



Town of Clayton
Town Council Regular Meeting Agenda
Monday, April 7, 2025 at 6:00 PM
Council Chambers, Town Hall
111 E. Second Street

THE PUBLIC MAY VIEW THE LIVE COUNCIL MEETING ON THE TOWN'S YOUTUBE CHANNEL:
<https://www.youtube.com/TownofClaytonNC>

1. CALL TO ORDER

- a. Call to Order
- b. Pledge of Allegiance
- c. Invocation

2. ADJUSTMENT OF THE AGENDA

- a. **POTENTIAL ACTION:** Approve or Adjust the Agenda

3. CONSENT AGENDA

- a. Minutes
 - March 3, 2025 - Work Session/Retreat
 - March 17, 2025 - Regular Session
 - March 17, 2025 - Closed Session

Presenter: Heidi Holland, Town Clerk
[March 3, 2025 - Work Session/Retreat](#)
[March 17, 2025 - Regular Session](#)
- b. Procurement Card Policy Amendment
Presenter: Shaun Mizell, Procurement, Contracts and MWBE Manager
[Procurement Card Policy Amendment](#)
- c. MOU between University of Mount Olive and Town of Clayton
Presenter: Rich Cappola, Town Manager
[MOU between University of Mount Olive and Town of Clayton](#)
- d. Resolution Authorizing Execution of NCRR Wireline Agreement
Presenter: Shannon Poole, Engineering Department
[Resolution Authorizing Execution of NCRR Wireline Agreement](#)
- e. Resolution of Tentative Award - Arbors Lift Station Diversion Project
Presenter: Shannon Poole, Engineering Department
[Resolution of Tentative Award - Arbors Lift Station Diversion Project](#)
- f. Utility Services Agreement between Knapheide Clayton, LLC and Town of Clayton
Presenter: Donald Perry, P.E. - Engineering Director
[Utility Services Agreement between Knapheide Clayton, LLC and Town of Clayton](#)
- g. Wastewater Allocation Resolution - North Carolina Railroad Company
Presenter: Donald Perry, P.E. - Engineering Director
[Wastewater Allocation Resolution - North Carolina Railroad Company](#)

- h. Utility Services Agreement between North Carolina Railroad Company and Town of Clayton
Presenter: Donald Perry, P.E. - Engineering Director
[Utility Services Agreement between North Carolina Railroad Company and Town of Clayton](#)

POTENTIAL ACTION: Approve Consent Agenda as Presented

4. ADMINISTRATIVE ITEMS

- a. Clayton4U
- Sculpture Trail
- Presenter:* Nathanael Shelton, Communication Director

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

- a. Life Saving Awards
- Corporal Brandon Pope
 - Officer James David Barbour II
- Presenter:* Greg Tart, Police Chief
- b. National Library Workers Day Proclamation
Presenter: Council Member Williams to Present to Library Staff
[National Library Workers Day Proclamation](#)
- c. National Lineman Appreciation Day Proclamation
Presenter: Mayor Pro Tem Sims to Present to the Electric Dept.
[National Lineman Day Proclamation](#)
- d. Arbor Day Proclamation
Presenter: Council Member Casey to Present to Parks and Rec. Staff
[Arbor Day Proclamation](#)
- e. Autism Awareness Proclamation
Presenter: Council Member Anderson to Present to Chi Xi Zeta Chapter of Zeta Phi Beta Sorority, Inc.
[Autism Awareness Month Proclamation](#)

6. PUBLIC HEARINGS

7. QUASI-JUDICIAL HEARING

8. OLD BUSINESS

- a. Starmount and Liberty - W. Main St. Pump Stations Decommissioning Budget Ordinance
Presenter: Robert W. McKie, Jr., Finance Director
[Starmount and Liberty - W. Main St. Pump Stations Decommissioning Budget Ordinance](#)

POTENTIAL ACTION: Adoption of Ordinance #2025-04-01

9. NEW BUSINESS

10. STAFF REPORTS

- a. Town Manager

- b. Town Attorney
- c. Town Clerk
- d. Other Staff

11. OTHER BUSINESS

- a. Informal Discussion & Public Comment
- b. Council Comments

12. CLOSED SESSION

- a.
 - To Discuss Legal Matter in Accordance with NC GS 143-318.11 (a)(3)
 - To Discuss Economic Development in Accordance with NC GS 143-318.11 (a)(4)
 - To Discuss Purchasing of Real Property in Accordance with NC GS 143-318.11 (a)(5)
 - To Discuss Personnel Matter in Accordance with NC GS 143-318.11 (a)(6)

POTENTIAL ACTION: Motion To Go Into Closed Session

POTENTIAL ACTION: Motion To Return To Open Session

13. ADJOURNMENT

- a. Adjourn

POTENTIAL ACTION: Motion To Adjourn

INFORMATION FOR THE PUBLIC

3. CONSENT AGENDA

Items on the consent agenda are considered routine in nature or have been thoroughly discussed at previous meetings. Any member of the Council may request to have an item removed from the consent agenda for further discussion.

7. QUASI-JUDICIAL HEARING

A quasi-judicial hearing resembles a court trial where testimony is presented. Citizens may give testimony in a quasi-judicial hearing after they have taken an oath. Town Council acts like a court of law and receives only sworn testimony and other credible evidence. In addition, the Town Council must make findings of fact based upon the evidence presented. The Town Council refrains from "ex parte communication" about these cases, as the Town Council must make a decision based solely on the evidence presented at the hearing itself. Staff is available to assist with inquiries from citizens.

11. OTHER BUSINESS – INFORMAL DISCUSSION & PUBLIC COMMENT

RULES FOR PERSONS ADDRESSING TOWN COUNCIL

- During public hearings and public comment periods, each speaker will identify him/herself by giving his or her name and place of residence.
- Each speaker will be limited to speaking one time on any topic. When you are finished speaking, please step away from the podium and be seated.
- Each speaker will be limited to three (3) minutes and each group's representative will be limited to a maximum of five (5) total minutes. Each group is encouraged to designate a single spokesperson for their group.



Town of Clayton
Town Council Work Session Minutes
Monday, March 3, 2025 at 8:30 AM
Clayton Community Center, Art Room 207
715 Amelia Church Road

Council Present:

Mayor Jody McLeod
Mayor Pro Tem Michael Sims
Council Member Andria Archer
Council Member Porter Casey
Council Member Ruth Anderson
Council Member Gretchen Williams

Council Absent:

None

Staff Present:

Rich Cappola, Town Manager
Jim Cauley, Town Attorney
Heidi Holland, Town Clerk
Dolores Gill, Deputy Town Manager
Lee Barbee, Deputy Town Manager
Courtney Tanner, Deputy Town Manager
Greg Tart, Police Chief
Robert McKie, Finance Director
David Ranes, Fire Chief
Nathanael Shelton, Communication Director
John Mack, Information Systems Director
Sam Johnson-Phillips, Deputy Town Clerk
Michelle Snyder, Executive Asst. to Town Manager
Scott Barnard, Parks & Rec Director
Stacey Turner, Deputy Fire Chief
Todd Melton, Budget Manager
Steven Langston, Clayton Center Director
Shannon Poole, Engineering Technician
Chris Gallant, Project Manager
Chris Rowland, Engineering Technician II
Donald Perry, Engineering Director
Michael Worner, Engineering Technician II
Michael Tutwiler, GIS Manager
Katie Gross-Tompkins, Circulation Supervisor
Todd Riddick, Parks and Rec. Asst. Director
Brant Lewis, Engineering Technician I
Bobby Henn, Parks and Rec.
Michael Noggle, Parks and Rec.
Jimmy Bradley, Park Operations Superintendent
Megan Palmer, GIS Technician

1 ARRIVAL AND BREAKFAST

a) 8:00 - 8:30 a.m.

2 CALL TO ORDER

a) 8:30 a.m.

Mayor McLeod called the meeting to order at 8:32 a.m.

3 ADJUSTMENT OF THE AGENDA

a) **Approve or Adjust the Agenda**

RESULT:	CARRIED 5-0
MOVER:	Porter Casey
SECONDER:	Andria Archer
YES:	Andria Archer, Michael Sims, Porter Casey, Ruth Anderson, and Gretchen Williams
NO:	None

4 ITEMS FOR DISCUSSION

a) 8:30 - 9:15 a.m.

Expanding Recreational Programming

Presenters: Scott Barnard, Parks and Rec. Director and Todd Riddick, Parks and Rec. Asst. Director

Mr. Barnard and Mr. Riddick spoke on intergenerational and senior recreational programming. Both provided their experiences and knowledge of intergenerational and senior recreational programming.

It was reported that the Clayton Community Center is open seven days a week (83 hours). The reported number of members in 2024 was 5,179. The breakdown of the members' age group was provided:

- 0-10 354 (7%)
- 11-17 778 (15%)
- 18-49 2,445 (47%)
- 50-64 1,602 (31%)
- 65+ 749 (14%)

The reported number of check-ins in 2024 was 47,439; this number does not include the use of the outdoor courts. The breakdown according to the members' age was provided:

- 0-10 150 (<1%)
- 11-17 6,178 (13%)
- 18-49 16,224 (34%)
- 50-64 8,000 (16%)
- 65+ 16,876 (36%)

There was discussion regarding Senior Focused Programming. It was reported

there were 71 physical activity classes offered in 2024. Four of the classes mentioned were Functional Movement, Senior Aerobics, Senior Fitness, and Senior Self-Defense.

Also discussed were the social activities that are senior focused:

- Art – 31 classes in 2024
- Pottery – 16 classes in 2024
- Coffee and Conversations
- Games – Billiards, cards, bingo, etc.
- Day Trips – local such as museums, tours, farms, State Fair, Farmers Market, and more

Senior Games, which are offered in cooperation with other Johnston County municipalities, were discussed. These are held in late March-early May with the Town's Parks and Rec. staff members serving as the Local Coordinators. This position spends approximately 200 hours a year on their duties and approximately 100 hours a year on game prep and event administration.

There was discussion on North Carolina State Finals (NCSG) which is held in late September-early November. The Town would host 3 state-wide competitions in 2025 – Bocce, Cornhole, Shuffleboard. Parks and Rec. staff would assist with NCSG "Big Week" each September with facility setups/cleanups, equipment, and volunteers.

Some of the programming goals for 2025 shared were to start year-round programs for citizens 50+ based on activities offered at Senior Games, such as athletics and silver arts. Also discussed was Adaptive and Inclusive programming. It was stated that they have partnered with the National Inclusion Project. In doing so, they have identified opportunities for improving current programs and will expand inclusive offerings.

Recommendations and next steps were discussed. With over 1,097 touchpoints of in-person/online engagement and surveys, along with inventory and analysis findings, the department was able to identify immediate, near term, and long-term goals to best meet the parks and recreation needs of its community. One of the most requested needs was for intergenerational programs and special events.

There was discussion on adding new facilities following benchmark guidelines to meet current and future demands. Other demands discussed were additional indoor recreation space and aquatic access. Mr. Barnard stated the public had requested creating connections and developing a sense of community through affordable programs that promote health and wellness.

Key considerations discussed were to ensure the Intergenerational Center

would be vibrant and welcoming, provide educational opportunities, social activities, events, trips and universal accessibility.

There was discussion on the pros and cons of renting a store front location. Examples of established Intergenerational Centers were provided.

Next steps would be to identify the potential properties the Town owns and to engage with consultants from SAGE in developing it.

b) 9:15 - 10:00 a.m.

Strategic Planning

Presenters: Dolores Gill, Deputy Town Manager and John Mack, Information Systems Director

Ms. Gill noted at this time last year, staff were working with Raftelis on the adoption of the Strategic Plan. Seven focus areas were identified as priorities from Council. She shared these focus areas along with the strategies and tactics staff would implement over the next 12–18 months: Vibrant Downtown, Desirable Amenities and Spaces, Sustainable Infrastructure Investment, Mobility, Transportation and Transit, Diversified Economic Development, Community Outreach and Engagement, and Public Safety.

Each department has worked with the Deputy Town Managers to develop specific goals to support the completion of these tactics. These goals have been entered into VivaGoals, where quarterly updates will be provided to Council.

The Strategic Plan Focus Area Strategies and Tactics Draft was shared and discussed.

5 BREAK

a) 10:00 - 10:15 a.m.

6 ITEMS FOR DISCUSSION

a) 10:15 - 10:45 a.m.

Fire Dept. Emergency Management Updates

Presenters: Stacey Turner, Deputy Fire Chief and David Ranes, Fire Chief

Chief Ranes announced the recent promotion of Battalion Chief Stacey Turner to his new position of Deputy Fire Chief.

Chief Ranes discussed the training that is required to run an EOC (Emergency Operations Center). It was stated that there were approximately 40 representatives from each department in Town that completed several emergency management courses, most currently a two-day class held by

Texas A&M. Chief Raney stated Battalion Chief Turner recently set up an impressive EOC in the Council Chambers for a week for demonstration.

Battalion Chief Turner discussed two plans the department has been working on, the EOP and the COOP plan. He explained the EOP (Emergency Operations Plan) is essential for the Town to effectively prepare for, respond to, and recover from emergencies or disasters. This is crucial for the safety and resilience of the Town. It enables the Town to respond quickly and effectively to protect residents, minimize damage, and restore normalcy after an emergency.

Battalion Chief Turner stated with the COOP (Continuity of Operations Plan), it would dictate what would happen in the first 24 hours of an emergency. It would ensure the essential government functions continue during and after a crisis or emergency, no matter who is present. Both plans are being viewed by the Executive Team and would then go before Council for adoption.

b) 10:45 - 11:45 a.m.

Financial Planning

Presenters: Robert McKie, Finance Director and Todd Melton, Budget Manager

Mr. McKie provided an update of the fund balance at the end of the year. There was discussion on the county reevaluations and what this could mean for the Town. It was stated Davenport would be in attendance at our April 7, 2025 work session to provide a financial update and FY26 recommendation for the Town.

7 LUNCH/LEGAL INSIGHTS

a) 11:45 a.m. - 12:30 p.m.

- Lunch
- Legal Insights

Presenter: Jim Cauley, Town Attorney

Attorney Cauley gave a brief presentation on legal insights for the Town. During the discussion on recording Town meetings, he clarified there is no legal requirement for the meetings to be televised.

8 ITEMS FOR DISCUSSION

a) 12:30 - 2:00 p.m.

CIP Projects

Presenters: Chris Gallant, Project Manager and Donald Perry, Engineering Director

Mr. Gallant stated staff is in the process of receiving scores received from

Council to rate the CIP projects. All scores should be received by February 28, 2025; engineering would then compile the scores and have the rated projects to Council by March 7, 2025.

Discussed were featured projects. Regarding Clayton Community Park, contractors are completing minor work and finishing touches for the playground. A ribbon cutting will be held today at 3:00 p.m. The Clayton Community Park Maintenance Building is in the design stage; this includes a 6000 sq. ft. location for staff, equipment, and storage. Test fitting and programming have been completed as well as a schematic design and consultant estimate. The Town Hall elevator is now complete. This project involved replacing critical electrical and mechanical parts and bringing it up to code.

The Hocutt-Ellington Memorial Library Renovation is underway; construction drawings are complete, and furniture has been selected. Staff is preparing to relocate to a temporary space and the bidding process would be upcoming in the next few weeks. The completion date of the library is projected for May/June 2026. Library staff held a book sale with the Friends of the Library this past Saturday, all unsold books would be stored. All technology and hotspot check-outs will stop in March and staff will be working with Procurement to determine what could be surplus. All book checkouts would stop in April; books can still be returned until the end of June at the book drop location. After April 25, 2025, all Children's programs will be held at The Clayton Center, as well as any evening classes. All check-out due dates would be extended. The Summer Reading program would continue. It was stated the mural painted in the library would be preserved.

Southwest Public Safety Complex involves constructing a 24,000 sq. ft. building to house fire, police and an EOC. Early design concepts, site survey, and site test fits are completed. The design is scheduled to be completed early 2026. Shared were diagrams for spacing needs.

Shared were the FY2025 Top Priority General Fund Projects:

1. Northside Public Safety Complex
2. Public Safety Training Facility
3. Southern Connector (Both Segments)
4. Operations Warehouse
5. Main St. Improvement Project
6. Operations Facility (40% General Fund)

The land for the Northside Public Safety Complex has been acquired, and staff are currently collaborating with consultants on preliminary work. The Public Safety Training Facility is on hold as discussions continue regarding potential partnerships with other organizations for its development. Regarding the Southern Connector, staff have engaged consultants to advance the design to

65%, with some traffic studies and preliminary work already completed. The next step is to finalize a 15% design and submit it for CAMPO LAPP funding.

For the Operations Warehouse, an internal scoping process with staff must first be completed before moving forward. Once the scoping is finalized, a master plan for the site would be developed, followed by engagements with consultants. Regarding Main Street Improvements, staff is currently working on associated LAPP-funded projects to ensure maximum funding for this initiative.

Additional General Projects:

- Fire Station #1 Renovation and Expansion – A preliminary concept has been received. The expansion would eliminate the need for a separate administrative building while adding a fitness room and nine additional dorm rooms.
- First Street Improvements (N. Church to N. Lombard St.) – Staff has reviewed the concept markup with NCRR and will next engage consultants for a concept proposal.
- Legend Park – Expected completion in January 2026.
- Water & Sewer Replacement (Atkinson & Second Street) – The bid has been issued, and a pre-construction meeting was held last week.

b) 2:00 - 2:45 p.m.

Pedestrian Projects: Status & Discussion

Presenter: Shannon Poole, Engineering

Ms. Poole stated that BL-0125 Main St. Pedestrian Improvements were presented at the work session on December 2, 2024. This project runs from Robertson to Smith Street. The funding for this project has been received and the cost share is 70/30. This project is in the Conceptual Plan and Traffic Pedestrian Study phase.

Two different alternates were discussed for Main at O'Neil and Main at Fayetteville Street.

Alternate 1 for Main at O'Neil Street: This would extend the eastbound left-turn lane on Main Street. This would also prohibit Westbound left turn movement on Main Street and would require a modification to the existing traffic signal. There would be a need to install pedestrian accommodation. Also discussed in Alternate 1 was Main at Fayetteville Street, maintaining the existing two-way stop configuration (stop control on Fayetteville) and to install pedestrian accommodations.

Alternate 2 for Main at O'Neil Street: Discussed was to convert the Northern leg of O'Neil Street to a one way southbound and restripe the Northern leg of O'Neil to provide two Southbound lanes. This would prohibit the Eastbound left-turn movement on Main Street. It would also prohibit the Westbound left

turn movement on Main Street. There would be a need to modify the existing traffic signal and a need to install pedestrian accommodation. Also discussed in Alternate 2 was at Main at Fayetteville Street, to convert the Northern leg of Fayetteville Street to one way Northbound, restripe the Northern leg of O'Neil Street to provide two Northbound lanes, and provide full-length (to O'Neil) Eastbound left turn lane on Main Street. There would be a need to install a traffic signal and to install pedestrian accommodation.

Ms. Poole stated Alternate 1 would require a right of way and Alternate 2 would require adding a stop light and pedestrian improvements.

There was discussion regarding Lombard Street and the potential parking issues that would be created if turn lanes were created.

Discussion was tabled until later that afternoon, so that Kimley-Horne could address the Council's concerns when they are present.

9 RECESS FOR RIBBON CUTTING

- a) 2:45 - 3:00 p.m.

Recess Meeting for Community Center Ribbon Cutting at 2:44 p.m.

Motion To Recess Meeting

RESULT:	CARRIED 5-0
MOVER:	Ruth Anderson
SECONDER:	Gretchen Williams
YES:	Andria Archer, Michael Sims, Porter Casey, Ruth Anderson, and Gretchen Williams
NO:	None

10 COMMUNITY CENTER RIBBON CUTTING

- a) 3:00 - 3:45 p.m.

11 MEETING TO COME TO ORDER

- a) 4:00 p.m.

Mayor McLeod called the meeting back to order at 3:50 p.m.

12 STAFF INTRODUCTIONS AND RECOGNITIONS

- a) 4:00 - 4:15 p.m.

- Brant Lewis, Engineering Technician I
- Michael Worner, Engineering Technician II
- Chris Rowland, Engineering Technician II

Presenter: Donald Perry, Engineering Director

- Katie Tompkins-Gross, Circulation Supervisor

Presenter: Mel Poole, Library Manager

- Bobb Henn, Parks and Rec. Maintenance Management School
- Michael Noggle, Parks and Rec. Maintenance Management School

Presenter: Jimmy Bradley, Parks Operations Superintendent

- Megan Palmer, GIS Technician

Presenter: Michael Tutwiler, GIS Manager

Staff introduced new employees and recognized recent promotions.

