



City of Boiling Spring Lakes
Board of Commissioners Workshop / Special Meeting
February 19, 2020
City Hall – 5:00 PM

Internet Access Guest Password – WiFi2345

Please Note ~ audio recording of meetings are available on our website
Under Minutes and Agendas tab

PLEASE TURN OFF CELL PHONES

Call to Order ~ Mayor Craig Caster

1. Workshop ~

- a. **Introduction** ~ City Manager, Jeff Repp
- b. **Presentation ~ McGill Associates** ~ Mr. Michael Hanson
Task Order #2 Design Services for the dam(s)
- c. **Public Comment** ~

2. Special Meeting ~

- a. **Order** ~ authorizing the City Manager to execute Task Order #2 ~ Design Services for Dam(s) Reconstruction by McGill Associates.
- b. **Order** ~ authorizing the City Manager to enter into an agreement with the North Carolina Department of Agriculture and Consumer Services, Division of Soil & Water Conservation for a Watershed Restoration Project.
- c. **Order** ~ authorizing the City Manager to accept the proposal of Stryker Flex Financial in the amount of Thirty Two Thousand Seven Hundred and Thirty Five Dollars and Forty Five Cents (\$32,735.45) for the purchase of a LIFEPAK 15 V4 Monitor/Defibrillator; and declaring the device as surplus property and donating same to the Boiling Spring Fire & Rescue.

3. Adjourn ~



ORDER #: _____

ORDER ~ authorizing the City Manager to execute Task Order #2 – Design Services for Dam(s)
Reconstruction by McGill Associates.

Craig M. Caster, Mayor

ATTEST:

Jane E. McMinn, City Clerk

Date

BSL Dams Construction / Reconstruction Project**TASK ORDER NO. 2****Phase 2 – Fixed Cost Design/Permitting/Bid Assistance**

This **TASK ORDER NO. 2** dated the 14th day of February, 2020, is a supplement to the **MASTER SERVICES AGREEMENT** between the CITY of Boiling Spring Lakes, North Carolina, dated July 12, 2019, hereinafter referred to as CITY and McGill Associates, P.A., hereinafter referred to as “ENGINEER”. The purpose of this Task Order is to authorize the ENGINEER to provide services for the “PROJECT” entitled: **BSL Dams Construction / Reconstruction Project, Phase 2 – Fixed Cost Design and Permitting.**

SECTION 1 - PROJECT DESCRIPTION

During Hurricane Florence in September 2018, the City of Boiling Spring Lakes (BSL) suffered a sudden release and drawdown from the failure of the Sanford Dam that also severed Alton Lennon Drive, a city-owned road atop the dam. Subsequently, four other smaller dam failures followed within the BSL system including a privately-owned dam (Middle Dam) just upstream of NC 87, the Upper Dam and Dam Road, and the Pine Lake Dam and the North Lake Dam both including segments of East Boiling Spring Road (an NCDOT maintained road). All the dams were earthen embankments constructed in the late 1950's and early 1960's by a private developer before the CITY was incorporated with the dam(s) eventually deeded to the CITY by the private developer. They maintained varied water levels for aesthetics and recreational use throughout the CITY's lake system (see Figure 1).

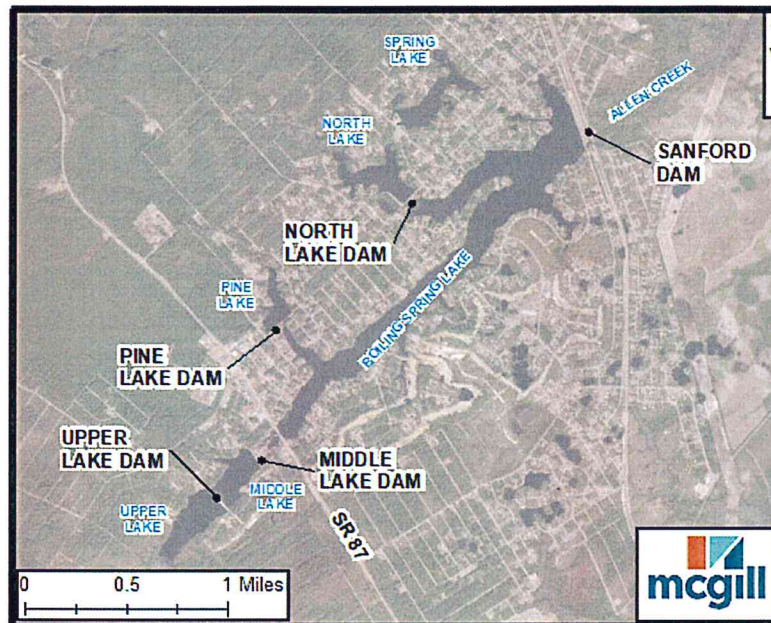


Figure 1: BSL Dam Sites

ENGINEER has been selected by the CITY to assist with the BSL Dams Construction/ Reconstruction Project. The goal of the project is to re-establish the impounded lakes upstream of the four city-owned dams breached by Hurricane Florence. This includes the design, permitting, bidding and construction services for Sanford Dam, Upper Dam, North Lake Dam and Pine Lake Dam. Codes and standards upgrades will be required for all dams as part of permitting with the NC Dam Safety Program.

Phase 1 efforts included the preparation of Preliminary Analysis Report (PAR) and a Geotechnical Data Report (GDR) on January 15, 2020. These documents summarized the work performed including preliminary subsurface investigations at all four dams, review and evaluation of previous reports and analyses, development of spillway design storms for each of the dams, evaluation of environmental impacts, and development and evaluation of alternatives to reconstruct the four dams and bring them into compliance with current dam safety regulations. During Phase 1, the

team held several meetings to discuss the project with regulators and stakeholders including NC DEQ Dam Safety, the North Carolina Department of Transportation (NCDOT), the Federal Emergency Management Agency (FEMA), and the CITY. These meetings were held in an effort to understand the expectations of each of the regulating agencies and to discuss the approach to the dam rehabilitations. Phase 1 resulted in the following recommendations that are consistent with NC Dam Safety requirements and were accepted by the CITY for implementation.

- Install a positive cutoff wall for the entire length of the dam, upgraded riser structure and cast-in-place (CIP) culverts to replace the existing undersized spillway and rebuild the embankment at the location of the breach at Sanford Dam.
- Remove the existing bottom metal culverts because they are not compliant with current codes and standards at North Lake Dam and Pine Lake Dam and install riser structures and CIP culverts with seepage controls adjacent to the embankment.
- Replace the existing undersized spillway with a riser structure and CIP culverts with seepage controls adjacent to the embankment and rebuild the embankment at the breach of Upper Lake Dam.

The full scope of this Project will be performed by the ENGINEER and is also anticipated to include a Design/Permitting/Bid Assistance Phase and a Construction and Post-Construction Phase as detailed in the Master Services Agreement. The following provides a breakdown of tasks, fee and schedule anticipated for the Fixed Cost Design and Permitting Phase of the Project.

SECTION 2 - SCOPE OF SERVICES

The Design/Permitting/Bid Assistance Phase will include continuing coordination with permitting agencies, meetings with the CITY and project team members to define project schedule(s); performing supplementary subsurface explorations to support the proposed design; performing geotechnical and structural analyses; preparing plans and specifications for the repair of Sanford, Upper, Pine Lake and North Lake Dams including codes and standards upgrades; developing a design report to summarize the analyses in support of the final designs and for use in NC Dam Safety permitting; preparation of an engineer's opinion of probable construction costs; development of an estimated construction schedule based on project constraints and the most likely construction sequence.

The scope of work is provided in full detail for Sanford Dam. To avoid repetition in text, the scope

of services for Upper Lake Dam, Pine Lake Dam, and North Lake Dam is assumed to be the same as Sanford Dam, except as specifically noted. The scope and fee provided in this proposal assume that the design of all four dam and spillway structures will be performed simultaneously, and one set of contract documents will be produced for a single prime contractor to perform the proposed construction at all four dams. Therefore, certain economy of scale assumptions are built into the estimate including overall project management, meetings, permit submittals, similarities between the spillways proposed for North Lake Dam, Pine Lake Dam and Upper Lake Dam and preparation of a single bid package. If design of one or more dam and spillway structures are delayed or eliminated, we will coordinate with the CITY to establish a mutually agreed fee amendment to this Task Order.

ENGINEER will perform the following tasks:

Task 1 – Project Management

ENGINEER will coordinate with the CITY regarding execution of the project. This is anticipated to include:

- 1.1. ENGINEER will periodically meet with the CITY and other agency representatives to address the on-going needs of the Project. Additional meetings and communication with the CITY and individual agencies may also be performed via teleconference. Specific numbers of meetings noted below represent assumptions made in developing the project budget.
- 1.2. Two meetings are anticipated with Dam Safety Program:
 - a. One to discuss findings from the supplemental subsurface explorations and H&H modeling as part of the design permit submittal; and
 - b. One for resolution of final design permitting.
- 1.3. ENGINEER will assist the CITY with a presentation on the Report findings to CITY Board. Up to three (3) presentations are anticipated.
- 1.4. ENGINEER will provide agendas and prepare meeting minutes for meetings.
- 1.5. ENGINEER will track budget and schedules weekly.
- 1.6. The CITY plans to pursue FEMA reimbursement for some or all the planned dam repair work. ENGINEER will coordinate with the CITY regarding use of 428 funding vs. "Large Project" funding through FEMA. Based on final funding selected by the CITY, ENGINEER

will identify recommended requirements for record keeping and audit associated with federal FEMA funding, provide input on an anticipated schedule for reimbursement, and provide input on expectations for cost sharing and provide consultation on FEMA related policy issues throughout the project. The FEMA policy support scope of services is included as Attachment 1 to this Scope of Services.

- 1.7. It is anticipated that the CITY will need to coordinate with the State and FEMA throughout contracting and construction. ENGINEER will provide guidance on required technical documentation, provide input on the submittal requirements in each workflow phase (including codes and standards, environmental, and historic preservation requirements), check on the progress of each submittal, and provide input on any requests for information or other documents associated with processing and/or potential reimbursement.

Task 2 – Field Investigations

ENGINEER will coordinate the performance of field investigations including a subsurface exploration program and survey of the project earthen embankment dams.

- 2.1. **Geotechnical** - ENGINEER will coordinate with subconsultant to perform field investigations including geotechnical services to assess the physical characteristics of the existing dams, foundations, and underlying strata to inform decisions on the design for construction / reconstruction of the four dams. The Geotechnical scope of services is included as Attachment 2 to this Scope of Services.
- 2.2. **Survey** - ENGINEER will coordinate with subconsultant to perform supplemental survey including 1" = 50' planimetric and topographic mapping for Boiling Spring Lakes system from a hybrid Aerial Imagery/Aerial LiDAR capture. Mapping products will include development of 1' contours of the existing terrain features, orthophotography, and aerial LiDAR for the entire site. In addition, field survey will be obtained for the following:
 - MOTSU R/W
 - Channel bathymetry 50 feet upstream of Sanford spillway and breach
 - Sanford spillway downstream pipe inverts
 - Underground utilities for at all dams based on coordination with utility owners
 - Visible above ground utilities, signage, etc.
 - Existing Park facilities at the North end of Sanford Dam

Site-specific survey acquired in Phase 1 and noted above will be integrated with the phase

2 LiDAR data to prepare composite Civil 3D base mapping for use in design. The geospatial and survey tasks will be performed in accordance with the current Standards of Practice for Surveying and Mapping in North Carolina.

