Calculated acreage within parcel(s), including rights-of-way fronting the properties within, as calculated per 2. above or by staff.

(Rd) _____ Acres (Rd) _____ Acres

Fire District Cornelius Rural
Bluestream Partners LLC 19550 W. Catawba Ave, Ste. 200 704-895-0606
 Property Owner Current Address Phone

Property Owner _____ Current Address _____ Phone _____

Has any vested right under NC General Statute 160A 385.1 been established for the property subject to this annexation petition by any county or municipality? _____

SIGNATURES – Please complete one of the following sections:

PROPERTY OWNED BY INDIVIDUALS (Both husband & wife must sign)

Signature _____ Date 7/21/17
 Signature _____ Date _____
 Signature _____ Date _____

PROPERTY OWNED BY CORPORATION

The area to be amended is owned by a corporation property registered with the State of North Carolina.

THE PRESIDENT IS _____

THE SECRETARY IS _____

Signature of President _____ Date _____

Signature of Secretary _____ Date _____

Notary _____ Commission Expires _____

Notary Seal

OFFICE USE ONLY

Petition # A _____
 Amount Paid _____
 Date Paid _____

Date Filed _____
 Receipt # _____
 Received By _____

EXHIBIT TO ANNEXATION APPLICATION

Mecklenburg County Real Estate Identification Number	Deed Book and Page Number	Acreage Annexed	Existing Population	Assessed \$
<u>PHASE II</u>				
00715201	31003-67	16.505	N/A	N/A
00715202	31003-76	1.000	N/A	N/A
00715209	31003-80	2.660	N/A	N/A
00715210	31003-76	6.170	N/A	N/A
00715211	31003-73	12.090	N/A	N/A
00715212	31003-76	2.010	N/A	N/A
00715213	31003-80	4.160	N/A	N/A
00715214	31003-80	2.820	N/A	N/A
00715215	31003-80	4.300	N/A	N/A
TOTAL PHASE II		51.715		

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 5, 2017

To: Mayor and Board of Commissioners

From: Wayne Herron, AICP

Director of Planning

Action Requested:



LDCAB has a vacancy due to the resignation of Greg Reeder.

The Chair and staff recently reviewed applications and conducted interviews and are recommending Karen Tovar fill the vacant position. The appointment will be for an unexpired term through February of 2018.

Manager's Recommendation:

Appoint Karen Tovar to the Land Development Code Advisory Board.

ATTACHMENTS:

Name:	Description:	Type:
 Draft_Land_Development_Code_Advisory_Board8.17.17.xls	Draft LDCAB Roster	Backup Material
 DOC081717-08172017123733.pdf	Application	Backup Material



Land Development Code Advisory Board - 2017

NAME	APT YEAR	TERM	Affiliation	ADDRESS	BUS NO.	HOME NO.	CELL NO.	E-MAIL
Michael Miltich	2015	12/15 - 12/17	Commissioner	18021 Nantz Road	704-295-3660			mmiltich@cornelius.org
Dave Gilroy	2011	12/15 - 12/17	Commissioner	22836 Torrence Chapel Road	704.258.6653			dgilroy@cornelius.org
John Hettwer	2006	04/17 - 04/19	Citizen	7316 Swansea Lane	704-895-0777	704-895-4078	704-560-0106	jhettwer@payrollplusus.com
Norris Woody	2006	04/17 - 04/19	Citizen - Vice Chair	19228 Brookgreen Grd. Pl.	704-895-7475	704-896-9663		norris.woody@axa-advisors.com
Bob Bruton	2011	02/16 - 02/18	Citizen	20235 Rainbow Circle		704-895-7165	704-807-7436	bobbbruton@hotmail.com
Keith Eicher	2015	04/17 - 04/19	PB - Member	18116 Coulter Parkway	704-439-3838			eicherk@bellsouth.net
Joseph Dean	2017*	02/16 - 02/18	PB - Member	20301 Church Street		704-892-7551	704-451-2767	joejuggler@att.net
Cheryl Crawford	2010*	04/17 - 04/19	Citizen - Chair	208 Harbortgate Court	704-619-0636			cheryl@cccates.net
Chaz Churchwell	2016	02/16 - 02/18	Citizen	20032 Northport Drive		704.659.0956		chaz@churchwellagency.com
David Dunn	2016	04/17 - 4/19	Citizen	17109 Freshwater Lane			704.999.3591	10davidhdunn@gmail.com
Karen Tovar	2017*	2/16-2/18	Citizen	17729 Spinnakers Reach Dr.			704-905-6964	karen.r.tovar@gmail.com
Laura Pegram	2016	02/16 - 02/18	Citizen	18622 Bluff Point Road			704.728.5122	lpegram@mac.com
Wayne Herron			Staff	Planning Director	704-896-2461			wherron@cornelius.org
Becky Partin			Staff	Communication Specialist	704-896-2461			bpartin@cornelius.org