13 ITEMS FOR DISCUSSION

- a) 4:15 - 5:00 p.m.
Clayton Pedestrian Connector/Robertson & Main Streets
Presenter: Shannon Poole, Engineering

Ms. Poole stated there is a 70/30 cost share on this project; some funding has been secured. Bryan Vickery and Kevin Dean, with Kimley-Horn, were present. Mr. Vickery provided a project overview. He stated the goal is to fill in sidewalk gaps, add multi-use paths, and improve pedestrian crossings, especially around Clayton High School. A conceptual design has been completed, and a traffic analysis and environmental study are being worked on.

Shared were concepts and proposals for each. Kenmore Drive is where the project begins and where the Greenway is located. This modification would need approval from NCDOT. Headed north toward Highway 70, the culvert on both sides would be extended. Up to Highway 70 intersection, there is an existing sidewalk that would be replaced, curb and gutter and a pedestrian crossing would be added.

There is a lot of existing sidewalk along Clayton High School frontage, a multi-use path would continue along the side. A crossing is being proposed at Brook Street and Willow Drive intersections, which would need NCDOT approval. There was discussion on options for this intersection.

Discussion continued on the Robertson and Main Street intersection. For now, a crosswalk is not proposed near the gas station. It was stated there are mature trees on the corner, if a multi-use path is decided, those trees would need to be removed.

Mr. Dean stated the goal is to get citizens to cross Main Street. There was discussion on an all-way stop control section, which would be a good starting point to eventually get a signal.

Kimley-Horn proposed alternate 2. Ms. Poole stated she would hold a stakeholder meeting with property owners at Robertson and Main Street and then submit 25% plans and findings to NCDOT.

It was consensus of Council to go with alternate 2.

14 **ADJOURNMENT**

a) Adjourn

With nothing further, the meeting was adjourned at 5:05 p.m.

Motion To Adjourn

RESULT:	CARRIED 5-0
MOVER:	Ruth Anderson
SECONDER:	Michael Sims
YES:	Andria Archer, Michael Sims, Porter Casey, Ruth Anderson, and Gretchen Williams
NO:	None

Duly adopted by the Town Council this 7th day of April 2025 while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Heidi L. Holland, MMC, NCCMC
Town Clerk



Town of Clayton
Town Council Regular Meeting Minutes
Monday, March 17, 2025 at 6:00 PM
Council Chambers, Town Hall
111 E. Second Street

Council Present:

Mayor Jody McLeod
Mayor Pro Tem Michael Sims
Council Member Andria Archer
Council Member Porter Casey
Council Member Ruth Anderson
Council Member Gretchen Williams

Staff Present:

Rich Cappola, Town Manager
Jim Cauley, Town Attorney
Heidi Holland, Town Clerk
Sam Johnson-Phillips, Deputy Town Clerk
Lee Barbee, Deputy Town Manager
Courtney Tanner, Deputy Town Manager
Greg Tart, Police Chief
David Ranes, Fire Chief
Robert McKie, Finance Director
Nathanael Shelton, Communication Director
Conrad Olmedo, Planning Director
Donald Perry, Engineering Director
Joe Stallings, Economic Development

Council Absent:

None

1. CALL TO ORDER

- a. Call to Order

Mayor McLeod called the meeting to order at 6:02 p.m.

- b. Pledge of Allegiance

Mayor McLeod led the Pledge of Allegiance.

- c. Invocation

Mayor McLeod provided the Invocation.

2. ADJUSTMENT OF THE AGENDA

- a. Mr. Cappola adjusted the agenda to Add a Closed Session to discuss Economic Development in Accordance with NCGS 143-318.11(a)(4).

Approve or Adjust the Agenda

RESULT:	CARRIED 5-0
MOVER:	Michael Sims
SECONDER:	Andria Archer
YES:	Andria Archer, Michael Sims, Porter Casey, Ruth Anderson, and Gretchen Williams
NO:	None

3. CONSENT AGENDA

- a. Minutes
 - March 3, 2025 - Regular Session
 - March 3, 2025 - Closed Session*Presenter:* Sam Johnson-Phillips, Deputy Town Clerk
- b. NCDOT Road Closure for Special Event
Presenter: Amy Shearin, Economic Development
- c. Reimbursement Resolution - Library Renovation Project
Presenter: Robert W. McKie, Jr., Finance Director

RESULT:	CARRIED 5-0
MOVER:	Andria Archer
SECONDER:	Michael Sims
YES:	Andria Archer, Michael Sims, Porter Casey, Ruth Anderson, and Gretchen Williams
NO:	None

4. ADMINISTRATIVE ITEMS

- a. Clayton4U
 - Zoning Part 2*Presenter:* Nathanael Shelton, Communication Director

The second part of a two-part series regarding zoning was provided.

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

- a. World Water Day Proclamation
Presenter: Council Member Archer to Present to Water Resources

Council Member Archer read the proclamation into record and presented it to the Water Resource Department.

- b. American Red Cross Light the Town Red Proclamation
Presenter: Council Member Williams to Present to American Red Cross

Council Member Williams read the proclamation into the record and presented to the American Red Cross Representatives.

Ms. Janet Johnson the Executive Officer for The Greater Triangle Chapter of the American Red Cross, and Clayton resident expressed thanks for the support of their mission and also to the donors and volunteers.

6. PUBLIC HEARINGS

- a.
 - 2024-27-CZM Amelia Church Townhomes
(continued from the February 17, 2025 Meeting)

Presenter: Conrad Olmedo, Planning Director

Mr. Olmedo presented an overview of a Conditional Rezoning request to rezone the property from OFI to CZR. This request was reviewed by the Planning Board at their December 17, 2024, meeting, where they recommended approval. The matter was tabled by the Council at the February 17, 2025, Town Council Meeting.

The property is currently vacant, spanning approximately 19.85 acres with some forested areas. It is located between Amelia Church Road and Short Johnson Road, and its Tax ID number is 05G03008B.

Mr. Olmedo noted that on the Future Land Use Map, the current designation is Medium Density Residential (MDR). The project's proposed gross residential density is 8.72 units per acre, with plans for 173 single-family attached units. Based on staff recommendations, the Future Land Use Map would need to be amended to reflect a High Density Residential (HDR) classification.

Mr. Olmedo also informed the Council that the project had been properly noticed through the public noticing process, with letters sent to residents within 300 feet of the property.

It was stated that the Conditions of Approval were revised since they went to the Planning Board at their December meeting. Mr. Olmedo noted the first six conditions were somewhat a standard new template that the Town Staff has been using, and the Applicant has agreed to.

1. Following Town Council approval, an electronic copy of the Concept Plan including the Conditions of Approval shall be submitted to the Planning Department for final approval.
2. The project shall meet all applicable adopted Town of Clayton Unified Development Ordinance (UDO) requirements, Town of Clayton Engineering and Stormwater design standards, and the North Carolina Fire Code and NFPA Fire standards, except where specifically modified by the approved Concept Plan and Conditions of Approval.
3. The project shall be constructed in substantial conformance with the

Concept Plan as approved by the Clayton Town Council.

4. The associated Concept Plan and Conditions of Approval for this project shall allow for any changes in Town Development regulations, either through text or the official Zoning Map, that are considered as up zoning, downzoning, or establishment of any nonconformity.
5. The project and associated development applications shall adhere to Town adopted policies and ordinances that are in effect at the time of their submittal and acceptance for review.
6. To the extent of any conflict between the Concept Plan and these Conditions of Approval, these Conditions shall control.
7. Single-family attached dwelling unit shall comply with the following standards as applicable:
 - a) No individual single family attached dwelling buildings will have more than seven units in a single row and will be front loaded. (Mr. Olmedo stated this was a clarification where eight units were indicated on the Conditions of Approval and that was subsequently revised).
 - b) Each single-family attached dwelling shall have at least one-party wall shared fully or partially within another single-family attached dwelling.
 - c) A single family attached dwelling unit shall meet all applicable State Building Code standards for minimum room size and ceiling clearance requirements.
 - d) All units will be two stories (minimum)/three stories (maximum) with attached garages.
 - e) Attached garages can be a one or two car garage.
 - f) No detached garages shall be used (Mr. Olmedo stated this was a clarification made).
 - g) In no instance shall a single family attached dwelling with off-street parking located between the front of the building and the street it faces be located no closer than twenty feet from the edge of a right-of-way, vehicle travel way, or pedestrian access.
 - h) No single-family attached dwellings will be served by off-street parking located to the side or rear, the edge of the building shall be no closer than 20 feet from the closest edge of the right-of-way, vehicular travel way, or pedestrian access.
 - i) Principal buildings shall be setback from parking lots, private streets, and driveways on common land by at least ten feet, as measured from back of curb or edge of pavement (if no curb is proposed).
 - j) All new utilities shall be located underground, and existing overhead utilities are strongly encouraged to be relocated to underground locations.
 - k) All single-family attached dwelling developments shall provide private

common open space in accordance with UDO Section 6.7.1.D, Minimum Open Space Set-Aside Requirements, and shall include an owners' association established in accordance with UDO Section 6.8, Owners' Associations.

- l) Adequate access to all dwelling units shall be provided for firefighting equipment, service deliveries, and refuse collection.
 - m) A single-family attached dwelling development shall incorporate pedestrian circulation in accordance with UDO Section 6.1, Access and Circulation.
 - n) A Type B perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines shared with a residential district that has a lower maximum residential density. (See Condition 11 for modifications)
8. Perimeter buffers shall be provided along with the adjoining property owners.
- a) A minimum 10-foot Type A Perimeter Buffer shall be provided along the property line with the Amelia Station Apartments PIN 1658-01-05-5423.
 - a) A minimum 20-foot Type B Perimeter Buffer along the properties identified with the PINs: 1658-01-05-8096, 1658-01-15-0291, and 1658-01-15-2148. Canopy trees shall be provided at a minimum rate of two per 100 linear feet (LF), Understory Trees shall be provided at a minimum of four per 100 linear feet (LF), and 15 shrubs provided per 100 linear feet (LF).
 - b) Type B is a 20-foot Type B Buffer, and it would be provided along the Eastern property line with PIN 1658-01-15-3257. The undisturbed and wooded areas would be maintained within the natural areas of the stream in lieu of a buffer.
 - c) A minimum 20-foot Type B buffer shall be provided along the Eastern property line with the property identified as PIN 1658-03-24-3257. Canopy Trees shall be provided at a minimum rate of two per 100 linear feet (LF), Understory Trees shall be provided at a minimum of four per 100 linear feet (LF), and 15 shrubs provided per 100 linear feet (LF).
 - d) A minimum 20-foot Type B Buffer shall be provided along the Southern property line with the property identified as PIN 1658-03-04-4437 and 1658-03-1039. Canopy Trees shall be provided at a minimum rate of two per 100 linear feet (LF), Understory Trees shall be provided at a minimum of four per 100 linear feet (LF), and 15 shrubs provided per 100 linear feet (LF).
 - e) Perimeter buffers shall be designated as "Common Open Space" and be maintained and protected in perpetuity by a Homeowners Association.

9. Parking requirements were the next subject of discussion.
- a) Two parking spaces outside the garage must be provided for each unit. Driveways must be a minimum of eighteen feet wide.
 - b) Townhome parking requirements shall be provided with a two-car driveway for each unit and at least a single car garage.
 - c) The owner of the private parking lot will always maintain private ownership.
 - d) Guest parking spaces should be provided in combination with the private amenity parking for a total of 44 spaces.
 - i. Required minimum: $173 \text{ units} \times 0.25 = 43.25$ (rounded up to 44 spaces)
 - ii. Provided 44 spaces
 - e) Amenity area parking spaces shall be provided with 44 parking spaces, shared with guest parking.
 - i. Required: 19 spaces
 - ii. Provided: 44 spaces

10. Open Space Set-Aside shall consist of both active and passive areas per the following:

- a) Passive Open Space Set-Aside
 - i. 2.47 acres of open space is required (12.5%).
 - ii. A minimum of 3.54 acres shall be provided (18%)
- b) 50% of Passive Open Space shall be active or gathering spaces (UDO Section 6.7.1)
 - i. Required 1.24 acres
 - ii. Provided 1.77 acres (minimum)
- c) Active Open Space Set-Aside shall include, but are not limited to, a dog park, pocket park, seating areas, benches, and walking trails.
- d) Gathering Spaces shall include, but are not limited to, outdoor dining areas and fire-pit gathering areas.
- e) Stormwater pond with the following elements: fountains in the two stormwater ponds, dog waste stations, and pedestrian access. Slopes at the pond shall be gentle slopes of 3:1 or less with natural vegetation and/or new plantings of trees and shrubs.
- f) Minimum of five benches, five waste receptacles and five pet waste

receptacles provided throughout the site.

11. The project shall be exempt from section 6.6.12F of the Town of Clayton UDO regarding mass grading, which requires that the minimum buffer width and the minimum number of required plantings be doubled.

12. The following transportation improvements will be constructed and accepted by NCDOT prior to the first Certificate of Occupancy:

- i. Right of Way Dedication and additional widening.
- ii. Road improvements on Amelia Church Road and Short Johnston Road will be provided per the findings of the Updated Traffic Impact Analysis (TIA) submitted by DRMP, Inc and sealed on April 22, 2024.

13. The developer will provide a downstream sewer capacity study, including existing allocated paper flows, to determine if the existing pump station is adequate. If not, the developer will be responsible for providing improvements to existing facilities and any required utility easements at their cost.

14. The proposed public wastewater collection system will gravity sewer along Short Johnson Road to the pump station at Walnut Creek or a new pump station, as required. Final configuration will be confirmed during the construction plan review.

15. The buildings in the development will be constructed in accordance with the Architectural elevations provided in the approved Concept Plan, including facade materials.

16. All buildings will include a minimum brick masonry coverage of 25 % on all building's facades.

17. The following Architectural Standards shall be met:

- a) Units will be two-stories (minimum)/ three-stories (maximum) with a variety of elevations. Units of the same story-height elevation shall not be side-by-side.
- b) Townhome units shall be limited to a maximum of seven units per block.
- c) All units shall have a combination of two or more of the following materials on the front facade:
 - i. Stone
 - ii. Brick
 - iii. Lap siding
 - iv. Fiber cement siding
 - v. Shakes or board and batten
- d) Vinyl siding will not be used on front, side, or rear facades except for trims such as soffits, fascia, and corner boards.

- e) A minimum of 70 % of all residential units shall have a cover front porch or stoop.
- f) Architectural style shingles shall be used.
- g) All garage doors shall have windows.
- h) All front doors shall have windows.
- i) Rear concrete pads will be provided on all units. Patios may replace the concrete pad when added as non-option for the homeowner, subject to building permit review.
- j) To accommodate larger garage spaces and facade features, garage doors may constitute more than 50 % of the width of the proposed townhomes.
- k) All garage doors shall be setback by a minimum of 25 feet from the edge of sidewalk or a minimum of 20 feet from the right-of-way.

18. All buildings/units within the development will include the following sustainable/high efficiency products/appliances, with certification of the use of these features required prior to Certificate of Occupancy for each building:

- a) High Efficiency Windows
- b) High Efficiency Appliances and HVAC Units
- c) High Efficiency Roofing Materials

19. Cross-Access easements will be provided for the following properties:

- a) Amelia Station LLC, PIN 1658-01-05-5423
- b) N/F Francis Parrish, PIN 1658-03-24-3257
- c) Hockaday, Erwin, PIN 1658-03-04-4437

20. The applicant will construct cross-access to the property lines, or the applicant can submit a Payment-in-lieu at a rate of 125% of the cost of the cross access, as estimated by a Professional Engineer, prior to the approval of the Construction Drawings.

21. All Resource Conservation Areas, perimeter buffers, and common open space shall be maintained and protected in perpetuity by the Homeowners Association.

22. Driveway and Encroachment Permits shall be coordinated with NCDOT, and the findings of the updated TIA will be provided to NCDOT for review and comment.

23. All internal utilities shall be located underground. Existing overhead utilities will be coordinated with Duke Energy to determine feasibility to be placed underground.

Mr. Olmedo presented a Concept Plan Map, highlighting the main access points to the site via Amelia Church Rd and Short Johnson Rd. He pointed out that the plan includes seven units per building block, with some blocks featuring four units. Additionally, Mr. Olmedo identified the stormwater management area, which would also serve as an activity space. He further discussed the private parking lot, the proposed additional parking, the location of the dumpsters, and the overall layout, including access points to both Amelia Church Rd and Short Johnson Rd.

Mr. Olmedo also showed an illustration of the TIA Road Improvement Recommendations for Amelia Church Rd and Short Johnson Rd, which included a proposed ten-foot right-of-way dedication.

Highlights of the Planning Board and Staff Recommendations were presented:

- Driveway Width: The driveways for each unit must have a minimum width of 18 feet. This ensures two parking spaces outside of the garage (Condition 9a)
- Private Parking Lot: The owner must always maintain private ownership of the parking lot. This is reflected in Condition 9c. The revised concept plan shows the private street as a private parking lot.
- Parking Spaces: Each townhome must provide two parking spaces outside the garage and at least one single-car garage (Condition 9b).
- Driveway Width Adjustment: The applicant has proposed 18-foot-wide driveways instead of the recommended 20 feet. This adjustment helps avoid a fully paved asphalt driveway and ensures the inclusion of vegetation to comply with minimum open space set-aside requirements. Each unit will have a two-car driveway and a one-car garage, as updated in Condition 9a.
- Mass Grading: The project deviates from Section 6.6.12 F of the UDO regarding mass grading. Condition 11 exempts the project from the requirement to double the width and plant vegetation in the perimeter buffer.
- Additional Parking: The project would include additional parking as feasible. Condition 9a mandates two parking spaces outside the garage for each unit. Conditions 9d and 93 ensure 44 parking spaces are provided.

Mr. Olmedo stated that if the Concept Plan is approved, the associated Conditions of Approval would be tied to the land in accordance with North Carolina General Statutes Chapter 160D. The Planning Board recommended approval, citing consistency with the 2045 Comprehensive Growth Plan and the proposed rezoning request outlined in motion number two of the provided Consistency Statements sheet. He also noted that staff recommended approval of motion number two, as it aligns with the 2045 Comprehensive Growth Plan.

Mr. Olmedo stated that he would be available to answer any questions, and that

the applicant was also present.

Mayor McLeod asked if there were questions for Staff.

Council Member Casey thanked Mr. Olmedo for the presentation and requested clarification on Condition number 11 and the concept of mass grading. He explained that when he heard mass grading, he understood it to involve clearing the land of trees and other vegetation. Council Member Casey then referred to the site plan, noting that it appeared little existing vegetation would remain, except around certain buffers and perimeters. He expressed concern that mass grading would be necessary because much of the site would be cleared and asked how this would be determined or factored into the process.

Mr. Olmedo explained that the UDO provides subjective guidance regarding mass grading, but there is no specific, quantified threshold for what qualifies as a mass grading project. He agreed that Staff had considered this to be a mass grading project, which would require the applicant to increase the buffer width and the number of plantings. He noted that by the time this had been presented to the applicant, the project had already gone through the Technical Review Committee process. Mr. Olmedo emphasized the need for caution in applying such requirements to all infill lots in town, acknowledging the existing vegetation. He stated that he was comfortable with exercising some discretion and considering adjustments to the UDO requirements as necessary.

Council Member Casey expressed his concerns regarding mass grading and the lack of consideration on extending the buffer to 20 feet or longer. It was mentioned that the condition stated, if it wasn't mass graded, based on the UDO there would have to be a larger buffer. Council Member Casey stated he is aware of the farmland in that area and the buffer would help support the surrounding neighbors.

Mr. Olmedo responded, adjacent to the existing apartments to the North, there would be a 10-foot Type A landscape buffer and then it becomes a 20' Type B buffer to the East and South. The 10-foot Type A buffer would be proposed to the existing apartments to the North.

Council Member Casey inquired, if it was considered a mass grading site, what would be the buffer required based on the UDO?

Mr. Olmedo responded, a single-family attached would require a Class C, which would be a 60-foot-wide buffer.

Council Member Casey stated it would have to double the buffer.

Mr. Olmedo responded, you would double from 30-foot to a 60-foot-wide-buffer. That could potentially impact the overall number of units, the placement of the

units and the design of the project internally.

Council Member Casey stated he had no further questions.

Mayor McLeod asked if there were any more questions for Staff.

Council Member Williams referenced the Planning Board's recommendation for a minimum driveway width of 18 feet and asked for clarification on the width.

Mr. Olmedo responded that the 18-foot width is generally intended to accommodate two vehicles parked side by side. He explained that a typical parking stall is 9 feet wide, so two stalls placed next to each other would provide enough space for two vehicles.

