

Mountain Creek Park
RFP #16-1011
CATAWBA COUNTY, NC

April 20, 2016

The following clarifications, amendments, additions, deletions, revisions and modifications are hereby made a part of the bid form, and change the original bid only in the manner and to the extent stated below:

ADDENDUM #2

The Duke Energy / Crescent Development agreement dealt with four properties: three properties had development restrictions and the fourth (Mountain Creek) dealt with helping the County obtain the park property. The original agreement can be seen on line at:

<http://www.catawbacountync.gov/Planning/Projects/Development/DevelopmentAgreement.pdf>

Since the agreement, the County received the park property, and Crescent has sold, or is in the process of selling the other three parcels to other developers.

The Clean Water Trust Fund document is attached. The restrictions are not as severe as the “purple lines” on the map given to the consultants imply. We highlighted sections we feel are most significant to this process.

Debbie Anderson, Purchasing Manager

Date mailed to Grant Recipient: 4-14-2010

Grant Recipient: County of Catawba

CWMTF No.: 2008-006

Points To Remember As You Administer Your Clean Water Management Trust Fund Grant Agreement

Read your enclosed grant agreement contract in its entirety and understand all of your requirements and obligations under the agreement.

Additional resources are available on our web site at: www.cwmtf.net

- *****BEFORE ANY FUNDS CAN BE DISBURSED** from the grant, you must first meet certain "Pre-Disbursement" requirements as outlined in Exhibit(s): C
- of the grant agreement contract.***
- Progress Reports are due to the CWMTF office every three months regardless if you are seeking reimbursement from the grant.
- To seek reimbursement, please follow the guidelines as outlined on pages 4-5.

With each reimbursement request you must submit:

- Progress Report (Exhibit G)
- Invoice form complete and signed (must report on CWMTF AND matching funds expended) (Exhibit K)
- Supporting/back-up documentation (substantiating invoices) of cost incurred for both CWMTF AND matching funds.
- Copies of document(s) for which you are seeking cost reimbursement (such as appraisals and surveys) in the format as described in the grant agreement
- FUNDS FOR CLOSING: You will have to have met all Closing Requirements as required and approved by the CWMTF Acquisitions Legal Staff
- Remove sales tax from the reporting (when your organization/agency is later going to receive that sales tax as a refund from the NC Department of Revenue)

Please note: All requests for reimbursement are processed in as timely manner as possible and in order as received into the CWMTF Raleigh office. Requests for reimbursement that are properly submitted with all substantiating information and presented in a clear and understandable manner will be more easily (and therefore more quickly) processed.

Grant contract expiration date: May 31, 2011

We lookforward to a successful project!



AMENDMENT NO. 1
CLEAN WATER MANAGEMENT TRUST FUND
GRANT AGREEMENT No. 2008-006
DENR Contract No. GA 10084

WHEREAS, North Carolina Clean Water Management Trust Fund, an independent agency of the State of North Carolina {"Trust Fund"}) has entered into the above-captioned Grant Agreement with Catawba County, a North Carolina body politic and corporate organized pursuant to NCGS 153A, (the "Grant Recipient" or "County"), for the purchase of property/conservation easements and costs associated therewith on certain lands located in Catawba County and described in the Grant Agreement; and

WHEREAS, in a letter dated February 8, 2010 and signed by the Manager of Catawba County and the Executive Director of the Catawba Lands Conservancy, Grant Recipient requested a decrease of \$500,729.00 in the Trust Fund's original Grant award; and

WHEREAS, in the same letter the Grant Recipient identified an increase in the matching funds by more than \$793,000; and

WHEREAS, the parties hereto desire to amend the Grant Agreement to reduce the amount of the Grant, and to revise the budget so as to reflect the reduced Grant amount and the increased matching funds.

NOW, THEREFORE, the parties mutually agree and said Grant Agreement is amended accordingly:

1. Grant Amount: The Fund shall decrease the Grant amount by \$500,729.00. The amount of the Grant shall not exceed \$2,128,272.00.
2. Matching funds provided by the Grant Recipient shall be equal to \$2,552,674. 00.
3. Exhibit B containing the Project Budget is hereby deleted in its entirety and replaced with the attached Amended Exhibit B containing the Amended Project Budget.

