



cleanwater

MANAGEMENT TRUST FUND

November 21, 2008

Richard Rogers
Executive Director

CWMTF TRUSTEES

The Honorable Frederick Becker III
Town of Mineral Springs
PO Box 600
Mineral Springs, NC 28108-0600

RE: CWMTF No. 2007-021

Dear Mayor Becker:

We are pleased to enclose your original executed copy of the above grant contract. **Please note that the grant agreement will expire on January 31, 2010. Please refer to all requirements of the grant agreement carefully including all attached Exhibits.**

Note that before any funds can be disbursed on this project, you must provide the Clean Water Management Trust Fund (CWMTF) with all documentation that is required in Exhibit C. Please refer to item number seven (7) of the grant agreement as well as to Exhibits D, E and F for details on information and processes under which funds will be disbursed for the land acquisition. Please work with me regarding these requirements. Note that those sections outline additional items our office needs prior to the disbursement of land acquisition funds. I can be contacted at 919.571.6746, and by email at Robin.Hammond@ncmail.net. **Please have your attorney contact me immediately to discuss the closing that will take place as part of this project.**

We also call your attention to all of the other conditions contained in item number nine (9). A detailed narrative status report (Exhibit G) must be submitted with each request for reimbursement, and must also be submitted every 3 months whether or not funds are being requested. All requests for reimbursement must include supporting documents and invoices. Requests for payment cannot be processed without a narrative status report. In addition, a final report is due by the end date of the contract. **WE ADVISE THAT YOU NOT SET A CLOSING DATE UNTIL YOU HAVE THE CHECK IN HAND.**

We would also like you to be aware of the CWMTF policy regarding contract expiration, as defined in item number five (5) of the contract. It is critical that you understand and follow these requirements.

We look forward to a successful project!

Sincerely yours,

(Ms.) Robin M. Hammond
Real Property Counsel

Enclosure

- Chair, Philip A. Baddour, Jr.
GOLDSBORO
- Ron Beane
LENOIR
- Yevonne S. Brannon
RALEIGH
- Norman C. Camp, III
RALEIGH
- Rick Coleman
TABOR CITY
- Karen Cragnolin
ASHEVILLE
- John Crumpler
RALEIGH
- Rance Henderson
MORGANTON
- Joseph M. Hester, Jr.
ROCKY MOUNT
- William Hollan
WINSTON SALEM
- Robert Howard
SOUTHPORT
- Charles Johnson
GREENVILLE
- Kevin Markham
CARY
- Chuck McGrady
HENDERSONVILLE
- Dickson McLean, Jr.
WILMINGTON
- John McMillan
RALEIGH
- Peter Rascoe
EDENTON
- Stan Vaughan
CHARLOTTE
- Claudette Weston
WINSTON SALEM
- Jerry Wright
JARVISBURG

**STATE OF NORTH CAROLINA
CLEAN WATER MANAGEMENT TRUST FUND
GRANT AGREEMENT
(FEE OR EASEMENT ACQUISITION – Local Government)**



CWMTF PROJECT NUMBER: 2007-021

GRANTOR: NC Clean Water Management Trust Fund ("Trust Fund" or "CWMTF"), an independent agency of the State of North Carolina ("State") acting through its Board of Trustees solely in its official capacity pursuant to Article 18, Chapter 113A, of the North Carolina General Statutes ("NCGS")

CONTRACT ADMINISTRATOR: Ms. Robin M. Hammond, Esq.
Real Property Counsel
NC Clean Water Management Trust Fund
1651 Mail Service Center
Raleigh, NC 27699-1651
Phone: 919.733.6369; Fax: 919.733.6374
Email: Robin.Hammond@ncmail.net

GRANT RECIPIENT: Town of Mineral Springs, a North Carolina municipal corporation ("Grant Recipient" or "Town")

CONTRACT ADMINISTRATOR: Hon. Frederick Becker III
Mayor and Finance Officer
Town of Mineral Springs
Post Office Box 600
Mineral Springs, NC 28108-0600
Phone: 704.243.0505; Fax: 704.243.0506
Email: msncmayor@yahoo.com

FEDERAL I.D. NUMBER: 56-2164326

FISCAL YEAR END DATE: June 30

CONTRACT EFFECTIVE DATE: 20 October 2008 (the "Effective Date")

CONTRACT EXPIRATION DATE: January 31, 2010 (the "Expiration Date")

DEADLINE FOR RECEIPT BY CWMTF OF REIMBURSEMENT/PAYMENT REQUESTS: February 15, 2010 (the "Reimbursement Date")

GRANT AMOUNT: up to \$307,000.00 (the "Grant")

APPROVAL DATE: September 10, 2007 (the "Approval Date")

THIS AGREEMENT (the "Agreement") is made and entered into as of the Effective Date by and between the Trust Fund and the Grant Recipient (both sometimes hereinafter referred to individually as a "Party" or collectively as the "Parties").

WITNESSETH:

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

WHEREAS, the Trust Fund is authorized by NCGS Chapter 113A, Article 18 to acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses, and to retire debt incurred for this purpose under NCGS Chapter 142, Article 9; to acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and urban drinking water supplies and to retire debt incurred for this purpose under NCGS Chapter 142, Article 9; to coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water quality and to retire debt incurred for this purpose under NCGS Chapter 142, Article 9; to restore previously degraded lands to reestablish their ability to protect water quality and to retire debt incurred for this purpose under NCGS Chapter 142, Article 9; to repair failing wastewater collection systems and wastewater treatment works if the repair is a reasonable remedy for resolving an existing waste treatment problem and the repair is not for the purpose of expanding the system to accommodate future anticipated growth of a community; to repair and eliminate failing septic tank systems, to eliminate illegal drainage connections, and to expand a wastewater collection system or wastewater treatment works if the expansion eliminates failing septic tank systems or illegal drainage connections; to finance storm water quality projects including innovative storm water efforts; and to facilitate planning that targets reductions in surface water pollution.

WHEREAS, the Grant Recipient is a qualified applicant as defined in NCGS §113A-254(a).

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

WHEREAS, the Trust Fund approved the Grant Recipient's application at its meeting on the Approval Date, is willing to make the Grant to the Grant Recipient pursuant to the terms and conditions set forth in this Grant Agreement.

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

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

1. **Grant Documents.** The documents described below are hereinafter collectively referred to as the “Grant Documents.” In the case of conflict, specific and special terms, conditions and requirements shall control over general terms, conditions requirements. Upon execution and delivery of the Agreement, it and the other Grant Documents and items required hereunder will constitute a valid and binding agreement (“Grant Agreement” or “Contract”) between the Parties, enforceable in accordance with the terms thereof. The Grant Agreement constitutes the entire agreement between the Parties, superseding all prior oral and written statements or agreements. Only changes deemed non-material in type at the discretion of the Trust Fund’s Executive Director may be made to the Grant Agreement without the consent of the Trust Fund’s Board of Trustees.

The Grant Documents consist of:

- a. The Cover Sheet
- b. This Agreement
- c. Exhibit A – Property description, Project description, water quality benefits and scope of work, special conditions, and schedule
- d. Exhibit B – Project budget
- e. Exhibit C – Pre-Funds Disbursement Checklist
- f. Exhibit C.1 – *Not Applicable*
- g. Exhibit C.2 – Assurances for Non-Federally-Funded Contracts
- h. Exhibit D – Pre-Closing Checklist
- i. Exhibit E – Post-Closing Checklist
- j. Exhibit F – Baseline Documentation Report outline
- k. Exhibit G – Progress/Final Report form
- l. Exhibit H – Additional Definitions
- m. Exhibit I – General Terms and Conditions, and
- n. Exhibit J – *Not Applicable*
- o. Exhibit K – Request for Payment/Reimbursement Form.