Task 3 – Hydrologic and Hydraulic Study

The Dam Safety Program requires the development of a comprehensive hydraulic model that can simulate the system-wide hydraulic effects of flow changes for upgrades of all BSL spillway systems to meet current capacity requirements and assess the potential for cascade dam failure. Consistent with these requirements ENGINEER will prepare a Hydrologic and Hydraulic (H&H) Report for NC Dam Safety review and approval. We will utilize available data and modeling from Phase 1 studies to greatest extent possible. The following tasks are anticipated:

- 3.1. ENGINEER will update the HEC-HMS hydrologic model previously developed for the BSL Par based on comments from NC Dam Safety on the PAR.
- 3.2. ENGINEER will update the HEC-RAS hydraulic model for the Allen Creek watershed previously developed for the BSL PAR based on new aerial mapping and LiDAR data.
- 3.3. ENGINEER will utilize the H&H models to support designs of final spillway geometry including control section, conveyance through the embankment (culverts) energy dissipation, and outlet protection sizing as further described in Task 4 below.
- 3.4. ENGINEER will analyze the potential for cascade dam failure based on the final design hydraulics of the lake system. Results of model runs will be summarized for inclusion in the NC Dam Safety H&H Report.
- 3.5. ENGINEER will perform hydrologic and hydraulic analyses for control of water concepts and prepare sequence drawings showing the various temporary features to be used during various stages of construction to obtain necessary permits and to clearly define the requirements to the contractor.
- 3.6. Allen Creek has a Detailed Study with a Floodway covering most of the system. Therefore, development, modification of hydraulics or fill placed in the project area requires a flood study to establish a no changes occur to the extent or depth of existing flooding or preparation and approval of a Conditional Letter of Map Revision (CLOMR) is necessary. ENGINEER will provide the following in support of a CLOMR submittal:
 - a. Prepare a duplicate effective, corrected effective, existing condition and proposed condition models from the available data. The existing condition model will

represent any changes from the effective model that existed prior to construction including mapping error and terrain changes. The proposed condition model will include the changes due to construction of the greenway trail.

- b. Prepare a topographic work map showing the revised special flood hazard areas and floodway as a result of the HEC-RAS models above.
- c. Prepare an annotated Flood Risk Insurance Rate Map, annotated Flood Insurance Study profile, and annotated Flood Insurance Study Tables that reflect the changes in water surface elevation.
- d. Submittal and response to comments from North Carolina Floodplain Mapping Program (NCFPM).

3.7. ENGINEER will prepare the Final H&H Report. This Report will include:

- a. preparation of a temporary Emergency Action Plan (EAP) to be used during construction,
- b. preparation of a post construction EAP,
- c. inundation mapping based on a simulated dam breach,
- d. maps showing the drainage area and outline of the reservoir and the ownership of properties covered by the reservoir or flood pool,
- e. minimum time required to pass the design storm through the primary spillway,
- f. minimum time required to recover storage volume below the emergency spillway crest,
- g. minimum time required to drain the reservoir back to normal pool, and
- h. narrative text explaining the application of the required design criteria along with the hydraulic results summaries and supporting data appendixes.

Task 4 – 60% Analysis and Design Development

The 60% design will include analyses to size proposed spillway components, geotechnical analyses, structural and civil analyses and preparation of 60% plans and specifications for the design. Specific tasks are listed below.

- 4.1. Design of the spillway control section geometry, box culvert design, stepped spillway design, sidewall heights, outlet protection; analyses to support the design of upstream wave protection and provide the size and extent of riprap needed for outlet protection.
- 4.2. Develop a concept to address stream diversion (control of water) during construction. The

concept will incorporate the preferences from the CITY (regarding sequence, level of protection and risk tolerance). The means to divert water during construction may also influence the spillway design and low-level outlet facilities. ENGINEER will prepare preliminary layout and sketches of the control of water concept for discussion purposes with the CITY. It is anticipated that this work will be developed in combination with sequencing of construction drawings for erosion and sediment control purposes. This will include hydrologic and hydraulic calculations for the proposed control of water concept and plans, profiles, sections and details associated with the control of water concept as the design advances.

- 4.3. ENGINEER will review the results of the subsurface investigations and laboratory testing programs and perform geotechnical analyses to support the 60% design as detailed in Attachment 2 – Geotechnical Services.
- 4.4. ENGINEER will review data collected during the Phase 2 subsurface exploration to re-analyze liquefaction potential in an effort to determine the need to improve embankment stability as detailed in Attachment 2 – Geotechnical Services.
- 4.5. ENGINEER will advance the evaluation of a secant pile or hydromill diaphragm positive seepage cut-off wall options considering the results of the second phase of subsurface investigations and comments/preferences from the CITY and regulators. Evaluations will proceed as detailed in Attachment 2 – Geotechnical Services to determine the optimum length and depth of the wall, the size of elements, and the geometry of related temporary embankment modifications.
- 4.6. ENGINEER will perform structural analyses limited to overall preliminary sizing of elements and global structural stability analyses as detailed in Attachment 2 – Geotechnical Services.
- 4.7. ENGINEER will conduct utility coordination, identify potential conflicts and relocations associated with each dam.
- 4.8. ENGINEER will prepare 60% plans, technical specifications (CSI format), estimate of probable construction cost and an updated construction schedule for review and comments by the CITY.
- 4.9. ENGINEER will prepare a 60% level design report. The report will include a narrative describing the design approach, references, and assumptions and of analyses which are completed during the 60% design level as well as results and findings associated with the

supplemental testing program. A draft Report will be provided to the CITY for review and comment. Once all comments have been addressed a final 60% Report will be submitted to the CITY.

Task 5 – 90% Design Documents

The 90% design will address comments by the CITY on the 60% submittal and advance the design of the dam and spillway components, H&H Report and prepare the 90% plans and specifications. Specific tasks are listed below.

- 5.1. ENGINEER will advance the drawings for the control of water requirements based on feedback from the CITY on the 60% submittal. It is expected that control of water will include two stages of construction. During the first phase, the stream will be diverted through the existing breach area at Sanford Dam and temporary cofferdams will be constructed upstream and downstream of the proposed spillway area. During this stage of construction, the existing spillway will be demolished, and excavation, dewatering, and foundation preparation will be performed for the new spillway. The spillway will be constructed in its entirety.

Upon completion of the spillway, Stage 2 of the control of water plan will include removal of the temporary cofferdams and diverting stream flow through the new spillway. A new temporary cofferdam will be constructed upstream of the breached area in the embankment. The breached area will then be excavated and dewatered and the embankment will be restored in this area.

ENGINEER will prepare multiple staged construction drawings to show the control of water sequence including notes and details, proposed structures, requirements for excavation slopes, site grading, sections, and profiles.

- 5.2. ENGINEER will perform updated geotechnical analyses based on revisions to the layout of project components. Design calculation packages will be prepared to document the analyses performed. Requirements for temporary construction foundation dewatering, positive cutoff wall, design of means to address potential liquefaction of the foundation and structural analyses will be performed during this phase.
- 5.3. ENGINEER will perform design of roadway, guardrails, traffic control planning, temporary road closures during design, utility design, and ancillary site civil items including impacted lighting, signs, sidewalks, fences, and railings.

- 5.4. ENGINEER will prepare utility adjustment/relocation plans.
- 5.5. ENGINEER will perform design of Erosion and Sediment Control design including plans and specifications.
- 5.6. ENGINEER will prepare 90% plans, technical specifications, contract documents, an estimate of probable construction cost and an updated construction schedule for review and comments by the CITY.
- 5.7. ENGINEER will prepare a 90% level design report. The report will include an updated narrative describing the design approach, references, and assumptions and of analyses which are completed during the 90% design level as well as results and findings associated with the supplemental testing program. A Report will be provided to the CITY for review and comment.

Task 6 – 100% Design Submittal

The 100% design will advance the design of the dam and spillway components, H&H Report and prepare the 100% bid documents for submittal to regulatory agencies. Specific tasks are listed below.

- 6.1. ENGINEER will prepare 100% bid documents, an estimate of probable construction cost and an updated construction schedule for review and comments by the CITY. The bid documents will be prepared using the CITY's preferred format.
- 6.2. ENGINEER will prepare a 100% level design report. The report will include an updated narrative describing the design approach, H&H Report, references, and assumptions and of analyses which are completed during the 100% design level as well as results and findings associated with the supplemental testing program. A draft Report will be provided to the CITY for review and comment.
- 6.3. Once all CITY comments have been addressed a final 100% Report and Bid Documents will be submitted to the NC Dam Safety for review. A meeting will be scheduled with the agency to present and summarize the submittal and address any questions.
- 6.4. A follow-up meeting will be scheduled with NC Dam Safety approximately 3 months after submittal to review their findings.
- 6.5. ENGINEER will address any comments and update the Reports and Bid Documents accordingly. A revised permit package will be submitted to NC Dam Safety for approval.

Note - The scope of work for the design of Upper Lake Dam, Pine Lake Dam and North Lake Dam are anticipated to be the same as Sanford Dam, with the following exceptions:

- Liquefaction analyses will be performed however, it is not expected that any design will be required to address liquefaction concerns.
- No positive cutoff wall will be required.
- Control of water is expected to consist of a small upstream cofferdam and conveyance of stream flow through temporary piping within the spillway excavation (adjacent and parallel to the spillway).
- It is assumed that no foundation dewatering or instrumentation will be required.
- The same technical specifications will be used for all dams.
- The construction schedule for the other dams will be developed in coordination with Sanford Dam. It is assumed that Sanford Dam and Upper Lake Dams will be constructed first with Alton Lennon Road and West Dam Road remaining closed. Once Alton Lennon Road is open then East Boiling Spring Road can be closed to allow construction of Pine Lake Dam and North Lake Dam.
- The meetings identified for Sanford Dam at various milestones are assumed to include all other dams.

Task 7 – Environmental Permitting

A jurisdictional determination of the Boiling Springs Lakes Dams properties will be completed. A delineation of the project area was completed by ENGINEER Environmental Specialists in accordance with the guidelines and standards of the US Army Corps of Engineers (USACE) - Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0). Potential jurisdictional areas found on the property were flagged and located with GPS accuracy in the field. A digital map will be produced based on field delineation and a formal request sent to the USACE for a Preliminary Jurisdictional Determination (PJD).

Once we have received confirmation on the PJD, a Nationwide Permit Application, Pre-construction Notification (PCN) package will be produced and submitted to the NC Division of Water Resources (NCDWR) and the USACE. A National Environmental Policy Act or State Environmental Policy Act (NEPA/SEPA) document will be prepared by ENGINEER Environmental

Specialists in accordance to assess adverse environmental impacts associated with the proposed project performed in accordance with NEPA/SEPA Act regulations.

- 7.1. ENGINEER will produce a Preliminary Jurisdictional Determination report with required data sheets, maps, and forms and submit to the USACE for Jurisdictional Determination.
- 7.2. ENGINEER will coordinate with the CITY regarding jurisdictional waters impact totals, mitigation thresholds, and permit conditions and incorporate into plans.
- 7.3. McGill will develop Erosion and Sediment Control package and control of water plan (notes, plans and details) for the project site in accordance with NC DEQ guidelines and will include this package as part of the PCN submittal.
- 7.4. Produce and submit the PCN package with all required drawings, maps, forms, and other supporting documentation based on concurrence with Agencies. It is anticipated that the 100% design package will be utilized for environmental permitting. Coordinate with agencies through permitting process. It is anticipated that reasonable comments would be resolved with up to two requests for information are anticipated per permit. If mitigation will be required based on extent of impacts, McGill will prepare preliminary mitigation documentation required as part of the PCN application.
- 7.5. Coordinate with the CITY regarding permit conditions and/or mitigation requirements as they may affect final plans or project timeline.
- 7.6. Produce and submit NEPA/SEPA environmental document with required figures, forms, and agency scoping requirements. Coordinate with agencies for level of environmental analysis and public notice requirements.

Task 8 – Bid Assistance

ENGINEER will coordinate with the CITY to finalize the 100% Bid Documents that are consistent with the CITY's procurement requirements and support FEMA reimbursement. It is assumed that the Bid Documents will be based on the CITY's preferred Standard Documents and will include an Agreement, General Conditions, Supplemental Conditions, Technical Specifications and Design Plans.

- 8.1. ENGINEER will attend the pre-bid meeting and prepare meeting minutes.
- 8.2. ENGINEER will review and respond to questions from prospective bidders.
- 8.3. ENGINEER will prepare responses for addenda (Three addenda were anticipated in

developing the project budget).