It is the intent of this Amendment to address only the provision listed above, and in no way should this Amendment be construed to further modify this Grant Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be signed in four (4) counterpart originals intending to be bound thereby, effective as of the date and year first above-written.

GRANT RECIPIENT:

CATAWBA COUNTY,
a North Carolina body politic and corporate

By: J. J. [Signature] (SEAL)
Name: [Signature]
Title: County Manager

TRUST FUND:

NC CLEAN WATER MANAGEMENT TRUST FUND,
An independent state agency

By: [Signature] (SEAL)
Name: Richard E. Rogers, Jr.
Title: Executive Director

Return four (4) signed Amendments to: Penny Adams, Executive Assistant to Richard E. Rogers, Jr., Clean Water Management Trust Fund, 1651 Mail Service Center, Raleigh, North Carolina 27699-1651.

AMENDED EXHIBIT B
Amended Project Budget

Item	CWMTF Grant Amount	Matching Funds (*)	Total Project Cost
1. Property/Conservation Easement Acquisition	\$2,030,372	\$2,453,628	\$4,484,000
2. Appraisals	\$3,000	\$4,930	\$7,930
3. Surveys and Legal Descriptions	\$3,000	\$32,530	\$35,530
4. Phase 1 Environmental Site Assessment	\$3,000	\$0	\$3,000
5. Legal Fees & Closing Costs (includes Attorney's Opinion Letter, Title Insurance & Recording Fees)	\$14,900	\$2,886	\$17,786
6. Stewardship Endowment (**)	\$68,000	\$10,000	\$78,000
7. Baseline Documentation Report	\$6,000	\$13,700	\$19,700
8. Property Management (***)	\$0	\$25,000	\$25,000
9. Project Administration (****)	\$0	\$10,000	\$10,000
Totals	\$2,128,272	\$2,552,674	\$4,680,946

Budget Notes:

(*) Source and dollar amounts of matching funds: Match will be (1) cash contribution of \$1,119,628.00 from Duke Energy; (2) cash contribution of \$150,000.00 from Grant Recipient; (3) cash contribution of \$49,160.00 from Crescent Resources, LLC; (4) cash contribution of \$2,886.00 from the CLC; (5) Mtn. Creek bargain sale value \$884,000; (6) CLC Conservation Easement donated by Crescent Resources, LLC to CLC valued at \$300,000.00 ; (7) in-kind services from the Grant Recipient valued at \$29,000 for Property management and Project administration; (8) In-kind services from CLC valued at \$18,000 for stewardship and Project administration (55% match). The values of CWMTF Conservation Easement and the CLC Conservation Easement must be substantiated by appraisals approved by the State Property Office.

(**) Budget for stewardship and legal defense funds: See Annual Stewardship Calculation Worksheet attached hereto as Exhibit B.1. Note Exhibit A, special conditions 6 and 7 governing stewardship.

(***) Budget for Property management funds: See attached Exhibit B.2, budget for Property management funds.

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

THE UNDERSIGNED HAS REVIEWED AND APPROVED THE BUDGET ON BEHALF OF THE GRANT RECIPIENT THIS THE 30 DAY OF Wac.h, 2010

SIGNATURE:

'D're_r

42-10-0217

G-A 100



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

CWMTF PROJECT NUMBER: 2008-006

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: 919.571.6746; Fax: 919.571.6793
Email: robin.hammond@ncdenr.gov

GRANT RECIPIENT: County of Catawba, a North Carolina body politic and corporate organized pursuant to NCGS Chapter 153A, ("Grant Recipient" or "County").

CONTRACT ADMINISTRATOR: Mary K. George
Assistant Planning Director
County of Catawba
P.O. Box 389
Newton, NC 28658
Phone: 828.465.8264; Fax: 828.465.8484
Email: marv@catawbacountvnc.gov

FEDERAL I.D. NUMBER: 56-6001814

FISCAL YEAR END DATE: June 30

CONTRACT EFFECTIVE DATE: ~~Nov. 5, 2008~~ (the "Effective Date")
CONTRACT EXPIRATION DATE: May 31, 2009 (the "Expiration Date")

DEADLINE FOR RECEIPT BY CWMTF OF REIMBURSEMENT/PAYMENT REQUESTS: 11/15/08 (the "Reimbursement Date")

GRANT AMOUNT: up to \$2,629,000.00 (the "Grant")

APPROVAL DATE: November 10, 2008 (the "Approval Date")

TIDS 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").