2. **Purpose.** The purpose of the Grant is for Property and/or Conservation Easement acquisition, and for the protection of water quality. Grant funds may be used for the purchase of the Property and/or the Conservation Easement only; Grant funds may not be used for the purchase of any improvements or removal of debris on the Property or for any other purpose not set forth herein. **Further, Grant funds may not be used for any eminent domain litigation or any action or expenditure related to eminent domain, unless approved by the Trust Fund’s Board of Trustees in writing prior to the action. The Board of Trustees shall review requests to use Grant funds for eminent domain action on a case-by-case basis. The Grant Recipient shall provide requests in writing.**

3. **Trust Fund’s Duties.** Subject to the appropriation, allocation, and availability to CWMTF of funds for the Project, CWMTF hereby agrees to pay the Grant funds to the Grant Recipient in accordance with the payment procedures set forth herein.

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

5. **Contract Period.** The Trust Fund’s commitment to disburse Grant funds under this Grant Agreement shall cease on the Expiration Date. It is the responsibility of the Grant Recipient to ensure that the Project is completed by the Expiration Date. After the Expiration Date, any Grant monies remaining under this Grant Agreement will no longer be available to the Grant Recipient. **The burden is on the Grant Recipient to request an extension of the Contract if the Grant**

Recipient anticipates that the Project will not be completed by the Expiration Date. The request for an extension must be a formal one made in a writing addressed to the Trust Fund's Executive Director, giving complete details of the reasons why an extension is needed, and proposing a new expiration date for the Contract. This written request must reach the Trust Fund's office at least 60 days prior to the Expiration Date. The Trust Fund may or may not approve the extension, based upon Project performance and other factors. **The Trust Fund will not send reminders or other notification of an approaching Expiration Date.**

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

7. **Disbursement of Grant Monies.** The acquisition of the Property and/or the Conservation Easement as may be applicable, and the recording of the Conservation Easement and/or Assignment as may be applicable, shall be referred to herein as the "Closing."

(a) Grant monies may be disbursed at Closing provided Grant Recipient has complied with the terms of condition 6 above and with all pre-Closing requirements as set forth on Exhibit D.

(b) The Grant Recipient may seek reimbursement for allowable Project costs incurred after the Approval Date notwithstanding the fact that those costs may have been incurred prior to the Effective Date. Such reimbursements shall be made only in accordance with paragraph (c) below.

(c) Grant Recipient may be reimbursed for itemized Project expenses prior to or subsequent to Closing upon submittal of the following documentation:

(i) A copy of the document for which reimbursement is requested.

(ii) A copy of invoices or other documentation submitted to the Grant Recipient showing the itemized expenses incurred related to the document for which reimbursement is requested. Grant Recipient shall identify any sales tax for which reimbursement has been or will be obtained from the State Department of Revenue, and such monies shall not be reimbursed.

(iii) A written detailed narrative progress report as set forth on Exhibit G.

(iv) A signed cover letter requesting reimbursement and stating that the Grant Recipient complied with all terms of this Grant Agreement in incurring the expenses.

(v) A completed invoice in the form set forth on Exhibit J.

(d) The Trust Fund agrees to reimburse the Grant Recipient only for reasonable costs actually incurred by the Grant Recipient that do not exceed the funds budgeted for the Project as shown in Exhibit B.

(e) Funds will not be disbursed during the first week of January, the last three weeks of June, the first week of July, and the last two weeks of December.

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

9. **Reporting Requirements.** Beginning three (3) months after the Effective Date, the Grant Recipient must submit to the Trust Fund a quarterly report on the status of the Project, on the form attached as Exhibit G. In addition to the reporting requirements contained herein, NCGS §143-6.2 and 09 North Carolina Administrative Code 03M may place certain reporting requirements on local governments or other political subdivisions of the State of North Carolina, or a combination of such entities, which receive State funds through the disbursement of special appropriations. All such required reports shall be filed in the format required by the Office of the State Auditor, and shall be forwarded as follows:

- One copy to: North Carolina Office of the State Auditor, 20601 Mail Service Center, Raleigh, NC 27699-0601
- One copy to: DENR/Office of the Controller, 1606 Mail Service Center, Raleigh, NC 27699-1606.

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


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

IN WITNESS WHEREOF, the Grant Recipient and the Trust Fund have executed this Grant Agreement in four (4) originals as of the Effective Date. One (1) original shall be retained by each Party and two (2) shall be maintained on file in the offices of the State Department of Environment and Natural Resources. If there is any controversy among the documents, the document on file in the Trust Fund's office shall control.

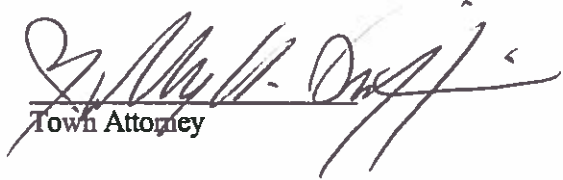
GRANT RECIPIENT:

**TOWN OF MINERAL SPRINGS,
A NC municipal corporation**



By: 
Name: FREDERICK BECKER III
Title: MAYOR

APPROVED AS TO FORM:


Town Attorney

TRUST FUND:

**NC CLEAN WATER MANAGEMENT TRUST FUND,
An independent state agency**

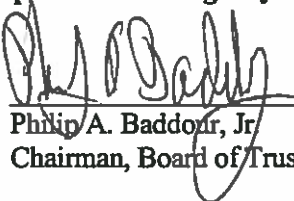
By:  (SEAL)
Name: Philip A. Baddour, Jr.
Title: Chairman, Board of Trustees

EXHIBIT A

Legal Description:

FOUR TRACTS OF LAND located in or near the Town of Mineral Springs, Sandy Ridge Township, Union County, North Carolina, lying along Wolf and Bates Branches, tributaries of Twelvemile Creek, more particularly described as follows:

Tract B (on Exhibit A.1 which is attached hereto for illustrative purposes):

A 34.8-acre portion, more or less, of the 200.19±-acre parcel more particularly described in that certain North Carolina Special Warranty Deed from JAMBA, LLC, a North Carolina limited liability company to Niblock Development Corp., a North Carolina corporation, dated September 6, 2006 and recorded in Book 4293, Page 362, Union County Registry.

Tract C (on Exhibit A.1 which is attached hereto for illustrative purposes):

A 12-acre portion of the 200.19±-acre parcel more particularly described in that certain North Carolina Special Warranty Deed from JAMBA, LLC, a North Carolina limited liability company to Niblock Development Corp., a North Carolina corporation, dated September 6, 2006 and recorded in Book 4293, Page 362, Union County Registry.

Tract D (on Exhibit A.1 which is attached hereto for illustrative purposes):

ALL THAT LAND shown and designated as Common Area, 156,406 sf, 3.59 ac, and labeled *To Be Conveyed to the Town of Mineral Springs*, located in the northeast corner of Harrington Hall subdivision, as shown on map of HARRINGTON HALL, Map 1, recorded in Plat Cabinet J, File Nos. 586 through 588, in the office of the Register of Deeds for Union County, reference to which is hereby made for a more complete and accurate description.