8.4. ENGINEER will review the bids received and prepare the bid tabulation.

8.5. ENGINEER will provide a recommendation to the CITY on the lowest responsive bidder.

8.6. ENGINEER will prepare a set of conformed contract documents to include the addenda issued.

8.7. ENGINEER will provide conformed contract documents for distribution by the CITY.

SECTION 3 – COMPENSATION

The CITY shall pay ENGINEER for services outlined in Task Order No. 2 the following Fixed Fee (Lump Sum) amounts:

Engineering Services for BSL Dams Construction / Reconstruction Project	
Phase 2 – Design/Permitting/Bid Assistance	
Task 1 – Project Management	
Sanford Dam	\$64,022.22
North Lake Dam	\$16,114.59
Pine Lake Dam	\$16,114.59
Upper Lake Dam	\$16,114.59
Task 2 – Field Investigations	
ERI Survey – Sanford Dam	\$28,380.00
Drilling, Sampling, and Testing – Sanford Dam	\$134,750.00
CPT Testing – Sanford Dam	\$44,880.00
CPT Testing – North Lake Dam	\$5,830.00
CPT Testing – Pine Lake Dam	\$5,830.00
CPT Testing – Upper Lake Dam	\$5,830.00
Sanford Dam Survey, Aerial and Geotech Report	\$79,535.71
North Lake Dam Survey, Aerial and Geotech Report	\$14,365.76
Pine Lake Dam Survey, Aerial and Geotech Report	\$14,365.76
Upper Lake Dam Survey, Aerial and Geotech Report	\$14,365.76

Task 3 – Hydrologic and Hydraulic Study	
Sanford Dam	\$73,868.87
North Lake Dam	\$18,575.21
Pine Lake Dam	\$18,575.21
Upper Lake Dam	\$18,575.21
Task 4 – 60% Analysis and Design Development	
Sanford Dam	\$262,831.39
North Lake Dam	\$105,588.54
Pine Lake Dam	\$105,588.54
Upper Lake Dam	\$105,588.54
Task 5 – 90% Design Documents	
Sanford Dam	\$252,648.04
North Lake Dam	\$91,637.99
Pine Lake Dam	\$91,637.99
Upper Lake Dam	\$91,637.99
Task 6 – 100% Design Submittal	
Sanford Dam	\$90,757.88
North Lake Dam	\$23,558.71
Pine Lake Dam	\$23,558.71
Upper Lake Dam	\$23,558.71
Task 7 – Environmental Permitting	
Sanford Dam	\$56,040.41
North Lake Dam	\$14,092.03
Pine Lake Dam	\$14,092.03
Upper Lake Dam	\$14,092.03
Task 8 – Bid Assistance	
Sanford Dam	\$36,441.95

North Lake Dam	\$8,487.68
Pine Lake Dam	\$8,487.68
Upper Lake Dam	\$8,487.68
Totals by Dam	
Sanford Dam	\$1,124,156.46
North Lake Dam	\$298,250.51
Pine Lake Dam	\$298,250.51
Upper Lake Dam	\$298,250.51
Overall Phase 2 Project Total	\$2,018,908.00

SECTION 4 - SCHEDULE

ENGINEER anticipates the following schedule of task for this project. As some of the tasks rely on participation of third parties the actual schedule dates and duration may vary.

Engineering Services for BSL Dams Construction / Reconstruction Project	
Phase 2 – Design/Permitting/Bid Assistance	
Notice to Proceed	2/24/20
Task 1 – Project Management	2/24/20-2/24/21
Task 2 – Field Investigations	3/16/20-5/15/20
Task 3 – Hydrologic and Hydraulic Study	3/16/20-6/26/20
Task 4 – 60% Analysis and Design Development	5/15/20-6/26/20
City Review and Comment	6/26/20-7/3/20
Task 5 – 90% Design Documents	7/3/20-10/20/20
City Review and Comment	10/20/20-10/27/20
Task 6 – 100% Design Submittal	10/27/20-11/25/20
Task 7 – Environmental Permitting	7/3/20-10/20/20
NC Dam Safety Review	11/25/20-2/24/21
Task 8 – Bid Assistance	Starts 2/24/21
Total Design Phase Duration	12 months

SECTION 5 – ASSUMPTIONS

This proposal assumes the following:

1. The USACE issues either a General or Individual Permit (IP). The General Permit program, through the Nationwide Permits (NWP) are reserved for only the most minor impacts to streams, wetlands and other waters. NWP are issued on a nationwide basis to authorize minor activities with minimal evaluation time. NWP are used throughout the United States and were established to reduce the regulatory reporting burden for specific activities that have no more than minimal impacts to the aquatic environment. IPs are generally reserved for projects with potential for substantial environmental impacts. IPs require a full public interest review, including public notices and coordination with involved agencies, interested parties and the general public.
2. Based on anticipated potential environmental impacts and hydrography changes, and a pre-permitting meeting with the USACE, NCDWR, and the NC Wildlife Resources Commission, ENGINEER assumes that a Nationwide Permit will be required for the proposed project. Project scope and fee estimate are based on the effort needed to obtain a NWP for the proposed project. If it is determined by the USACE after coordination and design review that an IP must be obtained to satisfy permitting requirements, ENGINEER will submit a revised scope and fee to the CITY.
3. The NWP and related permit application materials will be based on final design as verified with the CITY prior to submission, if subsequent design changes substantially alter proposed impact or other elements of the permit application such that modified drawings or information must be submitted, these activities will be considered Additional Services.
4. Any required mitigation will be made by direct payment to either a mitigation bank or state in-lieu fund administered by North Carolina Division of Mitigation Services (NC DMS). If alternative mitigation strategies are needed, these may require Additional Services.
5. All permitting fees and mitigation payments will be paid by the CITY.
6. If additional permits, studies, or investigations will be required, we will discuss these requirements and any additional services needed for completion, with the CITY prior to performing any additional services.
7. Survey of structure finished floor elevations for inundation mapping is not included.
8. The CITY anticipates reimbursement of the design and construction costs incurred from FEMA and the State of North Carolina as part of the Hurricane Florence Public Assistance Program.

ENGINEER and its subconsultants will assist the CITY in preparing and submitting the reimbursement of dollars expended to repair the dams noted above. However, the CITY acknowledges that some expenditures will not be reimbursable and therefore will be borne by the CITY. These may include services in-kind for the non-federal percent designated by FEMA for DR-4393, some or all the private dam costs, engineering and/or construction costs found to be ineligible by FEMA.

9. Negotiation, modification and/or re-submittal of the grant package related to the approved Sanford Dam secondary spillway is not included at this time. This may be added by mutual agreement at a later date.
10. Project sketches/drawings will be prepared in GIS or AutoCAD format on ENGINEER title block, unless otherwise requested.
11. Temporary cofferdams and sheeting and shoring designs will be provided by the contractor and signed and sealed by professional Engineer licensed in North Carolina. Designs will be submitted and reviewed as part of the shop drawing review process.
12. Preparing to serve and/or serving as an expert witness in connection with any public hearing, arbitration proceeding or legal proceeding, is not included in the above fees and will be billed on an hourly basis in accordance with the standard hourly rates from the Master Agreement.
13. Design and permitting of off-site waste/borrow areas is not included in the above fees and will be billed on an hourly basis in accordance with the standard hourly rates from the Master Agreement.
14. Our attendance at public meetings, or additional meetings not listed in the above scope, is not included in the above fees and will be billed on an hourly basis in accordance with the standard hourly rates from the Master Agreement.
15. Services for tasks other than those specifically detailed above are not included in the above fees and will be billed on an hourly basis in accordance with the standard hourly rates from the Master Agreement.

SECTION 6 - MISCELLANEOUS

Except as otherwise provided herein, this Task Order supersedes all prior written or oral understanding of the parties and may only be changed by a written amendment executed by both parties.

SECTION 7 - AUTHORIZATION TO PROCEED

IN WITNESS WHEREOF, and as AUTHORIZATION TO PROCEED the parties execute below this Task Order No. 2 in duplicate originals:

EXECUTED this 14th day of February, 2020.

McGill Associates, P.A.

By: 

Michael A. Norton, PE

Principal / Shallotte Office Manager

City of Boiling Spring Lakes

By: _____

Jeff Repp

City Manager

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

By: _____

Karen Thompson

City Finance Manager



ORDER #: _____

ORDER ~ authorizing the City Manager to enter into an agreement with the North Carolina Department of Agriculture and Consumer Services, Division of Soil & Water Conservation for a Watershed Restoration Project.

Craig M. Caster, Mayor

ATTEST:

Jane E. McMinn, City Clerk

Date

STATE OF NORTH CAROLINA
COUNTY OF WAKE



Departmental Use Only

CENTER: 2985-1803

ACCOUNT: 536502

AMOUNT: \$351,994.00

CENTER: _____

ACCOUNT: 536502

AMOUNT: _____

North Carolina Department of Agriculture and Consumer Services
Division of Soil & Water Conservation

Watershed Restoration Project - Governmental

CONTRACT # 19-091-4014

This Contract is hereby entered into by and between the **North Carolina Department of Agriculture and Consumer Services, Division of Soil & Water Conservation** (the "Agency") and **City of Boiling Spring Lakes** ("Grantee"), and referred to collectively as the "Parties". The Grantee's federal tax identification number is 56-6034506 and is physically located in Brunswick County, and is further located at 9 E. Boiling Spring Road Southport, NC 28461.

The purpose of this Contract is to implement needed repairs to streams and drainage ways resulting from Hurricane Florence and subsequent flooding. The Grantee's project title is Watershed Restoration Project. This Contract is funded by state appropriations from the Hurricane Florence Emergency Response Act. Funds awarded under this Contract must be used for the purposes for which they are intended.

The Grantee's fiscal year ends June 30.

Contract Documents:

This Contract consists of the Grant Contract and its attachments, all of which are identified by name as follows:

1. This Contract
2. General Terms and Conditions (Attachment A)
3. Scope of Work, including Timeline, Line Item Budget and Budget Narrative (Attachment B)
4. Certifications and Assurances Section (Attachment C)
5. NC Openbook Supplemental Information (Attachment D)
6. Signature Card (Attachment E)
7. W-9 Tax Information (Attachment F)
8. Vendor Electronic Payment Form (Attachment G)
9. FFATA Data Reporting Requirements (Attachment H)
10. Federal Regulations (Attachment I)

These documents constitute the entire agreement between the Parties and supersede all prior oral or written statements or agreements.

I. Precedence Among Contract Documents:

In the event of a conflict between or among the terms of the Contract Documents, the terms in the Contract Document with the highest relative precedence shall prevail. The order of precedence shall be the order of documents as listed in Paragraph 1, above, with the first-listed document having the highest precedence and the last-listed document having the lowest precedence. If there are multiple

Contract Amendments, the most recent amendment shall have the highest precedence and the oldest amendment shall have the lowest precedence.

II. Effective Period:

This Contract shall be effective on January 1, 2020 and shall terminate on December 31, 2022 with the option to extend, if mutually agreed upon, through a written amendment as provided for in the General Terms and Conditions as described in Attachment A.

III. Grantee's Duties:

The Grantee shall provide the services as described in the Attachment **B: Scope of Work**. The Grantee shall be responsible to obtaining necessary landowner authorization for site access and all permits needed to complete the planned work.

IV. Agency's Duties:

The Agency shall pay the Grantee in the manner and in the amounts specified in the Contract Documents. The total amount paid by the Agency to the Grantee under this Contract shall not exceed **\$343,106.00**. This amount consists of: **\$343,106.00** in State funds.

☐ a. There are no matching requirements from the Grantee.

☐ b. There are no matching requirements from the Grantee; however, the Grantee has committed the following match to this project:

	In Kind	\$
	Cash	\$
	Cash and In-kind	\$
	Cash and/or In-kind	\$
	Other/Specify:	\$

☒ c. The Grantee's matching requirement is \$1,055,984.40, which consists of:

	In Kind	\$
	Cash	\$
	USDA Funds	\$1,055,984.40
	Cash and/or In-kind	
	Other/Specify:	\$

☐ d. The Grantee has committed to an additional \$ _____ to complete the project as described in Attachment B.