* Unexpired Term

Lori Harrell

From: noreply@civicplus.com
Sent: Monday, January 11, 2016 11:43 AM
To: Lori Harrell
Subject: Online Form Submittal: Committee Appointment Form

Committee Appointment Form

Contact Information

First Name Karen
Last Name Tovar
Residence Address 17729 SPINNAKERS REACH DR
Mailing Address (if different from above) *Field not completed.*
Contact Number 704-905-6964

Description Cell
Email Address karen.r.tovar@gmail.com

I Live: Inside the Town of Cornelius

I Am Interested In Land Development Code Advisory Board
Serving On The *Planning Board*
Following Board(s)

Please list qualifications and/or reasons why you would like to serve. Hello...I have been a resident of Cornelius since 1993 and I have seen and experienced the various changes to the town. My background is in Commercial Real Estate and I would like to be part of this committee to provide insight for positive development. This is the first phase of growth progression!! I look forward to an opportunity to be part of this team--committee. Thank you in advance for the opportunity to serve the Town and residents of Cornelius.

Additional Information (*optional) *Field not completed.*

Date 01/11/16

Signature K. Tovar

Note:

*You may fax this form to the Town Clerk at 704-896-2462 or mail to PO Box 399,
Cornelius, NC 28031*

Email not displaying correctly? [View it in your browser.](#)

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 5, 2017

To: Mayor and Board of Commissioners

From: Lori Harrell, Town Clerk



Action Requested:

Approve the Regular Meeting minutes for August 7th and 21st .

Manager's Recommendation:

Approve minutes.

ATTACHMENTS:

Name:	Description:	Type:
 08-07-17_Regular_Meeting_draft.docx	Regular Session 8/7	Backup Material
 08-21-17_Regular_Meeting_draft.docx	Regular Session 8/21	Backup Material



BOARD OF COMMISSIONERS

August 7, 2017
Agenda

PRE-MEETING – 5:45PM

❖ Closed Session

Mayor Travis called for a motion to go into Closed Session to discuss two real estate acquisition matters under attorney-client privilege and a personnel matter.

Commissioner Duke made a motion to go into Closed Session at 5:51PM. Commissioner Washam seconded the motion and it passed unanimously, 4-0. Commissioner Gilroy arrived at 6:05PM.

Upon return from Closed Session, Mayor Travis dismissed everyone at 6:54PM to go downstairs for the 7:00PM Board meeting.

REGULAR MEETING – 7:00PM

1. CALL TO ORDER

Mayor Travis called the meeting to order at 7:04PM.

2. DETERMINATION OF QUORUM

All commissioners were present for the meeting.

3. APPROVAL OF AGENDA

Commissioner Duke made a motion to approve the agenda as presented. Commissioner Ross seconded the motion and it passed unanimously, 5-0.

4. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Fire Chief, Neal Smith led the pledge after a moment of silence was observed.

5. MAYORAL PROCLAMATIONS

A. Marsy's Law

Mayor Travis stated that there are two legislative bills currently being considered that will strengthen and protect the rights of North Carolina victims. He then executed a Proclamation in support of HB551 & SB595 increasing the protection rights for victims.

6. PRESENTATIONS

A. Artist Donation to Cornelius Fire Department

Mayor Travis recognized Jerry McQuay for his 9/11 Never Forget art donation made to the fire department. Chief Smith said that the painting is hanging in the training room at Fire Station 1.

B. Installment of Cornelius-Lemley Fire Rescue Officers

Mayor Travis administered the oath of office to fire officers Neal Smith, Kevin Fox, Tom Cichocki, and Sam Huskins.

7. MAYOR/COMMISSIONERS/MANAGER REPORTS

Commissioner Ross reported on the following:

- Chamber – Business Works on August 8th (8:30AM); Focus Friday on August 18th will be a recap of the 2017 Legislative Session;

Commissioner Washam reported on the following:

- 2017 Big Day at the Lake hosted 170 kids, raised \$300K and recruited new Bigs
- CRTPO – discussed a controversial \$200M project
- EDC – 11 projects in Cornelius
- CACC – Executive Director, Justin Dionne is working hard and making connections within the community
- Coffee Chat held this morning was well attended
- Attended the Chamber's Focus Friday event where Sen. Tarte and Rep. Beasley talked about the transportation projects to be completed within the next 7 years

Commissioner Duke reported on the following:

- PARC – Movies Under the Stars and Back to School Bash will be held on August 26th at Robbins Park; Homegrown Sprouts exhibit will be on display through August 26th
- VLN – AA Diving Championship was held July 26th-28th with 510 divers competing; the Travel Writers Association will visit the area on August 25th

Commissioner Miltich reported on the following:

- Attended CRTPO on July 19th – Catawba Crossing discussion raised a lot of concerns regarding funding; public input is currently open for the Metropolitan Transportation Plan
- Cornelius Corner will be held on August 8th
- Attended the LDCAB meeting held on July 24th
- Attended the Smithville Coalition meeting on July 31st
- Goodwill has a weekly session at their Care Center to help people with employment issues
- Attended the Cornelius Housing Task Force held by Mayor Travis

Mayor Travis recognized those in the audience who are running for an elected official's seat in November. Michelle Ferlauto and Tricia Sisson introduced themselves to the audience.

Chief Hoyle stated that National Night Out held at Smithville Park was well attended and attendance continues to grow each year. The event gives the officers an opportunity to give back to the community and make new connections. He also invited everyone to the Top Deck "We've Got Your Back" Whiskey, Wine and Moonshine event on September 9th at 7:00PM.

8. CITIZEN CONCERNS/COMMENTS

Ralph Gettings, 19925 Schooner Drive, congratulated Mayor Pro-Tem Washam on his Mayor-elect position and asked that he continue to work with him on growing the community's participation in government functions.

9. PUBLIC HEARING AND CONSIDERATION OF APPROVAL

A. REZ 01-17 Mama's Pizza

Mayor Travis called for a motion to open the public hearing on rezoning REZ 01-17 Mama's Pizza. *The public hearing notice attached hereto.*

Commissioner Washam made a motion to open the public hearing for REZ 01-17. Commissioner Ross seconded the motion and it passed unanimously, 5-0.

Planning Director, Wayne Herron gave the staff presentation (*Exhibit Book 30*) request made by Mama's Pizza owners Frank and Lynn Manis. He explained that the rezoning request is to construct a new 5,250 square foot multi-tenant building at the rear of the property (located at Hickory Street/S. Main) and then demo the existing building that Mama's Pizza currently operates from. Restaurants and commercial uses are permitted uses within the *Neighborhood Mixed Use* districts; however, the applicant is proposing the building to be setback from the road; therefore, the project is being reviewed under *Conditional Zoning*. The applicant is proposing elevation changes on the west and east sides of the building, over and above what the ARB and Planning Board have approved. He displayed the elevations that have been approved and the applicant's proposed elevations for the Board to consider for approval.

Commissioner Gilroy questioned if the site variance was all about business continuity while under construction. Mr. Herron stated that was part of it but the other things to consider are future redevelopment and what the cross-section at the site location will look like when the corridor study is complete. He added that the location lends itself well to the transitional district identified in the town's Downtown Small Area Plan. Staff believes that the willingness to donate the right-of-way for the intersection improvements outweighs the potential to lose the business.

Commissioner Gilroy stated that the proposed plan with parking in the front is ugly and wondered if the new building could be placed in a different position and still maintain operations. Mr. Herron stated that was possible but that is not what was proposed.

Commissioner Washam stated that he liked the plan and that it was a vast improvement to what currently exists. He understands the Board is considering exceptions; however, it will create clear site lines for the 9/11 monument located at Fire Station 1. This is one example of where the *Code* from time to time is made to be broken. The proposed project is a great improvement and also compliments Antiquity. The parking area could use some tweaks but the proposed building is beautiful.

Commissioner Ross questioned if the wall and shrubbery will hide the parking. Mr. Herron displayed illustrations outlining the placement of the parking lot screening. Commissioner Gilroy asked how high the brick wall will be. Mr. Herron stated 4 feet.

Commissioner Miltich asked if staff could explain the architectural variations being requested. Mr. Herron stated that the applicant is prepared to discuss the details.

Mayor Travis expressed his concern with the lack of street trees and pedestrian oriented improvements along Main Street associated with the project. Mr. Herron stated that due to the current Hwy. 115 corridor study the applicant is not required to do the cross-section implementation; however, he is allowing the town the necessary right-of-way for when the final cross-section has been determined. Mayor Travis stated he understood the reasoning; however, some type of streetscape should be made part of the plan to enhance the pedestrian experience vs. a sea of concrete.

Mayor Travis invited the applicant to speak.