Tract E (on Exhibit A.1 which is attached hereto for illustrative purposes):

ALL THAT LAND shown and designated as Common Area, 317,927 sf., 7.30 ac, and labeled *To Be Conveyed to the Town of Mineral Springs*, located along the westerly boundary of Harrington Hall subdivision, as shown on map of HARRINGTON HALL, Map 1, recorded in Plat Cabinet J, File Nos. 586 through 588, in the office of the Register of Deeds for Union County, reference to which is hereby made for a more complete and accurate description.

Project Description:

The Town requested a grant in the amount of \$306,505.00 to facilitate the purchase of land located along Bates Branch, a tributary of Twelvemile Creek in the Catawba River Basin, Union County, North Carolina (Tract C on the Project map attached hereto as Exhibit A.1). Upon Acquisition, the Town will convey to the State acting by and through the Trust Fund a perpetual Conservation Easement on Tract C. As match, the Town will convey a second Conservation Easement to the State acting by and through the Trust Fund on a 34.8 acre parcel (Tract B on Exhibit A.1) located along Wolf and Bates Branches, also Twelvemile

Creek tributaries. These Conservation Easements are hereinafter referred to as the "CWMTF Conservation Easements." As additional match, the Town will convey to Catawba Lands Conservancy ("CLC") conservation easements on a 3.6-acre parcel of upland (Tract D on Exhibit A.1), and a 7.3-acre tract (Tract E on Exhibit A.1), collectively the "CLC Conservation Easements." All four Conservation Easements are sometimes referred to collectively herein as the "Conservation Easements." The Town has contracted with CLC to provide monitoring of the CWMTF Conservation Easements. The Conservation Easements will preserve 58 acres, including 9,351 linear feet of riparian buffer. At its meeting on September 10, 2007, the Trust Fund's Board of Trustees approved the grant in an amount of **UP TO THREE HUNDRED AND SEVEN THOUSAND AND NO/100THS DOLLARS (up to \$307,000.00)** for the Acquisition and other transactional costs including stewardship.

Water Quality Benefits:

Preserves 58 riparian acres and 9,351 linear feet of riparian buffer along Wolf and Bates Branches of Twelvemile Creek in the Catawba River Basin, Union County, North Carolina.

Scope of Work:

1. Purchase Tract C (on Exhibit A.1) in fee and convey a CWMTF Conservation Easement thereon to the State acting by and through the Trust Fund.
2. Accept the donation in fee of Parcel B (on Exhibit A.1) and convey a CWMTF Conservation Easement thereon to the State acting by and through the Trust Fund.
3. Convey a CLC Conservation Easement to CLC on Parcel D (on Exhibit A.1).
4. Convey a CLC Conservation Easement to CLC on Parcel E (on Exhibit A.1).
5. Enter into a written agreement with CLC for Project administration and stewardship of the CWMTF Conservation Easements.
6. Comply with all the terms and conditions of the Grant Agreement.

Special Conditions:

1. The CWMTF Conservation Easements shall conform to the Trust Fund's model conservation easement and may allow for up to three (3) pedestrian footbridges.
2. The CLC Conservation Easements shall be satisfactory in form and substance to the Trust Fund and shall require CLC to monitor the CLC Conservation Easements at least annually in perpetuity and report the same to the Trust Fund.
3. The Town shall enter into a written agreement with CLC to provide for Project administration including annual monitoring of and reporting on the CWMTF Conservation Easements to the Trust Fund. The agreement shall be satisfactory in form and substance to the Trust Fund, shall require CLC to provide annual monitoring pursuant to the stewardship budget set forth on Exhibits B and B.1, provide itemized invoices with requests for payment, and acknowledge that stewardship funds awarded by this Agreement shall be paid in accordance with the conditions set forth on Exhibit I.A.13.









4. Grant Recipient shall provide data to the North Carolina Rural Economic Development Center's Water Resources Inventory and Data Management Project, if requested, and to the NC Geographic Information Coordinating Council's NC One Map Project, if requested.
5. Any obligation of the Grant Recipient contained herein which by its nature and effect is required to be observed, kept or performed after Closing shall survive the Closing and remain binding upon the Grant Recipient until fully observed, kept or performed so as to effectuate the intent of this Agreement.

Schedule:

1. Acquire Tract C on Exhibit A.1 in fee by the **Expiration Date**.
2. Accept the donation in fee of Tract B on Exhibit A.1 by the **Expiration Date**.
3. Place Tracts C and B under the CWMTF Conservation Easements by the **Expiration Date**.
4. Place Tracts D and E (Exhibit A.1) under the CLC Conservation Easements by the **Expiration Date**.
5. The Project must be completed by the **Expiration Date**. The Trust Fund will not reimburse the Grant Recipient for costs incurred after the **Expiration Date**.
6. Submit all invoices and final reports by the **Reimbursement Date**. The Trust Fund will not accept or process invoices received after the **Reimbursement Date**.
7. Provide for the monitoring of the CWMTF Conservation Easements on Tracts C and B (Exhibit A.1), and the reporting of same to the Trust Fund at least annually in perpetuity.

Mineral Springs Proposed Greenway

Five Foot Contour Intervals

-  [A] Brantley Oaks - Open Space: 17.1 acres
-  [B] Copper Run - Dedication: 34.8 acres
CLEAN WATER PURCHASE
-  [C] Copper Run-Proposed Purchase: 12 acres
CLEAN WATER DONATION
-  [D] Harrington Hall - Town Purchase: 3.6 acres
-  [E] Harrington Hall - Dedication: 7.3 acres
-  [F] Giovanniello Tract: 72.3 acres
-  [G] Nature Conservancy: 60.3 acres
-  Tax Parcels (2006)