Mayor McLeod then asked if there were any other questions. With no further questions for Staff, Mayor McLeod opened the public hearing and reminded the applicant and speakers to state their names for the record.

Mr. Spencer Terry, Senior Project Manager with Bowler Engineering, represented Mr. Mark Maynard and Tribute Companies, the applicants for the project. Mr. Terry thanked Mr. Olmedo for the presentation and expressed appreciation to Mayor Pro Tem Sims and Council Member Anderson for meeting with them a couple of weeks ago.

Mr. Terry explained that the project currently has a Special Use Permit application for 196 units, which would be a quad-style apartment complex proposed in 2021 and 2022. The rezoning request aims to reduce the density from 196 to a maximum of 173 units and shift from a quad-style apartment layout to a more traditional design. He noted that, through collaboration with staff and the developer, this redesign would maximize space, enhance walkability, and create a more enjoyable environment for residents, particularly those interested in townhome living with backyards.

He assured the Council that the feedback from both the Council and the Planning Board had been considered. Mr. Terry offered to answer any questions and discuss any ideas the Council or community might have regarding the design of the development.

Regarding the issue of mass grading, Mr. Terry explained that doubling the buffer sizes would have a significant impact on the project, especially on the north and south sides, potentially limiting the available space. He stated they were open to working through construction sequencing and that, although the UDO does not define mass grading acreage, there are methods they could employ during construction to stabilize different areas. Mr. Terry emphasized their willingness to work within the engineering and TRC limits to find a solution

that would be agreeable to all parties.

Mr. Terry then addressed parking considerations, noting that 9 feet would be the typical width for parking spaces. He explained that they planned to offer a mix of unit sizes, including 20-, 22-, and 24-foot wide units. Larger units would have two-car garages, while smaller units would have one-car garages. He requested flexibility to mix the unit sizes. During discussions with the Planning Board, it was noted that a one-car garage doesn't count as a parking stall, which led to the decision to add two parking stalls outside each building. Mr. Terry confirmed that every unit would have space for two cars in front of the garage, with an additional 44 guest parking stalls. He assured the Council that the mix of parking options would provide ample parking for residents and guests.

Mayor Pro Tem Sims clarified that some units would have a two-car garage and parking for two cars in the driveway.

Mr. Terry responded in the affirmative and stated the single car garage would also have two car spaces outside of the units.

Mayor Pro Tem Sims confirmed that parking would not be allowed on the street.

Mr. Terry responded in the affirmative.

Mayor Pro Tem inquired about the number of parking spaces available on the property.

Mr. Terry stated there would be 44 additional spaces.

Mayor McLeod questioned how many units?

Mr. Terry responded, a maximum of 173 units.

Council Member Archer expressed appreciation for the presentation and for the edits that were made to the conditions based on the Planning Board meeting and for their responsiveness, in particular to the driveway width. Council Member Archer stated the 18 feet in front of a home with a single car garage, that would be an excess concrete pad that's not directly in front of the garage?

Mr. Terry stated that was correct.

Council Member Archer stated that if this project met the criteria of the code for this type of density, it would be ideal for a rear-loaded design based on the density. She asked Mr. Terry if this option had been considered or if he had any input on the matter.

Mr. Terry responded that they had considered a rear-loaded design and had an additional exhibit that wasn't presented tonight due to timing. The exhibit included a rear-loaded design for the south side of the main drive aisle, with an alleyway running from west to east. This would result in 32 rear-loaded units along that street. He also mentioned that traffic calming measures had been discussed for the main access road, and they were willing to collaborate with staff on implementing various calming strategies. Mr. Terry explained that they had explored options such as speed tables, creating constriction points along the road, incorporating high visibility raised sidewalks, and establishing a three-way stop at the private parking area.

Council Member Archer clarified that the three-way stop would centrally be located at the parking lot.

Mr. Terry responded in the affirmative.

Council Member Archer asked would the intent of these units to be owner occupied?

Mr. Terry responded in the affirmative and stated the current Special Use Permit is for 196 rentable products, these would be homeowner.

Council Member Casey stated he appreciated those being alley loaded, and he noticed towards the bottom there were some alley loaded and some front loaded, he asked was there a reason why they weren't made alley loaded so they could abut to the other alley?

Mr. Terry responded that units 161 to 173, which front on Amelia Church Rd, could be rear loaded. He also mentioned that 128 to 143 lots were being considered for rear-loading, and they were open to that suggestion. He explained that they aimed to create a good mix with the builder. For the rear-loaded units, there would be a 25-foot setback from the sidewalk or a 20-foot setback from the right-of-way.

Council Member Casey asked Mr. Terry to elaborate on the site plan that was presented. He stated that he didn't see the Amenity Center and it didn't appear to have the equivalent amenities as the previous site plan.

Mr. Terry listed the available amenities and mentioned that they could add more crossings to ensure the walkable paths are clearly visible. He explained that the clubhouse and swimming pool were not included in the plans due to homeowner expenses and insurance concerns, as they wanted to keep individual costs reasonable for the market.

Council Member Casey asked would they consider this a mass graded site?

Mr. Terry responded that he would consider this mass grading if he looked at it from the perspective of how it's being developed in the field. Typically, mass grading refers to the amount of acreage being disturbed at once. However, if the construction is done in multiple phases, it would not be considered mass grading. He stated they were willing to work with the Engineering Department to develop an Erosion Control Plan and a Construction Sequence that would minimize disturbance to the land at any given time.

Council Member Casey asked if they would be open to reconsidering the buffer.

Mr. Terry responded they would be willing to look at the buffers and they may be flexible on the South side. He stated they would be willing to look at it, but they could not provide 60 foot buffers on all four side of the property.

Council Member Casey thanked Mr. Terry.

Mayor Pro Tem Sims asked for elevation examples on the subdivisions that they have built previously.

Mr. Terry stated they have the elevations in the Master Plan, and he couldn't say they have built these particular elevations, but he has ideas that can be shown. Within the Master Concept Plan were examples of different elevations with single and double car garages. It was stated; they have not engaged an Architect for the product design.

Mayor Pro Tem Sims inquired if this would be generally close to what the applicant would do?

Mr. Terry replied, it would be something similar to this with the facades described within the Concept Plan and in congruence with the UDO.

Mayor Pro Tem Sims asked, "would this be considered the low, medium or high end of products that the applicant does"?

Mr. Terry responded he is unable to speak for the developer specifically but as the representative he would state in the middle. This product would be in the range of mid \$350,000 to \$400,000 per unit.

Mayor Pro Tem Sims thanked Mr. Terry.

Mayor McLeod asked if this would be a typical facade for this company.

Mr. Terry responded he was not able to answer that personally and that Tribute makes many different developments. This was an example provided by an

Architect based on the facades and the number of garages discussed. Mr. Terry stated they could provide other examples if that should be desired.

Mayor McLeod expressed his belief that the appearance of the project is crucial, not only for the community but also for those financing it. He asked how they planned to make their product stand out from what is currently available in the market. Mayor McLeod then requested a discussion on the amenities. While he understood the costs associated with insurance and the inclusion of a clubhouse and pool, he questioned why they couldn't offer alternative amenities that wouldn't carry the same liability.

Mr. Terry responded they are leaving it open for that and they are not pinning themselves down for anything, therefore that is why they would look at the minimum amenities. It was stated they would offer 18% or more open space, the required was 12.5%.

Mayor McLeod began to discuss parking with Mr. Terry. Mayor McLeod stated with parking is not allowed on the street, how far would the guest parking be from the units located on the bottom right hand section of the development?

Mr. Terry responded, the ability to park would be something they would concede to, and they could provide more parking stalls but at the expense of additional open space. Locations of possible additional parking stalls were discussed. It was communicated to Council that the UDO was followed, and they enhanced the number of required parking spaces. Mr. Terry stated they would provide a minimum of 386 parking stalls based on every unit having a two car minimum, for 173 units. That wouldn't include any of the double car garages.

Council Member Anderson inquired about the rear loaded elevation property, how different it would look, the proposed amenity location and the additional buffer.

Council Member Archer addressed Condition 17 which spoke on the proposed Architectural Standards. It was suggested to add extra sentences in the Architectural Standards that would provide examples of how this would look with more variation.

Mr. Terry replied, without engaging the Architect or builder that would be difficult due to the fact they are unaware where the one car garages, the two-car garage, the 24 foot, or the 22 foot units would go. It was stated they must have flexibility for the builder to come in.

Council Member Archer responded, if they had some things they could propose or work with staff regarding the Architectural variation she would like that. It was stated she appreciated that they are single family homes and at that price point because for many people that would be the entry point into home ownership.

Mr. Terry thanked Council and stated he has noted the considerations, and they would work with staff and the developer to achieve as many as possible.

Mayor McLeod asked Council if they had more suggestions.

Council Member Casey asked if they had looked and seen what has been approved but not built yet? It was stated he was aware of similar-priced town homes that have been approved but are not under construction, that might sway the diversity discussion about a different type of building product.

Mr. Terry responded to Council Member Casey, asking if he was suggesting that a townhome had been approved with a different product that he preferred.

Council Member Casey responded there have been townhomes approved with a similar price point, it's not much of a differentiator between what has been approved, gone through the entitlement process but hasn't been constructed. It was stated eventually there could be saturation in the market of a product.

The discussion continued about the topic of market and market research.

Mr. Terry stated that they are focused on not overburdening the municipality's utilities but rather improving them. He explained that part of the process involves reducing the density and finding a mix of products that fit well with the area. He noted that this piece of property has been in development for several years, with the current layout being refined over the past year. Mr. Terry assured Council that they would continue working closely with staff and reiterating their efforts. He emphasized, however, that there were limits to what they could do while still staying within the goals they aim to achieve.

Council Member Casey responded that he understood and appreciated some of the concessions made. However, he pointed out that many factors and variables still hadn't been fully addressed. He mentioned that he had requested a larger buffer due to the grading, the consideration of alley-loaded versus front-loaded units, and the amenities. He expressed concern about the uncertainty of these aspects. Council Member Casey thanked Mr. Terry for his time.

Mr. Terry asked if this could be tabled to adjust the conditions of approval and return later?

Council Member Archer shared her thoughts on mass grading and discussed the conditions. The first condition addressed the need to protect the required buildable space by preventing an increase in the width of the buffers. She asked if there was a way to enhance the buffers with additional plantings. Her second suggestion was to incorporate more formal language regarding the limitations

Mr. Terry mentioned, particularly related to the amount of disturbed acreage and other erosion control measures. She recommended including language on how to minimize the impact of grading, which would strengthen that condition.

Mr. Terry stated they would take that into consideration.

Mayor Pro Tem Sims expressed that Council has a responsibility as to how Clayton would look in the future.

Mr. Terry stated he appreciates what Clayton has done and where they want to be in the future.

Mayor McLeod asked if there was anyone that wished to speak to please step forward and state their name for the record.

Mr. Scarpa, Town resident, mentioned that he made note of and agreed with some of the things said by Council. He also shared his thoughts about the presentation and discussion. Mr. Scarpa asked what would the burden be on the electric grid, would the electric be increased?

Mayor McLeod replied they would not be electric customers with the Town of Clayton, they would be Duke Energy.

Ms. Anis, Town resident, expressed appreciation that the runoff was addressed. She inquired how would the 173 townhomes affect the current sewage allocation with future developments surrounding the proposed area and what would the timeframe be?

Mayor McLeod responded that there is a plan to bring sewer service to the region, including the entire Copper District, the area across from the hospital, and the Corporate Road area. He mentioned that while there isn't a set timeframe yet, it is expected to happen in the near future.

No one else wished to speak, Mayor McLeod closed the Public Hearing and turned it over to Council for discussion.

Council Member Archer agreed with Mr. Scarpa regarding the buffers. She mentioned that she had been on the Steering Committee that helped shape the new UDO and was also on the Council when it was approved. Council Member Archer explained that this project is based on a previously approved plan, and what was presented tonight is, in many ways, an improvement. She clarified that when a motion is made regarding the Land Use Plan, it includes a statement on how it aligns with the Comprehensive Growth Plan. She emphasized that the Comprehensive Growth Plan serves as a guiding document and is carefully considered when making land use decisions. Council Member Archer also noted

that when a proposal is said to be inconsistent with the plan, these inconsistencies are often planned for, as the document naturally evolves over time.

Council Member Archer asked for clarification on what verbiage to use to table an item.

Town Attorney Cauley suggested continuing it to a date certain, and the applicant may have input concerning the amount of time they would need to have the changes and additional considerations.

Council Member Archer thanked the Town Attorney and mentioned she had a follow-up question. She noted that several different topics had been discussed and asked whether the testimony from this evening would be sufficient to send staff and the applicant back, or if it would be necessary to itemize the various topics discussed tonight as part of the continuance.

Town Attorney Cauley responded that the discussion was clear, unless the applicant had any further questions. He stated that there was a clear message regarding the items to be reconsidered and believed that staff had understood that as well. He confirmed that it would be fine to continue.

Council Member Casey agreed with Council Member Archer, noting that one of the challenges with this particular site is the density and some of the requested concessions. He mentioned that he was comfortable with continuing the discussion. He highlighted that the Comprehensive Growth Plan calls for medium density and given both the Council's requests and the applicant's proposal, it seems to be a reasonable fit. Council Member Casey also emphasized that the Comprehensive Growth Plan allows for flexibility, and that flexibility is fortunate.

Council Member Anderson agreed with Council Member Casey's remarks and expressed a desire for clarification on the concessions. She expressed her agreement with continuing the item.

Mr. Olmedo stated he spoke with the applicant, and they requested to return to the April 21, 2025, Town Council Meeting. That would allow time for discussion on the conditions and necessary revisions.

Council Member Archer made a motion to continue Public Hearing 2024-27-CZM to April 21, 2025.

Mayor McLeod stated there was a motion and a second to continue to April 21, 2025, and asked if there was further discussion. With no opposition, the motion was passed.

Close Public Hearing and Table to the April 21, 2025, Meeting For Action

Continued to April 21, 2025

RESULT:	CARRIED 5-0
MOVER:	Andria Archer
SECONDER:	Michael Sims
YES:	Andria Archer, Michael Sims, Porter Casey, Ruth Anderson, and Gretchen Williams
NO:	None

7. QUASI-JUDICIAL HEARING

8. OLD BUSINESS

9. NEW BUSINESS

10. STAFF REPORTS

a. Town Manager

Mr. Cappola announced that on Tuesday, March 18, 2025, and Wednesday, March 19, 2025, the Water Resources team would conduct overnight work that would require a water shutdown along Main St. All businesses in the area had been notified, and the shutdown was expected to have minimal impact, as it would occur after hours. He clarified that this work was a follow-up to the Lead and Copper Rule findings.

b. Town Attorney

c. Town Clerk

d. Other Staff

11. OTHER BUSINESS

a. Informal Discussion & Public Comment

No one wished to speak.

b. Council Comments

Mayor McLeod mentioned that he had recently received numerous phone calls and emails regarding utility bills in the Town. He requested that staff investigate the utilities, particularly the electrical, to provide the Council with a clearer understanding. He noted that similar discussions had taken place in previous Councils and emphasized the importance of the Council being well-informed. He requested that concrete data be gathered so that it could be shared with constituents.

Mayor McLeod expressed a desire to know the total amount the Town of Clayton has collected in late fees and penalties over the past two years, as well as how those funds are used.

Mayor McLeod acknowledged that the Town of Clayton operates with a very small markup on the electricity it purchases, but he noted that customers are seeking a better understanding of why the costs are so high.

Mr. Cappola responded that they had received similar concerns and phone calls. He assured that the requested data would be gathered and provided to the Council by the next meeting. He also mentioned that Mrs. Ann Game and her team had been working hard to explain the situation to customers. Regarding the January billing cycle, it was noted that approximately 21 days were below freezing, which led to higher power usage for heating homes.

12. **CLOSED SESSION**

- a. To Discuss Economic Development in Accordance with NCGS 143-318.11 (a)(4) and To Discuss a Legal Matter in Accordance with NCGS 143-318.11 (a)(3)

Motion To Go Into Closed Session

RESULT:	CARRIED 5-0
MOVER:	Ruth Anderson
SECONDER:	Porter Casey
YES:	Andria Archer, Michael Sims, Porter Casey, Ruth Anderson, and Gretchen Williams
NO:	None

Motion To Return To Open Session

RESULT:	CARRIED 5-0
MOVER:	Ruth Anderson
SECONDER:	Porter Casey
YES:	Andria Archer, Michael Sims, Porter Casey, Ruth Anderson, and Gretchen Williams
NO:	None

13. **ADJOURNMENT**

- a. Adjourn

With nothing further, the meeting was adjourned at 7:52 p.m.

Motion To Adjourn

RESULT:	CARRIED 5-0
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MOVER:	Porter Casey
SECONDER:	Gretchen Williams
YES:	Andria Archer, Michael Sims, Porter Casey, Ruth Anderson, and Gretchen Williams
NO:	None

Duly adopted by the Town Council this 7th day of April 2025 while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Heidi L. Holland, MMC, NCCMC
Town Clerk

March 17, 2025
Minutes



Town Council Regular Meeting Agenda Cover Sheet

Meeting Date

April 7, 2025

Agenda Location

CONSENT AGENDA

Item Title

Procurement Card Policy Amendment

Presenter(s)

Shaun Mizell, Procurement, Contracts and MWBE Manager

Suggested Action

Adoption of Resolution

Strategic Priorities Alignment



☐
Vibrant Downtown



☐
Desirable
Amenities and
Spaces



☐
Sustainable
Infrastructure



☐
Mobility,
Transportation,
and Transit



☐
Diversified
Economic
Development



☐
Community
Outreach and
Engagement



☐
Public Safety

Public Hearing: No

If Approved, Will Document Require Recordation? No

Does This Item Require a Communication Plan?

☐ Public Hearing (Required by GS)

☐ Newspaper Notice (Required by GS)

☐ Public Forum/Input Session

☐ E-News Distribution

☐ Social Media

☐ Special Mailing

☐ Public Hearing (Not Required by GS)

☐ Newspaper Notice (Not Required by GS)

☐ Press Release

☐ Website

☐ Survey

☐ None Required

Summary

The purpose of this policy is to provide a procedure for the management and official use of procurement cards for small dollar value purchases in order to increase efficiency, decrease cycling time, and dramatically reduce paperwork by reducing the number of requisitions and purchase orders, and reducing the number of checks.

Funding Source

N/A

Corresponding Documentation

[Procurement Policy Version #1 RED LETTER](#)

[Procurement Policy Version #2](#)

[Procurement Card Policy Amendment Resolution](#)

Submitted By: Heidi Holland, Finance Department

Reviewed By:

Rich Cappola, Town Manager

Approved - Apr 02 2025

Heidi Holland, Town Clerk

Approved - Apr 03 2025



TOWN OF CLAYTON POLICY

**Department: Finance/Procurement
Division**

Effective: November 15, 2021

**Policy Title: Town of Clayton Procurement Policy
Version #1**

Supersedes: Purchasing Policy 2012,
Resolution 2021-03, Ordinance 2018-
07-01, Resolution 2021-04 & 2021-
32

Prepared By:
Shaun Mizell
**Procurement, Contracts and MWBE
Manager**

Approved By: Town Council ☐ or Town Manager ☐ **Date: November 15, 2021**

PROCUREMENT

I. Purpose

This procurement policy is intended for use as a guide to the Town of Clayton's Procurement methods and practices. When used properly the policies are established herein will enable the Town to obtain needed materials, equipment, supplies, and services efficiently and economically. It also provides for application of all North Carolina General Statutory provisions pertaining to local governmental purchasing.

The understanding and cooperation of all employees is essential if the Town is to obtain the maximum value for each tax dollar spent. While this policy does not answer all questions related to procurement, it does provide the foundation for a sound centralized procurement system.

The basic goals of the Town's procurement program are:

- To comply with the Federal, State and Local Policies of public procurement.
- To assure vendors that impartial and equal treatment is offered to all that wish to do business with the Town.
- To receive maximum value for each dollar spent by awarding purchase orders to the lowest responsible, responsive bidder, taking into consideration quality, performance, technical support, delivery schedule, past performance and other relevant factors.
- To provide Town departments the required goods, equipment, and services at the time and place needed and in the proper quantity and quality.
- To professionally administer the search for sources of supplies, the development of new sources, the selection of suppliers and negotiations.
- To promote good and effective vendor relations, cultivated by informed and fair buying practices and strict adherence to ethical standards.

If the policies established in this manual are followed, each department can efficiently manage, control and plan its available resources to meet present and future departmental needs and help the Town to meet these goals. Should there be any question(s) pertaining to the policies contact the Procurement Division.