Mr. Frank Manis stated that he was good with planting trees and bushes along the front until the town knows what the cross-section will be. He would hate to build a \$50,000 wall only to

have it torn down in the near future. Ms. Marcy Pelucio explained the requested elevation changes are due to signage, creating a more Tuscan Villa look opposed to commercial, and to not interrupt the residential area that fronts on Tryon Street. Mr. Manis added that when the town is ready to widen the street he has intentions of donating the property he owns across the street to make the cross-section work. Ms. Pelucio stated that the timeline they are working against will allow Mr. Manis to fulfill his contracts with the local charter schools that do not have cafeterias; therefore, the importance of getting the new building up and running by July, 2018. Mayor Travis asked Mr. Manis if he was willing to continue working with the town on completing the cross-section at the appropriate time. Mr. Manis responded, absolutely.

Commissioner Gilroy questioned the types of plantings that would be used around the perimeter. Mr. Herron stated there are various types and the *Code* only requires a height of 36" at planting. Commissioner Gilroy stated the plantings should be more specific in order to know what is expected at full maturity.

Mayor Travis asked Mr. Herron to work on adding a condition that includes the applicant's willingness to work with the town on the implementation of the future cross-section. Mr. Herron stated that he would add a condition that includes street trees and additional green buffer areas between the sidewalk and the street.

Asst. Manager Grant stated that staff will look at trying to shift the widening to the east to allow more room for a planting strip and bike lane. Commissioner Gilroy stressed again the importance of having some sort of planting strip along the road.

Mayor Travis invited the public to speak. There being no public comments, he called for a motion to close the public hearing.

Commissioner Washam made a motion to close the public hearing. Commissioner Ross seconded the motion and it passed unanimously, 5-0.

Commissioner Miltich stated that he was comfortable with the parking being up front if it is adequately screened.

Manager Roberts suggested considering approval of the plan as submitted and allow staff to work with the applicant on tweaking it once the corridor study is complete.

Commissioner Ross made a motion to approve Ordinance #2017-00661 amending the zoning map as presented in REZ 01-17 with staff conditions and to continue working with staff on the cross-section including street trees. Commissioner Miltich seconded the motion and it passed unanimously, 5-0.

Ordinance #2017-00661 is hereby made part of the minutes by reference.

Commissioner Miltich made a motion to approve Resolution #2017-00859 declaring that REZ 01-17 is consistent with the Town's Land Use Map and reasonable in the public's interest. Commissioner Washam seconded the motion and it passed unanimously, 5-0.

Resolution #2017-00859 is hereby made part of the minutes by reference.

B. REZ 04-17 Hodge HVAC

Mayor Travis called for a motion to open the public hearing on rezoning REZ 04-17 Hodge HVAC. *The public hearing notice attached hereto.*

Commissioner Washam made a motion to open the public hearing. Commissioner Miltich seconded the motion and it passed unanimously, 5-0.

Planning Director, Wayne Herron gave the staff presentation (*Exhibit Book 30*) on the rezoning request made by Hodge HVAC to rezone 4.87 acres from *Rural Preservation* (RP) to *Conditional Zoning* (CZ) for the purpose of relocating his business. The property is located at 18916 Old Statesville Road. The residential structure that currently exists on the property will be converted into a business/office space and the applicant is proposing to construct a 3 or 4 car garage directly behind the existing structure to store vehicles and equipment. The applicant has agreed to reserve right-of-way for the future Zion Avenue extension as part of the Hwy. 115 feasibility study currently being conducted. Staff and the Planning Board have recommended approval with 6 conditions. The applicant is in agreement with all 6 conditions.

Mayor Travis invited the applicant to speak.

Mr. Jeff Hodge stated that Mr. Herron had pretty much covered everything and that they are very excited about relocating to the proposed property after losing the leased space he is currently in. Mayor Travis asked what was happening to the building he is currently in. Mr. Hodge stated that Little's Flooring has purchased the building. Commissioner Gilroy asked how old the house was on the proposed property. Mr. Hodge stated that the house was built in 1953 and that only minor renovations will occur to make it handicap accessible. Commissioner Gilroy questioned if the cluster of pine trees would remain. Mr. Hodge stated that they would remain in place for now; however, when they show signs of deterioration they would be removed at that time.

Mayor Travis invited the public to comment. There being no comments, he called for a motion to close the public hearing.

Commissioner Miltich made a motion to close the public hearing. Commissioner Ross seconded the motion and it passed unanimously, 5-0.

Commissioner Gilroy made a motion to approve Ordinance #2017-00662 amending the Land Development zoning map to include REZ 04-17 with 6 conditions.

Ordinance #2017-00662 is hereby made part of the minutes by reference.

Commissioner Washam made a motion to approve Resolution #2017-00860 declaring that REZ 04-17 is consistent with the Town's Land Use Map and reasonable in the public's interest. Commissioner Ross seconded the motion and it passed unanimously, 5-0.

Resolution #2017-00860 is hereby made part of the minutes by reference.