 Streams

 Feet
0 1,000
1 inch equals 850 feet



26 February 2007

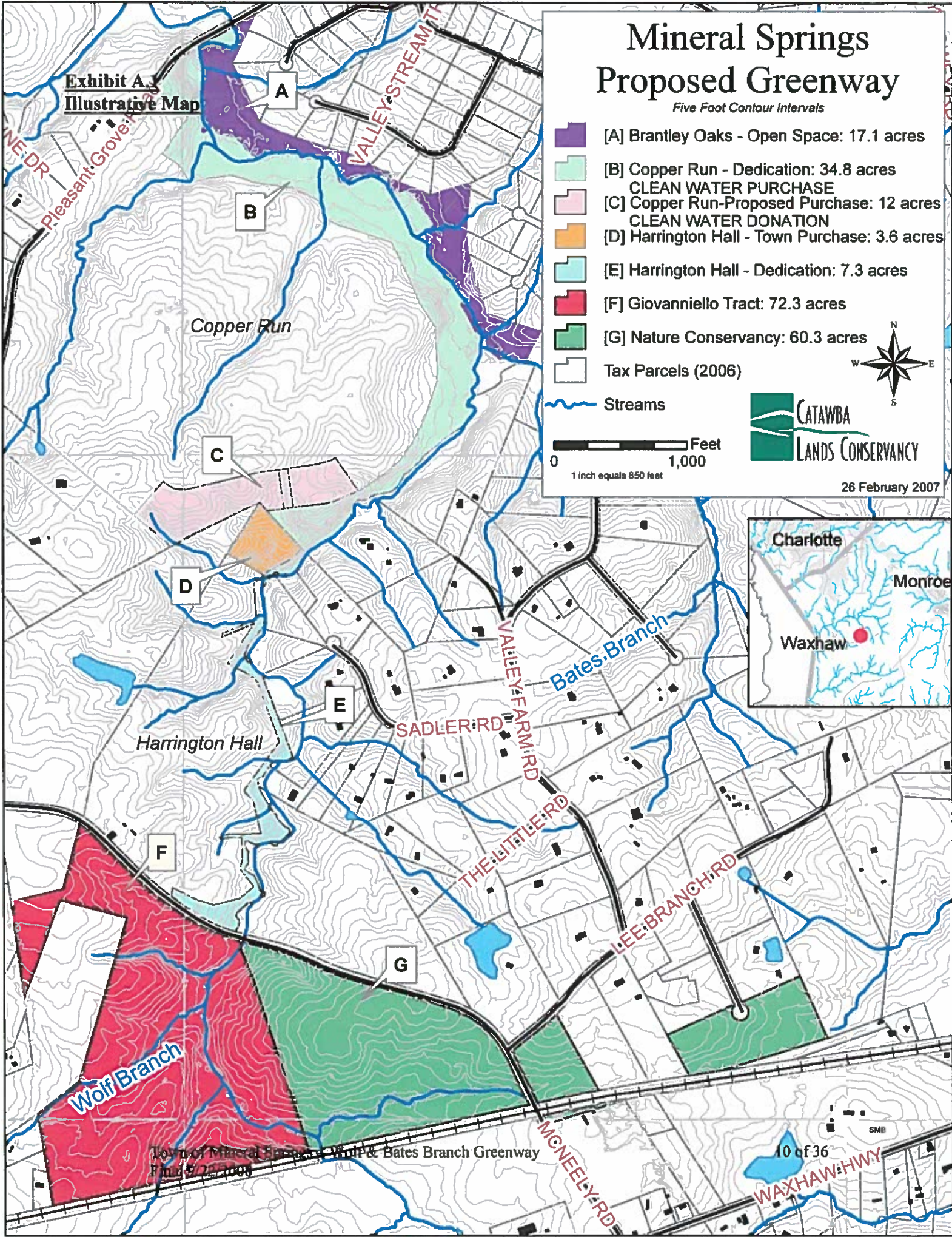


EXHIBIT B
Project Budget

Item	CWMTF Grant Amount	Matching Funds (*)	Total Project Cost
1. Property/Conservation Easement Acquisition:	\$271,440	\$410,750	\$682,190
2. Appraisals	\$3,000	\$0	\$3,000
3. Surveys and Legal Descriptions	\$13,000	\$0	\$13,000
4. Phase 1 Environmental Site Assessment	\$5,000	\$0	\$5,000
5. Legal Fees & Closing Costs (includes Attorney's Opinion Letter, Title Insurance & Recording Fees)	\$7,000	\$0	\$7,000
6. Project Administration(**)	\$5,495	\$765	\$6,260
7. Stewardship Endowment (***)	\$1,065	\$0	\$1,065
8. Baseline Documentation Report	\$1,000	\$1,000	\$2,000
Totals	\$307,000	\$412,515	\$719,515

(*) Source and dollar amounts of matching funds: the matching funds are the value of the donated fee and conservation easements on Tracts B, D and E, such value to be confirmed to the satisfaction of the State Property Office (57% match).

(**) No more than \$5,495 of CWMTF monies shall be paid to CLC for Project Administration. The request for payment must be substantiated by itemized documentation of CLC staff hours and hourly compensation rates (salary and fringe benefits) for time spent on project administration, along with proof of matching payment from the Grant Recipient. Only CLC staff time is reimbursable under this line item.

(***) Budget for annual monitoring costs: See Exhibit B.1, Worksheet for Annual Monitoring Costs attached hereto. Note Special Stewardship Condition: Monitoring costs, if any, shall be paid in accordance with the conditions set forth Exhibit I.A.13.

THE UNDERSIGNED HAS REVIEWED AND APPROVED THE BUDGET ON BEHALF OF THE GRANT RECIPIENT THIS THE 24TH DAY OF SEPTEMBER, 2008


SIGNATURE: 
NAME: FREDERICK BECKEN
TITLE: MANAGER / FINANCE OFFICER

Exhibit B.1
Monitoring Worksheet

Clean Water Management Trust Fund
Worksheet for Conservation Easement Annual Monitoring Costs
Adopted by the Clean Water Management Trust Fund Board of Trustees Nov. 14, 2005

Annual Monitoring Costs Calculations:

		Quantity	Rate	Cost
1. Staff time (includes salary and benefits)				
A.	Staff time prior to visit (includes landowner contact and file review)	2 Hour	\$40.00	\$80.00
B.	Staff time to monitor easement (includes travel, discussions with landowner, considers size of tract, number of parcels, terrain, etc.)	5 Hour	\$40.00	\$200.00
C.	Staff time post-visit (includes completing report, submitting documentation)	2 Hour	\$40.00	\$80.00
2. Travel Costs for a Site Visit				
A.	Reimbursement per mile (per IRS guidelines)	50 miles	\$0.49	\$24.50
3. Supplies				
A.	Film purchase and developing costs, aerial photos, etc.			\$100.00
4. Easement Management/Enforcement of Minor Violations				
5. Re-post Boundary Markers				
A.	Staff time	2 Hour	\$40.00	\$80.00
B.	Supplies			\$100.00
6. Site Management				
A.	Site specific management plans and reserved rights (only with prior approval of CWMTF Board of Trustees)			

Total Annual Monitoring Costs:

\$1,065 Per Year

EXHIBIT C



cleanwater
MANAGEMENT TRUST FUND

Grant No: _____

Grant Applicant: _____

Brief Description of Property: _____

Pre Fund Disbursement Checklist

Documents to Be Submitted to CWMTF Before any Funds can be Disbursed under the Grant

____ 1. **Authorization Documents.** As a local government or other political subdivision of the State of North Carolina, or a combination of such entities, the Grant Recipient shall provide the Trust Fund authorization from the governing board or other appropriate authority to perform the functions and obligations of Grant Recipient set out in this Grant Agreement.

____ 2. **Matching Funds.** Proof of availability of matching funds, if required by the Grant Agreement.

____ 3. **Compliance with Prior Grant Award Requirements.** This is a determination made by CWMTF staff and board based on evidence that the Grant Recipient has properly completed and filed all documents, reports and requests associated with any prior Trust Fund awards.

____ 4. **Assurances for Non-Federally-Funded Contracts** (see Exhibit C.2)

____ 5. **Miscellaneous** (list below)

Note: Some of these items may have been supplied with your Grant application and/or may be on file with CWMTF. Please indicate on this checklist those items that have been previously supplied to CWMTF.

EXHIBIT C.1

NOT APPLICABLE

EXHIBIT C.2

ASSURANCES FOR NON-FEDERALLY FUNDED CONTRACTS

The Grant Recipient certifies that with regard to:

1. **DEBARMENT AND SUSPENSION** - To the best of its knowledge and belief that it and its principals:
 - (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State, or local government agency;
 - (b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. **LOBBYING** - To the best of his or her knowledge and belief, that:
 - (a) No Federal, State or local government appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal, State or local government agency; a member of Congress, North Carolina's General Assembly or local government body; an officer or employee of Congress, North Carolina's General Assembly or local government body, or an employee of a member of Congress, North Carolina's General Assembly or local government body, in connection with the awarding of any Federal, State or local government contract, the making of any Federal, State or local government grant, the making of any Federal, State or local government loan, the entering into of any Federal, State or local government cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal, State or local government contract, grant, loan, or cooperative agreement.