W I T N E S S E T H:

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:

I. 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 Fwld'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 A.I -Mountain Creek Park Amenities Concept Plan
- e. Exhibit B -Project budget
- f. Exhibit B.1- Annual Stewardship Calculation Worksheet
- g. Exhibit B.2- Budget for Property Management
- h. Exhibit C -Pre-Funds Disbursement Checklist
- i. Exhibit C.1 -*Not Applicable*
- j. Exhibit C.2 -Assurances for Non-Federally-Funded Contracts
- k. Exhibit D-Pre-Closing Checklist
- l. Exhibit E -Post-Closing Checklist
- m. Exhibit F -Baseline Documentation Report outline
- n. Exhibit G -Progress/Final Report form
- o. Exhibit H -Additional Definitions
- p. Exhibit I -General Terms and Conditions
- q. Exhibit J -*Not Applicable, and*
- r. 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 appropnatIon, 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 wlder this Grant Agreement shall cease on tlte 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 Funds. The Acquisition and the recording of the General Warranty Deed, Conservation Easement and/or Assignment as may be applicable, shall be referred to herein as the "Closing."

- (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) 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 K.
- (c) CWMTF may, upon request, disburse Grant funds prior to actual Project payments by the Grant Recipient if costs are documented by unpaid third-party invoices. In order for CWMTF to disburse Grant funds to the Grant Recipient based upon unpaid third-party invoices, the Grant Recipient shall indicate its review and approval of the unpaid third-party invoice in writing, and certify to the Trust Fund that the unpaid third-party invoice will be paid within three (3) working days of receipt of the disbursed Grant funds. The Grant Recipient will confirm to the Trust Fund that the required payment has been made.

- (d) The Trust Fund agrees to pay or reimburse the Grant Recipient only for reasonable costs actually incurred by the Grant Recipient that do not exceed the Grant Funds budgeted for the Project as shown in Exhibit B.
- (e) Grant 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.
- (t) 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 subparagraph (b) hereof.
- (g) The Fund agrees to reimburse the Grant Recipient for Project administration costs consisting only of costs of labor for administrative work conducted exclusively on this Project. The Grant Recipient's requests for such reimbursement shall be made under the Project administration line item of Exhibit B and shall conform to the following:
 - (i) Costs allowable under the Project administration line item include only costs of labor needed to comply with the general conditions of the Grant Agreement (e.g., progress reports, payment requests, preparing the Project final report, revisions to the Grant Agreement). Allowable Project administration labor costs may include any of the following: a. compensation to the Grant Recipient's employees, plus the Grant Recipient's cost of paying benefits on such compensation (usually employees' pay times an audited or auditable benefits multiplier); b. compensation to Grant Recipient's independent contractors (e.g., temporary office support), payable at the Grant Recipient's actual cost, without application of a benefits multiplier; and/or c. cost of professional services contracted by the Grant Recipient (e.g., engineering firm or consultant), payable at the Grant Recipient's actual cost.
 - (ii) Costs of any other work described in the Project's scope of work as defined on Exhibit A are not allowable under the Project administration line item.

8. **Reversion of Unexpended 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.

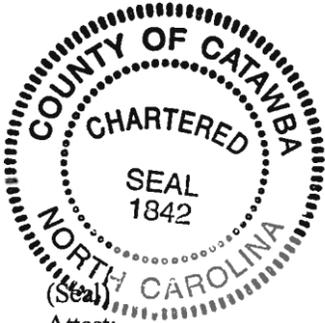
10. Notice. All notices, requests or other communications permitted or required to be made under this Grant Agreement or the other Grant Documents shall be given to the respective Contract Administrator. Notice shall be in writing, signed by the party giving such notice. Notice shall be deemed given 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:

COUNTY OF CATAWBA,
A North Carolina body politic and corporate



By: J 
Name: J. Thomas Lundy
Title: County Manager

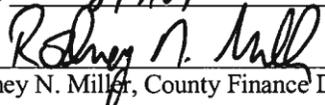
Attest

Clerk to County Board of Commissioners

APU:&:RM:

County Attorney

TIDS INSTRUMENT has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act as amended.