The procurement process is an ever-changing process due to new technology and tools available to the procurement profession. Therefore, this policy shall be reviewed and revised periodically to keep current with continued developments as they pertain to the procurement process.

The Town of Clayton Council has approved the policies contained within this document. Therefore, the Town Council shall approve any and all policy changes prior to their becoming effective. However, the administrative procedures contained within the procurement manual are administrative and may be changed as necessary at staff level.

II. OVERVIEW

A. Centralized Procurement

It is the policy of the Town of Clayton that the Procurement Division provides centralized procurement services for the Town. The main purpose of the centralized procurement process is to provide for a uniform and systematic method of procurement of necessary good and services required by the Town departments and to define the responsibilities of the Procurement Division within the Town of Clayton.

The division provides technical assistance to all Town Departments in areas of standardization, specifications, cost reduction, and product and price information. The division ensures that all procurement requirements and limitations imposed by state law and Town policies are adhered to properly and economically.

B. Program Administration

The Procurement, Contract and MWBE Manager shall administer an effective centralized procurement program for the Town by:

- Carrying out the policy approved by Town Council and the procedures established.
- Controlling and reducing the cost of procuring goods, apparatus, and equipment.
- Contractual assistance with services, professional services construction, and repair projects.
- Providing timely, effective, and efficient service to Town departments and to vendors doing business with the Town.
- Maintaining open communications with departmental representatives and the public in general.
- Encouraging free and open competition in the bid process.

C. Competitive Bidding

The Town shall obtain competitive bids on all procurement as required by North Carolina General Statutes and Town Policies. When economically feasible, competitive bids are to be obtained, regardless of the dollar amount, whenever it is deemed to be in the best interest of the Town.

III. CODE OF CONDUCT

A. Purpose

To establish a standard written code of conduct.

B. Code

All procurement activities must be conducted according to applicable laws, rules, regulations, and policies of the Federal (Uniform Guidance), State of North Carolina and the Town of Clayton, specifically General Statute 14-234.

All procurement activities must always maintain integrity, keep free from any personal obligations to vendors or contractors and respect their confidence.

No employee or officer of the Town of Clayton shall participate in the award or administration of a federal, state, or locally funded project or purchase if that person, that person's spouse, any member of that person's immediate family, or an organization which employs or is about to employ the person, the person's spouse, or a member of the person's immediate family has a financial or other interest in the company selected for award.

Any Town employee having knowledge of or a reason to know of a potential personal interest or upon the discovery of a potential personal interest has an affirmative duty to disclose such personal interest to the Procurement, Contracts and MWBE Manager. Any attempts by any person, firm or corporation to influence the decision of a Town employee regarding Town business must be reported to the Procurement, Contracts and MWBE Manager.

IV. BIDDING PROCESS

A. Competitive Bidding Methods

Purpose

The purpose of this policy is to define the Town's position regarding competition and to describe the methods used for competitive bidding.

Policy

It is the policy of the Procurement Division to assist in preparation of specifications with the Departments that will ensure competitive bids whenever possible. Because competition is critical to public procurement, it is essential that specifications be developed to ensure a sufficient number of competitive bids will be received. Specifications shall be as simple as possible while maintaining the degree of exactness required to meet the requirements of goods being requested. Specifications utilizing a brand name must include the term "or approved equal" to avoid being restrictive and eliminating fair competition from the bidding process. Well-written specifications will ensure that the Procurement Division and the Departments are able to procure what is needed, when it is needed, at the lowest possible cost.

The Procurement Division will determine which procurement method will be most advantageous to the Town and will ensure all federal and state laws and local policies are met.

B. Informal Bids

Purpose

The purpose is to provide a uniform procedure for obtaining bids for the purchase or lease-purchase of apparatus, supplies, materials, or equipment and for construction or repair work which are classified as **Informal Bids** as referred to by N.C.G.S. 143-131.

Policy

Informal Bids: In accordance with N.C.G.S. 143-131, informal bids are required for purchase contracts costing \$30,000 to the formal limit of \$90,000; and construction or repair work costing \$30,000 up to the formal limit of \$500,000. The use of a registered architect or engineer is required for certain construction or repair projects in the informal range (N.C.G.S. 133-1.1(a)).

Bids may be obtained by utilizing any one of the competitive bidding methods described in this policy if the Procurement, Contracts and MWBE Manager deems it to be in the best interest of the Town. Bids may be received by email or Ebids on the NC IPS website.

All contracts shall be awarded to the lowest responsible, responsive bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract.

Bid results shall **not** be subject to public inspection until the contract has been awarded (N.C.G.S. 143-131).

C. Formal Bids

Purpose

The purpose is to describe the Town's policy for the purchase or lease-purchase of apparatus, supplies, materials, or equipment, and for construction or repair work which must be secured through the competitive bid process governed by N.C.G.S. 143-129, which are classified as Formal Bids.

Policy

A formal bid is required when:

The expenditure is \$90,000 or more for the purchase of apparatus, supplies, materials, and/or equipment.

The estimated expenditure is \$500,000 or more for construction and/or repair projects.

D. Services and Information Technology

Purpose

The purpose is to describe the Town's policy for selection of services not recognized in General Statutes and Procedure for exemption for IT Hardware and Services N.C.G.S. 143-129(e).

Policy

It is the policy of the Town to select firms for services and information technology hardware, software and maintenance agreements through the (Request for Proposal) qualification and pricing selection process.

E. Professional Services

Purpose

The purpose is to describe the Town's policy for the selection of professional service firms in accordance with the N.C.G.S. 143-64.31 and the exemption process as described in N.C.G.S. 143-64.32. Professional services include architectural, engineering, surveying, construction manager-at-risk services, design-build services, and public-private partnership construction services.

Policy

It is the policy of the Town to select firms for professional services through the qualification-based selection process. Requirements for professional services must be "announced" and providers must be selected based on demonstrated competence and qualifications for the type of professional services required without regard to fee.

The Town shall use "good faith efforts" to notify minority firms of the opportunity to submit qualifications for consideration.

The Town may request **unit price** information at the time qualifications are received, and thereafter negotiate a lump sum contract for those services at a fair and reasonable fee with the best qualified firm.

If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm.

The Town Manager may exempt projects from the qualified-based selection process in which the estimated professional fee is in an amount less than \$50,000.

F. Advertising for Bids

Purpose

The purpose of advertising bids is to inform the public of bidding opportunities and to meet certain statutory requirements.

Policy

N.C.G.S. 143-129 requires that formal bids be advertised in a newspaper having general circulation, or by electronic means, or both.

The Procurement Analyst or its authorized designee shall advertise electronically on the North Carolina Interactive Website (IPS). Electronic advertisements shall appear electronically at least seven days prior to the bid opening date.

G. Bid Opening

Purpose

This policy is to set forth a uniform method of opening sealed bids.

Policy

It is the Town's policy that all sealed bids in the formal range be opened in public to be determined by the Department unless otherwise authorized. The informal bids will be opened from the IPS Ebids by the Procurement Division and sent to the Department.

It is also the Town's policy that the bid opening, evaluation, and award process be governed by the standards of openness and impartiality.

V. BID DEPOSIT/BID BOND

Purpose

To explain when a bid deposit/bid bond is required and how it is processed.

Policy

1. N.C.G.S. 143-129 states that "no (formal) proposal for construction or repair work may be considered or accepted unless at the time of its filing it is accompanied by a bid deposit equal to not less than five percent (5%) of the proposal." The bid deposit may be cash, cashier's check, or a certified check.
2. In lieu of making the cash deposit as above provided, bidder may submit an original bid bond executed by a corporate Surety licensed under the laws of North Carolina to execute such bonds. Faxed or copied Bid Bond will not be accepted.

3. **Bid deposits are not required for purchase contracts; however, the Town may require a bid deposit on any purchase contract, service, or any informal construction or repair project as it deems necessary.**
4. **Bid Deposit: If the successful bidder fails to execute the contract within 10 days after the contract award or fails to give satisfactory Surety (required bonds), the bid deposit may be retained by the Town.**
5. **Bid Bond: If the successful bidder fails to execute the contract within 10 days after the award or fails to give satisfactory notice, the Project Manager or the Procurement, Contracts and MWBE Manager or Project Manager will notify the Surety.**

VI. PERFORMANCE AND PAYMENT BOND

Purpose

This policy is to explain when a performance and payment bond is required and how it is processed.

Policy

1. **N.C.G.S. 143-129(c) requires a performance and payment bond when the sum of all contracts for a construction or repair project exceed \$300,000. The successful bidder must provide performance and payment bonds for the full amount of each contract exceeding \$50,000. In place of bonds, the contractor may provide cash, certified checks or governmental securities.**
2. **N.C.G.S. 143-129 further provides that for construction projects involving a single contract, the performance and payment bond is not required unless the contract exceeds \$300,000.**
3. **The Town may require a performance and payment bond on construction projects costing less than \$300,000, certain purchase contracts, or services if it is in the best interest of the Town to do so.**

VII. VENDOR RELATIONSHIPS

Purpose

To make the Town's policy in developing relationships with vendors and contractors known.

Policy

It is the Town's policy to maintain and practice the highest possible standards of business ethics, professional courtesy, and competence in dealing with vendors and contractors.

VIII. PROCUREMENT

A. Requisitions

Purpose

The purpose of the requisition is to initiate the procurement and encumber funds of all supplies, equipment, materials, and/or other expenses being requesting by the Town departments.

Policy

Upon receipt of the online requisition, the Procurement Division will ensure all proper procurement methods have been followed according to Federal Law (if applicable), State Law and Town Policy and Procedures.

B. Purchase Orders

Purpose

The purchase order serves as authorization to the vendor to furnish goods, materials apparatus, services and small construction to the Town. It is also used to encumber funds for purchases and is the instrument used to pre-audit certain contracts.

Policy

A purchase order will not be issued without receiving an approved requisition from the ordering department. The Procurement, Contracts and MWBE Manager or Finance Director, must authorize and pre-audit all purchase **orders**.

C. Blanket Purchase Orders

Purpose

This procedure is used to provide a procurement tool for obtaining purchases when the amount of paperwork involved makes it impractical to use regular procurement procedures.

Policy

The Procurement, Contracts and MWBE Manager and Procurement Analyst will work together to use these procedures when it appears to be in the Town's best interest.

This procedure shall not be used to avoid the competitive bidding process.

The Procurement, Contracts and MWBE Manager shall be the final authority on the use of this tool for the procurement process.

D. Emergency Purchase Orders

Purpose

This policy is used to define an emergency purchase order.

Policy

Emergency shall be defined as an **"existing, immediate and present condition"** and one where the life and welfare of the general public is in danger. Generally, this may include any situation that severely hinders the ability of a department to operate and provide necessary services. This includes but is not limited to tornadoes, hurricanes, ice and snowstorms after hour power outages, and both natural and mad-made disasters.

If harm to the public or hinderance to the ability to the department to provide services can be averted through temporary measures while proper bidding is being conducted, then the emergency exception cannot be used to avoid bidding.

E. Orders

Purpose

This procedure describes how orders are placed and processed by departments with the Town.

Policy

It is the Town's policy that all orders be placed by purchase order or in accordance with the Procurement Card Policy. Purchases not following the guidelines will be considered a confirming purchase

Orders shall not be placed by any employee prior to receipt of a purchase order unless utilizing a Town-issued procurement card. Failure to comply with the policy and procedures contained herein will cause an employee to be personally liable for any funds obligated for the purchase as provided for in N.C.G.S. 159-28. If the purchase is made without use of a purchase order or Town issued procurement card, considered a confirming purchase the employee will need to have a written email with justification from the Department Head.

IX. ENVIRONMENTAL PURCHASING & RECYCLING

Purpose

The purpose of this policy is to support the purchase of recycled and environmentally preferred products in order to minimize environmental impacts relating to the work of Town employees and the citizens of the Town. In addition, to recycle all materials that would otherwise become solid waste and return them to the economic mainstream in the form of raw material for new, reused, or reconstituted materials.

Policy

To purchase environmentally friendly products when practical and economically feasible that have a lesser impact on human health and the environment when compared with competing products.

To recycle as many items as possible to conserve energy consumption and cost. Items to be recycled instead of discarded include but are not limited to: scrap metals, pallets, aluminum cans, plastics, white and mixed paper, toner cartridges, batteries, cardboard, etc.

X. SURPLUS – PERSONAL PROPERTY

Purpose

To establish procedures for declaring personal property as surplus. Surplus is defined as “any Town-owned property that the continued use of is uneconomical or inefficient; or which serves no useful governmental function or further use to the Town.”

Policy

The Procurement, Contracts and MWBE Manager, with delegation by the Finance Director, has the authority to declare personal property as surplus providing:

- 1. Any of item or group of similar items has a fair market value of less than thirty thousand (\$30,000); and**
- 2. The property is no longer necessary for the conduct of public business; and**
- 3. Sound property management principles and financial consideration indicated that the interest of the Town would be best be served by disposing of the property.**
- 4. If the above conditions do not apply; the personal property to be declared surplus shall be presented to the Town Council for their consideration.**

XI. PROCUREMENT CARD (P-CARD)

Purpose

The purpose of this policy is to provide a procedure for the management and official use of procurement cards for small dollar value purchases in order to increase efficiency, decrease cycling

time, and dramatically reduce paperwork by reducing the number of requisitions and purchase orders, and reducing the number of checks

Policy

~~It will be the policy of the Town of Clayton that procurement cards may be used for official Town purchases for small dollar value purchases of \$2,500.00 or less per transaction and \$7,500.00 monthly, unless otherwise authorized. The \$2,500.00 limit includes all applicable sales tax.~~

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~~The single transaction limit for travel and training related expenses is authorized up to \$2,500.00 per transaction.~~

~~The procurement card will not be used to purchase meals for a Town authorized training, you must follow the Town Per Diem.~~

~~-~~

~~The procurement card may also be used by cardholders during a declared emergency with an increased limit submitted by the Department Head or Designee and approved by the by the Procurement, Contract and MWBE Manager or Finance Director in conjunction with the Town Managers Office.~~

~~-~~

~~It is the responsibility of each department head to ensure funds are available within the existing budget for all procurement card purchases~~

It will be the policy of the Town of Clayton to reference the P-Card manual, which provides thresholds and detailed instructions on the appropriate use of the P-Card. Cardholders and Approvers are responsible for ensuring compliance with the P-Card Manual's provisions, including allowable purchases, documentation requirements, and reconciliation procedures. Any misuse or failure to comply with the established guidelines may result in corrective action, including suspension or termination of P-Card privileges. The administrative procedures contained within the P-Card manual may be changed as necessary at staff level.

XII. MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE (MWBE)

Purpose

It is the purpose of this policy to establish goals for minority participation in single-prime bidding, separate-prime bidding, construction manager at risk, and alternative contracting methods, on **Town of Clayton** construction or repair projects in the amount of \$300,000 or more, Town projects involving State funding where the total project cost \$100,000 or more. The outreach plan shall also be applicable to the selection process of all professional services.

The Town of Clayton has a current verifiable goal of **ten** percent for minority participation for building construction or repair projects. The goal will be reviewed **every five years**.

A. Policy

It is the purpose of this policy that the Town of Clayton, as awarding authority for construction or repair projects, and the contractors and subcontractors performing the construction contracts awarded shall cooperate and in good faith do all things legal, proper, and reasonable to achieve the goal of ten percent for participation by minority businesses in each construction or repair project. Nothing in these guidelines shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from minority-business contractors or minority-business subcontractors who do not submit the lowest responsible, responsive bid or bids.

A copy of these Guidelines will be issued with each bid package for applicable Town of Clayton building projects. These Guidelines shall apply to all contractors on such projects, regardless of ownership.

B. Definitions

A. Minority - a person who is a citizen or lawful permanent resident of the United States and who is:

- Black, that is, a person having origins in any of the black racial groups in Africa;
- Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
- Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, the Pacific Islands;
- American Indian, that is, a person having origins in any of the original peoples of North America; or
- Female

B. Minority Business (MBE) - means a business:

- In which at least fifty-one percent (51%) is owned by one or more minority persons, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; and
- Of which the management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.
- The business is certified as a Historically Underutilized Business by the North Carolina Department of Administration Office for Historically Underutilized Business.

C. Socially and economically disadvantaged individual - means the same as defined in 15 U.S.C. 637: Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities. Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.

D. Public Entity - means the State and all public subdivisions and local governmental units.

E. Owner - Town of Clayton.

F. Designer - Any person, firm, partnership, or corporation which has contracted with the Town of Clayton to perform architectural or engineering work.

G. Bidder - Any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.

H. Contract - A mutually binding legal relationship or any modification thereof obligating the seller to furnish equipment, materials, or services, including construction, and obligating the buyer to pay for them.

I. Contractor - Any person, firm, partnership, corporation, association, or joint venture which has contracted with the Town of Clayton to perform building construction or repair work.

- J. **Subcontractor** - A firm under contract with the prime contractor or construction manager at risk for supplying materials or labor and materials and/or installation. The subcontractor may or may not provide materials in his subcontract.
- K. **HUB Office** – N.C. Department of Administration’s Office for Historically Underutilized Businesses.

XIII. FEDERAL UNIFORM GUIDANCE

I. Purpose

The purpose of this policy is to establish guidelines that meet or exceed the procurement requirements for purchases of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects when federal funds are being used in whole or in part to pay for the cost of the contract. To the extent that other sections of procurement policies and procedures adopted by the Town of Clayton (hereinafter the “Town”) are more restrictive than those contained in this policy, local policies and procedures shall be followed.

II. Policy

- A. **Application of Policy.** This policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). The requirements of this Policy also apply to any subrecipient of the funds.

All federally funded projects, loans, grants, and sub-grants, whether funded in part or wholly, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at 2 C.F.R. Part 200 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds.

- B. **Compliance with Federal Law.** All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200.326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. The Town will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the Town have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.
- C. **Contract Award.** All contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract.
- D. **No Evasion.** No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or state and federal law.
- E. **Contract Requirements.** All contracts paid for in whole or in part with federal funds shall be in writing. The written contract must include or incorporate by reference the provisions required under 2 C.F.R § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.
- F. **Contractors’ Conflict of Interest.** Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, construction for bids or requests for proposals shall be excluded from competing for such requirements.

- G. Micro Purchase Thresholds for self-certification of the following micro-purchase thresholds, each of which is a “higher threshold consistent with “State Law” under 2 C.F.R 200.320(a)(1)(iv)(A) and the applicable provisions of North Carolina law, the Town self certifies the micro-purchase as set forth in the memorandum (Exhibit A).**

XIV. PREQUALIFICATION OF BIDDERS FOR CONSTRUCTION PROJECTS

I. Purpose

The purpose of this policy is to define a prequalification process that complies with the requirements of NCGS §143-135.8, which allows prequalification of bidders for a particular construction and repair project.

II. Policy

The policy is to guide the evaluation of a contractor impartially and objectively and properly determine, based on its responsible business practices, work experience, staff, and equipment, that it meets the minimum qualifications to bid on a construction project. The award of contracts shall be the result of open competition in bidding; impartiality in the selection of contractors; integrity in business practices; and skillful and safe performance of public contracts.

1. This policy is only applicable to specific construction projects as follows:
 - a) Single-prime, separate-prime, or dual-bidding methods as defined in NCGS §143-128(a1)(1) through 143-128(a1)(3).
 - b) First tier sub-contractors for Construction Manager at Risk contracts as defined in NCGS §143-128.1.
2. Prequalification may not be used for the selection of any qualification-based services, such as architectural, engineering, surveying, design-build services, or the selection of a CM at Risk, under Article 3D of Chapter 143 of the North Carolina General Statutes.
3. Notwithstanding the fact that a contractor was prequalified to bid on a specific project, the Town reserves the right to reject a contractor's bid on that same project if it is determined that the contractor has not submitted the lowest responsible and responsive bid.
 - a) The prequalification of the contractor shall not preclude the Town from afterward concluding that the contractor is not a responsible bidder pursuant to NCGS §143-129.
 - b) All construction and repair contracts shall be awarded to the lowest responsive and responsible bidder, taking into consideration quality, performance and the time specified in the bids for the performance of the contract.
 - c) The prequalification of a contractor for a project shall only apply to the individual project.
 - d) A bidder shall be deemed nonresponsive if it submits a bid on a construction project subject to prequalification, for which it has not been deemed prequalified in accordance with this policy.

III. DEFINITIONS

1. **Project Manager:** An employee or consultant responsible for the administration of a construction or repair project who is assigned the responsibility for managing the project and representing the department in matters relating to the project and tasked with the responsibilities of developing evaluation criteria and an evaluation tool consistent with this policy.