- (b) If any funds other than Federal, State or local government appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency; a member of Congress, North Carolina's General Assembly or local government body; an officer or employee of Congress, North Carolina's General Assembly or local government body; or an employee of a member of Congress, North Carolina's General Assembly or local government body in connection with the Federal, State or local government contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

3. **DRUG-FREE WORK PLACE REQUIREMENTS** - It will comply by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grant Recipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing a drug-free awareness program to inform employees about -
 - (1) The dangers of drug abuse in the workplace;
 - (2) The Grant Recipient's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a) above;
- (d) Notifying the employee in the statement required by paragraph (a), above, that, as a condition of employment under the grant, the employee will -
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer of any criminal drug statue conviction for a violation occurring in the workplace no later than five days after such conviction;
- (e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2), above, from an employee or otherwise receiving actual notice of such conviction;

- (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), above with respect to any employee who is so convicted -
 - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f), above.

AND

- 4. Will comply with the provisions of the Equal Employment Practices Act set out in NCGS Chapter 143, Article 49A.
- 5. Will comply, as applicable, with the provisions of the Wage and Hour Act, Occupational Safety and Health Act of North Carolina, Controlled Substance Examination Regulation, Retaliatory Employment Discrimination, Safety and Health Programs and Committees, Workplace Violence Prevention, and other applicable provisions of NCGS Chapter 95 regarding labor standards.
- 6. Will comply with all applicable requirements of all other federal, state and local government laws, executive orders, regulations and policies governing this program.

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

1. Grant Recipient Name & Address:

2. Typed Name and Title of Authorized Representative:

3. Signature of Authorized Representative:

4. Date:

EXHIBIT D



cleanwater
MANAGEMENT TRUST FUND

Grant No. _____

Grant Applicant: _____

Brief Description of Property: _____

**Pre-Closing Instructions for Fee and Easement Acquisitions –
Documents to Be Submitted to CWMTF**

____ 1. Purchase Agreement or Option. Copy of the Purchase Agreement or Option to Purchase Real Estate between the Grant Recipient and the Property owner (“Owner” or “Seller”) which sets forth the terms of the Acquisition. The purchase agreement or option should be conditioned on the approval of an appraisal by the State Property Office (“SPO”) substantiating the purchase price, as well as on the receipt of CWMTF Grant funds for the Project.

____ 2. Notice of Intention to Exercise Option. If applicable, a copy of the notice to the Owner of Grant Recipient’s intention to exercise the option.

____ 3. Owner’s Vesting Deed. Copy of the recorded deed or other instrument of conveyance evidencing vesting of ownership of the Property in the Owner.

____ 4. General Warranty Deed. Proposed general warranty deed or other instrument of conveyance to the Grant Recipient, satisfactory in form and substance to the Trust Fund in its sole discretion. The description must either be metes and bounds or refer to a recorded map or plat. The General Warranty Deed must indicate that Grant Recipient will own and possess fee simple title to the Property, free and clear of any liens, charges or encumbrances that would materially affect the use of the Property as set forth in the Grant Agreement and the Conservation Easement.

____ 5. Proposed Conservation Easement(s).

(a) For Property acquisition, the proposed Conservation Easement(s) showing the State (Grant Recipient or other entity approved by the Trust Fund if applicable) as grantee, in form and substance satisfactory to the Trust Fund;

(b) For Conservation Easement acquisitions, the proposed Conservation Easement(s) executed by Owner to the Grant Recipient (or other entity approved by the Trust Fund if applicable), in form and substance satisfactory to the Trust Fund, which shall include, without limitation, the following:

(i) The Conservation Easement shall convey such rights and establish such restrictions on the use of the Property as may be deemed by the Trust Fund or the State suitable to accomplish the purposes set out in Exhibit A;

(ii) The terms of the Conservation Easement shall allow, and Grant Recipient hereby agrees, to post visible signs along boundaries of the Property, satisfactory to the Trust Fund, that acknowledge participation of the Trust Fund in the purchase and protection of the Conservation Easement, and that the easement area created thereby will remain in its protected state;

(iii) The terms of the Conservation Easement shall prohibit Owner and/or Grant Recipient from use of the Property or any portion thereof, to satisfy compensatory mitigation requirements under 33 USC §1344 or NCGS §143-214.11;

(iv) The terms of the Conservation Easement shall allow representatives of the Trust Fund to access the area placed under said easement for the following purposes: (A) Monitoring and observing to determine compliance with the terms of the CWMTF Conservation Easement; (B) Enforcing said easement; and (C) Monitoring/sampling for water quality of any adjacent surface waters; and

(v) The terms of the CWMTF Conservation Easement shall allow representatives of the Trust Fund to examine any property rights purchased with the Grant funds.

6. Proposed Assignment of Conservation Easement. For Conservation Easement acquisitions, the proposed Assignment of the Conservation Easement (“Assignment”) executed by Grant Recipient to the State as assignee in form satisfactory to the Trust Fund. The Grant Recipient shall retain the non-exclusive rights to monitor, observe, and access the Property and the easement area. The Grant Recipient shall be responsible for retaining records that are in any way related to the Grant or the Property. The Trust Fund shall be allowed to review the activities of the Grant Recipient pursuant to the Grant, including records in any way related to the Grant or the Property.

7. Title Insurance.

(a) For Fee Acquisition: A standard American Land Title Association (“ALTA”) commitment (“Title Commitment”) to issue a policy of title insurance (“Title Policy”) from a company approved by the Trust Fund showing that title to the Property is vested in the Grant Recipient, and insuring the Conservation Easement interest in the State. Neither the Title Commitment nor the Title Policy shall contain an exception as to matters of survey. They shall provide for the following: (i) afford coverage to the State for the portion of the Grant funds used to purchase the Property; (ii) list only those title exceptions acceptable to the Trust Fund; (iii) include insurance of all appurtenant easements, if any, (iv) provide affirmative coverage for access over, upon, and across the Property to and from the Conservation Easement area, and from the Property to a publicly-maintained road; (v) contain such additional endorsements as the Trust Fund may require; and (vi) provide that a Closing Protection Letter will be issued to the Trust Fund pursuant to NCGS Chapter 58, Article 26.

(b) For Conservation Easement Acquisitions: A Title Commitment to be followed post Closing by a Title Policy showing that title to the Property is vested in the Owner, and insuring the Conservation Easement interest. The Title Policy shall be issued by a company approved by the Trust Fund, without exception as to matters of survey, and shall provide for the following: (i) afford coverage to the State for the portion of the Grant used to purchase the Conservation Easement; (ii) list only those title exceptions acceptable to the Trust Fund; (iii) include insurance of all appurtenant easements, if any, (iv) provide affirmative coverage for access over, upon and across the Property, to and from the Conservation Easement Area, and from the Property to a publicly-maintained road, (v) contain such additional endorsements as the Trust Fund may require, and (vi) provide that a Closing Protection Letter will be issued to the Trust Fund pursuant to Chapter 58, Article 26 of the North Carolina General Statutes.

8. Title Exceptions. Copies of all recorded documents creating exceptions to the Title Commitment. The Title Policy shall list only those title exceptions acceptable to the Trust Fund. Third party mineral rights are not an approved exception unless specific approval for same is given by the Trust Fund’s Board of Trustees in advance of Closing.

9. Survey. Three (3) copies of a complete and accurate survey of the Property (and Conservation Easement if applicable) made within 90 days prior to Closing. Two full-sized Surveys and one 8 ½ by 11-inch Survey shall be provided. The Survey shall be in recordable form and shall depict a metes and bounds description. The Survey shall be in accordance with the latest version of NCAC Title 21 Chapter 56.1600 – Standards of Practice for Land Surveying in North Carolina; in particular Paragraph 21-56.1602(g).