Date: 8/7/09

Rodney N. Miller, County Finance Director

TRUST FUND:

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

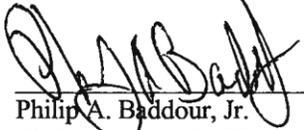
By:  (SEAL)
Name: Philip A. Baddour, Jr.
Title: Chairman, Board of Trustees

EXHIBIT A

Legal Description:

ALL THOSE CERTAIN parcels of land lying and being in Mountain Creek Township, Catawba County, North Carolina, and further identified as Tracts 5 ("Terrapin Creek Tract") and 16 ("Mountain Creek Tract") in that certain North Carolina Special Warranty Deed Correction Deed from Crescent Resources, Inc., and CLT Development Corp., Grantor to Carolina Centers, LLC, dated August 23, 1994 and recorded on August 23, 1994 at 2:22 pm in Book 1898, Page 427 of the Catawba County Registry, reference to which is hereby made for a more complete and accurate description. A survey of the Mountain Creek Tract is recorded in Plat Book 68 Pages 82-88 and the Terrapin Creek Tract survey is recorded in Plat Book 68 Pages 6-11, Catawba County Registry.

Project Description:

The Project is a public-private partnership among the Grant Recipient, Catawba Lands Conservancy ("CLC"), Duke Energy, Crescent Resources, and local colleges. It is a key component of Duke Energy's Federal Energy Regulatory Commission ("FERC") Relicensing Agreement for the Catawba-Wateree Hydro Project (FERC Project No. 2232) dated December 22, 2006. The Property is subject to a development agreement recorded in Book 2833 Page 286 of the Catawba County Registry. The development agreement extends until April 30, 2027 unless earlier terminated, thus placing the Property under a high threat of development. The Project will result in the establishment of three (3) Conservation Easements.

The Grant Recipient requested \$2,628,272.00 of a total cost of \$4,387,813.00 to purchase 589 acres of the Mountain Creek Tract in fee simple, and convey to the State acting by and through the Trust Fund a conservation easement on 265± acres thereof located along Mountain Creek (the "CWMTF Conservation Easement"). Also, a Conservation Easement on the remaining 325± upland acres of the Mountain Creek Tract is to be conveyed by the Grant Recipient to Catawba Lands Conservancy ("CLC"), (the "CLC Mountain Creek Conservation Easement"). As match, the Property owner will donate to CLC a Conservation Easement on the Terrapin Creek Tract establishing 130.3 acres, more or less of riparian buffer along Terrapin Creek ("CLC Terrapin Creek Conservation Easement"). The CLC Terrapin Creek Conservation Easement has an estimated value of \$390,867.00. Together, the CWMTF Conservation Easement and the CLC Terrapin Creek Conservation Easement will protect 395± riparian acres. Additional match will consist of: (1) a cash contribution of \$1,119,628.00 from Duke Energy as set forth both in the development agreement and the relicensing agreement for FERC Project No. 2232; (2) a cash contribution of \$49,160.00 from Crescent Resources, LLC; (3) a cash contribution of \$150,000.00 from Grant Recipient; (4) a cash contribution of \$2,886.00 from CLC; (5) in-kind services from the Grant Recipient valued at \$29,000.00; and (6) in-kind services from CLC valued at \$18,000.00, for a total match valued at \$1,759,541.00.

The Mountain Creek Tract, purchased in fee simple, will be managed by the Grant Recipient's Planning, Parks and Development Department for passive outdoor recreational opportunities, as well as educational programming, subject to the terms and conditions of the CWMTF Conservation Easement. This area will also provide public access to Lake Norman in Catawba County, and may provide access to the Carolina Thread Trail. Grant Recipient will monitor the CWMTF Conservation Easement in perpetuity. CLC will monitor the CLC Conservation Easement in perpetuity, and will not allow public access to the CLC Terrapin Creek Conservation Easement. At its November 10, 2008 meeting in Raleigh, NC, the Trust Fund's Board of Trustees considered the request and approved the Grant in an amount of **UP TO TWO MILLION SIX HUNDRED TWENTY NINE THOUSAND AND NO/100THS DOLLARS (UP TO \$2,629,000.00)** for the Acquisition and other transactional costs including stewardship.