2. Construction Manager at Risk: A person, corporation, or entity that provides construction management at risk services.
3. Prequalification: A process of evaluating and determining whether potential bidders have the skill, judgment, integrity, sufficient financial resources, and ability necessary to do the faithful performance of a contract for construction or repair work.
4. Prequalification Committee: A committee established by the Project Manager and/or the Construction Manager at Risk for each project and tasked with the responsibility of evaluating applications for prequalification.

XIV. CONTRACTS

I. Purpose

This policy exists to establish a uniform procedure for processing all contracts where the Town is a party. For the purposes of this document, all agreements, memorandum of understanding or addendums will be referred to as "contracts." It is important to note that no matter what title is used, the legal implications are the same.

II. Policy

This policy is written for County departments and their staff who have the responsibility for procuring goods and services for their department. The policy explains the contract approval process and protects the County's interest in the contracts and agreements to which it is a party.

EXHIBIT A

Town of Clayton
Administration
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002

MEMORANDUM

To: Town Council

From: Finance Department, Procurement Division

Copy: Town Clerk

Date: November 1, 2021

Subject: Authorization to increase the Micro -Purchase Threshold

The Town of Clayton (the Town) at different times purchases goods and services using federal funding subject to the procurement standards in 2 C.F.R Part 200, Subpart D and the Town's procurement of such goods and services is subject to the Town of Clayton Procurement Policy as most recently amended on November 1, 2021

In accordance with 2 C.F.R. 200.320(a)(1)(ii), a non-Federal entity may award micro-purchases without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents that the non-Federal entity files accordingly. A non-federal entity in accord to 2 C.F.R. 200.320(a)(1)(iii), is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures.

When in accordance with 2 C.F.R. § 200.320(a)(1)(iv), a non-Federal entity may self-certify on an annual basis a micro-purchase threshold not to exceed \$50,000 and maintain documentation to be made available to a Federal awarding agency and auditors in accordance with 2 C.F.R. § 200.334; and such self-certification must include (1) a clear identification of the threshold, and (3) supporting documentation, which, for public entities, may be a "higher threshold consistent with State law". The Town Council of the Town now desires to adopt higher micro-purchase thresholds than those identified in 48 C.F.R. § 2.101.

The Town Council of the Town of Clayton: in accordance with 2 C.F.R. § 200.320(a)(1)(iv) and the applicable provisions of North Carolina law, hereby self-certifies the following micro-purchase thresholds, each of which is a "higher threshold consistent with State law" under 2 C.F.R. § 200.320(a)(1)(iv)(C) for the reasons set forth in this memorandum

- A. \$30,000, for the purchase of "apparatus, supplies, materials, or equipment"; and**
- B. \$30,000, for the purchase of "construction or repair work"; and**
- C. \$50,000, for the purchase of services not subject to competitive bidding under North Carolina law; and**
- D. \$50,000, for the purchase of services subject to the qualifications-based selection process in the Mini-Brooks Act; provided that such threshold shall apply to a contract only if the Unit has exercised an exemption to the Mini-Brooks Act, in writing, for a particular project pursuant to G.S. 143-64.32. If the exemption is not authorized, the micro-purchase threshold shall be \$0.**

The self-certification made herein shall be effective as of the date hereof and shall be applicable until the last council meeting of the current fiscal year of the Unit, but shall not be applicable to Federal financial

assistance awards issued prior to November 12, 2020, including financial assistance awards issued prior to that date under the Coronavirus Aid, Relief, and Economic Support (CARES) Act of 2020 (Pub. L. 116-136).

In the event that the Town receives funding from a federal grantor agency that adopts a threshold more restrictive than those contained herein, the Unit shall comply with the more restrictive threshold when expending such funds and maintain documentation to be made available to a Federal awarding agency, any pass-through entity, and auditors in accordance with 2 C.F.R. § 200.334.

The Town Council of the Town are hereby authorized, individually and collectively, to revise the Procurement Policy of the Town to reflect the increased micro-purchase thresholds specified herein, and to take all such actions, individually and collectively, to carry into effect the purpose and intent of the foregoing resolution on an annual basis.



TOWN OF CLAYTON POLICY

**Department: Finance/Procurement
Division**

Effective: April 7, 2025

**Policy Title: Town of Clayton Procurement Policy
Version #2**

Policy #: FIN 2025-01

Supersedes: Purchasing Policy 2012,
Resolution 2021-03, Ordinance 2018-
07-01, Resolution 2021-04 & 2021-
32, Resolution 2025-27

Prepared By:
Shaun Mizell
**Procurement, Contracts and MWBE
Manager**

Approved By: Town Council ☒ or Town Manager ☐ **Date: April 7, 2025**

PROCUREMENT

I. Purpose

This procurement policy is intended for use as a guide to the Town of Clayton's Procurement methods and practices. When used properly the policies are established herein will enable the Town to obtain needed materials, equipment, supplies, and services efficiently and economically. It also provides for application of all North Carolina General Statutory provisions pertaining to local governmental purchasing.

The understanding and cooperation of all employees is essential if the Town is to obtain the maximum value for each tax dollar spent. While this policy does not answer all questions related to procurement, it does provide the foundation for a sound centralized procurement system.

The basic goals of the Town's procurement program are:

- To comply with the Federal, State and Local Policies of public procurement.
- To assure vendors that impartial and equal treatment is offered to all that wish to do business with the Town.
- To receive maximum value for each dollar spent by awarding purchase orders to the lowest responsible, responsive bidder, taking into consideration quality, performance, technical support, delivery schedule, past performance and other relevant factors.
- To provide Town departments the required goods, equipment, and services at the time and place needed and in the proper quantity and quality.
- To professionally administer the search for sources of supplies, the development of new sources, the selection of suppliers and negotiations.
- To promote good and effective vendor relations, cultivated by informed and fair buying practices and strict adherence to ethical standards.

If the policies established in this manual are followed, each department can efficiently manage, control and plan its available resources to meet present and future departmental needs and help the Town to meet these goals. Should there be any question(s) pertaining to the policies contact the Procurement Division.

The procurement process is an ever-changing process due to new technology and tools available to the procurement profession. Therefore, this policy shall be reviewed and revised periodically to keep current with continued developments as they pertain to the procurement process.

The Town of Clayton Council has approved the policies contained within this document. Therefore, the Town Council shall approve any and all policy changes prior to their becoming effective. However, the administrative procedures contained within the procurement manual are administrative and may be changed as necessary at staff level.

II. OVERVIEW

A. Centralized Procurement

It is the policy of the Town of Clayton that the Procurement Division provides centralized procurement services for the Town. The main purpose of the centralized procurement process is to provide for a uniform and systematic method of procurement of necessary good and services required by the Town departments and to define the responsibilities of the Procurement Division within the Town of Clayton.

The division provides technical assistance to all Town Departments in areas of standardization, specifications, cost reduction, and product and price information. The division ensures that all procurement requirements and limitations imposed by state law and Town policies are adhered to properly and economically.

B. Program Administration

The Procurement, Contract and MWBE Manager shall administer an effective centralized procurement program for the Town by:

- Carrying out the policy approved by Town Council and the procedures established.
- Controlling and reducing the cost of procuring goods, apparatus, and equipment.
- Contractual assistance with services, professional services construction, and repair projects.
- Providing timely, effective, and efficient service to Town departments and to vendors doing business with the Town.
- Maintaining open communications with departmental representatives and the public in general.
- Encouraging free and open competition in the bid process.

C. Competitive Bidding

The Town shall obtain competitive bids on all procurement as required by North Carolina General Statutes and Town Policies. When economically feasible, competitive bids are to be obtained, regardless of the dollar amount, whenever it is deemed to be in the best interest of the Town.

III. CODE OF CONDUCT

A. Purpose

To establish a standard written code of conduct.

B. Code

All procurement activities must be conducted according to applicable laws, rules, regulations, and policies of the Federal (Uniform Guidance), State of North Carolina and the Town of Clayton, specifically General Statute 14-234.

All procurement activities must always maintain integrity, keep free from any personal obligations to vendors or contractors and respect their confidence.

No employee or officer of the Town of Clayton shall participate in the award or administration of a federal, state, or locally funded project or purchase if that person, that person's spouse, any member of that person's immediate family, or an organization which employs or is about to employ the person, the person's spouse, or a member of the person's immediate family has a financial or other interest in the company selected for award.

Any Town employee having knowledge of or a reason to know of a potential personal interest or upon the discovery of a potential personal interest has an affirmative duty to disclose such personal interest to the Procurement, Contracts and MWBE Manager. Any attempts by any person, firm or corporation to influence the decision of a Town employee regarding Town business must be reported to the Procurement, Contracts and MWBE Manager.

IV. BIDDING PROCESS

A. Competitive Bidding Methods

Purpose

The purpose of this policy is to define the Town's position regarding competition and to describe the methods used for competitive bidding.

Policy

It is the policy of the Procurement Division to assist in preparation of specifications with the Departments that will ensure competitive bids whenever possible. Because competition is critical to public procurement, it is essential that specifications be developed to ensure a sufficient number of competitive bids will be received. Specifications shall be as simple as possible while maintaining the degree of exactness required to meet the requirements of goods being requested. Specifications utilizing a brand name must include the term "or approved equal" to avoid being restrictive and eliminating fair competition from the bidding process. Well-written specifications will ensure that the Procurement Division and the Departments are able to procure what is needed, when it is needed, at the lowest possible cost.

The Procurement Division will determine which procurement method will be most advantageous to the Town and will ensure all federal and state laws and local policies are met.

B. Informal Bids

Purpose

The purpose is to provide a uniform procedure for obtaining bids for the purchase or lease-purchase of apparatus, supplies, materials, or equipment and for construction or repair work which are classified as **Informal Bids** as referred to by N.C.G.S. 143-131.

Policy

Informal Bids: In accordance with N.C.G.S. 143-131, informal bids are required for purchase contracts costing \$30,000 to the formal limit of \$90,000; and construction or repair work costing \$30,000 up to the formal limit of \$500,000. The use of a registered architect or engineer is required for certain construction or repair projects in the informal range (N.C.G.S. 133-1.1(a)).

Bids may be obtained by utilizing any one of the competitive bidding methods described in this policy if the Procurement, Contracts and MWBE Manager deems it to be in the best interest of the Town. Bids may be received by email or Ebids on the NC IPS website.

All contracts shall be awarded to the lowest responsible, responsive bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract.

Bid results shall **not** be subject to public inspection until the contract has been awarded (N.C.G.S. 143-131).

C. Formal Bids

Purpose

The purpose is to describe the Town's policy for the purchase or lease-purchase of apparatus, supplies, materials, or equipment, and for construction or repair work which must be secured through the competitive bid process governed by N.C.G.S. 143-129, which are classified as Formal Bids.

Policy

A formal bid is required when:

The expenditure is \$90,000 or more for the purchase of apparatus, supplies, materials, and/or equipment.

The estimated expenditure is \$500,000 or more for construction and/or repair projects.

D. Services and Information Technology

Purpose

The purpose is to describe the Town's policy for selection of services not recognized in General Statutes and Procedure for exemption for IT Hardware and Services N.C.G.S. 143-129(e).

Policy

It is the policy of the Town to select firms for services and information technology hardware, software and maintenance agreements through the (Request for Proposal) qualification and pricing selection process.

E. Professional Services

Purpose

The purpose is to describe the Town's policy for the selection of professional service firms in accordance with the N.C.G.S. 143-64.31 and the exemption process as described in N.C.G.S. 143-64.32. Professional services include architectural, engineering, surveying, construction manager-at-risk services, design-build services, and public-private partnership construction services.

Policy

It is the policy of the Town to select firms for professional services through the qualification-based selection process. Requirements for professional services must be "announced" and providers must be selected based on demonstrated competence and qualifications for the type of professional services required without regard to fee.

The Town shall use "good faith efforts" to notify minority firms of the opportunity to submit qualifications for consideration.

The Town may request **unit price** information at the time qualifications are received, and thereafter negotiate a lump sum contract for those services at a fair and reasonable fee with the best qualified firm.

If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm.

The Town Manager may exempt projects from the qualified-based selection process in which the estimated professional fee is in an amount less than \$50,000.

F. Advertising for Bids

Purpose

The purpose of advertising bids is to inform the public of bidding opportunities and to meet certain statutory requirements.

Policy

N.C.G.S. 143-129 requires that formal bids be advertised in a newspaper having general circulation, or by electronic means, or both.

The Procurement Analyst or its authorized designee shall advertise electronically on the North Carolina Interactive Website (IPS). Electronic advertisements shall appear electronically at least seven days prior to the bid opening date.

G. Bid Opening

Purpose

This policy is to set forth a uniform method of opening sealed bids.

Policy

It is the Town's policy that all sealed bids in the formal range be opened in public to be determined by the Department unless otherwise authorized. The informal bids will be opened from the IPS Ebids by the Procurement Division and sent to the Department.

It is also the Town's policy that the bid opening, evaluation, and award process be governed by the standards of openness and impartiality.

V. BID DEPOSIT/BID BOND

Purpose

To explain when a bid deposit/bid bond is required and how it is processed.

Policy

1. N.C.G.S. 143-129 states that "no (formal) proposal for construction or repair work may be considered or accepted unless at the time of its filing it is accompanied by a bid deposit equal to not less than five percent (5%) of the proposal." The bid deposit may be cash, cashier's check, or a certified check.
2. In lieu of making the cash deposit as above provided, bidder may submit an original bid bond executed by a corporate Surety licensed under the laws of North Carolina to execute such bonds. Faxed or copied Bid Bond will not be accepted.

3. **Bid deposits are not required for purchase contracts; however, the Town may require a bid deposit on any purchase contract, service, or any informal construction or repair project as it deems necessary.**
4. **Bid Deposit: If the successful bidder fails to execute the contract within 10 days after the contract award or fails to give satisfactory Surety (required bonds), the bid deposit may be retained by the Town.**
5. **Bid Bond: If the successful bidder fails to execute the contract within 10 days after the award or fails to give satisfactory notice, the Project Manager or the Procurement, Contracts and MWBE Manager or Project Manager will notify the Surety.**

VI. PERFORMANCE AND PAYMENT BOND

Purpose

This policy is to explain when a performance and payment bond is required and how it is processed.

Policy

1. **N.C.G.S. 143-129(c) requires a performance and payment bond when the sum of all contracts for a construction or repair project exceed \$300,000. The successful bidder must provide performance and payment bonds for the full amount of each contract exceeding \$50,000. In place of bonds, the contractor may provide cash, certified checks or governmental securities.**
2. **N.C.G.S. 143-129 further provides that for construction projects involving a single contract, the performance and payment bond is not required unless the contract exceeds \$300,000.**
3. **The Town may require a performance and payment bond on construction projects costing less than \$300,000, certain purchase contracts, or services if it is in the best interest of the Town to do so.**

VII. VENDOR RELATIONSHIPS

Purpose

To make the Town's policy in developing relationships with vendors and contractors known.

Policy

It is the Town's policy to maintain and practice the highest possible standards of business ethics, professional courtesy, and competence in dealing with vendors and contractors.

VIII. PROCUREMENT

A. Requisitions

Purpose

The purpose of the requisition is to initiate the procurement and encumber funds of all supplies, equipment, materials, and/or other expenses being requesting by the Town departments.

Policy

Upon receipt of the online requisition, the Procurement Division will ensure all proper procurement methods have been followed according to Federal Law (if applicable), State Law and Town Policy and Procedures.

B. Purchase Orders

Purpose

The purchase order serves as authorization to the vendor to furnish goods, materials apparatus, services and small construction to the Town. It is also used to encumber funds for purchases and is the instrument used to pre-audit certain contracts.

Policy

A purchase order will not be issued without receiving an approved requisition from the ordering department. The Procurement, Contracts and MWBE Manager or Finance Director, must authorize and pre-audit all purchase **orders**.

C. Blanket Purchase Orders

Purpose

This procedure is used to provide a procurement tool for obtaining purchases when the amount of paperwork involved makes it impractical to use regular procurement procedures.

Policy

The Procurement, Contracts and MWBE Manager and Procurement Analyst will work together to use these procedures when it appears to be in the Town's best interest.

This procedure shall not be used to avoid the competitive bidding process.

The Procurement, Contracts and MWBE Manager shall be the final authority on the use of this tool for the procurement process.

D. Emergency Purchase Orders

Purpose

This policy is used to define an emergency purchase order.

Policy

Emergency shall be defined as an **"existing, immediate and present condition"** and one where the life and welfare of the general public is in danger. Generally, this may include any situation that severely hinders the ability of a department to operate and provide necessary services. This includes but is not limited to tornadoes, hurricanes, ice and snowstorms after hour power outages, and both natural and mad-made disasters.

If harm to the public or hinderance to the ability to the department to provide services can be averted through temporary measures while proper bidding is being conducted, then the emergency exception cannot be used to avoid bidding.

E. Orders

Purpose

This procedure describes how orders are placed and processed by departments with the Town.

Policy

It is the Town's policy that all orders be placed by purchase order or in accordance with the Procurement Card Policy. Purchases not following the guidelines will be considered a confirming purchase

Orders shall not be placed by any employee prior to receipt of a purchase order unless utilizing a Town-issued procurement card. Failure to comply with the policy and procedures contained herein will cause an employee to be personally liable for any funds obligated for the purchase as provided for in N.C.G.S. 159-28. If the purchase is made without use of a purchase order or Town issued procurement card, considered a confirming purchase the employee will need to have a written email with justification from the Department Head.

IX. ENVIRONMENTAL PURCHASING & RECYCLING

Purpose

The purpose of this policy is to support the purchase of recycled and environmentally preferred products in order to minimize environmental impacts relating to the work of Town employees and the citizens of the Town. In addition, to recycle all materials that would otherwise become solid waste and return them to the economic mainstream in the form of raw material for new, reused, or reconstituted materials.

Policy

To purchase environmentally friendly products when practical and economically feasible that have a lesser impact on human health and the environment when compared with competing products.

To recycle as many items as possible to conserve energy consumption and cost. Items to be recycled instead of discarded include but are not limited to: scrap metals, pallets, aluminum cans, plastics, white and mixed paper, toner cartridges, batteries, cardboard, etc.

X. SURPLUS – PERSONAL PROPERTY

Purpose

To establish procedures for declaring personal property as surplus. Surplus is defined as “any Town-owned property that the continued use of is uneconomical or inefficient; or which serves no useful governmental function or further use to the Town.”

Policy

The Procurement, Contracts and MWBE Manager, with delegation by the Finance Director, has the authority to declare personal property as surplus providing:

- 1. Any of item or group of similar items has a fair market value of less than thirty thousand (\$30,000); and**
- 2. The property is no longer necessary for the conduct of public business; and**
- 3. Sound property management principles and financial consideration indicated that the interest of the Town would be best be served by disposing of the property.**
- 4. If the above conditions do not apply; the personal property to be declared surplus shall be presented to the Town Council for their consideration.**

XI. PROCUREMENT CARD (P-CARD)

Purpose

The purpose of this policy is to provide a procedure for the management and official use of procurement cards for small dollar value purchases in order to increase efficiency, decrease cycling

time, and dramatically reduce paperwork by reducing the number of requisitions and purchase orders, and reducing the number of checks

Policy

It will be the policy of the Town of Clayton to reference the P-Card manual, which provides thresholds and detailed instructions on the appropriate use of the P-Card. Cardholders and Approvers are responsible for ensuring compliance with the P-Card Manual's provisions, including allowable purchases, documentation requirements, and reconciliation procedures. Any misuse or failure to comply with the established guidelines may result in corrective action, including suspension or termination of P-Card privileges. The administrative procedures contained within the P-Card manual may be changed as necessary at staff level.

XII. MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE (MWBE)

Purpose

It is the purpose of this policy to establish goals for minority participation in single-prime bidding, separate-prime bidding, construction manager at risk, and alternative contracting methods, on **Town of Clayton** construction or repair projects in the amount of \$300,000 or more, Town projects involving State funding where the total project cost \$100,000 or more. The outreach plan shall also be applicable to the selection process of all professional services.

The Town of Clayton has a current verifiable goal of **ten** percent for minority participation for building construction or repair projects. The goal will be reviewed **every five years**.

A. Policy

It is the purpose of this policy that the Town of Clayton, as awarding authority for construction or repair projects, and the contractors and subcontractors performing the construction contracts awarded shall cooperate and in good faith do all things legal, proper, and reasonable to achieve the goal of ten percent for participation by minority businesses in each construction or repair project. Nothing in these guidelines shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from minority-business contractors or minority-business subcontractors who do not submit the lowest responsible, responsive bid or bids.

A copy of these Guidelines will be issued with each bid package for applicable Town of Clayton building projects. These Guidelines shall apply to all contractors on such projects, regardless of ownership.