The survey shall display the Property Identification Number (PIN), shall show the Grant Agreement number in the title block, and name the Trust Fund as the source of funds for the conservation of the Property. The survey shall tie the point of beginning of the Conservation Easement to a point on the Owner's Property line. It shall specify the length of any of the Property's or Conservation Easement's boundaries shared with surface waters, and the total length of stream buffered, depicting separately the length of stream segments buffered on one side of the stream, and the length of stream segments buffered on two sides of the stream. **If possible, the survey shall be provided in electronic as well as paper format.**

____ 10. **Appraisal.** Appraisals of the value of the Property (or the Conservation Easement as applicable) satisfactory to the Trust Fund, performed by an independent certified appraiser acceptable to the Trust Fund, and consistent with regulations or policies of the SPO and policies of the Trust Fund, *specifically in the "complete summary appraisal" format in accordance with Uniform Standards of Professional Appraisal Practice (USPAP).* Two (2) appraisals are required if the value of the Property or the Conservation Easement is greater than \$500,000.00. All appraisals should be forwarded to the Trust Fund as soon as possible, but no later than 60 days prior to the anticipated Closing date. The appraisal should reflect the fair market value of the Property or the Conservation Easement. Appraisals of the Conservation Easement should reflect the "before and after" approach. All appraisals are subject to review by the SPO. At the discretion of the Trust Fund, the Grant Recipient may be required to amend or update the appraisal. The Grant Recipient specifically acknowledges that the Grant is contingent upon approval of the appraised value by the SPO. Further, no Grant funds will be disbursed until the appraised value has been approved in writing by the SPO. Please provide two (2) copies of each appraisal obtained. **Please ask the appraiser to include CWMTF as an authorized user of the appraisal.**

____ 11. **Environmental Report.** A Phase I Environmental Site Assessment ("ESA") evaluating the environmental condition of the Property, prepared by a qualified professional, and satisfactory in form and substance to the Trust Fund. The ESA shall conform to the requirements of the latest version of ASTM Standard E-1527 (E1527-2005 at the time of this Contract) or to 40 CFR Part 312 (the EPA's AAI Rule). Matters of concern identified in the ESA shall be addressed by the Grant Recipient in a letter to the Trust Fund, stating Grant Recipient's method of and schedule for remedying each matter of concern. The Trust Fund reserves the right to require the Grant Recipient to remedy any concerns prior to or subsequent to Closing. Please provide two (2) copies of the ESA. **Please ask the preparer to include CWMTF as an authorized user of the report.**

____ 12. **Taxes and Assessments.** Evidence that no special assessments are due on the Property, and that ad valorem taxes have been paid through the year prior to Closing. Moreover, information as to PINs, tax account numbers, tax rates, estimated tax values, and the identities of the taxing authorities shall be provided (you may satisfy this requirement by supplying the tax or parcel card which should have been included with your application). If special assessments and/or ad valorem taxes are due at the time of Closing, they must be shown on the Closing statement and paid as part of the Closing. A paid receipt must be provided to the Trust Fund as part of the post-Closing documentation.

____ 13. **Proposed Closing statement.** Proposed settlement costs; must attach copies of invoices for all items to be paid at Closing.

____ 14. **Closing Attorney.** Name, address, and telephone number of the Closing attorney along with the place, date, and time of Closing. **Please have your attorney call CWMTF's Real Property Counsel to review these Closing instructions as soon as this Grant Agreement is finalized**

____ 15. **Request for Grant Funds.** A written request for the amount of Grant monies shown on the Closing statement, including the invoice form attached to your Grant Agreement as Exhibit K.

____ 16. **Seller's/Owner's Affidavit.** A proposed affidavit to be signed and acknowledged by the Seller/Owner at Closing, made to Grant Recipient, Trust Fund and the State, stating that to the best of Seller's/Owner's knowledge after appropriate inquiry and investigation: (a) the Property described herein is in full compliance with all federal, state and local environmental laws and regulations; (b) there are no hazardous materials, substances, wastes or other environmentally regulated substances, including, without limitation, any

materials containing asbestos, located on, in or under the Property or used in connection therewith, (c) that there is no environmental condition existing on the Property that may prohibit or impede use of the Property for the purposes set forth in this Grant Agreement; and (d) neither the Property, nor any portion thereof, is or shall be used to satisfy mitigation requirements under 33 USC §1344 or NCGS §143-214.11.

- _____ 17. Proposed Attorney's Opinion Letter. A third party legal opinion letter prepared by the Closing attorney on his letterhead for the benefit of the Trust Fund, using the Trust Fund's form.

- _____ 18. Certificate of Existence. Issued by Office of North Carolina Secretary of State and dated within 30 days of closing.

- _____ 19. Baseline Documentation Report. Proposed baseline documentation report in the format set forth on Exhibit F.

- _____ 20. Transaction Resolution. Corporate resolution authorizing purchase of Property/Conservation Easement (and assignment of Conservation Easement if applicable) that is the subject of the Closing at hand.

- _____ 21. Zoning Compliance. A letter from the appropriate zoning official (on his/her letterhead) stating the zoning classification of the Property, and that the uses specified in the Conservation Easement are allowable uses under the zoning ordinance.

- _____ 22. Other Documentation. Such other documentation as the Trust Fund in its discretion may require. If any, list: _____

(Please note: Contact CWMTF to review this checklist prior to Closing; some of the listed items may not apply to every acquisition. Your request for Grant funds will be processed only upon receipt of all applicable items. Items number 4-6 and 8-12 must be received 45 days prior to your anticipated Closing date, as a reasonable amount of time must be allowed for CWMTF to make its review and process your request for grant funds. Once your request has been processed, please allow 10 to 15 business days to receive your check. Upon receipt, you must handle the Closing funds in accordance with a written letter of instruction that will be issued to you and the Closing attorney. You may not set a Closing date until the Closing attorney is in receipt of the Grant funds needed for Closing. CWMTF may not honor Closing dates that have been pre-determined by you and the Seller or scheduled without our approval.

EXHIBIT E



cleanwater
MANAGEMENT TRUST FUND

Grant No. _____ Grant Applicant: _____

Brief Description of Property: _____

Post-Closing Instructions for Fee Simple and Easement Acquisitions
Documents to be submitted to CWMTF after each Closing – Submit in Duplicate

- ___ 1. **Copy of Recorded General Warranty Deed into Grant Recipient**
- ___ 2. **Original Recorded Conservation Easement**
- ___ 3. **Original Recorded Assignment**
- ___ 4. **Survey (recorded and electronic copies)**
- ___ 5. **Final Signed Closing Statement**
- ___ 6. **Title Policy**
- ___ 7. **Signed Seller's/Grant Recipient's Affidavit**
- ___ 8. **Receipt for Taxes and Special Assessments paid, if any**
- ___ 9. **Signed Baseline Documentation Report.** Signed copy of baseline documentation report in the format set forth on Exhibit F, signed contemporaneously with Closing.
- ___ 10. **Final Attorney's Opinion Letter** (after approval by CWMTF and signed by Closing attorney)
- ___ 11. **Other (list):** _____

(Please note: Please review your Closing instructions and documents with CWMTF prior to Closing, as some of the above-listed items may not be applicable to your Project. Contact CWMTF with concerns and questions.)

FOR CWMTF USE ONLY:

Documents sent to Everette Moore – SPO Date: _____

EXHIBIT F



**BASELINE DOCUMENTATION REPORT
GENERAL OUTLINE**

The volume and specificity of information required by the baseline documentation report (BDR) will vary depending on the terms of the easement and the conservation objectives at the site. The intent of this format is to allow flexibility in the documentation technique and to correlate the quantity and nature of the documentation to the terms of the easement.