10. CONSIDERATION OF APPROVAL

A. North Carolina Governor's Highway Safety Grant

Manager Roberts explained that the Resolution is approving the final (3yr) funding portion of a Highway Safety Grant for police officers.

Commissioner Duke made a motion to approve Resolution #2017-00861 approving the final funding of the Governor's Highway Safety Grant. Commissioner Miltich seconded the motion and it passed unanimously, 5-0.

Resolution #2017-00861 is hereby made part of the minutes by reference.

- B. Land Development Code Advisory Board Chairperson Appointment
Manager Roberts explained that the LDCAB members wish to appoint Cheryl Crawford as the chairperson.

Commissioner Washam made a motion to appoint Cheryl Crawford as the LDCAB chairperson. Commissioner Duke seconded the motion and it passed unanimously, 5-0.

11. CONSENT AGENDA

- A. Annual Settlement of the Tax Collector (tax year 2016) (Approved 5-0)
- B. Order of Collections (tax year 2017) (Approved 5-0)
- C. Approve Minutes – Regular Minutes (July 17th) (Approved 5-0)
- D. Approve Minutes – Closed Session Minutes (July 17th) (Approved 5-0)
- E. Tax Refunds = \$86.44 (Approved 5-0)

Commissioner Washam made a motion to approve the Consent Agenda as presented. Commissioner Miltich seconded the motion and it passed unanimously, 5-0.

12. COMMISSIONER CONCERNS

- A. Resolution to NCDOT Secretary Trogdon
Commissioner Miltich displayed a Resolution requesting that NCDOT Secretary Trogdon meet with the area leaders regarding the concerns submitted regarding to the I-77 toll lane contract and alternate options. The Board expressed their frustrations with DOT's lack of response and debated what it would take in order to receive a response. The consensus was to approve the intent of the Resolution but not to forward it on to NCDOT.

Commissioner Miltich made a motion to approve Resolution #2017-00862 requesting Secretary Trogdon respond to the concerns addressing the Cintra contract and alternate options. Commissioner Gilroy seconded the motion and it passed unanimously, 5-0.

Resolution #2017-00862 is hereby made part of the minutes by reference.

13. ADJOURNMENT

There being no further business to discuss, Commissioner Ross made a motion to adjourn at 9:20PM. Commissioner Duke seconded the motion and it passed unanimously, 5-0.

Approved this 5th day of September, 2017.

ATTEST:

Charles L. Travis, III, Mayor

Lori A. Harrell, Town Clerk



BOARD OF COMMISSIONERS

August 21, 2017
MINUTES

PRE-MEETING – 5:45PM

❖ Closed Session

Mayor Travis called for a motion to go into Closed Session to discuss a contractual matter under attorney-client privilege and a personnel matter.

Commissioner Duke made a motion to go into Closed Session at 5:49PM. Commissioner Miltich seconded the motion and it passed 3-0. Commissioner Gilroy arrived at 6:00PM and Commissioner Ross was out of town.

Upon return from Closed Session, Mayor Travis reconvened the pre-meeting at 6:53PM.

Commissioner Duke made a motion to increase Manager Roberts's annual salary to \$160K and give him a \$6,000 bonus. Commissioner Washam seconded the motion and it passed unanimously, 4-0.

There being no further pre-meeting business to discuss, Mayor Travis adjourned the meeting to go downstairs for the 7PM regular meeting.

REGULAR MEETING – 7:00PM

1. CALL TO ORDER

Mayor Travis called the meeting to order at 7:05PM.

2. DETERMINATION OF QUORUM

All commissioners were present with the exception of Commissioner Ross who was out of town.

3. APPROVAL OF AGENDA

Commissioner Duke made a motion to approve the agenda as presented. Commissioner Washam seconded the motion and it passed unanimously, 4-0.

4. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Michael Archer led the pledge after a moment of silence was observed.

Mayor Travis invited the elected official candidates present to introduce themselves. Denis Bilodeau, Tricia Sisson and Michelle Ferlauto introduced themselves.

5. PRESENTATIONS

A. Bond Projects Update

Staff gave an update on Phase I bond projects that are currently underway and/or completed. Manager Roberts gave an overview of the projects included in Phase II.