Water Quality Benefits:

Establishes 84,507 linear feet of buffer along Mountain and Terrapin Creeks (WS-IV, PWS high) in the Catawba River Basin, and protects approximately 720 upland and riparian acres.

Scope of Work:

1. Purchase the Mountain Creek Tract in fee simple.
2. Convey to the State acting by and through the Trust Fund the CWMTF Conservation Easement on 265± riparian acres along Mountain Creek.
3. Convey to CLC the CLC Mountain Creek Conservation Easement.
4. Facilitate the donation to CLC by Crescent Resources of the CLC Terrapin Creek Conservation Easement.
5. Manage the 589-acre section of the Mountain Creek Tract in perpetuity for passive outdoor recreational and educational opportunities as well as for the preservation of water quality pursuant to the terms and conditions of the CWMTF Conservation Easement.

Special Conditions:

1. The CWMTF Conservation Easement on the Mountain Creek Tract shall conform to the standard CWMTF conservation easement and shall be held by the State acting by and through the Trust Fund.
2. The CWMTF Conservation Easement may allow for environmentally-sensitive trails, necessary vehicular access and two "development areas" in the CWMTF Conservation Easement as depicted on the Mountain Creek Park Amenities Concept Plan map attached hereto as Exhibit A.1 These areas may include the following public amenities:
 - a. Park office with educational buildings and restrooms
 - b. Parking
 - c. Turf and fenced dog park areas
 - d. Observation platforms
 - e. Picnic areas and shelters

- c. Trails, benches, interpretive signage and waterfront overlooks
- g. Benches
- h. Dock or pier, subject to Duke Energy approval
- i. Vehicular crossing (bridge or culvert) over Mountain Creek in order to reach northern portion of property
- J. Possible swim beach, subject to Duke Energy approval
- k. Primitive camping
- l. Vault restrooms
- m. Non-motorized boat access, subject to Duke Energy approval
- n. Utilities and access roads necessary for the above amenities