The total contract amount with matching funds is **\$1,399,090.40**.

V. Conflict of Interest Policy:

The Agency has determined that the Grantee is a governmental agency and is not subject to N.C.G.S. § 143C-6-23(b). Therefore, the Grantee is not required to file a Conflict of Interest Policy with the Agency prior to disbursement of funds.

VI. Statement of No Overdue Tax Debts:

The Agency has determined that Grantee is a governmental agency and is not subject to N.C.G.S. § 143C-6-23(c). Therefore, the Grantee is not required to file a Statement of No Overdue Tax Debts with the Agency prior to disbursement of funds.

VII. Reversion of Unexpended Funds:

Any unexpended grant funds shall revert to the Agency upon termination of this Contract.

VIII. Reporting Requirements:

(1) State [N.C.G.S. 143C-6-23]:

The Agency has determined that the Grantee is a governmental entity and is not subject to the State reporting requirements mandated by N.C.G.S. § 143C-6-23. Therefore, the Grantee does not have to file annual electronic reports with the NC Office of State Budget & Management.

(2) Agency Reporting Requirements:

- a) The Grantee shall submit quarterly progress reports, with each report due on or before the last day of January, April, July, and October, continuing until the project is complete and final project report is approved. The quarterly progress report is required even if no activity has occurred for the quarter and no reimbursement is requested for the quarter.
- b) The quarterly and final report shall include a narrative summary of the work completed each quarter and for the project to date and a summary of cash and in-kind expenditures for the quarter and total project.
- c) Grantee shall submit a Final Financial report and Final Invoice not later than 60 days after the expiration or termination of this Contract.

IX. Payment Provisions:

Upon execution of this Contract the Grantee shall submit to the Agency Contract Administrator a completed Request for Payment form, to be provided by the Agency. All Request for Payment forms should be received no more than monthly, with an invoice showing expenditures and matching funds, if applicable, for the current period and cumulatively for the entire project. Upon approval by the Agency, payment shall be made within 30 days. Twenty percent (20%) of the total funds awarded under this Contract shall be retained by the Agency until both the final performance and financial reports are submitted by the Grantee and approved by the Agency.

For sites for which this contract is supplementing USDA Emergency Watershed Protection Program (EWPP) funding, completed work must also satisfy EWPP requirements prior to payment being authorized.

Up to 16 percent (16%) of the funds awarded to the Grantee may be used to reimburse actual documented engineering, technical assistance, and administrative expenses for the project, excluding any expenses pledged by the Grantee as match for this project and salary, benefits, and operating expenses that would normally have been paid by the Grantee.

The Grantee shall expend funds in accordance with G.S. 143C-6-23 (f1)(f2)(j). The Grantee shall account for any income earned, which may result from any funds awarded under this Contract, on the Agency "Request for Reimbursement" form. Eligible uses of income earned are:

- a) Expanding the project or program;
- b) Continuing the project or program after grant ends; or
- c) Supporting other projects or programs that further the broad objectives of the grant program.

If this Contract is terminated prior to the original end date, the Grantee may submit a final Request for Payment form. All unexpended funds shall be returned by the Grantee to the Agency within 60 days of the Contract termination date with a complete final financial report, accompanied by either a final invoice or a refund of any funds received but not expended. The Agency shall have no obligation to honor requests for payment based on expenditure reports submitted later than 60 days after termination or expiration of the contract period.

Reimbursement requests shall be completed on a "Request for Reimbursement" form furnished to the Grantee by the Agency. All reimbursement forms must include support documentation, including but not limited to; copies of invoices, individual time sheets and travel logs that have been signed by the employee and supervisor; salary registers or payrolls that include fringe benefits, hourly rates of pay, and signature of the Grantee's responsible financial person, cancelled checks and lease agreements.

Eligible expenditures for payment must be within the effective period noted in the Contract. Reimbursement may not be considered prior to the submission and final execution of the Contract.

All travel reimbursement shall be made in accordance with the current State rates, at the time of the expenditure, and shall be made in accordance with the "State Budget Manual".

Staff from the Division of Soil and Water Conservation or its designated agent will conduct a site visit and approve the work completed and submitted for reimbursement prior to releasing any payment to the Grantee. The Agency must determine that all work has been completed satisfactorily in accordance with the Best Management Practices for Selective Clearing and Snagging.

All matching funds, including in-kind and cash, must be spent concurrently with funds provided by the Contract. Both types of matching funds expended shall be accounted for on the monthly invoices.

Indirect costs are not allowable expenditures under this Contract, except as described in paragraph two of this section.

X. Contract Administrators:

All notices permitted or required to be given by one Party to the other and all questions about the Contract from one Party to the other shall be addressed and delivered to the other Party's Contract Administrator. The name, post office address, street address, telephone number, fax number, and email address of the Parties' respective initial Contract Administrator are set out below. Either Party may change the name, post office address, street address, telephone number, fax number, or email address of its Contract Administrator by giving timely written notice to the other Party.

For the Agency:

IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
David B. Williams, Deputy Director Division of Soil & Water Conservation 1614 Mail Service Center Raleigh, NC 27699-1614 Telephone: 919-715-6103 Email: David.B.Williams@ncagr.gov	David B. Williams, Deputy Director Division of Soil & Water Conservation 512 N. Salisbury Street, Room 417D Raleigh, NC 27604-1170

For the Grantee:

Grantee Contract Administrator	Grantee Principal Investigator or Key Personnel
Jeffrey E. Repp City of Boiling Spring Lakes 9 E. Boiling Spring Road Southport, NC 28461 Telephone: 910-363-0025 Fax: 910-363-0029 Email: jrepp@cityofbsl.org	Same

XI. Supplementation of Expenditure of Public Funds:

The Grantee assures that funds received pursuant to this Contract shall be used only to supplement, not to supplant, the total amount of federal, state and local public funds that the Grantee otherwise normally expends for salary and benefits for activities involved with specialty services and related programs. Funds received under this Contract shall be used to provide additional public funding for such services. The funds shall not be used to reduce the Grantee's total expenditure of other public funds for such services.

XII. Disbursements:

As a condition of this Contract, the Grantee acknowledges and agrees to make disbursements in accordance with the following requirements:

- a. Will implement or already have implemented adequate internal controls over disbursements
- b. Pre-audit all invoices presented for payment to determine:
 - Validity and accuracy of payment
 - Payment due date
 - Adequacy of documentation supporting payment
 - Legality of disbursement
- c. Assure adequate control of signature stamps/plates
- d. Assure adequate control of negotiable instruments; and
- e. Have procedures in place to ensure that account balance is solvent and to reconcile the account monthly.
- f.

XIII. Outsourcing:

The Grantee certifies that it has identified to the Agency all jobs related to the Contract that have been outsourced to other countries, if any. Grantee further agrees that it will not outsource any such jobs during the term of this Contract without providing prior notice to the Agency.

XIV. N.C.G.S. § 133-32 and Executive Order 24:

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State employee of any gift from anyone with a Contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement or Contract, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employee of your organization.

[This Contract is continued on the next page]

XV. Signature Warranty:

The undersigned represent and warrant that they are authorized to bind their principals to the terms of this Contract.

IN WITNESS WHEREOF, the Grantee and the Agency execute this contract in **two (2)** originals, one (1) of which is retained by the Grantee and one (1) which are retained by the Agency, the day and year first above written.

Grantee: City of Boiling Spring Lakes

	2/20/2020	
Signature of Authorized Representative		Date
Jeffrey E. Repp	City Manager	
Printed Name		Title

Witness:

	2/20/2020	
Signature		Date
Jane McMinn	City Clerk	
Printed Name		Title



North Carolina Department of Agriculture and Consumer Services

Signature of Authorized Representative	Date
N. David Smith, Chief Deputy Commissioner	

ATTACHMENT B SCOPE OF WORK WATERSHED RESTORATION PROJECT

City of Boiling Springs Lake (the "GRANTEE") will complete watershed restoration activities including cutting and removing downed trees, broken tops, woody/vegetative debris and sediment that impede or potentially impede water flow in the streams and tributaries included in Table B1 below (taken from the application submitted by the GRANTEE). For sites for which this contract is supplementing USDA Emergency Watershed Protection Program (EWPP) funding, completed work must also satisfy EWPP requirements prior to payment being authorized.

TABLE B1: Stream/Ditch Segments to be repaired

	Segment Name	Description of Planned Treatment	Linear Feet Planned
	Hunters Road-Unnamed Drainage		
A	to Boiling Springs Lake	Stream Debris Removal	1700
		Stream Debris Removal, bank	
B	N Shore Dr- Trib To Patricia Lake	Stabilization, erosion repair	150
	Pine Lake Rd-Queens Rd-Unnamed		
C	Trib to Pine Lake	Stream Debris Removal-bank erosion	400
D	Dam Rd-Boiling Springs Lake	Stream Debris Removal	100
	Cherry St-E Boiling Spring Rd-		
E	Unnamed Trib to Patricia Lake	Stream Debris Removal	1300
		Stream Debris Removal, bank	
F	E Boiling Spring Road-Patricia Lake	Stabilization, sediment removal	100
G	Orton Creek	Stream Debris Removal	100
H	Allen Creek	Stream Debris	100

The GRANTEE will ensure that all required permits are secured for each site and landowner permission is granted before any work proceeds for that site.

The GRANTEE will ensure that it and its contractors follow the Division of Water Resources' *Hurricane Matthew Stream and Wetland Cleanup/Restoration Guideline* dated October 2016. The GRANTEE shall also follow *Best Management Practices for Selective Clearing and Snagging* to manage all woody debris removed from streams. These guidelines can be downloaded at:

<https://www.ncagr.gov/SWC/disasterresponse/WatershedRecoveryEfforts.html>

In the event the Grantee completes the work specified in the Scope of Work without exhausting the funds in the Contract, the Agency Contract Administrator may issue a Work Authorization to approve stream debris removal work for additional stream segments requested by the Grantee, not to exceed the funds available in the Contract.

PUBLIC SECTOR CONTRACTS (Including Local Governments)

General Terms and Conditions

DEFINITIONS

Unless indicated otherwise from the context, the following terms shall have the following meanings in this Contract. All definitions are from 9 NCAC 3M.0102 unless otherwise noted. If the rule or statute that is the source of the definition is changed by the adopting authority, the change shall be incorporated herein:

- (1) "Agency" (as used in the context of the definitions below) shall mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subagency of government. For other purposes in this Contract, "Agency" shall mean the entity identified as one of the parties hereto.
- (2) "Audit" means an examination of records or financial accounts to verify their accuracy.
- (3) "Certification of Compliance" means a report provided by the Agency to the Office of the State Auditor that states that the Grantee has met the reporting requirements established by this Subchapter and included a statement of certification by the Agency and copies of the submitted grantee reporting package.
- (4) "Compliance Supplement" refers to the North Carolina State Compliance Supplement, maintained by the State and Local Government Finance Agency within the North Carolina Department of State Treasurer that has been developed in cooperation with agencies to assist the local auditor in identifying program compliance requirements and audit procedures for testing those requirements.
- (5) "Contract" means a legal instrument that is used to reflect a relationship between the agency, grantee, and subgrantee.
- (6) "Fiscal Year" means the annual operating year of the non-State entity.
- (7) "Financial Assistance" means assistance that non-State entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance. Financial assistance does not include amounts received as reimbursement for services rendered to individuals for Medicare and Medicaid patient services.
- (8) "Financial Statement" means a report providing financial statistics relative to a given part of an organization's operations or status.
- (9) "Grant" means financial assistance provided by an agency, grantee, or subgrantee to carry out activities whereby the grantor anticipates no programmatic involvement with the grantee or subgrantee during the performance of the grant.
- (10) "Grantee" has the meaning in G.S. 143C-6-23(a)(2): a non-State entity that receives a grant of State funds from a State agency, department, or institution but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. For other purposes in this Contract, "Grantee" shall mean the entity identified as one of the parties hereto.
- (11) "Grantor" means an entity that provides resources, generally financial, to another entity in order to achieve a specified goal or objective.
- (12) "Non-State Entity" has the meaning in N.C.G.S. 143C-1-1(d)(18): Any of the following that is not a State agency: an individual, a firm, a partnership, an association, a county, a corporation, or any other organization acting as a unit. The term includes a unit of local government and public authority.
- (13) "Public Authority" has the meaning in N.C.G.S. 143C-1-1(d)(22): A municipal corporation that is not a unit of local government or a local governmental authority, board, commission, council, or agency that (i) is not a municipal corporation and (ii) operates on an area, regional, or multiunit basis, and the budgeting and accounting systems of which are not fully a part of the budgeting and accounting systems of a unit of local government.
- (14) "Single Audit" means an audit that includes an examination of an organization's financial statements, internal controls, and compliance with the requirements of federal or State awards.
- (15) "Special Appropriation" means a legislative act authorizing the expenditure of a designated amount of public funds for a specific purpose.
- (16) "State Funds" means any funds appropriated by the North Carolina General Assembly or collected by the State of North Carolina. State funds include federal

PUBLIC SECTOR CONTRACTS (Including Local Governments)

financial assistance received by the State and transferred or disbursed to non-State entities. Both federal and State funds maintain their identity as they are subgranted to other organizations. Pursuant to N.C.G.S. 143C-6-23(a)(1), the terms "State grant funds" and "State grants" do not include any payment made by the Medicaid program, the Teachers' and State Employees' Comprehensive Major Medical Plan, or other similar medical programs.