B. Definitions

A. Minority - a person who is a citizen or lawful permanent resident of the United States and who is:

- Black, that is, a person having origins in any of the black racial groups in Africa;
- Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
- Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, the Pacific Islands;
- American Indian, that is, a person having origins in any of the original peoples of North America; or
- Female

B. Minority Business (MBE) - means a business:

- In which at least fifty-one percent (51%) is owned by one or more minority persons, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; and
 - Of which the management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.
 - The business is certified as a Historically Underutilized Business by the North Carolina Department of Administration Office for Historically Underutilized Business.
- C. **Socially and economically disadvantaged individual** - means the same as defined in 15 U.S.C. 637: Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities. Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.
- D. **Public Entity** - means the State and all public subdivisions and local governmental units.
- E. **Owner** - Town of Clayton.
- F. **Designer** - Any person, firm, partnership, or corporation which has contracted with the Town of Clayton to perform architectural or engineering work.
- G. **Bidder** - Any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.
- H. **Contract** - A mutually binding legal relationship or any modification thereof obligating the seller to furnish equipment, materials, or services, including construction, and obligating the buyer to pay for them.
- I. **Contractor** - Any person, firm, partnership, corporation, association, or joint venture which has contracted with the Town of Clayton to perform building construction or repair work.
- J. **Subcontractor** - A firm under contract with the prime contractor or construction manager at risk for supplying materials or labor and materials and/or installation. The subcontractor may or may not provide materials in his subcontract.
- K. **HUB Office** - N.C. Department of Administration's Office for Historically Underutilized Businesses.

XIII. FEDERAL UNIFORM GUIDANCE

I. Purpose

The purpose of this policy is to establish guidelines that meet or exceed the procurement requirements for purchases of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects when federal funds are being used in whole or in part to pay for the cost of the contract. To the extent that other sections of procurement policies and procedures adopted by the Town of Clayton (hereinafter the "Town") are more restrictive than those contained in this policy, local policies and procedures shall be followed.

II. Policy

- A. Application of Policy.** This policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). The requirements of this Policy also apply to any subrecipient of the funds.

All federally funded projects, loans, grants, and sub-grants, whether funded in part or wholly, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at 2 C.F.R. Part 200 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds.

- B. Compliance with Federal Law.** All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200-326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. The Town will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the Town have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.
- C. Contract Award.** All contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract.
- D. No Evasion.** No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or state and federal law.
- E. Contract Requirements.** All contracts paid for in whole or in part with federal funds shall be in writing. The written contract must include or incorporate by reference the provisions required under 2 C.F.R § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.
- F. Contractors' Conflict of Interest.** Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, construction for bids or requests for proposals shall be excluded from competing for such requirements.
- G. Micro Purchase Thresholds** for self-certification of the following micro-purchase thresholds, each of which is a "higher threshold consistent with "State Law" under 2 C.F.R 200.320(a)(1)(iv)(A) and the applicable provisions of North Carolina law, the Town self certifies the micro-purchase as set forth in the memorandum (Exhibit A).

XIV. PREQUALIFICATION OF BIDDERS FOR CONSTRUCTION PROJECTS

I. Purpose

The purpose of this policy is to define a prequalification process that complies with the requirements of NCGS §143-135.8, which allows prequalification of bidders for a particular construction and repair project.

II. Policy

The policy is to guide the evaluation of a contractor impartially and objectively and properly determine, based on its responsible business practices, work experience, staff, and equipment, that it meets the minimum qualifications to bid on a construction project. The award of contracts shall

be the result of open competition in bidding; impartiality in the selection of contractors; integrity in business practices; and skillful and safe performance of public contracts.

1. This policy is only applicable to specific construction projects as follows:
 - a) Single-prime, separate-prime, or dual-bidding methods as defined in NCGS §143-128(a1)(1) through 143-128(a1)(3).
 - b) First tier sub-contractors for Construction Manager at Risk contracts as defined in NCGS §143-128.1.
2. Prequalification may not be used for the selection of any qualification-based services, such as architectural, engineering, surveying, design-build services, or the selection of a CM at Risk, under Article 3D of Chapter 143 of the North Carolina General Statutes.
3. Notwithstanding the fact that a contractor was prequalified to bid on a specific project, the Town reserves the right to reject a contractor's bid on that same project if it is determined that the contractor has not submitted the lowest responsible and responsive bid.
 - a) The prequalification of the contractor shall not preclude the Town from afterward concluding that the contractor is not a responsible bidder pursuant to NCGS §143-129.
 - b) All construction and repair contracts shall be awarded to the lowest responsive and responsible bidder, taking into consideration quality, performance and the time specified in the bids for the performance of the contract.
 - c) The prequalification of a contractor for a project shall only apply to the individual project.
 - d) A bidder shall be deemed nonresponsive if it submits a bid on a construction project subject to prequalification, for which it has not been deemed prequalified in accordance with this policy.

III. DEFINITIONS

1. Project Manager: An employee or consultant responsible for the administration of a construction or repair project who is assigned the responsibility for managing the project and representing the department in matters relating to the project and tasked with the responsibilities of developing evaluation criteria and an evaluation tool consistent with this policy.
2. Construction Manager at Risk: A person, corporation, or entity that provides construction management at risk services.
3. Prequalification: A process of evaluating and determining whether potential bidders have the skill, judgment, integrity, sufficient financial resources, and ability necessary to do the faithful performance of a contract for construction or repair work.
4. Prequalification Committee: A committee established by the Project Manager and/or the Construction Manager at Risk for each project and tasked with the responsibility of evaluating applications for prequalification.

XIV. CONTRACTS

I. Purpose

This policy exists to establish a uniform procedure for processing all contracts where the Town is a party. For the purposes of this document, all agreements, memorandum of understanding or addendums will be referred to as "contracts." It is important to note that no matter what title is used, the legal implications are the same.

II. Policy

This policy is written for County departments and their staff who have the responsibility for procuring goods and services for their department. The policy explains the contract approval process and protects the County's interest in the contracts and agreements to which it is a party.

EXHIBIT A

Town of Clayton
Administration
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002

MEMORANDUM

To: Town Council

From: Finance Department, Procurement Division

Copy: Town Clerk

Date: November 1, 2021

Subject: Authorization to increase the Micro -Purchase Threshold

The Town of Clayton (the Town) at different times purchases goods and services using federal funding subject to the procurement standards in 2 C.F.R Part 200, Subpart D and the Town's procurement of such goods and services is subject to the Town of Clayton Procurement Policy as most recently amended on November 1, 2021

In accordance with 2 C.F.R. 200.320(a)(1)(ii), a non-Federal entity may award micro-purchases without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents that the non-Federal entity files accordingly. A non-federal entity in accord to 2 C.F.R. 200.320(a)(1)(iii), is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures.

When in accordance with 2 C.F.R. § 200.320(a)(1)(iv), a non-Federal entity may self-certify on an annual basis a micro-purchase threshold not to exceed \$50,000 and maintain documentation to be made available to a Federal awarding agency and auditors in accordance with 2 C.F.R. § 200.334; and such self-certification must include (1) a clear identification of the threshold, and (3) supporting documentation, which, for public entities, may be a "higher threshold consistent with State law". The Town Council of the Town now desires to adopt higher micro-purchase thresholds than those identified in 48 C.F.R. § 2.101.

The Town Council of the Town of Clayton: in accordance with 2 C.F.R. § 200.320(a)(1)(iv) and the applicable provisions of North Carolina law, hereby self-certifies the following micro-purchase thresholds, each of which is a "higher threshold consistent with State law" under 2 C.F.R. § 200.320(a)(1)(iv)(C) for the reasons set forth in this memorandum

- A. \$30,000, for the purchase of "apparatus, supplies, materials, or equipment"; and**
- B. \$30,000, for the purchase of "construction or repair work"; and**
- C. \$50,000, for the purchase of services not subject to competitive bidding under North Carolina law; and**
- D. \$50,000, for the purchase of services subject to the qualifications-based selection process in the Mini-Brooks Act; provided that such threshold shall apply to a contract only if the Unit has exercised an exemption to the Mini-Brooks Act, in writing, for a particular project pursuant to G.S. 143-64.32. If the exemption is not authorized, the micro-purchase threshold shall be \$0.**

The self-certification made herein shall be effective as of the date hereof and shall be applicable until the last council meeting of the current fiscal year of the Unit, but shall not be applicable to Federal financial

assistance awards issued prior to November 12, 2020, including financial assistance awards issued prior to that date under the Coronavirus Aid, Relief, and Economic Support (CARES) Act of 2020 (Pub. L. 116-136).

In the event that the Town receives funding from a federal grantor agency that adopts a threshold more restrictive than those contained herein, the Unit shall comply with the more restrictive threshold when expending such funds and maintain documentation to be made available to a Federal awarding agency, any pass-through entity, and auditors in accordance with 2 C.F.R. § 200.334.

The Town Council of the Town are hereby authorized, individually and collectively, to revise the Procurement Policy of the Town to reflect the increased micro-purchase thresholds specified herein, and to take all such actions, individually and collectively, to carry into effect the purpose and intent of the foregoing resolution on an annual basis.

**TOWN OF CLAYTON
PROCUREMENT CARD MANUAL POLICY**

BE IT RESOLVED by the Clayton Town Council to adopt the Procurement Card Manual Policy amendment as follows:

XI. PROCUREMENT CARD (P-CARD)

Current Policy Reads: It will be the policy of the Town of Clayton that procurement cards may be used for official Town purchases for small dollar value purchases of \$2,500.00 or less per transaction and \$7,500.00 monthly, unless otherwise authorized. The \$2,500.00 limit includes all applicable sales tax.

The single transaction limit for travel and training related expenses is authorized up to \$2,500.00 per transaction. The procurement card will not be used to purchase meals for a Town authorized training, you must follow the Town Per Diem. The procurement card may also be used by cardholders during a declared emergency with an increased limit submitted by the Department Head or Designee and approved by the by the Procurement, Contract and MWBE Manager or Finance Director in conjunction with the Town Managers Office. It is the responsibility of each department head to ensure funds are available within the existing budget for all procurement card purchases.

Policy to be Amended to Read: It will be the policy of the Town of Clayton to reference the P-Card manual, which provides thresholds and detailed instructions on the appropriate use of the P-Card. Cardholders and Approvers are responsible for ensuring compliance with the P-Card Manual's provisions, including allowable purchases, documentation requirements, and reconciliation procedures. Any misuse or failure to comply with the established guidelines may result in corrective action, including suspension or termination of P-Card privileges. The administrative procedures contained within the P-Card manual may be changed as necessary at staff level.

Duly adopted this the 7th day of April 2025 while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Heidi L. Holland, MMC, NCCMC
Town Clerk



Town Council Regular Meeting Agenda Cover Sheet

Meeting Date

April 7, 2025

Agenda Location

CONSENT AGENDA

Item Title

MOU between University of Mount Olive and Town of Clayton

Presenter(s)

Rich Cappola, Town Manager

Suggested Action

Approval of Agreement

Strategic Priorities Alignment



☐
Vibrant Downtown



☐
Desirable
Amenities and
Spaces



☐
Sustainable
Infrastructure



☐
Mobility,
Transportation,
and Transit



☐
Diversified
Economic
Development



☐
Community
Outreach and
Engagement



☐
Public Safety

Public Hearing: No

If Approved, Will Document Require Recordation? No

Does This Item Require a Communication Plan?

☐ Public Hearing (Required by GS)

☐ Newspaper Notice (Required by GS)

☐ Public Forum/Input Session

☐ E-News Distribution

☐ Social Media

☐ Special Mailing

☐ Public Hearing (Not Required by GS)

☐ Newspaper Notice (Not Required by GS)

☐ Press Release

☐ Website

☐ Survey

☐ None Required

Summary

Memorandum of Understanding between University of Mount Olive and Town of Clayton

Funding Source

N/A

Corresponding Documentation

[UMO MOU Town of Clayton 3.19.2025](#)

Submitted By: Michelle Snyder, Administration

Reviewed By:

Rich Cappola, Town Manager

Heidi Holland, Town Clerk

Approved - Apr 02 2025

Approved - Apr 03 2025

MEMORANDUM OF UNDERSTANDING

This AGREEMENT (hereinafter “Agreement”) is entered into the first (1st) day of March 2025 by and between University of Mount Olive (hereinafter “University” or “UMO”) and Town of Clayton. UMO and Town of Clayton may be referred to individually as “Party” or collectively as “Parties”.

The purpose of this Agreement is to define how UMO will offer its courses at a reduced tuition rate (Trojan Alliance Partnership or “TAP”) to Town of Clayton employees and how Town of Clayton will provide opportunities to UMO to promote and recruit their employees subject to the terms and conditions of this Agreement.

The Parties Mutually Agree:

A. This Agreement is effective as of June 1, 2023 and shall remain in effect until terminated by either party for or from that date, unless previously terminated by either Party. It may be terminated with or without cause at any time by giving the other Party thirty (30) days written notice.

B. This agreement supersedes all prior Trojan Alliance Partnership (TAP) agreements. This agreement is effective upon signature of both parties to the agreement.

C. UMO shall waive application fees and offer a **ten percent (10%) tuition** scholarship to eligible Town of Clayton employees who attend classes online, at UMO’s main campus or at a UMO Education Service Center. The tuition scholarship applies only to tuition, and no other fees (other than the application fee) will be discounted. The tuition scholarship applies provided that the student’s account remains current. The tuition scholarship does not apply to coursework taken through, or in partnership with, any other institution including those institutions with consortium agreements with UMO. **The scholarship may not be combined with other institutional aid or the active duty military tuition rate.**

D. Students wishing to enroll at UMO will be required to apply for admission and be accepted in accordance with the UMO’s existing admission requirements and processes. It is the **sole** responsibility of Town of Clayton employee to notify UMO of their intent to request the application fee waiver and scholarship. Failure to do so **before the last day to add a class** will result in ineligibility.

1. Students/employees will be required to verify their continued employment with Town of Clayton at least annually to remain eligible for continued TAP scholarship.

2. Town of Clayton employees who complete one degree at UMO and wish to pursue another degree at UMO would be eligible if still employed by Town of Clayton.

E. All degree and credential programs are eligible; however, UMO reserves the right to modify these programs, price, offerings or curriculum at any time.

F. Employees of the Town of Clayton may apply for Federal student loans and state grants the same as other students attending classes at UMO.

G. Town of Clayton will incur no financial obligation to UMO other than those it may voluntarily assume in connection with tuition reimbursement directly to the student(s). Students will otherwise be personally responsible to UMO for payment of all fees and tuition.

H. Policies stated in the University Catalog and Student Handbook shall apply to Town of Clayton employees.

I. UMO shall defend, indemnify and hold Town of Clayton, its officers, agents and employees harmless from and against any and all liability, loss, expense, including reasonable attorneys' fees, or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts, errors or omissions of UMO, its officers, agents or employees.

J. Town of Clayton shall defend, indemnify and hold UMO, its officers, employees and agents harmless from and against any and all liability, loss, expense, including reasonable attorneys' fees or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts, errors or omissions of Town of Clayton, its officers, agents or employees.

K. Town of Clayton shall provide opportunities for the University to market this tuition scholarship and related program offerings to their employees via emails, posters, brochures, information sessions, staff meetings, and other opportunities deemed appropriate. Town of Clayton is not responsible for guaranteeing that a certain number of employees avail themselves of this opportunity.

L. Miscellaneous Provisions

1. Authority. The undersigned individuals hereby represent that they are authorized to execute this Agreement on behalf of their respective organizations, and each party represents that this Agreement constitutes a legal and binding obligation of the Parties.

2. Severability. It is agreed that if any provision of this Agreement shall be determined to be void by a court of competent jurisdiction, then so long as such determination shall not affect any other material provisions of this Agreement and continue to allow this Agreement to be performed in the reasonable expectations of both Parties, then this Agreement and all such other provisions shall remain in full force and effect.

3. Notices. Any notice required or permitted to be provided under this Agreement shall be in writing and shall be deemed to have been duly given if mailed via first class mail, or by a reputable overnight delivery service, or by personal delivery, and directed to the address of such Party set forth below:

**TOWN OF CLAYTON CONTACT
INFORMATION:**

Town of Clayton
111 E. Second Street
Clayton, NC 27520
Attn: Kenya Walls
Director, Human Resources
Tel: (919) 359-9346
Email: kwalls@townofclaytonnc.org

UMO CONTACT INFORMATION:

University of Mount Olive
634 Henderson St.
Mount Olive, NC 28365
Attn: Lisa Nuesell, Ed.D.
Assoc. VP for Adult and Graduate
Operations and Enrollment Management
Tel: (919) 658-7625
Email: Lnuesell@umo.edu

4. Complete Agreement. This Agreement represents the Parties' final and complete agreement, and this Agreement shall supersede all other understandings, discussion and/or agreements between the Parties with regard to the subject matter in the Agreement.

5. Governing Law. This Agreement shall be construed in accordance with the laws of the State of North Carolina and in effect at the time of the execution of this Agreement.

6. Counterparts. The Parties agree that separate copies of this Agreement be signed by each of the Parties to the Agreement and these copies will have the same force and effect as if the original had been signed by all Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the Effective Date.

TOWN OF CLAYTON	UNIVERSITY OF MOUNT OLIVE
By _____	By _____
Name: Richard D. Cappola Jr.	Name: Ken Buchanan, CPA
Title: Town Manager	Title: Senior Vice President for Business and Finance



Town Council Regular Meeting Agenda Cover Sheet

Meeting Date

April 7, 2025

Agenda Location

CONSENT AGENDA

Item Title

Resolution Authorizing Execution of NCRR Wireline Agreement

Presenter(s)

Shannon Poole - Engineering Department

Suggested Action

Adoption of Resolution

Strategic Priorities Alignment



Vibrant Downtown



Desirable
Amenities and
Spaces



Sustainable
Infrastructure



Mobility,
Transportation,
and Transit



Diversified
Economic
Development



Community
Outreach and
Engagement



Public Safety

Public Hearing: No

If Approved, Will Document Require Recordation? Yes

Does This Item Require a Communication Plan?

☐ Public Hearing (Required by GS)

☐ Newspaper Notice (Required by GS)

☐ Public Forum/Input Session

☐ E-News Distribution

☐ Social Media

☐ Special Mailing

☐ Public Hearing (Not Required by GS)

☐ Newspaper Notice (Not Required by GS)

☐ Press Release

☐ Website

☐ Survey

☒ None Required

Summary

Council is requested to authorize the Town Manager, or their designee, to execute the wireline agreement with the North Carolina Railroad Company (NCRR) in substantial form, pending final review and negotiations by Town staff, NCDOT, and NCRR. This agreement is necessary to facilitate signal modifications within NCRR right-of-way, associated with the approved LAPP Project BL-0050, the East Main Street Sidewalk Connector project. NCRR has reviewed and approved the project plans and permit, and has provided an agreement outlining the terms for construction and ongoing maintenance of these facilities. Adoption of this resolution will help ensure the project remains on schedule for North Carolina Department of Transportation (NCDOT) plan approval.

Funding Source

N/A

Corresponding Documentation

[NCRR Wireline Agreement Resolution 2025-25](#)

Submitted By: Shannon Poole, Engineering

Reviewed By:

Rich Cappola, Town Manager
Heidi Holland, Town Clerk

Approved - Apr 02 2025
Approved - Apr 03 2025

RESOLUTION AUTHORIZING EXECUTION OF WIRELINE AGREEMENT WITH NORTH CAROLINA RAILROAD COMPANY (NCRR) FOR THE EAST MAIN STREET SIDEWALK CONNECTOR PROJECT (LAPP PROJECT BL-0050)

WHEREAS, signal modification required for LAPP project BL-0050, East Main St Sidewalk Connector, will take place within the right-of-way of the North Carolina Railroad Company (NCRR);

WHEREAS, NCRR has reviewed and approved the project plans and has provided the Town of Clayton with an agreement detailing the terms for construction and ongoing maintenance of facilities within the NCRR right-of-way;

WHEREAS, execution of a wireline agreement with NCRR is necessary to proceed with the required signal modifications and final plan approval by North Carolina Department of Transportation (NCDOT);

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Clayton, North Carolina, that:

1. The Town Manager, or designee, is hereby authorized to execute the wireline agreement with the North Carolina Railroad Company in substantial form, subject to final review and fee negotiations by Town staff, NCDOT, and NCRR.
2. The Town Manager, or designee, is further authorized to take all necessary actions to execute and implement this agreement to facilitate timely completion of LAPP Project BL-0050, East Main St Sidewalk Connector.