6. MAYOR/COMMISSIONERS/MANAGER REPORTS

Manager Roberts reported on the following:

- The Town received a \$90K grant to design a festival streetscape improvement plan for the downtown arts district
- Cultural Feast event to be held on Sept. 8th has sold out tickets

Commissioner Miltich reported on the following:

- The next Cornelius Conversation will be held on Thursday, September 7th at Brooklyn South Pizza
- Mecklenburg County Parks and Recreation is still seeking public input on the design elements for the North Meck Regional Recreation Center
- Attended the CRTPO meeting on August 16th

Commissioner Duke reported on the following:

- Attended the public input session for the regional recreation center
- PARC – the Lego Batman movie and the Back to School Bash will be held on Saturday, August 26th at Robbins Park
- Art Center – A closing reception will be held on Wednesday, August 23rd for the Homegrown Sprouts exhibit
- Carolina Rapids held their kickoff soccer tournament with 79 teams participating
- VLN is hosting the Travel Writers Association visit to the area

Commissioner Washam reported on the following:

- EDC – 13 projects in Cornelius/34 in the region; product development funds are going towards a project in Cornelius
- CACC will hold a retreat on Saturday, August 26th
- CRTPO meeting – the Mercator report was received and is open for public input for 30 days; additional discussion on the Catawba Crossing took place and a vote was taken to move the project into a different funding bucket; there is also a Ramp Metering Feasibility Study that the north Mecklenburg towns need to pay particular attention to
- North Meck Alliance will be on Thursday, September 14th

Mayor Travis reported on the following:

- Attended a Transportation Summit hosted by U.S. Representative Alma Adams
- Attended the CRTPO meeting to hear the Mercator report
- Had a discussion with Dr. Hayes with CMS on future partnership opportunities for making school improvements
- Attended the CEO Round Table with the Chamber
- Top Deck “We Got Your Back” Whiskey, Wine & Moonshine event will be held on Saturday, September 9th

7. CITIZEN CONCERNS/COMMENTS

Ralph Gettings – 19925 Schooner Drive, expressed his concerns with the confederate monument located on Zion Street and asked the Board to consider having a conversation with the owner on the removal of the monument.

Beverly Peyton – 21310 Catawba Ave., stated that she is a new business owner located near the future art center. She explained that she is also working very hard to get CMS involved in the Explorer Program whose goal is to provide young children with a sense of responsibility to their neighborhoods and community-related activities. The new recreation center might be a good place to host the program if CMS shows interest.

8. PUBLIC HEARING AND CONSIDERATION OF APPROVAL

A. TA 05-17 Auto Sales Overlay Amendment – Archer Holdings

Mayor Travis called for a motion to open the public hearing for text amendment TA 05-17 Auto Sales Overlay. The public notice is attached hereto.

Commissioner Washam made a motion to open the public hearing on text amendment TA 05-17. Commissioner Duke seconded the motion and it passed unanimously, 4-0.

Planning Director, Wayne Herron gave the staff presentation (*Exhibit Book 30*) on the proposed amendment to the *Land Development Code*. He explained that Archer Real Estate Holdings, LLC has requested an amendment to the Automobile Sales District Overlay in Chapters 5 and 6. The applicant has requested the minimum three acre site requirement not be required and for automobile sales rental to become a permitted use by right so that Hertz Car Rental can lease their property located at 18709 Statesville Road. The LDCAB and Planning Board recommendations are to keep the three acre minimum requirement but allow auto rentals as a permitted use within the auto sales overlay district with specific standards. Mr. Herron stated that auto rental is more of a commercial/retail use that citizens utilize often and creates a tax benefit for the town.

Mayor Travis asked how Hertz will address the overflow parking of customer vehicles parked while renting from Hertz. Mr. Herron stated that would be a business decision for Hertz; however, if they cannot meet the requirements of the *Code*, they would then be in violation.

Mayor Travis invited the public to speak. There being no comments, he called for a motion to close the public hearing.

Commissioner Miltich made a motion to close the public hearing. Commissioner Washam seconded the motion and it passed unanimously, 4-0.

Commissioner Miltich made a motion to approve Ordinance #2017-00663 amending the Land Development Code, Chapters 5 & 6 as presented. Commissioner Washam seconded the motion and it passed unanimously, 4-0.

Ordinance #2017-00663 is hereby made part of the minutes by reference.

B. TA 06-17 Election Signs

Mayor Travis called for a motion to open the public hearing for text amendment TA 06-17 Election Signs. The public notice is attached hereto.

Commissioner Miltich made a motion to open the public hearing on text amendment TA 06-17. Commissioner Washam seconded the motion and it passed unanimously, 4-0.

Planning Director, Wayne Herron gave the staff presentation (*Exhibit Book 30*) and explained that the proposed text change for Chapter 10 is to comply with NC GS §136-32 for election signs during early voting. The LDCAB and Planning Board recommend approval.

Mayor Travis invited the public to speak. There being no public comments, he called for a motion to close the public hearing.

Commissioner Washam made a motion to close the public hearing. Commissioner Miltich seconded the motion and it passed unanimously, 4-0.