- (17) "Subgrantee" has the meaning in G.S. 143C-6-23(a)(3): a non-State entity that receives a grant of State funds from a grantee or from another subgrantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.
- (18) "Unit of Local Government" has the meaning in G.S. 143C-1-1(d)(29): A municipal corporation that has the power to levy taxes, including a consolidated city-county as defined by G.S. 160B-2(1), and all boards, agencies, commissions, authorities, and institutions thereof that are not municipal corporations.

Relationships of the Parties

Independent Contractor: The Grantee is and shall be deemed to 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. The Grantee represents that it has, or shall secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with, the Agency.

Subcontracting: The Grantee shall not subcontract any of the work contemplated under this Contract without prior written approval from the Agency. Any approved subcontract shall be subject to all conditions of this Contract. Only the subcontractors or subgrantees specified in the Contract documents are to be considered approved upon award of the Contract. The Agency shall not be obligated to pay for any work performed by any unapproved subcontractor or subgrantee. The Grantee shall be responsible for the performance of all of its subgrantees and shall not be relieved of any of the duties and responsibilities of this Contract.

Subgrantees: The Grantee has the responsibility to ensure that all subgrantees, if any, provide all information necessary to permit the Grantee to comply with the standards set forth in this Contract.

Assignment: No assignment of the Grantee's obligations or the Grantee's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the State may:

- (a) Forward the Grantee's payment check(s) directly to any person or entity designated by the Grantee, or
- (b) Include any person or entity designated by Grantee as a joint payee on the Grantee's payment check(s).

In no event shall such approval and action obligate the State to anyone other than the Grantee and the Grantee shall remain responsible for fulfillment of all Contract obligations.

Beneficiaries: Except as herein specifically provided otherwise, this Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this Contract, and all rights of action relating to such enforcement, shall be strictly reserved to the Agency and the named Grantee. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Agency and Grantee that any such person or entity, other than the Agency or the Grantee, receiving services or benefits under this Contract shall be deemed an incidental beneficiary only.

Indemnity

Indemnification: The Grantee agrees to indemnify and hold harmless the Agency, including any of its Divisions, and any of its officers, agents and employees, from liability of any kind, and from any claims of third parties arising out of any act or omission of the Contractor in connection with the performance of this Contract to the extent permitted by law.

Default and Termination

Termination by Mutual Consent: The Parties may terminate this Contract by mutual consent with 60 days notice to the other party, or as otherwise provided by law.

Termination for Cause: If, through any cause, the Grantee shall fail to fulfill its obligations under this Contract in a timely and proper manner, the Agency shall have the right to terminate this Contract by giving written notice to the Grantee and specifying the effective date thereof.

In that event, all finished or unfinished deliverable items prepared by the Grantee under this Contract

PUBLIC SECTOR CONTRACTS (Including Local Governments)

shall, at the option of the Agency, become its property and the Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made.

Notwithstanding the foregoing provision, the Grantee shall not be relieved of liability to the Agency for damages sustained by the Agency by virtue of the Grantee's breach of this agreement, and the Agency may withhold any payment due the Grantee for the purpose of setoff until such time as the exact amount of damages due the Agency from such breach can be determined. The filing of a petition for bankruptcy by the Grantee shall be an act of default under this Contract.

Waiver of Default: Waiver by the Agency of any default or breach in compliance with the terms of this Contract by the Grantee shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be modification of the terms of this Contract unless stated to be such in writing, signed by an authorized representative of the Agency and the Grantee and attached to the Contract.

Availability of Funds: The parties to this Contract agree and understand that the payment of the sums specified in this Contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Agency.

Force Majeure: Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

Survival of Promises: All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the Contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable federal or State statutes of limitation.

Intellectual Property Rights

Copyrights and Ownership of Deliverables: All deliverable items produced pursuant to this Contract are the exclusive property of the Agency. The Grantee shall not assert a claim of copyright or other property interest in such deliverables.

Compliance with Applicable Laws

Compliance with Laws: The Grantee shall comply with all laws, ordinances, codes, rules, regulations,

and licensing requirements that are applicable to the conduct of its business, including those of federal, State, and local agencies having jurisdiction and/or authority.

Equal Employment Opportunity: The Grantee shall take affirmative action in complying with all federal and State statutes and all applicable requirements concerning fair employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or disability. For additional information see Title VI of the Civil Rights Act of 1964 (42 U.S.C., 2000d, 2000e-16), Title XI of the Education amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686), and section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794).

Executive Order 24: In accordance with Executive Order 24, issued by Governor Perdue, and N.C.G.S. § 133-32, a vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, vendor, or grantee), is prohibited from making gifts or giving favors to any employee of the Agency of Agriculture and Consumer Services. This prohibition covers those vendors, contractors, and/or grantees who:

- (a) have a Contract with a governmental Agency; or
- (b) have performed under such a Contract within the past year; or
- (c) anticipate bidding on such a Contract in the future.

For additional information regarding the specific requirements and exemptions, vendors, contractors, and/or grantees are encouraged to review Executive Order 24 and N.C.G.S. § 133-32.

Confidentiality

Confidentiality: Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Grantee under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the Agency. The Grantee acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information it will safeguard and not further disclose the information except as otherwise provided in this Contract.

Oversight

Access to Persons and Records: The State Auditor and the using agency's internal auditors shall have

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access to persons and records as a result of all Contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7 and Session Law 2010-194, Section 21 (i.e., the State Auditors and internal auditors may audit the records of the contractor during the term of the Contract to verify accounts and data affecting fees or performance).

Record Retention: Records shall not be destroyed, purged or disposed of without the express written consent of the Agency. State basic records retention policy requires all grant records to be retained for a minimum of five years or until all audit exceptions have been resolved, whichever is longer. If the Contract is subject to federal policy and regulations, record retention may be longer than five years since records must be retained for a period of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has been started before expiration of the five-year retention period described above, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five-year period described above, whichever is later.

Miscellaneous

Choice of Law: The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, are governed by the laws of North Carolina. The Grantee, by signing this Contract, agrees and submits, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this Contract and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters whether sounding in Contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

Headings: The Section and Paragraph headings in these General Terms and Conditions are not material parts of the agreement and should not be used to construe the meaning thereof.

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

Care of Property: The Grantee agrees that it shall be responsible for the proper custody and care of any property furnished to it for use in connection with the performance of this Contract and will reimburse the

Agency for loss of, or damage to, such property. At the termination of this Contract, the Grantee shall contact the Agency for instructions as to the disposition of such property and shall comply with these instructions.

Amendment: This Contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Agency and the Grantee.

Severability: In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Contract shall remain in full force and effect.

Travel Expenses: Reimbursement to the Grantee for travel mileage, meals, lodging and other travel expenses incurred in the performance of this Contract shall be reasonable and supported by documentation. State rates shall be used. International travel shall not be reimbursed under this Contract.

Sales/Use Tax Refunds: If eligible, the Grantee and all subgrantees shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this Contract, pursuant to G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

Advertising: The Grantee shall not use the award of this Contract as a part of any news release or commercial advertising.

Indirect Costs Policy: The Agency has adopted a "Zero" policy that indirect costs are unallowable expenditures in all State funded grant applications and/or grant guidance, informational or directional documents.

Allowable Uses of State Funds: Expenditures of State funds by any grantee shall be in accordance with the Cost Principles outlined in the Office of Management and Budget (OMB) CFR Title 2, Part 200 Uniform Administrative Requirements, as applicable. If the grant funding includes federal sources, the grantee shall ensure adherence to the cost principles established by the Federal Office of Management and Budget. [09 NCAC 03M.020]

Certifications and Assurances

CERTIFICATIONS REGARDING LOBBYING, NONPROCUREMENT, DEBARMENT, SUSPENSION AND DRUG-FREE WORKPLACE

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Signature of this form provides for compliance with certification requirements under 2 CFR, Subtitle B, Chapter IV, Part 417, "Nonprocurement Debarment and Suspension," Part 418, "New Restrictions on Lobbying," and Part 421, "Requirements for Drug-Free Workplace (Financial Assistance)," and 2 CFR Part 180. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Agriculture & Consumer Services determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by authority: 31 U.S.C. 1352 and U.S.C. 301 and implemented at 2 CFR Part 180, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 2 CFR Section 418.110, the applicant certifies that to the best of their knowledge and belief, that:

- 1) No Federal 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal contract, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal 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, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal 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) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

2. NONPROCUREMENT DEBARMENT AND SUSPENSION

As required by Executive Order 12549, Debarment and Suspension, and implemented at 2 CFR Part 180 and 2CFR Part 417, for prospective participants in primary covered transactions, as defined at 2 CFR 180.435 and Subpart C, 417.332, the applicant certifies 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 department or agency;
- b) Have not within a three-year period preceding this application 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 2. (a) (b) of this certification.
- d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default.
- e) Agree to include a term or condition in lower tier covered transactions requiring lower tier participants to comply with subpart C of the OMB guidance in 2 CFR part 180, as supplemented by subpart C of Part 417.

Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this certification.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 2 CFR Part 182, Subparts B, and C, for grantees:

The applicant certifies that it will:

- a) Make a good faith effort, on a continuing basis, to maintain a drug-free workplace. You must agree to do so as a condition for receiving any award covered by this part.
- b) Publish a drug-free workplace statement and establish a drug-free awareness program for your employees (see Sections 182.205 through 182.220); and
- c) Take actions concerning employees who are convicted of violating drug statutes in the workplace (see Section 182.225), including notification to any Federal agency on whose award the convicted employee was working and within 30 days take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended; or require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.
- d) You must identify all known workplaces under your Federal awards (see Section 182.230).

The grantee must provide the location site(s) for the performance of work done in connection with the specific grant.

Place(s) of Performance (Street address, city, county, state, zip code)

9 E. Boiling Spring Road

Southport, NC 28461

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 2 CFR Part 182:

- A. As a condition of the grant, I certify that I will comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of part 421, which adopts the Government-wide implementation (2 CFR part 182) of sec. 5152-5158 of the Drug Free Workplace Act of 1988 (Pub.L100-690, Title V, Subtitle D; 41 U.S.C. 701-707).

- B. I agree to notify the agency as required by 2 CFR 182.300(b) of any conviction for a criminal drug offense within ten days.

Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the Grantee, I hereby certify and state to the best of my knowledge and belief, that the Grantee will comply with the above certifications.

City of Boiling Sprnig Lakes

Grantee Organization Name

2/20/2020

Signature of Authorized Representative

Date

Jeffrey E. Repp

City Manager

Printed Name of Authorized Representative

Title

NC OpenBook Supplemental Information

Instructions: Complete the information below and return it to the Contract Administrator identified in your original contract. This information must be submitted as part of your contract. If you have questions, please contact the Contract Administrator or the Alternate Contact as reflected in your contract.