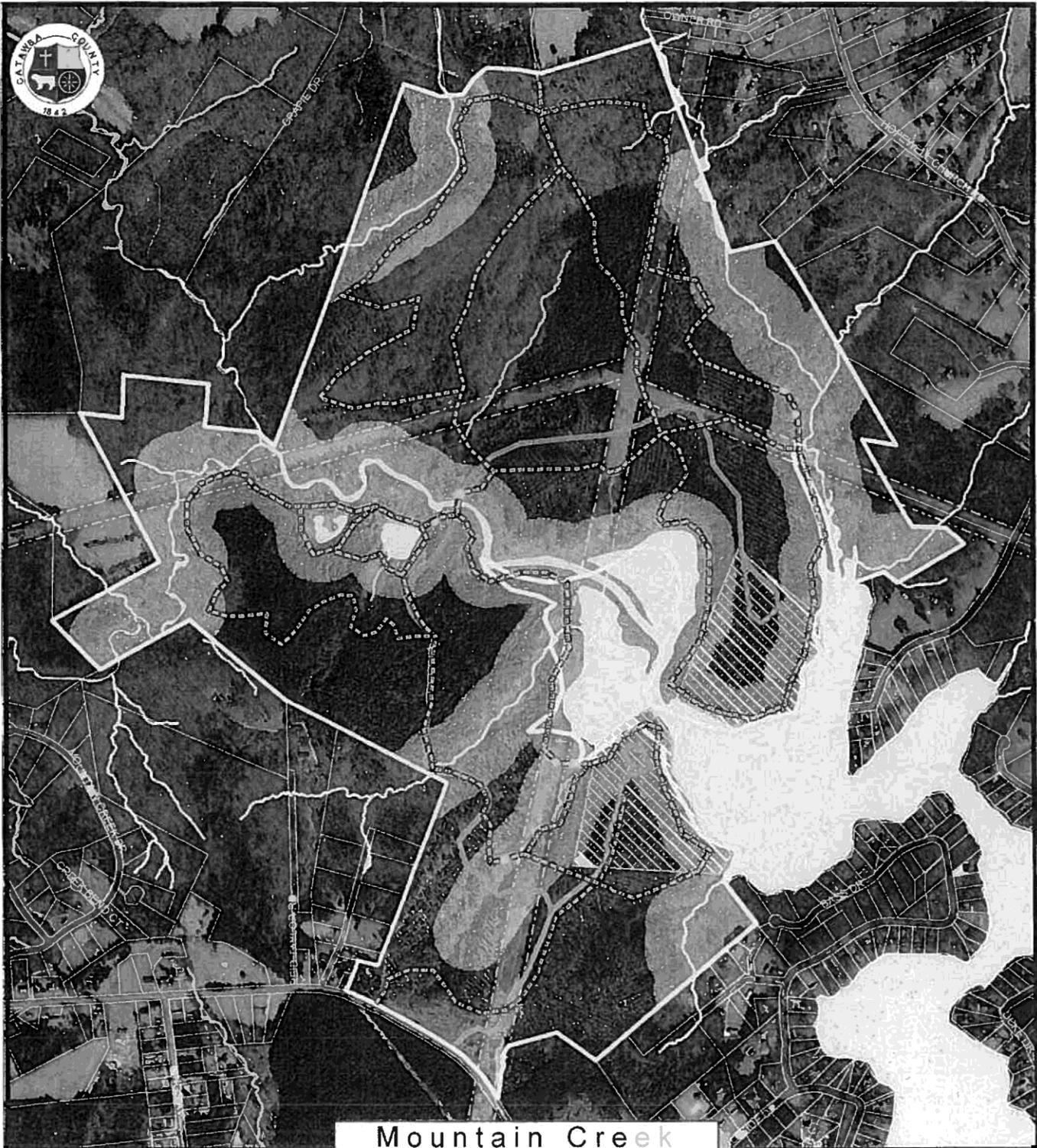
3. The CLC Conservation Easement on 130.3± riparian acres of the Property shall conform to the standard CWMTF conservation easement and shall be approved by the Trust Fund prior to recordation. It shall be held by CLC, and shall provide for the perpetual monitoring of the CLC Conservation Easement by CLC.
4. The 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. Grant Recipient shall monitor or provide for the monitoring of the CWMTF Conservation Easement at least annually in perpetuity.
6. CLC must submit a letter confirming its intention to accept the donation of the CLC Conservation Easement and to monitor the CWMTF Conservation Easement before any Grant funds may be disbursed under this Grant Agreement.
7. Grant Recipient acknowledges and agrees to the following terms and conditions regarding stewardship of the Conservation Easement: a) regardless of whether the State is the grantee of the Conservation Easement, the Grant Recipient shall monitor and observe or provide for the monitoring and observing of the Property and the CWMTF Conservation Easement at least annually in perpetuity; b) the purpose of such stewardship shall be to assure compliance with the purposes and provisions of the CWMTF Conservation Easement and the Grant Agreement; c) Grant Recipient will report on the condition of the CWMTF Conservation Easement or provide for such reporting to the Trust Fund no less frequently than once a year; and further will report immediately to the Trust Fund any observed and/or known violations of the CWMTF Conservation Easement or the Grant Agreement; d) any associated stewardship monies awarded under the Grant Agreement shall be based on the Annual Monitoring Calculation Worksheet attached hereto as Exhibit B.1, and administered pursuant to *2007 HB 2436, Part XII. Environment and Natural Resources, Establish Conservation Easement Endowment Fund, Sections 12.9(a)-(c)*; and e)
8. Enter into a written stewardship agreement with CLC and the Trust Fund, for the stewardship of the CWMTF Conservation Easement. The stewardship agreement shall set forth the terms and conditions of the stewardship obligation including invoicing and payment. The stewardship obligations of CLC under the stewardship agreement may be assignable with the prior written consent of the Trust Fund, but only to an entity that is qualified to receive a grant from the Trust Fund, is a qualified holder of conservation agreements under the North Carolina

Historic Preservation and Conservation Agreements Act (NCGS Chapter 121, Article 4) or any successor statute, and is a qualified organization as that term is defined in Section 170(h)(3) of the Internal Revenue Code of 1986, as amended, or any successor section, and the regulations promulgated there under, and which is organized or operated primarily for one of the conservation purposes specified in Section 170(h)(4)(A) of the code.