I. Title Page: Title of Easement (as the Grant Recipient has it filed), date of BDR surveyors(s) and their affiliations.

II. Purpose of the Conservation Easement: This sets the stage for the report, and summarizes the purpose of protecting the property (i.e., recite conservation values as stated in the easement document). Include a summary of reserved rights and restrictions.

III. Property Background Information:

- A. Acreage of property, or acreage of easement area (if different)
- B. Directions to property from land trust monitoring office.
- C. Note County, US Geological Survey quad, watershed.
- D. Note date of site visit (for BDR), and the dates of any updates to BDR.
- E. Legal description of the property, property deed/book page and the recording date of the easement.
- F. Phase I report, if available.

IV. Landowner Information: Names, addresses and phone numbers of landowners (contact information). May also want to include names and phone numbers of any land managers, gatekeepers, etc.

V. Location and Physical Setting: General description of the landscape and surrounding area, including adjacent land use.

VI. Existing Human Modifications: Highlight all structures, roads, trails, dikes and impoundments, watercourses (ditches), lakes, ponds, wells, fences, utility lines and corridors, cemeteries, dumps, etc. within the easement area.

VII. Prior Land Use: Obtain information from the landowner on history of property and its past land use, if available.

VIII. Existing Land Use and Management Plan:

- A. Landowner's objectives for the property.
- B. Present land use (agriculture, forest management, wildlife management) along with copies of any existing management plans (e.g., forestry plans, prescribed burning plans, agricultural

conservation plans, stewardship plans, etc.). Obtain copies and include as an Appendix to the BDR if available.

IX. Natural Features:

- A. Note any natural heritage areas and element occurrences.
- B. Note aquatic resources, including location of streams, water bodies and wetlands and general condition of water quality. Quality of the streams from a regulatory perspective must be included for EEP easements. Wetlands assessment and description of stream condition are needed for the baseline document.
- C. Forest or natural community types (If there are rare natural communities, note specific locations and include a botanical list. Note presence of any exotic plant species, if known. Note specific locations of both on site maps).
- D. Rare species habitat (If there are known rare plant species present, identify specific habitat types and locations and include botanical list).
- E. Wildlife species habitat and general list.
- F. Note major soil types in easement area.
- G. Note special status of any of the site's natural features (i.e. Outstanding Resource Waters).

X. Archeological and Historical Features: Note any significant archeological, cultural and/or historical features on property.

XI. Photographic documentation: This is a photographic record of the protected property that is periodically updated. This section should include photos that are easily replicable (from roads or permanent features, or using GPS waypoints).

- A. Photos should be numbered and a compass direction should be included to note the direction the photo was taken.
- B. Include a photograph index with descriptions.
- C. Include photographs of streamside vegetation, including stream banks and representative riffle and pool sequences. Photograph any problem areas with eroding stream banks on site maps so that they can be relocated easily.

XII. Maps:

- A. Photo documentation map (note location of all photo points, preferably on a survey)
- B. Road map, general location map for directions to property
- C. Current aerial photo or orthophoto of property (including boundaries marked)
- D. USGS 7.5-minute topo map of property (with boundaries marked)
- E. Map identifying major human modifications and improvements
- F. Map of easement area within property (if different) or a map highlighting areas with specific restrictions (i.e., riparian buffer areas, rare species habitats)
- G. Stand maps or forest type maps, or farm maps, if available
- H. Map of natural communities.
- I. General soils map.

XIII. Signed Copy of Owner Acknowledgement of Condition (Property Condition Certification form): This document acknowledges that the landowner agrees with the BDR and the condition of the property at the time an easement is placed on the property. The document is also used as an exhibit to the Conservation Easement and copies should be signed by the landowner and land trust at Closing.

EXHIBIT G
Progress/Final Report Form
(See next page)



North Carolina Clean Water Management Trust Fund

Quarterly Progress Report Form and Final Report Cover Sheet

Report Period: _____ to _____ **(to be filed every three months from the effective date of the contract as well as with every request for reimbursement)**

Date Submitted: _____

CWMTF Project Number: _____

Grant Recipient: _____

Primary Contact: _____

Address: _____

Phone: _____

E-mail: _____

Brief Project Description: _____

Effective Date of Contract: _____ End Date of Contract: _____

Anticipated Completion Date: _____

Check One:

Progress Report

Final Report – In addition to this report form, the final report **MUST** include all information as outlined in the Final Report requirements section of the grant agreement. Please refer to that information for full details on preparing a final report.

Project Status (Check one under each category below):

Project Schedule

- (1) _____ Project on schedule
- (2) _____ Project delayed
- (3) _____ Project canceled
- (4) _____ Project complete

Project Cost Status

- (1) _____ Cost unchanged
- (2) _____ Cost overrun
- (3) _____ Cost underrun

Narrative Progress Report. (Please provide a complete and detailed narrative status report on the project for the current reporting period. Include all progress made, problems encountered, resolution to those problems, as well as an update on the next steps for the project. Also address anticipated problems or concerns. Attach additional sheets as necessary. Attach any relevant photographs, charts or other documentation that helps demonstrate the status of the project.)

Signature – Authorized Signer _____

Date _____

EXHIBIT H ADDITIONAL DEFINITIONS

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

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

**EXHIBIT I
GENERAL TERMS AND CONDITIONS**

A. Affirmative Covenants

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

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

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

4. **Right of Entry and Inspections.** The Grant Recipient shall permit representatives of the Trust Fund to visit the Property to examine it and any other premises of the Grant Recipient to review the activities of the Grant Recipient pursuant to the Grant, including books and records in any way related to the Grant or the Property.

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

6. Signage. Grant Recipient agrees to post visible signs along boundaries of the Property that acknowledge the Trust Fund as the source of monies for conservation of the Property.

7. Publicity. To the extent possible, the Grant Recipient will use its best efforts to appropriately publicize the Project's water quality benefits to the general public, local government and state representatives, including the role of the Trust Fund in the funding and development of the project. **At least ten (10) days prior to any planned event involving the Project, the Grant Recipient shall notify the Trust Fund's Public Information Officer of the event (919.733.6375).**

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

9. Compliance with Reporting Requirements. Grant Recipient shall comply with the reporting requirements contained in Section 9 of the Grant Agreement, and all other reporting requirements applicable under North Carolina law.

10. Books and Records. The Grant Recipient agrees to maintain and make available to the Trust Fund at all reasonable times all documents, books, and records of all expenditures for costs applicable to this Grant Agreement, and to submit properly certified billings for such costs on forms prescribed by the Trust Fund and supported by detailed data sheets which will facilitate the audit of the Grant Recipient's records.

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

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

13. Stewardship Costs and Expenses. Grant Recipient acknowledges and agrees to the following terms and conditions under which stewardship expenses and costs may be reimbursed: (a) Grant Recipient may receive reimbursement for stewardship expenses and costs according to the conditions set forth in this paragraph and on Exhibit A, and the budget set forth on Exhibit B, unless otherwise amended; (b) Grant Recipient specifically acknowledges that the stewardship expenses and costs contemplated by this Grant Agreement **will not be reimbursed** as a lump sum to the Grant Recipient or its assigns until the Trust Fund's Board of Trustees adopts a final policy on stewardship. The Board's final policy on stewardship may result in either a change in the amount of stewardship funding or in the way in which stewardship funds are disbursed, and (c) Grant Recipient shall restrict spending of stewardship funds to the reasonable costs of stewardship of the Property. Until such time as the Trust Fund adopts its final stewardship policy, annual monitoring expenses may be paid upon proper application and pursuant to the Annual Monitoring Calculation Worksheet attached hereto as Exhibit B.1.