Duly adopted this the 7th day of April 2025, while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Heidi Holland, CMC, NCCMC
Town Clerk



Town Council Regular Meeting Agenda Cover Sheet

Meeting Date

April 7, 2025

Agenda Location

CONSENT AGENDA

Item Title

Resolution of Tentative Award - Arbors Lift Station Diversion Project

Presenter(s)

Shannon Poole, Engineering Department

Suggested Action

Adoption of Resolution

Strategic Priorities Alignment



☐ Vibrant Downtown



☐ Desirable Amenities and Spaces



☒ Sustainable Infrastructure



☐ Mobility, Transportation, and Transit



☐ Diversified Economic Development



☐ Community Outreach and Engagement



☐ Public Safety

Public Hearing: No

If Approved, Will Document Require Recordation? Yes

Does This Item Require a Communication Plan?

☐ Public Hearing (Required by GS)

☐ Newspaper Notice (Required by GS)

☐ Public Forum/Input Session

☐ E-News Distribution

☐ Social Media

☐ Special Mailing

☐ Public Hearing (Not Required by GS)

☐ Newspaper Notice (Not Required by GS)

☐ Press Release

☐ Website

☐ Survey

☒ None Required

Summary

As part of the State Appropriations Act (SL 2023-134), the Town of Clayton was awarded \$6,000,000.00 on July 1, 2024, to support wastewater improvement projects. One of the identified projects for funding is the Arbors Lift Station Diversion Project.

The project was publicly advertised for bids on September 7, 2023, and subsequently awarded to Sanford Contractors, Inc. on October 19, 2023. At the time of award, the Town had not yet received a Notice of Intent to Fund from the Division of Water Infrastructure (DWI), but the project met the criteria for awarding without Town Council approval due to its bid amount being under the \$500,000 threshold.

DWI has confirmed awareness that the project was awarded and constructed prior to official funding notification, and remains supportive of the project's approval and reimbursement. As part of the requirements for fund disbursement, the DWI has requested a Resolution of Tentative Award from the Governing Board. DWI has stated that this resolution can be adopted retroactively.

Staff is seeking Town Council adoption of a Resolution of Tentative Award for the Arbors Lift Station Diversion Project to Sanford Contractors, Inc., to fulfill NCDEQ requirements and facilitate disbursement of state appropriated funds.

Funding Source

N/A

Corresponding Documentation

[RESOLUTION TentativeAward ArborsLift Station](#)

Submitted By: Shannon Poole, Engineering

Reviewed By:

Rich Cappola, Town Manager

Heidi Holland, Town Clerk

Approved - Apr 02 2025

Approved - Apr 03 2025

RESOLUTION OF TENTATIVE AWARD

WHEREAS, the Town of Clayton was awarded \$6,000,000.00 in state appropriations for wastewater improvement projects pursuant to the State Appropriations Act (SL 2023-134); and

WHEREAS, the Arbors Lift Station Diversion Project was submitted as one of the projects to be funded under this appropriation; and

WHEREAS, the project was duly advertised for bidding on September 7, 2023, and in accordance with applicable procurement procedures, Sanford Contractors, Inc. was determined to be the lowest responsive, responsible bidder; and

WHEREAS, disbursement of funds. is subject to the official Authority to Award from the North Carolina Division of Water Infrastructure (DWI).

WHEREAS, North Carolina DWI requires a Resolution of Tentative Award from the Governing Board as a condition for disbursement of appropriated funds, and has indicated that such resolution and future Resolution of Final Award may be adopted retroactively.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Clayton that:

1. The Town of Clayton hereby issues this Resolution of Tentative Award for the Arbors Lift Station Diversion Project to Sanford Contractors, Inc., consistent with the contract awarded on October 19, 2023.
2. This resolution is adopted for the purpose of fulfilling requirements set forth by the NCDEQ and the Division of Water Infrastructure for the disbursement of state appropriated funds.
3. The Town Manager or designee is authorized to take any necessary actions in connection with the funding, reimbursement, and administration of the project.

This resolution is adopted for the purpose of fulfilling requirements set forth by the NCDEQ and the Division of Water Infrastructure for the disbursement of state appropriated funds.

BE IT FURTHER RESOLVED that upon failure of any of the foregoing conditions, this Resolution shall be void ab initio.

Upon motion of _____, seconded by _____, this Resolution was unanimously adopted, this the 7th day of April 2025.

Jody McLeod, Mayor

(Seal)

ATTEST:

Heidi Holland, Town Clerk



Town Council Regular Meeting Agenda Cover Sheet

Meeting Date

April 7, 2025

Agenda Location

CONSENT AGENDA

Item Title

Utility Services Agreement between Knapheide Clayton, LLC and Town of Clayton

Presenter(s)

Donald Perry, Engineering Director

Suggested Action

Approval of Agreement

Strategic Priorities Alignment



☐ Vibrant Downtown



☐ Desirable Amenities and Spaces



☒ Sustainable Infrastructure



☐ Mobility, Transportation, and Transit



☒ Diversified Economic Development



☐ Community Outreach and Engagement



☐ Public Safety

Public Hearing: No

If Approved, Will Document Require Recordation? No

Does This Item Require a Communication Plan?

☐ Public Hearing (Required by GS)

☐ Newspaper Notice (Required by GS)

☐ Public Forum/Input Session

☐ E-News Distribution

☐ Social Media

☐ Special Mailing

☐ Public Hearing (Not Required by GS)

☐ Newspaper Notice (Not Required by GS)

☐ Press Release

☐ Website

☐ Survey

☐ None Required

Summary

Knapheide Clayton, LLC (Customer) has requested water and wastewater capacity to support its heavy manufacturing facility located at 8175 US HWY 70 Business, Clayton, NC. To facilitate the Customer's needs the Town desires to provide water and wastewater flow and treatment capacity to the Customer and allow Customer to continue to utilize the Town's water supply and sanitary sewer systems subject to payment by Customer of the capacity purchase and under the terms and conditions of this Utility Services Agreement.

Funding Source

N/A

Corresponding Documentation

[Utility Services Agreement with KTEC_Final_UnSigned](#)

Submitted By: Donald Perry, Engineering

Reviewed By:

Rich Cappola, Town Manager
Heidi Holland, Town Clerk

Approved - Apr 02 2025
Approved - Apr 03 2025

NORTH CAROLINA
JOHNSTON COUNTY

UTILITY SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this the ____ day of _____ 2025 by and between **KNAPHEIDE CLAYTON, LLC**, a body corporate of the state of Illinois (hereinafter referred to as "Customer") and **TOWN OF CLAYTON**, North Carolina, a body politic and corporate of the state of North Carolina (hereinafter referred to as "Town").

WITNESSETH:

WHEREAS, the Town is a duly incorporated municipality in the State of North Carolina, and it is in the business of providing water utility services to its residents;

WHEREAS, Customer has requested capacity to support its facility on property located at 8175 US Highway 70 Business, Clayton, NC 27520 (hereinafter collectively referred to as the "Property");

WHEREAS, Customer desires for the Town to provide flow and treatment capacity for Customer via the Town's water and sanitary sewer systems at the Property;

WHEREAS, in order to provide the capacity requested by Customer, the Town will have to install a new water and wastewater system and Customer's capacity purchase will support required installation;

WHEREAS, the parties have determined that the Town is the best and most reasonable option to provide the utility service levels desired by Customer to accommodate the use of the facility on its Property;

WHEREAS, to facilitate the Customer's needs the Town desires to provide the water and wastewater capacity to the Customer and allow Customer to continue to utilize the Town's water supply and sanitary sewer systems subject to payment by Customer of the capacity purchase and under the terms and conditions as set forth herein.

NOW THEREFORE, the parties hereby agree to the following terms and conditions.

1. Term: This Agreement shall be binding on both parties for a period of ten years.

2. Water and Wastewater Capacity: Subject to payment by Customer as set forth herein, the Town will provide instantaneous capacity to Customer of (i) 500 gallons per minute not to exceed 1,400 gallons per day (5 day rolling average) of water capacity effective upon payment described herein and (ii) 500 gallons per minute not to exceed 1,400 gallons per day (5 day rolling average) of wastewater capacity effective upon payment described herein and the Town and State terms and conditions for Customer's usage.

3. Quality and Quantity. The Town agrees, subject to availability of supply, to furnish the water at the current designated point of delivery, during the term of this Contract or any renewal or extension thereof. The water supplied shall be potable treated water meeting applicable purity standards of the State of North Carolina in such quantity as may be required by the Customer but not to exceed per day capacity allocated under this or prior agreements. If the quantity used by Customer exceeds allocated capacity, Customer is responsible for the cost of providing additional instantaneous water capacity, which shall be billed at the Town's current rate as set forth on the adopted fee schedule in place at the time of the exceedance.

4. Pressure. The parties agree that the water purchased hereunder will be furnished at reasonably constant pressure. If greater pressure than that normally available at the point of delivery is required by Customer, the cost of providing such greater pressure shall be borne by the Customer. Emergency failures of pressure or supply due to main supply line breaks, power failure, flood, fire and use of water to fight fire, earthquake or other catastrophe shall excuse the Town from this provision for such reasonable period of time as may be necessary to restore service.

5. Monthly Usage Billing Procedure and Payment Date. The Customer shall be billed based on the water used during the preceding month. Town shall furnish the Customer, not later than the 5th day of each month or otherwise on a day of the month consistent with the sites billing cycle, with an itemized statement of the amount of water furnished the Customer during the preceding month. Customer shall pay the Town, not later than the 20th day of each month. In the event that Customer fails to pay any amounts due under this Agreement, or any other rates, fees or charges due for water or services provided by Town, then Town may shut off the supply of water until such time as payment is received from Customer.

6. Rates and Capacity Charges to Customer:

- a. The Town's current schedule of rates shall apply, provided that Town may, in its sole discretion, modify the rates charged hereunder at any time it modifies or raises its rates to its other customers.

- b. Not later than 14 days following execution of this Agreement, Customer shall pay to the Town the sum of one hundred forty thousand five hundred and fifty-five US Dollars (\$140,555.00) for the water and sewer capacity to be provided under this Agreement. This sum is in addition to commodity charges under subsections 7.a. above.
- c. Exceedances of allocated capacity will result in additional charges to the Customer at the Town's current rate as determined by the adopted schedule of fees. If exceedance fees are incurred, the Town shall furnish the Customer a bill no later than thirty (30) days after exceedance occurred and Customer shall pay the amount due within twenty (20) days of receipt of the bill.

7. Metering Equipment. Town agrees to install, maintain and operate a 3" water meter or such other metering equipment as needed to measure the volume of water delivered and wastewater received under this Agreement. Town will calibrate such metering equipment whenever requested by the Customer but not more frequently than once every twelve (12) months. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate. The previous readings of any meter disclosed by test to be inaccurate shall be corrected for the two (2) months previous to such test in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless Town and Customer shall agree upon a different amount. The metering equipment shall be read by Town on or before the last day of each month.

8. Failure to Deliver Water. The Town will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the Customer with quantities of water set forth herein. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of an extended shortage of water, or the supply of water available to the Town is otherwise diminished over an extended period of time, the supply of water to Customer shall be reduced or diminished in the same ratio or proportion as the supply to Town's consumers is reduced or diminished.

9. Modification. Except for the provisions of this Agreement pertaining to the schedule of rates to be paid by the Customer for water delivered, which may be modified in the sole discretion of Town at any time, the provisions of this Agreement may not be modified or

altered except by mutual agreement.

10. Regulatory Agencies. Except as otherwise provided herein, this Agreement is subject to such rules, regulations, or laws as may be applicable to similar agreements in this State and the Town and Customer will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.

11. Severability; Integrated Contract. The terms of this Agreement are not severable. Each of the terms and conditions hereof are mutually dependent and this Agreement has been negotiated by the parties as an interdependent contract. If any term hereof should fail or be determined to be unenforceable, this Agreement shall be void in its entirety.

12. Successor to the Customer. In the event of any occurrence rendering the Customer incapable of performing under this Agreement, any successor of the Customer, whether the result of legal process, assignment, or otherwise, shall succeed to the rights, duties, and obligations of the Customer hereunder.

13. Indemnity. It is understood and agreed by and between Town and Customer that Town shall not be liable for any failure of the water supply distribution system or wastewater treatment systems of Customer or that of the Town and that Customer hereby agrees to indemnify Town against any loss, costs, expenses, causes of action and judgments in connection with any such failure.

14. Notices. All notices, requests, demands and other communications hereunder must be in writing and shall be deemed to have been duly given when delivered or when placed in the United States Mail and forwarded by Registered or Certified Mail, return receipt requested, postage prepaid, addressed to the party to whom such notice is being given at the following addresses:

IF TO TOWN: Town Manager
 Town of Clayton
 PO Box 879
 Clayton, North Carolina 27528

IF TO CUSTOMER: _____
 Knapheide Clayton, LLC
 1848 Westphalia Strasse
 Quincy, Illinois 62305

Any party may change the address to which notices to it are to be sent by giving the notice of such change to the other parties in accordance with this paragraph.

15. Applicable Law. This Agreement shall be interpreted in accordance with the laws of the State of North Carolina and in accordance with the regulations and rules of the North Carolina Department of Environmental Quality and the Town's Code of Ordinances. Specifically, but not limited hereby, Customer shall comply with all applicable discharge requirements for users of the Town's wastewater system.

16. Waiver. No delay or omission of any party hereto in the exercise of any right accruing upon any default hereunder on the part of any party hereto shall impair such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by a party hereto of a breach of, or a default in, any of the terms and conditions of this Agreement by any other party hereto shall not be construed to be a waiver of any subsequent breach of or default in the same or any other provision of this Agreement.

17. Entire Agreement: This Agreement constitutes the entire agreement between the parties and neither of the parties shall be bound by any written or oral promises, representations, or agreements except as are herein expressly set forth.

IN WITNESS WHEREOF, Customer and Town have duly executed this Agreement as of the day and year first written.

TOWN:
TOWN OF CLAYTON

BY: _____

CUSTOMER

BY: _____



Town Council Regular Meeting Agenda Cover Sheet

Meeting Date

April 7, 2025

Agenda Location

CONSENT AGENDA

Item Title

Wastewater Allocation Resolution - North Carolina Railroad Company

Presenter(s)

Donald Perry, P.E. - Engineering Director

Suggested Action

Adoption of Resolution

Strategic Priorities Alignment



☐ Vibrant Downtown



☐ Desirable Amenities and Spaces



☒ Sustainable Infrastructure



☐ Mobility, Transportation, and Transit



☒ Diversified Economic Development



☐ Community Outreach and Engagement



☐ Public Safety

Public Hearing: No

If Approved, Will Document Require Recordation? No

Does This Item Require a Communication Plan?

☐ Public Hearing (Required by GS)

☐ Newspaper Notice (Required by GS)

☐ Public Forum/Input Session

☐ E-News Distribution

☐ Social Media

☐ Special Mailing

☐ Public Hearing (Not Required by GS)

☐ Newspaper Notice (Not Required by GS)

☐ Press Release

☐ Website

☐ Survey

☐ None Required

Summary

The North Carolina Railroad Company has made an application for Town of Clayton Wastewater Allocation to support its new industrial facility located on NC Hwy 42 at the intersection of NC HWY 42 E and E Front Street in Clayton, NC. The applicant requests a wastewater allocation of 14,975 gallons per day. To facilitate the Customer's needs, the Town desires to allocate wastewater flow and treatment capacity to the Customer subject to the terms and conditions of this Wastewater Treatment Capacity Resolution.

Funding Source

N/A

Corresponding Documentation

[NCRR Wastewater Allocation - 2-24-25](#)

[NCRR Wastewater Resolution](#)

Submitted By: Donald Perry, Engineering

Reviewed By:

Rich Cappola, Town Manager

Heidi Holland, Town Clerk

Approved - Apr 02 2025

Approved - Apr 03 2025

	TOWN OF CLAYTON POLICY	
	Department: Public Services	Effective: January 21, 2020
Policy Title: Water & Wastewater Allocation Policy Version #02 (V.02)	Supersedes: TC Action 2010-026	
	Prepared By: Richard D. Cappola Jr., PE Public Services Director	
	Approved By: Town Council Date: January 21,2020	

I. Purpose

The Town of Clayton has invested substantial capital in the infrastructure necessary to support a growing, prosperous, and healthy community. Water supply and wastewater treatment capacities are among the most important elements of this infrastructure. The intent of this policy is to provide for the judicious allocation of these resources in conformity with adopted goals and priorities in an effort to shape the community consistent with the articulated vision to become the "Premier Community for Active Families." This policy is intended to manage the remaining capacity available until additional capacity is developed through construction of a new Water Reclamation Facility, and should be reviewed periodically to ensure it is achieving the intended purpose.

II. Scope

The Town Council for the Town of Clayton has adopted the Comprehensive Plan 2040 which is a useful tool to successfully evaluate applications for allocation of public resources so that the character of the community shall be consistent with its vision, values, and plans. In accordance with the "Town of Clayton Strategic Growth Plan", utility allocation reservations should support and maximize the concept of increasing the Town's property tax based revenues by the expansion and improvement of higher valued land use development, emphasizing a balance of Residential, commercial, and industrial uses.

III. Policy

The Town of Clayton seeks to grant utility allocations such that the existing character of the Town's utility customer base does not become more residential than is practical to achieve the intent of the Strategic Growth Plan, and seeks to increase the diversity of the customer base by increasing the percentage of resources devoted to industrial, commercial, and mixed use development.

The total amount of available capacity and each incremental increase in capacity should generally be allocated based on the following parameters:

- No more than fifty percent (50%) of the total available capacity may be allocated to projects that include solely residential development.
- At least thirty percent (30%) of the total available capacity shall be reserved for allocation to commercial/industrial projects.
- Projects encompassing mixed use (residential and commercial) elements may be considered for allocation even if such an allocation will exceed the limit established above for residential use.
Note: These percentages may be reviewed and adjusted by the Town Council at their discretion.

Due to weather related factors, the regulatory environment, and the dynamic nature of wastewater flow and treatment, accounting of available utility capacity is, by its very nature, inexact. The Town of Clayton shall track allocation reservations granted and the amount of capacity available. Such reports do not constitute a policy statement, commitment or guarantee on the amount of capacity available for allocation.

The following hierarchy shall apply to evaluation of utility allocation requests:

- Commercial properties with quality development projects
- Development projects with a mixed-use element
- Industrial projects and other major employer entities
- Additional phases attached to residential projects with a proven record of quality product and economic success
- Residential projects that include tangible, high quality community amenities
- Residential projects that include diverse products and opportunities
- Residential projects not otherwise described above

Evaluation of projects will be based on the scoring rubric attached hereto as Exhibit A, which is incorporated in this Agreement by reference. A project must meet or exceed 50 points to receive an allocation. Proposed projects can gain BONUS POINTS by the applicant offering to provide items listed on the rubric as part of their development proposal. Examples of these items may include such things as additional amenities (fire pits, community gardens, etc.) or offering to provide “Minimum of 25% of building façades will be made of masonry materials.”

The Town of Clayton may allocate utility service capacity to competing projects based on a demonstrated intent and ability of the applicant to meet adopted Town goals and plans for character and quality of development. The Town of Clayton reserves the right to deny a utility allocation request if the applicant fails to adequately demonstrate that the project meets adopted Town goals or plans, or in the case that the project is deemed to be less supportive of Town goals or plans of a competing project.

IV. Procedure

The owner or developer of any project requiring water or wastewater utility service from the Town of Clayton shall submit a written application, in the application form provided by Town Staff, for an allocation reservation. The application shall include detailed information on the amount of capacity necessary to serve the project, the nature of the project, project schedule in relation to demand of utility capacity, and other supporting information demonstrating how the project serves the needs and interests of the Town of Clayton. In the case of Industrial flows, additional information associated with the constituents shall be required and may be subject to other ordinances or policies of the Town.

- The Town Council shall review for approval all allocations which require or may require a daily flow allocation of ten thousand gallons or more (> 10,000 GPD)
 - The Town Council shall incorporate the evaluation of utility allocation requests into the decision-making process associated with Subdivisions, Mixed-use Planned Developments, and Special Use Permits. The criteria contained herein for evaluation of utility allocation requests shall be included as elements within the review processes for the accompanying land use application with regard to conformity with Town of Clayton policies and ordinances, planning practices, and consistency with adopted long-range and strategic plans.
 - For allocations requiring Town Council approval, but which do not require other land use regulatory reviews or approvals, the applicant shall provide a full description of how their project supports the goals and priorities established within this and related policies and plans in their application for allocation reservation.

- The Town Manager or their designee shall review for approval all applications for utility capacity which require a daily flow allocation of less than ten thousand gallons (< 10,000 GPD).
 - In addition to the scoring rubric, the Town Manager or their designee shall consider the goals articulated by this and related Town policies when reviewing applications for utility allocations. If an application is denied, the Town Manager or their designee shall state in writing the reasons for denial of the request.