Schedule:

1. Acquire 589 acres, more or less, of the Property in fee simple by the **Expiration Date**.
2. Place 265± riparian acres located along Mountain Creek under the CWMTF Conservation Easement by the **Expiration Date**.
3. Facilitate the donation to CLC of the CLC Conservation Easement on 130.3± riparian acres of the Property located along Terrapin Creek by the **Expiration Date**.
4. Enter into a written stewardship agreement with the Trust Fund and CLC for the stewardship of the CWMTF Conservation Easement 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. Monitor or provide for the monitoring of the CWMTF Conservation Easement at least annually in perpetuity.

Reserved for **Exhibit A.1**



Mountain Creek Park Amenities Concept Plan

- Proposed Trails
- Proposed Roads
- Subject Parcel
- Conservation Easement Area
- Easements

- Creeks
- Subject Parcel
- Parcels
- Water Bodies

1 inch equals 1,000 feet

The map product was prepared by the staff of the
 NC Geographic Information System Center at the
 State Capitol Building in Raleigh, North Carolina.
 The map was prepared by the staff of the
 State Capitol Building in Raleigh, North Carolina.
 The map was prepared by the staff of the
 State Capitol Building in Raleigh, North Carolina.



Development Area



EXHIBIT B
Project Budget

Item	CWMTF Grant Amount	Matching Funds (*)	Total Project Cost
1. Property/Conservation Easement Acquisition	\$2,530,372	\$1,660,495	\$4,190,867
2. Appraisals	\$3,000	\$4,930	\$7,930
3. Surveys and Legal Descriptions	\$3,000	\$32,530	\$35,530
4. Phase 1 Environmental Site Assessment	\$3,000	\$0	\$3,000
5. Legal Fees & Closing Costs (includes Attorney's Opinion Letter, Title Insurance & Recording Fees)	\$15,628	\$2,886	\$18,514
6. Stewardship Endowment (**)	\$68,000	\$10,000	\$78,000
7. Baseline Documentation Report	\$6,000	\$13,700	\$19,700
8. Property Management (***)	\$0	\$25,000	\$25,000
9. Project Administration (****)	\$0	\$10,000	\$10,000
Totals	\$2,629,000	\$1,759,541	\$4,388,541

Budget Notes:

(*) Source and dollar amounts of matching funds: Match will be (1) cash contribution of \$1,119,628.00 from Duke Energy; (2) cash contribution of \$49,160.00 from Crescent Resources, LLC; (3) cash contribution of \$150,000.00 from Grant Recipient; (4) cash contribution of \$2,886.00 from the CLC; (5) CLC Conservation Easement donated by Crescent Resources, LLC to CLC valued at \$390,867.00(e); (6) in-kind services from the Grant Recipient valued at \$29,000 for Property management and Project administration; (7) In-kind services from CLC valued at \$18,000 for stewardship and Project administration (40% match). The values of CWMTF Conservation Easement and the CLC Conservation Easement must be substantiated by appraisals approved by the State Property Office.

(**) Budget for stewardship and legal defense funds: See Annual Stewardship Calculation Worksheet attached hereto as Exhibit B.1. Note Exhibit A, special conditions 6 and 7 governing stewardship.

(***) Budget for Property management funds: See attached Exhibit B.2, budget for Property management funds.

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

THE UNDERSIGNED HAS REVIEWED AND APPROVED THIS BUDGET ON BEHALF OF THE GRANT RECIPIENT THIS THE 5TH DAY OF MAY, 2009

SIGNATURE: Mary K George
NAME: Mary K George
TITLE: Assistant Planning Director

Catawba County -Acq/Crescent Resource Tracts, Mountain & Terrapin Creeks (CWMTF No. 2008-006)

[Reserved for Exhibit B.1, Annual Stewardship Calculation 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)	0.5	\$50	\$25
B.	Staff time to monitor easement (includes travel, discussions with landowner, considers size of tract, number of parcels, terrain, etc.)	36	\$50	\$1,800
C.	Staff time post-visit (includes comoletinQ report, submitting documentation)	1	\$50	\$50
2. Travel Costs for a Site Visit				
A.	Reimbursement per mile (per IRS guidelines)	100	\$0.505	\$50
3. Supplies				
A.	Film purchase and developing costs, aerial photos, etc.			
4. Easement Management/Enforcement of Minor Violations				
5. Re-post Boundary Markers				
A.	Staff time			
B.	Supplies			\$20
6. Site Management				
A.	Site specific management plans and reserved rights (only with prior approval of CWMTF Board of Trustees)	15.5	\$50	\$775