B. Representations and Warranties

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

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

C. Termination; Events of Default

1. Termination by Mutual Consent. The Parties may terminate this Contract by mutual written consent with 60 days prior notice, or as otherwise provided by law.

2. Termination for Cause. The happening of any of the following, after the expiration of any applicable cure period without the cure thereof, shall constitute an event of default ("Event(s) of Default") by the Grant Recipient of its obligations to the Trust Fund, and shall entitle the Trust Fund to exercise all rights and remedies under this Grant Agreement and as otherwise available at law or equity:

(a) Property Unsuitable. A determination by the Trust Fund, prior to the Closing that the Property is unsuitable for the purpose for which this Grant Agreement is made.

(b) Unsuitable Use. The Property is used in a manner materially inconsistent with the purposes of this Grant Agreement or the Conservation Easement.

(c) Default in Performance. The default by the Grant Recipient in the observance or performance of any of the terms, conditions or covenants of the Grant Agreement, including, without limitation, a failure to satisfy any condition precedent to disbursement or reimbursement set forth in conditions 5 and 6 thereof; provided, however, that no such default shall occur until the Grant Recipient has been given written notice of the default and thirty (30) days to cure have elapsed.

(d) Misrepresentation. If any representation or warranty made by the Grant Recipient in connection with the Grant or any information, certificate, statement or report heretofore or hereafter made shall be untrue or misleading in any material respect at the time made.

(e) Eligibility of Grant Recipient. If Grant Recipient ceases to be qualified to receive Grant funds or is dissolved or otherwise ceases to exist.

(f) Failure to Monitor Conservation Easement. If the Grant Recipient fails to notify the Trust Fund of any potential violation of the Conservation Easement.

D. The Trust Fund's Rights and Remedies

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

1. Default Prior to Closing. If an Event of Default occurs prior to Closing, the Trust Fund may, at its discretion, suspend and/or terminate all obligations of the Trust Fund hereunder and Grant Recipient shall immediately refund all money previously paid to the Grant Recipient under this Grant Agreement. If in the judgment of the Trust Fund, such failure was due to no fault of the Grant Recipient, amounts required to resolve, at minimum

costs, any irrevocable obligations properly incurred by Grant Recipient shall, in the discretion of the Trust Fund, be eligible for reimbursement under this Grant Agreement.

2. Default Subsequent to Closing.

(a) If an Event of Default occurs subsequent to Closing of a Conservation Easement assigned to the State, the Trust Fund or State shall be entitled to maintain and enforce its rights under the Conservation Easement, in which case the Trust Fund shall have no right to receive any reimbursement, refund or repayment of any money paid Grant Recipient under this Grant Agreement.

(b) If an Event of Default occurs subsequent to the Closing and Grant Recipient has received title to the Property, then the Grant Recipient shall convey and transfer to the State or designee all its underlying fee simple title to the Property, by general warranty deed, free and clear of any liens, charges or encumbrances that would materially affect the use of the Property as set forth in the Conservation Easement, in which case the Trust Fund shall have no right to receive any reimbursement, refund, or repayment of any money paid to Grant Recipient under this Grant Agreement.

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

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

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

E. Miscellaneous

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

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

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

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

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

6. **Indemnity.** The Grant Recipient agrees, to the fullest extent permitted by law, to release, defend, protect, indemnify and hold harmless the State, the Trust Fund, its Trustees, employees and agents against claims, losses, liabilities, damages, and costs, including reasonable attorney fees, which result from or arise out of: (a) damages or injuries to persons or property caused by the negligent acts or omissions of Grant Recipient, its employees, or agents in use or management of the Property; or (b) use or presence of any hazardous substance, waste or other regulated material in, under or on the Property. The obligations under this Section are independent of all other rights or obligations set forth herein. This

indemnity shall survive the disbursement of the Grant funds, as well as any termination of this Grant Agreement.

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

8. Binding Effect, Contract Assignable. The terms hereof shall be binding upon and inure to the benefit of the successors, assigns, and personal representatives of the Parties; provided, however, that the Grant Recipient may not assign this Grant Agreement or any of its rights, interests, duties or obligations hereunder or any Grant proceeds or other moneys to be advanced hereunder in whole or in part without the prior written consent of the Trust Fund, which may be withheld for any reason and that any such assignment (whether voluntary or by operation of law) without said consent shall be void.

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

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

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

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

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

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

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

EXHIBIT J

Not Applicable

Exhibit K: CWMTF Request for Payment/Reimbursement Form

Project Name: _____
 CWMTF # _____
 Town of Mineral Springs - Wolf and Bates Branch Greenway
 Contract Expiration Date _____
 Payment Request Number & Date _____
 Request No.: _____
 Date: _____
 2007-021
 31-Jan-10

CWMTF FUNDS: \$307,000		Amount CWMTF Funds Remaining: \$307,000.00	
Activity	a	b	c
	CWMTF Budget	Previously Spent from CWMTF Budget	Total spent this invoice period from CWMTF Budget
			d
Property / Conservation Easement Acquisition	\$271,440.00	\$0.00	\$0.00
Appraisals	\$3,000.00	\$0.00	\$0.00
Surveys and Legal Descriptions	\$13,000.00	\$0.00	\$0.00
Phase 1 Environmental Site Assessments	\$5,000.00	\$0.00	\$0.00
Baseline Documentation Report	\$1,000.00	\$0.00	\$0.00
Legal Fees & Closing Costs (includes title insurance, opinion letter and recording fees)	\$7,000.00	\$0.00	\$0.00
Stewardship Expenses	\$1,085.00	\$0.00	\$0.00
Project Administration	\$5,495.00	\$0.00	\$0.00
Total	\$307,000.00	\$0.00	\$0.00
			Amount Requested this Invoice
			\$0.00

ALL MATCHING FUNDS: \$412,616		Amount Matching Funds Remaining: \$412,515.00	
Activity	e	f	g
	Matching Funds Budget	Previously Spent from Matching Funds	Total spent this invoice period from Matching Funds
			h
Property / Conservation Easement Acquisition	\$410,750.00	\$0.00	\$0.00
Appraisals	\$0.00	\$0.00	\$0.00
Surveys and Legal Descriptions	\$0.00	\$0.00	\$0.00
Phase 1 Environmental Site Assessments	\$0.00	\$0.00	\$0.00
Baseline Documentation Report	\$1,000.00	\$0.00	\$0.00
Legal Fees & Closing Costs (includes title insurance, opinion letter and recording fees)	\$0.00	\$0.00	\$0.00
Stewardship Expenses	\$0.00	\$0.00	\$0.00
Project Administration	\$765	\$0.00	\$0.00
Total	\$412,515.00	\$0.00	\$0.00

- 1) Please initial that the detailed narrative progress reports and backup invoices are attached _____
 2) Please initial that documents required in Exhibit C of the contract have been submitted _____
 3) Please initial if you are requesting a budget change and attach your version of the revised budget _____
 (Note that budget revisions may not exceed total funded amount or decrease funded stewardship amount!)

Submitted by: _____
 Title _____
 Signature: _____
 E-mail Address: _____
 Telephone Number: _____

Please fill in Parts 1, 2 & 3 and send, along with necessary backup, to:

Clean Water Management Trust Fund
 1851 Mall Service Center
 Raleigh NC 27689-1851

Please direct questions about this form to the Real Property Paralegal, Cheryl Johnson, at (919)715-5808 or Cheryl.M.Johnson@ncmail.net