DUNS Number: 109026476
 Contract Number: 19-091-4014 Amendment Number: _____
 Grantee Name: City of Boiling Spring Lakes
 TAX ID Number: 56-6034506
 Fiscal Year Ends: June 30

1. Brief Description and Background/History of your Organization.

Be sure to include the number of years in existence, number of employees, mission and goals of your organization.
 Founded in 1961 the City is a body corporate and politic under the name of the "City of Boiling Spring Lakes" and under the City shall have and may exercise all the powers, duties, rights, privileges, and immunities conferred and imposed upon municipal corporations in the State of NC and has a current work force of approximately 40 full-time employees and 15 part-time employees.

2. Current project timeline: Begin 1/1/2020 End 12/31/2022

3. Expected outcomes and specific deliverables.

(Example: Expected Outcome: Aquaculture operation will remain in business. Deliverable: Healthy food made available for human consumption.)
Restoration of nine (9) streambeds damaged by Hurricane Florence.

4. The Grantee's WEB URL: www.cityofbsl.org

5. * Grantee County of Residence: Brunswick Congressional District#: 7th
 (CONGRESSIONAL DISTRICT # MUST BE IDENTIFIED)

6. **County of Benefit: Single County: ☒ Yes ☐ No County Name: Brunswick
 Statewide: ☐ Yes ☐ No
 Regional: ☐ Yes ☐ No

7. If the answer to question number 6 is more than one county or "Regional", list the counties receiving benefit.

Brunswick County

*Grantee County of Residence: County in which grantee is located.

**County of Benefit: List only county or counties in which funding will be spent and/or food commodities will be received.

Signature Card



CONTRACT & FINANCIAL DOCUMENTS

INSTRUCTIONS: Please read and fill in the required information to the right of each field where applicable. Signatures must match the Contract signatures. In the event the affixed signature(s) are no longer valid, a revised form must be submitted prior to processing any contractual documents or submitting "Request for Payments" or any other financial documents. If more than two people will sign for the organization, this form may be duplicated.

SECTION I.

Date:	February 20, 2020
Legal Applicant Organization/Agency Name:	City of Boiling Spring Lakes
Federal Tax Identification Number:	56-6034506

SECTION II.

Certification:

By affixing my signature below, I certify that person(s) identified are designated having legal authorization to sign on behalf of the organization named in Section I., above, for purposes of executing contractual documents and preparing, approving and executing all financial documents; including "Requests for Payments." I understand the legal implications of any and all misrepresentation, which include but are not limited to defrauding the State of North Carolina, and certify that the person signing below has full authority to execute this Agreement on behalf of the named organization.

NON-GOVERNMENTAL ORGANIZATIONS ONLY (Must match Contract signature)

Board Chair, Executive Director, etc.	Financial Representative, Treasurer, etc.
Print Name & Title:	Print Name & Title:
Signature:	Signature:

GOVERNMENTAL ENTITIES (Must match Contract signature)

Authorized Governmental Official	Chief Fiscal Officer
Print Name & Title: Jeffrey E. Repp, City Manager	Print Name & Title: Karen Thompson
Signature:	Signature:

Request for Taxpayer Identification Number and Certification

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Attachment F

Give Form to the
requester. Do not
send to the IRS.

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. City of Boiling Spring Lakes	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input checked="" type="checkbox"/> C Corporation <input checked="" type="checkbox"/> S Corporation <input checked="" type="checkbox"/> Partnership <input checked="" type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ►	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ (Applies to accounts maintained outside the U.S.)
5 Address (number, street, and apt. or suite no.) See instructions. 9 E. Boiling Spring Road	Requester's name and address (optional)
6 City, state, and ZIP code Southport, NC 28461	
7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number	
or	
Employer identification number	
56	- 6034506

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign
Here

Signature of
U.S. person ►

Date ► **February 20, 2020**

General Instructions

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

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; do not leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.SSA.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/Businesses and clicking on Employer Identification Number (EIN) under Starting a Business. Go to www.irs.gov/Forms to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to www.irs.gov/OrderForms to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor ²
5. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee ¹ The actual owner ¹
6. Sole proprietorship or disregarded entity owned by an individual	The owner ³
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor ⁴
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity ⁴
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

***Note:** The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at spam@uce.gov or report them at www.ftc.gov/complaint. You can contact the FTC at www.ftc.gov/idtheft or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see www.IdentityTheft.gov and Pub. 5027.

Visit www.irs.gov/IdentityTheft to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

Office of the State Controller
Return to: OSC Support Services Center
 Address: 1410 Mail Service Center
 Raleigh, NC 27699-1410
 Email: osc.support.services@osc.nc.gov
 Telephone: 919-707-0795

**Vendor Electronic Payment Form**

- ☐ New Add Request
☐ Change/Update Existing Account
☐ Inactivate Existing Account

*Denotes a required field

The State of North Carolina offers payees the opportunity to receive payments electronically through U.S. based banks. In addition to having the funds deposited electronically, you will also receive remittance information by e-mail.

We require you to submit a copy of a voided check, bank statement, or a letter from your bank for account verification.

*TAX ID # or SSN	5	6	6	0	3	4	5	0	6
*PAYEE NAME	City of Boiling Spring Lakes								
*REMITTANCE ADDRESS (AS PRINTED ON YOUR INVOICE)	9 E. Boiling Spring Road								
	STREET						SUITE/ROOM #		
	Southport						NC		28461
	CITY						STATE		ZIP CODE
*CONTACT	Karen Thompson, Finance Manager						910-363-0019		
	NAME & TITLE						PHONE NUMBER		

NEW FINANCIAL INFORMATION

*FINANCIAL INSTITUTION NAME:	BB&T Bank																	
*NAME ON ACCOUNT:	City of Boiling Spring Lakes																	
*NEW ROUTING NUMBER:	0	5	3	1	0	1	1	2	1									
*NEW ACCOUNT NUMBER:	5	2	1	8	2	1	6	3	2	5								
*ACCT TYPE:	<input type="checkbox"/> Checking <input checked="" type="checkbox"/> Savings																	
*REMIT E-MAIL ADDRESS	kthompson@cityofbsl.org																	

New add requests MUST include contact information for the state agency with which you are doing business.

*Agency Name:	*Agency Contact Name:
*Agency Contact Email Address:	*Agency Contact Phone Number:

PRIOR FINANCIAL INFORMATION (only required for updates)

FINANCIAL INSTITUTION NAME:																		
NAME ON ACCOUNT:																		
ROUTING NUMBER:																		
ACCOUNT NUMBER:																		
ACCT TYPE:	<input type="checkbox"/> Checking <input type="checkbox"/> Savings																	
REMIT E-MAIL ADDRESS																		

*	ALL BOXES BELOW MUST BE REVIEWED AND CHECKED
<input checked="" type="checkbox"/>	I acknowledge that electronic payments to the designated account must comply with the provisions of U.S. law, and the requirements of the Office of Foreign Assets Control (OFAC). I affirm the entire amount of the payment will not be transferred to a foreign bank account.
<input checked="" type="checkbox"/>	I authorize the Office of the State Controller to initiate ACH payments, and if necessary, adjustments for any ACH payments in error, to the financial institution and account identified on the attached certification document. This authority will remain in effect until I, the vendor, cancel it in writing or the authority is terminated by the NC Office of the State Controller.
<input checked="" type="checkbox"/>	I have attached a copy of a current voided check, current bank statement or included a bank letter on bank letterhead.
*PRINT NAME: Karen Thompson	*DATE: 2/20/2020
*SIGNATURE:	*PHONE NUMBER: 910-363-0019

Instructions

* Denotes a required field on the form

1. *Check the appropriate box at the top of the form:
 - New Add Request – Vendor would like to begin receiving payments via ACH.
 - Change/Update Existing Account – Vendor's account number, routing number, or remittance email address has changed.
 - Inactivate Existing Account – Vendor no longer wants to receive payments via ACH.
2. *Enter the vendor's Tax Identification Number or Social Security Number.
3. *Enter the Payee Name – The name of the person or business receiving payment.
4. *Enter the vendor's remittance address. The remittance address is the address printed on your invoice where payments should be sent.
5. *Enter the vendor's contact name, title, and phone number.
6. *Enter the vendor's financial information:
 - Financial Institution Name – Name of the financial institution.
 - Name on Account – The account owner's name.
 - Routing Number – Nine-digit number identifying the financial institution.
 - Account Number – The bank account number where the funds should be deposited.
 - Account Type – Is this a checking or savings account? Check the appropriate box.
 - Remit E-mail address - Enter the email address to which the remittance advices should be sent.
7. *For a new add request only, provide the following:
 - Agency Name – The state agency the vendor is doing business with.
 - Agency Contact Name – The vendor's contact person name at the state agency.
 - Agency Contact Email Address – The contact person's email address at the state agency.
 - Agency Contact Phone Number – The contact person's phone number at the state agency.

NOTE: New add requests **MUST** include contact information for the state agency with which you are doing business.
8. Prior Financial Information – this is required if the vendor's bank account, routing number, or remittance email address has changed.
 - Financial Institution Name – Name of the financial institution.
 - Name on Account – The account owner's name.
 - Routing Number – Nine-digit number identifying the financial institution.
 - Account Number – The bank account number where the funds should be deposited.
 - Account Type – Is this a checking or savings account? Check the appropriate box.
 - Remit E-mail address - Enter the email address to which the remittance advices should be sent.
9. *Review all the information in the 3 attestation boxes located above the signature area. All 3 boxes must be checked – **otherwise the form will not be processed.**
10. *Print Name – Print the name of the authorized signee on the form.
 - *Date – Date of signature.
 - *Signature – The authorized signee's signature.
 - *Phone Number – The authorized signee's phone number.

Return to: OSC Support Services Center

Address:

1410 Mail Service Center

Raleigh, NC 27699-1410

Email: osc.support.services@osc.nc.gov

Please allow up to 30 days for processing.



ORDER #: _____

ORDER ~ authorizing the City Manager to accept the proposal of Stryker Flex Financial in the amount of Thirty Two Thousand Seven Hundred and Thirty Five Dollars and Forty Five Cents (\$32,735.45) for the purchase of a LIFEPAK 15 V4 Monitor/Defibrillator; and declaring the device as surplus property and donating same to the Boiling Spring Fire & Rescue.

Craig M. Caster, Mayor

ATTEST:

Jane E. McMinn, City Clerk

Date



1901 Romence Road Parkway
Portage, MI 49002

Remittance section

Contract number:	820-2592847-001
Invoice number:	2592847001-BO3
Invoice date:	1/13/2020
Invoice due date:	2/13/2020
Total due:	\$32,735.45
Amount remitted:	\$ _____

INVOICE

City of Boiling Spring Lakes
Attn: Accounts Payable
9 East Boiling Spring Rd.
Boiling Spring Lakes, NC 28461

Use enclosed envelope and make checks payable to:
Stryker Flex Financial
Send all payments and correspondence to:

Stryker Flex Financial
25652 Network Place
Chicago, IL 60673-1256

Keep lower portion for your records. Please return upper portion with your payment and reference your contract number(s) on all checks.