Total Annual Monitoring Costs: \$2,200
 Per Year

Property Management Services provided by
Catawba County

Annual costs (applied to 25 year period)	\$177,500
Periodic costs	\$12,000
Total Property Management Services (exceeds local commitment of \$25,000)	\$189,500

(Reserved for Exhibit B.2, Budget for Property Management Funds)

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 statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- (e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2), above, from an employee or otherwise receiving actual notice of such conviction;

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

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):

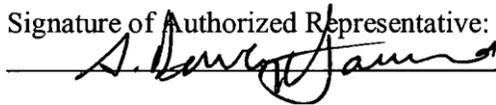
- 1. Grant Recipient Name & Address:
CATAWBA COUNTY
PO BOX 389 NEWTON, NC 28658
- 2. Typed Name and Title of Authorized Representative:
G. OAO''' HA12'215 :ar
ASSISTANT COUNTY MANAGER / INTERIM HUMAN RESOURCES DIRECTOR
- 3. Signature of Authorized Representative:

- 4. Date: A
U&UST 1.200?

EXHIBIT D



cleanwater

MANAGEMENT UUST 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; (8) 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 Conunitment") 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 Conunitment. 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 Y2 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. Please submit the survey to CWMTF for approval prior to recordation.

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. All appraisals must be ordered in consultation with the Trust Fund's Real Property Agent in the State Property Office. Please provide two (2) originals 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 AA1 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

MANAGING AND JUST FLOW

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 1/1 Duplcat,;

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 ClisO: _____

(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 1 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.

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
REQUEST FOR PAYMENT/REIMBURSEMENT FORM

(See next page)

Reserved for Exhibit K, Request for Payment/Reimbursement Form]

CLARIFICATION ADDENDUM

The attached addendum is to clarify the intention of the parties hereto with respect to paragraph three of the proposed Agreement between said parties styled as CWMTF Project No. 2<!):!)8' - tD t:J . By executing this addendum and attaching it to the proposed Agreement, the parties hereto agree that the following provisions shall apply to the proposed Agreement and together with all the exhibits thereto, shall constitute the Grant Agreement.

It is the intention of the Parties to specifically acknowledge that with respect to paragraph 3 of the Grant Agreement, neither of the parties is obligated to perform and the Grant Agreement is not a binding agreement on all parties until all parties have executed the Grant Agreement (inclusive of all exhibits and this addendum), the Department of Environment and Natural Resources has notified the Trust Fund that funds for the Grant contemplated hereunder have been encumbered, and the Grant Recipient has received its counterpart original of the Grant Agreement, fully executed and with all dates inserted where indicated on the cover page to the Grant Agreement.

IN THE EVENT OF A CONFLICT BETWEEN THIS ADDENDUM AND THE AGREEMENT, THIS ADDENDUM SHALL CONTROL.

GRANTRECIPIENT:

NAME OF LA."11> TRUST, a _____
nan pF9fit '19rporation

By: JWIII VJ Catawba County

Name: TS

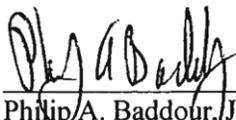
Title: -!) a

(Corporate Seal)
Attest:

(Asst.) Secretary

TRUST FUND:

NC CLEAN WATER MANAGEMENT TRUST FUND, an independent State agency

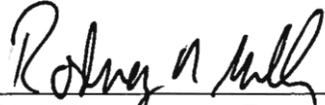
By:  (SEAL)
Name: Philip A. Baddour, Jr.
Title: Chairman, Board of Trustees



Return four (4) signed Addenda to: Tom Jones, Deputy Director for Land Acquisition, Clean Water Management Trust Fund, 1651 Mail Service Center, Raleigh, North Carolina 27699-1651.

THIS INSTRUMENT has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act as amended.

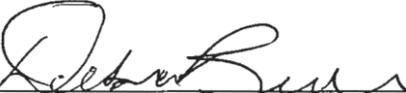
Date: 9/21/07



Rodney N. Miller, Finance Director

APPROVED AS TO FORM

Date: Sept. 21, 2007


Debra Bechtel, County Attorney