Commissioner Washam made a motion to approve Ordinance #2017-00664 amending the Land Development Code, Chapter 10 as presented. Commissioner Gilroy seconded the motion and it passed unanimously, 4-0.

Ordinance #2017-00664 is hereby made part of the minutes by reference.

C. TA 07-17 Subdivision Definition Clarification for Public Streets by NCDOT/Town

Mayor Travis called for a motion to open the public hearing for text amendment TA 07-17 Subdivision Definition Clarification for Public Streets. The public notice is attached hereto.

Commissioner Washam made a motion to open the public hearing on text amendment TA 07-17. Commissioner Duke seconded the motion and it passed unanimously, 4-0.

Planning Director, Wayne Herron gave the staff presentation (*Exhibit Book 30*) and explained that Attorney Bringewatt has expressed a desire to clarify the public acquisition of land (negotiated or eminent domain) for existing or new public streets initiated by a public entity, such as NCDOT or the Town. This clarification affects the Subdivision definition of Chapter 2. The LDCAB and Planning Board recommend approval.

Mayor Travis invited the public to speak. There being no public comments, he called for a motion to close the public hearing.

Commissioner Miltich made a motion to close the public hearing. Commissioner Washam seconded the motion and it passed unanimously, 4-0.

Commissioner Miltich made a motion to approve Ordinance #2017-00665 amending the Land Development Code, Chapter 2 as presented. Commissioner Washam seconded the motion and it passed unanimously, 4-0.

Ordinance #2017-00665 is hereby made part of the minutes by reference.

D. TA 08-17 Additional Public Hearing for CZ Process

Mayor Travis called for a motion to open the public hearing for text amendment TA 08-17 Public Hearings for CZ process. The public notice is attached hereto.

Commissioner Miltich made a motion to open the public hearing on text amendment TA 08-17. Commissioner Washam seconded the motion and it passed unanimously, 4-0.

Planning Director, Wayne Herron gave the staff presentation (*Exhibit Book 30*) and that over the last several years staff has heard comments from citizens about the public hearing process for Conditional Zoning applications. The *Code* currently schedules the public hearings at the end of the process when the Board is considering approval and some citizens would like the opportunity to voice their opinions to the Board and Planning Board at the beginning of the process in an effort to address their concerns. Therefore, the proposed text change will allow all CZ applications to be heard at one of the Town Board meetings during its first 30-day submittal period with no expectations for a decision. This will allow the public to voice their concerns at the beginning of the process instead of at the end when they feel a decision has already been rendered. The LDCAB and Planning Board recommend approval.

Mayor Travis invited the public to speak.

Ralph Gettings – 19925 Schooner Drive, stated that he was pleased with the proposed text and feels that the new process will certainly give citizens the opportunity to voice their concerns to Board without feeling the approvals are a “done deal”.

There being no further comments, Mayor Travis called for a motion to close the public hearing.

Commissioner Washam made a motion to close the public hearing. Commissioner Miltich seconded the motion and it passed unanimously, 4-0.

Mayor Travis stated that the quasi-judicial process for Conditional Use Permits really restricted the communication between the Board and its citizens. This proposal is a great addition to the process.

Commissioner Gilroy made a motion to approve Ordinance #2017-00666 amending the Land Development Code, Chapter 12 as presented. Commissioner Washam seconded the motion and it passed unanimously, 4-0.

Ordinance #2017-00666 is hereby made part of the minutes by reference.

9. CONSIDERATION OF APPROVAL

A. Planning Board Chairman Appointment

Manager Roberts explained that the Planning Board members have nominated Keith Eicher to be the chairman.

Commissioner Washam made a motion to appoint Keith Eicher as the Planning Board chairman. Commissioner Duke seconded the motion and it passed unanimously, 4-0.

B. Resolution for Surplus Property

Manager Roberts gave an overview of the items listed for surplus to be sold on Govdeals.

Commissioner Miltich made a motion to approve Resolution #2017-00863 declaring surplus property as listed. Commissioner Washam seconded the motion and it passed unanimously, 4-0.

Resolution #2017-00863 is hereby made part of the minutes by reference.

C. Code of Ordinances – Title 7, Chapter 71 – Parking Regulations

Asst. Manager Grant explained that the proposed amendment to Chapter 71 will address vehicles displayed For Sale in parking lots used for CATS riders, as well as restricting CATS riders from parking in areas reserved for businesses.

Commissioner Duke made a motion to approve Ordinance #2017-00667 to amend the Code of Ordinances, Title 7, Chapter 71, Section 71.01(A,B,C) parking regulations. Commissioner Washam seconded the motion and it passed unanimously, 4-0.

Ordinance #2017-00667 is hereby made part of the minutes by reference.