Stryker Flex Financial, 25652 Network Place, Chicago, IL 60673-1256

Account name:	Boiling Spring Lakes Fire Rescue	Contract number:	820-2592847-001
Invoice number:	2592847001-BO3	Invoice due date:	2/13/2020
Invoice date:	1/13/2020		

Total due:	\$32,735.45
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For Customer Service inquiries, please contact us by phone at 888-872-5855 or email us at
Stryker.Finance.Customer.Support@financial-svc.com

Important messages

- Wire: JP Morgan Chase Routing: 021000021 Account: 870510617 Reference Invoice Number
- ACH: JP Morgan Chase Routing: 071000013 Account: 870510617 Reference Invoice Number

Contract Number	Description	Total due
820-2592847-001	Buyout of Contract No. 820-2592847-001 (030-0003273-000)	
	Remaining Payments:	\$32,735.45
	Renewal Payments:	\$0.00
	Less Discount (if applicable):	\$0.00
	Equipment Price (if applicable):	\$0.00
	Sales Tax:	\$0.00
	Personal Property Tax:	\$0.00
	Late Charges Outstanding:	\$0.00
	Other Outstanding Charges:	\$0.00

Total Due:**\$32,735.45**



1901 Romence Road Parkway
Portage, MI 49002

Remittance section

Contract number:	820-2592847-001
Invoice number:	2592847001-BO3
Invoice date:	1/13/2020
Invoice due date:	2/13/2020
Total due:	\$32,735.45
Amount remitted:	\$ _____

INVOICE

City of Boiling Spring Lakes
Attn: Accounts Payable
9 East Boiling Spring Rd.
Boiling Spring Lakes, NC 28461

Use enclosed envelope and make checks payable to:
Stryker Flex Financial
Send all payments and correspondence to:

Stryker Flex Financial
25652 Network Place
Chicago, IL 60673-1256

Keep lower portion for your records. Please return upper portion with your payment and reference your contract number(s) on all checks.

Stryker Flex Financial, 25652 Network Place, Chicago, IL 60673-1256

Account name:	Boiling Spring Lakes Fire Rescue	Contract number:	820-2592847-001
Invoice number:	2592847001-BO3	Invoice due date:	2/13/2020
Invoice date:	1/13/2020		

Total due:	\$32,735.45
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	Less Discount (if applicable):	\$0.00
	Equipment Price (if applicable):	\$0.00
	Sales Tax:	\$0.00
	Personal Property Tax:	\$0.00
	Late Charges Outstanding:	\$0.00
	Other Outstanding Charges:	\$0.00

Total Due:**\$32,735.45**



McConnell - LP15, Stair-PRO

Quote Number: 10057899
 Version: 1
 Prepared For: BOILING SPRING LAKES VOLNTR FIRE DEPT
 Attn:

Remit to: P.O. Box 93308
 Chicago, IL 60673-3308
 Rep: Patrick Vereb
 Email: pat.vereb@stryker.com
 Phone Number: 412.651.5210

Quote Date: 10/01/2019
 Expiration Date: 12/20/2019

Delivery Address		End User - Shipping - Billing		Bill To Account	
Name:	BOILING SPRING LAKES VOLNTR FIRE DEPT	Name:	BOILING SPRING LAKES VOLNTR FIRE DEPT	Name:	BOILING SPRING LAKES VOLNTR FIRE DEPT
Account #:	1508674	Account #:	1508674	Account #:	1508674
Address:	3059 GEORGE II HWY SOUTHPORT North Carolina 28461-7794	Address:	3059 GEORGE II HWY SOUTHPORT North Carolina 28461-7794	Address:	3059 GEORGE II HWY SOUTHPORT North Carolina 28461-7794

Equipment Products:

#	Product	Description	Qty	Sell Price	Total
1.0	11996-000081	FilterLine Set Adult/Pediatric (box of 25)	1	\$225.81	\$225.81
2.0	11996-000163	SmartCapnoLine Plus w/O2 delivery - Adult/ Intermediate patients>44lbs, 25/box	1	\$297.50	\$297.50
3.0	99577-001957	LIFEPAK 15 V4 Monitor/Defib - Manual & AED, Trending, Noninvasive Pacing, SpO2, SpCO, NIBP, 12-Lead ECG, EtCO2, BT.	1	\$28,966.65	\$28,966.65
4.0	41577-000288	Ship Kit -QUIK-COMBO Therapy Cable; 2 rolls100mm Paper; RC-4, Patient Cable, 4ft.; NIBP Hose, Coiled; NIBP Cuff, Reusable, adult; 12-Lead ECG Cable, 4-Wire Limb Leads, 5ft; 12-Lead ECG Cable, 6-Wire Precordial attachment	1	\$0.00	\$0.00
5.0	11141-000115	REDI-CHARGE Base (power cord not included)	1	\$1,133.90	\$1,133.90
6.0	11140-000015	AC power cord	1	\$60.35	\$60.35
7.0	11140-000052	LP15 REDI-CHARGE Adapter Tray	1	\$153.00	\$153.00
8.0	21330-001176	LP 15 Lithium-ion Battery 5.7 amp hrs	3	\$350.20	\$1,050.60
9.0	11171-000049	Masimo™Rainbow™ DCI Adult Reusable SpO2, SpCO, SpMet Sensor, 3 FT. For use with RC Patient Cable.	1	\$556.80	\$556.80
10.0	11171-000040	Masimo™M-LNCS® Pediatric Single Patient Use Adhesive SpO2 only Sensor. Box of 20. For use with RC Patient Cable.	1	\$243.10	\$243.10
11.0	21300-008159	LIFEPAK 15 NIBP Straight Hose, 6'	1	\$44.20	\$44.20
12.0	11160-000011	NIBP Cuff-Reusable, Infant	1	\$17.00	\$17.00
13.0	11160-000013	NIBP Cuff-Reusable, Child	1	\$19.55	\$19.55
14.0	11160-000019	NIBP Cuff-Reusable, Adult X Large	1	\$39.10	\$39.10
15.0	11160-000017	NIBP Cuff -Reusable, Large Adult	1	\$29.58	\$29.58



McConnell - LP15, Stair-PRO

Quote Number: 10057899
Version: 1
Prepared For: BOILING SPRING LAKES VOLNTR FIRE DEPT
Attn:

Remit to: P.O. Box 93308
Chicago, IL 60673-3308
Rep: Patrick Vereb
Email: pat.vereb@stryker.com
Phone Number: 412.651.5210

Quote Date: 10/01/2019
Expiration Date: 12/20/2019

#	Product	Description	Qty	Sell Price	Total
16.0	11577-000002	LIFEPAK 15 Basic carry case w/right & left pouches; shoulder strap (11577-000001) included at no additional charge when case ordered with a LIFEPAK 15 device	1	\$234.60	\$234.60
17.0	11220-000028	LIFEPAK 15 Carry case top pouch	1	\$41.65	\$41.65
18.0	11260-000039	LIFEPAK 15 Carry case back pouch	1	\$60.35	\$60.35
19.0	11996-000093	Electrode EDGE QUIK-COMBO pediatric RTS	2	\$27.00	\$54.00
20.0	11240-000016	Strip chart recorder paper, 100mm 2rolls/bx (1-23)	2	\$18.70	\$37.40
22.0	99997-000291	Competitive Trade-In	1	-\$4,000.00	-\$4,000.00
23.0	6252000000	Stair-PRO Model 6252	1	\$2,942.94	\$2,942.94
23.1	7777881660	1 year parts, labor & travel			
23.2	6252009001	Stair-Pro Operations Manual			
23.3	6250001162	In-Service Video (DVD)			
23.4	6252026000	Common Components			
23.5	6250021000	2 Piece ABS Panel Seat			
23.6	6250160000	Polypropelene Restraint Set(Plastic Buckles)			
23.7	6252022000	Main Frame Assy Option			
23.8	6250024000	Standard Length Lower LiftHandles			
23.9	6252028000	No Foot Rest Option			
23.10	6252024000	No IV Clip Option			
Equipment Total:					\$36,208.08

ProCare Products:

#	Product	Description	Qty	Sell Price	Total
21.1	78000008	Prevent Plus Batteries (Onsite) for LIFEPAK 15 V4 Monitor/Defib - Manual & AED, Trending, Noninvasive Pacing, SpO2, SpCO, NIBP, 12-Lead ECG, EtCO2, BT.	1	\$6,120.00	\$6,120.00
24.1	77301ST	PM Only - Stair Chair - TOS for Stair-PRO Model 6252	1	\$335.40	\$335.40
ProCare Total:					\$6,455.40



McConnell - LP15, Stair-PRO

Quote Number: 10057899
Version: 1
Prepared For: BOILING SPRING LAKES VOLNTR FIRE DEPT
Attn:

Remit to: P.O. Box 93308
Chicago, IL 60673-3308
Rep: Patrick Vereb
Email: pat.vereb@stryker.com
Phone Number: 412.651.5210

Quote Date: 10/01/2019
Expiration Date: 12/20/2019

Price Totals:

Estimated Sales Tax (6.750%):	\$2,609.78
Freight/Shipping:	\$0.00
Grand Total:	\$41,273.27

Prices: In effect for 60 days.

Terms: Net 30 Days

Ask your Stryker Sales Rep about our flexible financing options.

AUTHORIZED CUSTOMER SIGNATURE

PROCARESM PRODUCT SERVICE PLAN AGREEMENT and TERMS AND CONDITIONS

This document sets forth the entire Product Service Plan Agreement ("Agreement") between **Stryker Medical (a division of Stryker Corporation)**, herein and after referred to as "**Stryker**", and _____, herein and after referred to as the "**Customer**." This is the entire Agreement and no other oral modifications are valid. This Agreement shall remain in effect unless canceled or modified by either party according to the following terms and conditions.

1. SERVICE COVERAGE AND TERM

Stryker shall provide to Customer the services (the "Services") as defined on Page 1 of the Stryker Quote as the equipment *ProCare Program* (hereinafter each, a "Service Plan"). The equipment covered under said Service Plan is set forth on Exhibit A to the Quote (the "Equipment"). The Services and Service Plan are ancillary to and not a complete substitute for the requirements of Customer to adhere to the routine maintenance instructions provided by Stryker, its equipment and operations manuals, and accompanying labels and/or inserts for the Equipment. Customer covenants and agrees that its personnel will follow the instructions and contents of those manuals, labels and inserts. When Equipment or a component is replaced, the item provided in replacement will be the Customer's property (if Customer owns the Equipment) and the replaced item will be Stryker's property. Stryker may elect to use new or used parts related to the Services in its sole discretion. The Service Plan coverage, term, start date, and price of the Services appear on the Service Plan.

2. EQUIPMENT SCHEDULE CHANGES

During the term of the Agreement and upon each party's written consent, additional Equipment may be included in the Exhibit A. All additions are subject to the terms and conditions contained herein. Stryker shall adjust the charges and modify Exhibit A to reflect the additions.

3. INSPECTION SCHEDULING

Service inspections will be scheduled in advance at a mutually agreed upon time for such period of time as is reasonably necessary to complete the Services. Equipment not made available at the specified time will be serviced at the next scheduled service inspection unless specific arrangements are made with Stryker. Such arrangements will include travel and other special charges at Stryker's then current rates.

4. INSPECTION ACTIVITY

On each scheduled service inspection, Stryker's Service Representative will inspect each available item of Equipment as required in accordance with Stryker's then current Maintenance procedures for said Equipment. If there is any discrepancy or questions on the number of inspections, price, or Equipment, Stryker may amend this Agreement.

5. CUSTOMER OBLIGATIONS

Customer shall use commercially reasonable efforts to cooperate with Stryker in connection with Stryker's performance of the Services. Customer understands and acknowledges that Stryker employees will not provide surgical or medical advice, will not practice surgery or medicine, will not come in physical contact with the patient, will not enter the "sterile field" at any time, and will not direct equipment or instruments that come in contact with the patient during surgery. Customer's personnel will refrain from requesting Stryker employees to take any actions in violation of these requirements or in violation of applicable laws, rules or regulations, Customer policies, or the patient's informed consent. A refusal by Stryker employees to engage in such activities shall not be a breach of this Agreement. Customer consents to the presence of Stryker employees in its operating rooms, where applicable, in order for Stryker to provide Services under this Agreement and represents that it will obtain all necessary consents from patients.

6. SERVICE INVOICING

Invoices will be sent on the agreed payment method. All prices are exclusive of state and local use, sales or similar taxes. In states assessing upfront sales and use tax, Customer's payments will be adjusted to include all applicable sales and use tax amortized over the Service Plan term using a rate that preserves for Stryker, its affiliates and /or assigns, the intended economic yield for the transaction described in this Agreement. All invoices issued under this Agreement are to be paid within thirty (30) days of the date of the invoice. Failure to comply with Net 30 Day terms will constitute breach of contract and future Service will only be made on a prepaid or COD basis, or until the previous obligation is satisfied, or both. Stryker reserves the right, with

no liability to Stryker, to cancel any contract on the basis of payment default for any previous equipment or service provided by Stryker or any of its affiliates.

7. PRICE CHANGES

The Service prices specified herein are those in effect as of the date of acceptance of this Agreement and will continue in effect throughout the term of the Service Plan.

8. INITIAL INSPECTION

This Agreement shall be applicable only to such Equipment as listed in Exhibit A, which has been determined by a Stryker's Representative to be in good operating condition upon his/her initial inspection thereof.

9. OPERATION MAINTENANCE

Stryker's Services are ancillary to and not a complete substitute for the requirements of Customer to adhere to the routine maintenance instructions provided by Stryker, its Equipment and operations manuals, and accompanying labels and/or inserts for each item of Equipment. Customer's appropriate user personnel should be entirely familiar with the instructions and contents of those manuals, labels and inserts and implement them accordingly.

10. SERVICE PLAN WARRANTY AND LIMITATIONS

Stryker represents and warrants that the Services shall be performed in a workmanlike manner and with professional diligence and skill. Services will comply with all applicable laws and regulations. During the term of the Service Plan, Stryker will maintain the Equipment in good working condition. Notwithstanding any other provision of this Agreement, the Service Plan does not include repairs or other services made necessary by or related to, the following: (1) abnormal wear or damage caused by misuse or by failure to perform normal and routine maintenance as set out in the Stryker maintenance manual or operating instructions. (2) accidents (3) catastrophe (4) acts of god (5) any malfunction resulting from faulty maintenance, improper repair, damage and/or alteration by non-Stryker authorized personnel (6) Equipment on which any original serial numbers or other identification marks have been removed or destroyed; or (7) Equipment that has been repaired with any unauthorized or non-Stryker components. In addition, in order to ensure safe operation of the Equipment, only Stryker accessories should be used. Stryker reserves the right to invalidate the Service Plan if Equipment is used with accessories not manufactured by Stryker.

TO THE FULLEST EXTENT PERMITTED BY LAW, THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION ARE THE ONLY WARRANTIES APPLICABLE TO THE SERVICES AND ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTY BY STRYKER, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE.

11. WAIVER EXCLUSIONS

No failure to exercise and no delay by Stryker in exercising any right, power or privilege hereunder shall operate as a waiver thereof. No waiver of any breach of any provision by Stryker shall be deemed to be a waiver by Stryker of any preceding or succeeding breach of the same or any other provision. No extension of time by Stryker for performance of any obligations or other acts hereunder or under any other Agreement shall be deemed to be an extension of time for performances of any other obligations or any other acts by Stryker.

12. LIMITATION OF LIABILITY

EXCEPT FOR THIRD PARTY DAMAGES RELATED TO STRYKER'S INDEMNITY OBLIGATIONS UNDER SECTION 13, STRYKER'S LIABILITY ARISING UNDER THIS AGREEMENT WILL NOT EXCEED THE AMOUNT OF SERVICE FEES PAID DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE. IN NO INSTANCE WILL STRYKER BE LIABLE TO CUSTOMER FOR INCIDENTAL, PUNITIVE, SPECIAL, COVER, EXEMPLARY, MULTIPLIED OR CONSEQUENTIAL DAMAGES OR ATTORNEYS' FEES OR COSTS FOR ANY ACTIONS UNDER OR RELATED TO THIS AGREEMENT.

13. INDEMNIFICATION

Stryker shall indemnify and hold harmless Customer from any loss or damage brought by a third party which Customer may suffer directly as a result of the gross negligence or willful misconduct of Stryker or its employees or agents in the course of providing Services. The foregoing indemnification will not apply to any liability arising from: (i) an injury or damage due to the negligence of any person other than Stryker's employee or agent; (ii) the failure of any person other than Stryker's employee or agent to follow any instructions outlined in the labeling, manual, and/or instructions for use of the Equipment; (iii) the use of any equipment or part not purchased from Stryker or any equipment or any part thereof that has been modified, altered or repaired by any person other than Stryker's employee or agent; or (iv) any actions taken or omissions made by any Stryker employee while under the direction or control of Customer's staff. Customer agrees to hold Stryker harmless from and indemnify Stryker for any claims or losses or injuries arising from (i)-(iv) above resulting from Customer's or its employees' or

agents' actions.

14. TERM AND TERMINATION

The Agreement shall commence on the date indicated on the first Service Plan entered into between the parties and shall continue until Stryker ceases to provide Services or the Agreement is canceled by either party by giving a ninety (90) days prior written notice of any such cancellation to the other party. If this Agreement is canceled during or before the expiration date of the Agreement, Customer will owe for the months covered up to the cancellation date of the Agreement and for any parts, labor, and travel charges, required to maintain Equipment, exceeding that already paid during the Agreement.

15. FORCE MAJEURE

Except for Customer's payment obligations, which may only be delayed and not excused entirely, neither party to this Agreement will be liable for any delay or failure of performance that is the result of any happening or event that could not reasonably have been avoided or that is otherwise beyond its control, provided that the party hindered or delayed immediately notifies the other party describing the circumstances causing delay. Such happenings or events will include, but not be limited to, terrorism, acts of war, riots, civil disorder, rebellions, fire, flood, earthquake, explosion, action of the elements, acts of God, inability to obtain or shortage of material, equipment or transportation, governmental orders, restrictions, priorities or rationing, accidents and strikes, lockouts or other labor trouble or shortage.

16. INSURANCE REQUIREMENTS

Stryker shall maintain the following insurance coverage during the term of the Agreement: (i) commercial general liability coverage, including coverage for products and completed operations liability, with minimum limits of \$1,000,000.00 per occurrence and \$2,000,000.00 annual aggregate applying to bodily injury, personal injury, and property damage; (ii) automobile liability insurance with combined single limits of \$1,000,000.00 for owned, hired, and non-owned vehicles; and (iii) worker's compensation insurance as required by applicable law. At Customer's written request, certificates of insurance shall be provided by Stryker prior to commencement of the Services at any premises owned or operated by Customer. To the extent permitted by applicable laws and regulations, Stryker shall be permitted to meet the above requirements through a program of self-insurance.

17. WARRANTY OF NON-EXCLUSION

Each party represents and warrants that as of the Effective Date, neither it nor any of its employees, are or have been excluded terminated, suspended, or debarred from a federal or state health care program or from participation in any federal or state procurement or non-procurement programs. Each party further represents that no final adverse action by the federal or state government has occurred or is pending or threatened against the party, its affiliates, or, to its knowledge, against any employee, Stryker, or agent engaged to provide Services under this Agreement. Each party also represents that if during the term of this Agreement it, or any of its employees becomes so excluded, terminated, suspended, or debarred from a federal or state health care program or from participation in any federal or state procurement or non-procurement programs, such will promptly notify the other party. Each party retains the right to terminate or modify this Agreement in the event of the other party's exclusion from a federal or state health care program.

18. COMPLIANCE

Stryker, as supplier, hereby informs Customer, as buyer, of Customer's obligation to make all reports and disclosures required by law or contract, including without limitation properly reporting and appropriately reflecting actual prices paid for each item supplied hereunder net of any discount (including rebates and credits, if any) applicable to such item on Customer's Medicare cost reports, and as otherwise required under the Federal Medicare and Medicaid Anti-Kickback Statute and the regulations thereunder (42 CFR Part 1001.952(h)). Pricing under this Agreement (and each Service Plan) may constitute discounts on the purchase of Services. Customer represents that (i) it shall make all required cost reports, and (ii) it has the corporate power and authority to make or cause such cost reports to be made. To the extent required by law, Customer and Stryker agree to comply with the Omnibus Reconciliation Act of 1980 (P.L. 96Z499) and it's implementing regulations (42 CFR, Part 420). To the extent applicable to the activities of Stryker hereunder, Stryker further specifically agrees that until the expiration of four (4) years after furnishing Services pursuant to this Agreement, Stryker shall make available, upon written request of the Secretary of the Department of Health and Human Services, or upon request of the Comptroller General, or any of their duly authorized representatives, this Agreement and the books, documents and records of Stryker that are necessary to verify the nature and extent of the costs charged to Customer hereunder. Stryker further agrees that if Stryker carries out any of the duties of this Agreement through a subcontract with a value or cost of ten thousand dollars (\$10,000) or more over a twelve (12) month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives the

subcontract, and books and documents and records of such organization that are necessary to verify the nature and extent of such costs.

19. CONFIDENTIALITY

The parties hereto shall hold in confidence this Agreement and the terms and conditions contained herein (including Services Plan pricing) and any information and materials which are related to the business of the other or are designated as proprietary or confidential, herein or otherwise, or which a reasonable person would consider to be proprietary or confidential information; and (b) hereby covenant that they shall not disclose such information to any third party without prior written authorization of the one to whom such information relates. The rights and remedies available to a party hereunder shall not limit or preclude any other available equitable or legal remedies.

20. HIPAA

Stryker is not a "business associate" of Customer, as the term "business associate" is defined by HIPAA (the Health Insurance Portability and Accountability Act of 1996 and 45 C.F.R. parts 142 and 160-164, as amended). To the extent the parties mutually agree that Stryker becomes a business associate of Customer, the parties agree to negotiate to amend the Service Plan or this Agreement as necessary to comply with HIPAA, and if an agreement cannot be reached the applicable Service Plan will immediately terminate. All medical information and/or data concerning specific patients (including, but not limited to, the identity of the patients), derived incidentally during the course of this Agreement, shall be treated by both parties as confidential, and shall not be released, disclosed, or published to any party other than as required or permitted under applicable laws. Notwithstanding the foregoing, Stryker may be considered a "business associate" of Customers related to any Service Plan for wireless products and/or other designated business associate services. If Stryker is considered a "business associate" of Customer, Stryker will agree to enter into a business associate agreement with Customer as required by HIPAA.

21. MISCELLANEOUS

Neither party may assign or transfer their rights and/or benefits under this Agreement without the prior written consent of the other party, except that Stryker shall have the right to assign this Agreement or any rights under or interests in this Agreement to any parent, subsidiary or affiliate of Stryker. All of the terms and provisions of this Agreement shall be binding upon, shall inure to the benefit of, and be enforceable by permitted successors and assigns of the parties to this Agreement. This Agreement shall be construed and interpreted in accordance with the laws of the State of Michigan. The invalidity, in whole or in part, of any of the foregoing paragraphs, where determined to be illegal, invalid, or unenforceable by a court or authority of competent jurisdiction, will not affect or impair the enforceability of the remainder of the Agreement. This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement and supersedes all prior negotiations and agreements between the parties concerning the subject matter of this Agreement. In the event of an inconsistency or conflict between this Agreement and any purchase order, invoice, or similar document, this Agreement will control. Any inconsistency or conflict between the terms of this Agreement and a Service Plan shall be resolved in favor of the Service Plan. The sections entitled Limitation of Liability, Indemnification, Compliance, Confidentiality and Miscellaneous of this Agreement shall survive its termination or expiration.

Deal Consummation: This is a quote and not a commitment. This quote is subject to final credit, pricing, and documentation approval. Legal documentation must be signed before your equipment can be delivered. Documentation will be provided upon completion of our review process and your selection of a payment schedule.

Confidentiality Notice: Recipient will not disclose to any third party the terms of this quote or any other information, including any pricing or discounts, offered to be provided by Stryker to Recipient in connection with this quote, without Stryker's prior written approval, except as may be requested by law or by lawful order of any applicable government agency.

Terms: Net 30 days. FOB origin. A copy of Stryker Medical's standard terms and conditions can be obtained by calling Stryker Medical's Customer Service at 1-800-Stryker.

In the event of any conflict between Stryker Medical's Standard Terms and Conditions and any other terms and conditions, as may be included in any purchase order or purchase contract, Stryker's terms and conditions shall govern.

Cancellation and Return Policy: In the event of damaged or defective shipments, please notify Stryker within 30 days and we will remedy the situation. Cancellation of orders must be received 30 days prior to the agreed upon delivery date. If the order is cancelled within the 30 day window, a fee of 25% of the total purchase order price and return shipping charges will apply.