D. Contract for New Public Work Building

Manager Roberts explained that Garanco, Inc. was the lowest bidder for the construction of the new Public Works building.

Commissioner Duke made a motion to approve and award Garanco, Inc. a contract to construct the new public works facility and authorize the town manager and attorney to finalize and execute the contract. Commissioner Miltich seconded the motion and it passed unanimously, 4-0.

E. Capital Project Ordinance for the Public Works Facility

Manager Roberts stated that the Capital Project Ordinance is to allocate funds for the new Public Works facility construction.

Commissioner Miltich made a motion to approve a Capital Project Ordinance #2017-00668 for the new Public Works facility construction. Commissioner Duke seconded the motion and it passed unanimously, 4-0.

Ordinance #2017-00668 is hereby made part of the minutes by reference.

10. NEW BUSINESS

A. NCDOT Prioritization 5.0

Asst. Manager Grant gave a brief overview of NCDOT's Prioritization 5.0 and how projects get ranked and funded in the TIP by CRTPO. He then outlined a proposed Resolution that would ask CRTPO to rank general purpose lanes on I-77 outside of the toll lane project. After discussing the pros and cons of doing so, the Board consensus was to leave it be and not pass a Resolution.

11. COMMISSIONER CONCERNS

A. Circle K Landscaping

Commissioner Duke expressed his concerns with the un-kept appearance of the new Circle K located on Hwy. 115/Bailey Road and asked staff to look into who's responsible for mowing and get it done.

12. ADJOURNMENT

There being no further business to discuss, Commissioner Washam made a motion to adjourn at 9:16PM. Commissioner Gilroy seconded the motion and it passed unanimously, 4-0.

Approved this 5th day of September, 2017.

ATTEST:

Charles L. Travis, III, Mayor

Lori A. Harrell, Town Clerk

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 5, 2017

To: Mayor and Board of Commissioners

From: Julie Niswonger, Finance Director

Action Requested:

Please find the attached lists of proposed refunds based upon the information received from the County Assessor.



The lists are necessary as a result of value adjustments as performed by the Mecklenburg County Assessor and/or Board of Equalization and Review and corrections as determined by the Mecklenburg County Assessor. Those refunds total = \$1,502.32 (tax) + \$0.00 (interest) = \$1,502.32. The refunds range in value from \$20.62 to \$240.95.

As required by Statute, please approve refunds. There are no Board member refunds in this group.

Manager's Recommendation:

Approve tax refunds.

ATTACHMENTS:

Name:	Description:	Type:
 9617T1_Cornelius_Misc_No_Int_8-18-17.pdf	County List #1	Cover Memo
 9617T2_Cornelius_Misc_No_Int_8-29-17.pdf	County List #2	Cover Memo

<u>Tax Year</u>	<u>Bill Number</u>	<u>Parcel #</u>	<u>Source</u>	<u>Adj #</u>	<u>Adj Reason</u>	<u>Refund Recipient Name</u>	<u>Refund</u>
2006	0001434060-2006-2006-0000-00	1984 Hunter 25.00	IND	560311	Not in County	BERG-SAETHER, BJARNE	68.52
2011	0007225497-2011-2011-0000-00	Bus. Personal Property	BUS	560246	Business Correction	LINGERFELT, TIM	240.95
2012	0007225497-2012-2012-0000-00	Bus. Personal Property	BUS	560245	Business Correction	LINGERFELT, TIM	217.51
2013	0007225497-2013-2013-0000-00	Bus. Personal Property	BUS	560243	Business Correction	LINGERFELT, TIM	203.71
2014	0007225497-2014-2014-0000-00	Bus. Personal Property	BUS	560244	Business Correction	LINGERFELT, TIM	189.89
2015	0007225497-2015-2015-0000-00	Bus. Personal Property	BUS	560242	Business Correction	LINGERFELT, TIM	176.09
2016	0007225497-2016-2016-0000-00	Bus. Personal Property	BUS	560241	Business Correction	LINGERFELT, TIM	172.41
2016	0007816666-2016-2016-0000-00	2013 BRP GTI SE 130	IND	561713	Sold/Traded	MCKINNEY, TRAVIS A	20.62
							1,289.70

Bill Number	Adj #	Adj Reason	Refund Recipient Name	Amount
0008102732-2016-2016-0000-00	561951	Duplication	BOWMAN, ADAM	212.62
				212.62

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 5, 2017

To: Mayor and Board of Commissioners

From: Andrew Grant, Asst. Town Manager

Action Requested:

Discuss the draft Mercator report.

Manager's Recommendation:

ATTACHMENTS:

Name:	Description:	Type:
No Attachments Available		