V. General Conditions

- This policy shall replace any previous policies on water and wastewater allocations adopted by the Town Council.
- An allocation will expire if a project has not progressed in construction plan approval, building permit approval, or on-site construction within 12 months of award of the allocation.
- Upon request by the applicant and at the discretion of the Town Engineer, an allocation may be extended for one twelve (12) month period.
- If a project is unsuccessful in obtaining any required Federal, State, or local government permit or approval the reservation shall be retracted. The Town of Clayton shall bear no liability for any costs incurred by the applicant, nor bare further responsibility in the matter.
- Granting of a utility allocation does not imply or confer approval of any other applications or reviews as may be required by Town Ordinance or policy and does not imply or create any vested right.
- Public water may be utilized for irrigation purposes so long as the Primary Use associated with the site has previously gained a water allocation through the Town.
- This policy shall be reviewed annually and, when appropriate, readjusted by the Town Council. The Town's overall progress on policy goals will be considered and the multipliers and/or point thresholds readjusted accordingly.

V. Appeals Process

- Appeal of any provision of this policy shall be made to the Town Council.
- Appeal of any decision on a utility allocation by the Town Manager or their designee shall be made to the Town Council for final decision. Any such appeal shall be placed on the agenda of a regularly scheduled Town Council meeting.



WATER & WASTEWATER ALLOCATION CRITERIA				
TOTAL POINTS = 60 MINIMUM 50 POINTS REQUIRED				
	Category	Points	Calc.	Notes
DEVELOPMENT TYPE ¹ (Choose 1 from this category)	Government/Public Admin./Public Safety	50		
	Non-residential (Commercial) - Retail & Restaurant	30		
	Non-residential (Commercial) - Office	20		
	Non-residential (Commercial) - Warehouse	15		
	Non-residential (Commercial) - Medical	25		
	Non-residential (Commercial) - Hotel/Motel	35		
	Industrial/Manufacturing	30		
	Institutional	15		
	Residential Existing Lot- Single Family Detached	40		Individual Existing Lot construction
	Residential Subdivision - Single Family Detached (> 0.25 Acre Lots)	20		Single Family Homes on Individual Lots greater than 0.25 acres
	Residential Subdivision - Single Family Detached (< 0.25 Acre Lots)	15		Single Family Homes on Individual Lots less than 0.25 Acres
	Residential Subd.- Single Family Attached (> 1,500 SF Heated Space)	10		Townhomes with heated square-footage greater than 1,500 SF
	Residential Subd.- Single Family Attached (< 1,500 SF Heated Space)	5		Townhomes with heated square-footage less than 1,500 SF
	Residential - Multifamily (Apartments)	10		
	Mixed-Residential	25		Mix of various lot sizes of Single-family, Townhomes, and Apartments
	Mixed-Use Commercial & Residential	30		Mix of Residential and Non-residential (Commercial) uses
	Downtown Redevelopment	30		
	Infill Development	25		Utilities already exist within 300 Feet of property
FUTURE TAX STATUS (Choose 1 from this category)	Exempt	0		
	Residential	5		
	Non-residential	10		
	Industrial	10		
COMMUNITY BENEFIT BONUS POINTS (Choose All that apply from this category)	Cultural Arts/Entertainment for Public	10		
	Sports/Recreation for Public	10		
	Town Electric Customer	20		
	Expansion of existing non-residential use	10		
	Re-development of an existing property	5		Must result in increased property value
	Residential Subdivision - Additional amenities included	5 - 15		Pool, Clubhouse, sports courts, etc. - 5 pts per, max 15 pts
	Job Creation - 10 to 25 new jobs	5		
	Job Creation - 26 to 100 new jobs	10		
	Job Creation - 100+ new jobs	15		
	Job creation - Jobs created will have salaries at or above median income	5		Must be greater than 50% of jobs added with documentation to confirm
	Residential - Multiple-Car Garages provided	5		
	Residential - Overflow Parking provided	5		Subject to Planning and Engineering support
	Masonry Elements included in Building Construction	10		
	Sustainable/High Efficiency Products and appliances used	5 - 15		5 pts per, max 15 pts
	Private trail connection to Public Greenway	10		
COMMUNITY IMPACT DEDUCT POINTS (Choose All that apply from this category)	Pump Station Improvements required ²	-10		Subject to Town policy and standards
	New Pump Station Required ²	-20		Subject to Town policy and standards
	Out-of Town Status (After construction)	-10		
	Outside Fire District	-5		
	Inconsistent with Comp Plan	-5		
CLARIFICATIONS	1	Any Development Type Category not listed is subject to Town Council discretion with staff recommendation.		
	2	The Town Engineer may waive these deductions if the improvements are consistent with Future utility service plans, replace/offline an aging station, or are in the best interest of the Town.		



TOWN OF CLAYTON
Engineering & Inspections Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

WASTEWATER ALLOCATION REQUEST

The Town of Clayton, in an effort to manage and maintain the sewer and water capacity for the Town, requires that this application be completed and submitted to the Town for consideration of a utility allocation. Review fee is due upon submittal of request.

Wastewater Allocation Request Review Fee: \$500

Application MUST be completed and sealed by a registered engineer unless otherwise approved by staff.

SITE INFORMATION

Name of Project: _____ Acreage of Property: _____

County Tag Number: _____ NC PIN: _____

Address/Location: _____

Zoning District: _____

Town Limits / ETJ: ☐ Town Limits ☐ ETJ (Extra-Territorial Jurisdiction)

APPLICANT INFORMATION – Applicant must be a registered engineer unless otherwise approved by Town Engineer

Applicant: _____

Mailing Address: _____

Phone Number: _____ Fax: _____

Contact Person: _____

Email Address: _____

PROPERTY OWNER INFORMATION

Name: _____

Mailing Address: _____

Phone Number: _____ Fax: _____

Email Address: _____

FOR OFFICE USE ONLY

Date Received: _____ File Number: _____ Associated Project Number: _____

PROJECT INFORMATION

Use: ☐ New ☐ Expanded ☐ Change

Use Type: ☐ Residential ☐ Non-Residential

Proposed Use(s): _____ Existing Use(s): _____

Invoice shall be mailed to the following:

Developer Name: _____

Mailing Address: _____

Phone Number: _____ Fax Number: _____

Email Address: _____

ALLOCATION REQUEST

The following is required:

- For non-residential construction, submit a floor plan of proposed building.
- Use additional sheets if necessary.
- Provide any documentation supporting/justifying the request as an attachment (using a comparable use is recommended).
- If a phasing / take-down schedule is proposed, include as an attachment.

Residential:

Gross Acreage: _____

Single Family	# of Units	GPD per Unit	Total Requested GPD
1-2 Bedroom Units			
3 Bedroom Units			
>3 Bedroom Units			
Total		-----	

Multi-Family	# of Units	GPD per Unit	Total Requested GPD
1-2 Bedroom Units			
3 Bedroom Units			
>3 Bedroom Units			
Total		-----	

Non-Residential: (Design Flow Guideline provided as Appendix A)*

**If design flow deviates from the flow rates presented in Appendix A, provide supporting documentation/justification as an attachment in the form of 12 months of water bills demonstrating gallons per day utilized.*

Gross Acreage: _____

Use	Measurement Unit	# of Units	GPD per Unit	Total Requested GPD
Total			-----	

TOTAL REQUESTED GALLONS PER DAY: _____

NOTE TO APPLICANT:

Invoicing:

Invoices are generated on the following schedule:

Non-Residential:

Generated with the application for a Zoning Compliance Permit.

Residential:

Multi-Family / Apartments:

Generated with the application for a Zoning Compliance Permit.

Subdivision / Subdivided Lots:

Generated at Final Plat submittal.

Fee Development:

Development Fees are calculated and invoiced based on the Town of Clayton adopted [Comprehensive List of Fees and Charges](#). Invoiced fees include acreage fees, capacity fees, nutrient offset fees, recreation fees, fees-in-lieu, and electric department lot deposit. Please speak with Town staff with questions.

Approval:

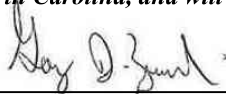
Requests over 10,000 GPD are approved by the Town Council, by resolution. All other requests are approved by the Town Manager.

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Town of Clayton to approve the subject Wastewater Allocation. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Clayton, North Carolina, and will not be returned.

Gary Zurawski

Print Name



Signature of Applicant

2/21/2025

Date

Engineer Seal:



TOWN OF CLAYTON OFFICE USE ONLY:

Approved by: ☐ Town Manager

☐ Town Council (*requests of 10,000 GPD or more require Council approval by resolution*)

The **Town Manager / Town Council (circle one)** has authorized the allocation of _____

gallons per day for project # _____.

Date of Approval: _____

Signed:

Town Manager

If approved by Town Council:

Attach a copy of the resolution and any associated documentation.

APPENDIX A: DESIGN FLOW RATES

The following table from the North Carolina Administrative Code 02T.0114 shall be used to determine the minimum allowable design daily flow of wastewater facilities. Alternatively, the Town in its sole and absolute discretion may calculate the customer's initial average daily wastewater flow based on data from the customer's operations (or from similarly situated customers) with a comparable sanitary sewer system, where such data are available and reasonably current.

Establishment Type	Daily Flow Rate
Barber and Beauty Shops	
Barber Shops	50 gal/chair
Beauty Shops	125 gal/booth or bowl
Businesses, Offices and Factories	
General business and office facilities	25 gal/employee/shift
Factories, excluding industrial waste	25 gal/employee/shift
Factories or businesses with showers or food preparation	35 gal/employee/shift
Warehouse	100 gal/loading bay
Warehouse – self storage (not including caretaker residence)	1 gal/unit
Churches	
Churches without kitchens, day care or camps	3 gal/seat
Churches with kitchen	5 gal/seat
Churches providing day care or camps	25 gal/person (child & employee)
Fire, Rescue and Emergency Response	
Fire or rescue stations without on-site staff	25 gal/person
Fire or rescue stations with on-site staff	50 gal/person/shift
Food and Drink Facilities	
Banquet, dining hall	30 gal/seat
Bars, cocktail lounges	20 gal/seat
Caterers	50 gal/100 sq. ft. floor space
Restaurant, full Service	40 gal/seat
Restaurant, single service articles	20 gal/seat
Restaurant, drive-in	50 gal/car space
Restaurant, carry out only	50 gal/100 sq. ft. floor space
Institutions, dining halls	5 gal/meal
Deli	40 gal/100 sq. ft. floor space
Bakery	10 gal/100 sq. ft. floor space
Meat department, butcher shop or fish market	75 gal/100 sq. ft. floor space
Specialty food stand or kiosk	50 gal/100 sq. ft. floor space
Hotels and Motels	
Hotels, motels and bed & breakfast facilities, without in-room cooking facilities	120 gal/room
Hotels and motels, with in-room cooking facilities	175 gal/room
Resort hotels	200 gal/room
Cottages, cabins	200 gal/unit
Self-service laundry facilities	500 gal/machine
Medical, Dental and Veterinary Facilities	
Medical or dental offices	250 gal/practitioner/shift
Veterinary offices (not including boarding)	250 gal/practitioner/shift
Veterinary hospitals, kennels, animal boarding facilities	20 gal/pen, cage, kennel or stall
Hospitals, medical	300 gal/bed
Hospitals, mental	150 gal/bed
Convalescent, nursing, rest homes without laundry facilities	60 gal/bed
Convalescent, nursing, rest homes with laundry facilities	120 gal/bed
Residential care facilities	60 gal/person
Parks, Recreation, Camp Grounds, R-V Parks and other Outdoor Activity Facilities	
Campgrounds with comfort station, without water or sewer hookups	75 gal/campsite

Establishment Type	Daily Flow Rate
Campgrounds with water and sewer hookups	100 gal/campsite
Campground dump station facility	50 gal/space
Construction, hunting or work camps with flush toilets	60 gal/person
Construction, hunting or work camps with chemical or portable toilets	40 gal/person
Parks with restroom facilities	250 gal/plumbing fixture
Summer camps without food preparation or laundry facilities	30 gal/person
Summer camps with food preparation and laundry facilities	60 gal/person
Swimming pools, bathhouses and spas	10 gal/person
Public access restrooms	325 gal/plumbing fixture
Schools, Pre-school and Day Care	
Day care and preschool facilities	25 gal/person (child & employee)
Schools with cafeteria, gym and showers	15 gal/student
Schools with cafeteria	12 gal/student
Schools without cafeteria, gym or showers	10 gal/student
Boarding schools	60 gal/person (student & employee)
Service Stations and Car Wash Facilities	
Service stations, gas stations	250 gal/plumbing fixture
Car wash facilities	1200 gal/bay
Sports Centers	
Bowling center	50 gal/lane
Fitness, exercise, karate or dance center	50 gal/100 sq. ft.
Tennis, racquet ball	50 gal/court
Gymnasium	50 gal/100 sq. ft.
Golf course with only minimal food service	250 gal/plumbing fixture
Country clubs	60 gal/member or patron
Mini golf, putt-putt	250 gal/plumbing fixture
Go-kart, motocross	250 gal/plumbing fixture
Batting cages, driving ranges	250 gal/plumbing fixture
Marinas without bathhouse	10 gal/slip
Marinas with bathhouse	30 gal/slip
Video game arcades, pool halls	250 gal/plumbing fixture
Stadiums, auditoriums, theaters, community centers	5 gal/seat
Stores, Shopping Centers, Malls and Flea Markets	
Auto, boat, recreational vehicle dealerships/showrooms with restrooms	125 gal/plumbing fixture
Convenience stores, with food preparation	60 gal/100 sq. ft.
Convenience stores, without food preparation	250 gal/plumbing fixture
Flea markets	30 gal/stall
Shopping centers and malls with food service	130 gal/1000 sq. ft.
Stores and shopping centers without food service	100 gal/1000 sq. ft.
Transportation Terminals	
Air, bus, train, ferry, port and dock	5 gal/passenger

Source: North Carolina Administrative Code 02T.0114, January 1, 2007

**APPROVAL OF A RESOLUTION GRANTING WASTEWATER TREATMENT CAPACITY
2023-191-SP_CD: NORTH CAROLINA RAILROAD INDUSTRIAL DEVELOPMENT**

WHEREAS, the Town of Clayton operates a wastewater treatment plant known and permitted as the "Little Creek Water Reclamation Facility"; and,

WHEREAS, said facility is permitted to treat a maximum average of 84,000 gallons daily; and,

WHEREAS, the Town of Clayton holds several interlocal agreements which secure additional wastewater treatment capacity from other available sources; and,

WHEREAS, the Town of Clayton is constructing a new wastewater treatment facility permitted to treat up to 6 million gallons daily and expected to be completed in 2025; and

WHEREAS, the North Carolina Department of Environment Quality (NCDEQ) regulates, reviews, and permits flow tributary to newly extended or installed wastewater treatment collection facilities tributary to the Town of Clayton system; and,

WHEREAS, flow from sanitary sewer customers tributary to existing lines owned and operated as part of the Town of Clayton is bound to abide by the permitted average daily flow at the Little Creek Water Reclamation Facility in conjunction with other available sources and consistent with interlocal agreements regarding wastewater treatment.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF CLAYTON that the following is found:

1. The Town of Clayton has, according to the most recent accounting, sufficient excess, and unallocated treatment capacity to approve additional allocation subject to the completion of the Sam's Branch Wastewater Reclamation Facility.
2. Such available capacity may be made available to users in accordance with regulatory and legal parameters established to ensure satisfactory treatment plant operation.
3. A total allocation for wastewater treatment capacity is granted in the amount of 14,975 gallons per day (GPD) to NCRR Industrial Development (2023-191-SP_CD).
4. The allocation for wastewater treatment capacity **will not be immediately available**. The ability to flow will not be available until the East Clayton Industrial Area sanitary sewer project reaches its Intermediate Contract Time milestone and the existing Little Creek Water Reclamation Facility has been fully decommissioned. The Town will not sign a final sewer extension certification on NCRRs public gravity extension until the two previous items are complete.

5. Allocation for wastewater treatment capacity will be allotted accordingly unless otherwise modified by the Engineering Director due to treatment capacity availability and regulatory requirements at time of permitting. In the event treatment capacity is unavailable at time of permitting, the Engineering Director will make a good faith effort to execute project permits and forms as soon as treatment capacity is available.
6. Said allocation is approved subject to and conditioned upon review and approval of all required regulatory processes.
7. Said allocation is non-transferable, non-assignable, and made for the projects as described and for the noted location unless explicitly approved by the Town of Clayton.
8. Said allocation may be revoked or reclaimed in accordance with the policies of the Town of Clayton as adopted or amended now or in the future. No property right is conferred with the granting of an allocation except as otherwise explicitly allowed by policy, ordinance, or action of the Town of Clayton.
9. Said allocation is subject to payment of applicable fees in accordance with adopted ordinances, policies, and fee schedules of the Town of Clayton.
10. Said allocation is subject to expiration one (1) year from the proposed allocation schedule mentioned above if the project has not progressed in construction plan approval, building-permit approval, or on-site construction. Upon request in writing, the Engineering Director may grant a one (1) year extension.

Duly adopted this 7th day of April 2025, while in regular session.

Jody McLeod
Mayor

ATTEST:

Heidi L. Holland, CMC, NCCMC
Town Clerk



Town Council Regular Meeting Agenda Cover Sheet

Meeting Date

April 7, 2025

Agenda Location

CONSENT AGENDA

Item Title

Utility Services Agreement between North Carolina Railroad Company and Town of Clayton

Presenter(s)

Donald Perry, Engineering Director

Suggested Action

Approval of Agreement

Strategic Priorities Alignment



☐ Vibrant Downtown



☐ Desirable Amenities and Spaces



☒ Sustainable Infrastructure



☐ Mobility, Transportation, and Transit



☒ Diversified Economic Development



☐ Community Outreach and Engagement



☐ Public Safety

Public Hearing: No

If Approved, Will Document Require Recordation? No

Does This Item Require a Communication Plan?

☐ Public Hearing (Required by GS)

☐ Newspaper Notice (Required by GS)

☐ Public Forum/Input Session

☐ E-News Distribution

☐ Social Media

☐ Special Mailing

☐ Public Hearing (Not Required by GS)

☐ Newspaper Notice (Not Required by GS)

☐ Press Release

☐ Website

☐ Survey

☒ None Required

Summary

North Carolina Railroad Company (Customer) has requested water and wastewater capacity to support its new industrial facility located on NC Hwy 42 at the intersection of NC HWY 42 E and E Front Street in Clayton, NC. To facilitate the Customer's needs the Town desires to provide water and wastewater flow and treatment capacity to the Customer and allow Customer to continue to utilize the Town's water supply and sanitary sewer systems subject to payment by Customer of the capacity purchase and under the terms and conditions of this Utility Services Agreement.

Funding Source

N/A

Corresponding Documentation

[Utility Services Agreement with NCRR Final Unsigned 3.31.2025](#)

Submitted By: Donald Perry, Engineering

Reviewed By:

Rich Cappola, Town Manager
Heidi Holland, Town Clerk

Approved - Apr 02 2025
Approved - Apr 03 2025

NORTH CAROLINA
JOHNSTON COUNTY

UTILITY SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this the ____ day of _____ 2025 by and between **NORTH CAROLINA RAILROAD**, a body politic and corporate of the state of North Carolina (hereinafter referred to as "Customer") and **TOWN OF CLAYTON**, North Carolina, a body politic and corporate of the state of North Carolina (hereinafter referred to as "Town").

WITNESSETH:

WHEREAS, the Town is a duly incorporated municipality in the State of North Carolina, and it is in the business of providing water utility services to its residents;

WHEREAS, Customer has requested capacity to support its facility on property located at Intersection of NC-42W and US-70 Business, Clayton, NC 27520, NCPIN 166808-78-6185 (hereinafter collectively referred to as the "Property");

WHEREAS, Customer desires for the Town to provide flow and treatment capacity for Customer via the Town's water and sanitary sewer systems at the Property;

WHEREAS, in order to provide the capacity requested by Customer, the Town will have to install a new water and wastewater system and Customer's capacity purchase will support required installation;

WHEREAS, the parties have determined that the Town is the best and most reasonable option to provide the utility service levels desired by Customer to accommodate the use of the facility on its Property;

WHEREAS, to facilitate the Customer's needs the Town desires to provide the water and wastewater capacity to the Customer and allow Customer to continue to utilize the Town's water supply and sanitary sewer systems subject to payment by Customer of the capacity purchase and under the terms and conditions as set forth herein.

NOW THEREFORE, the parties hereby agree to the following terms and conditions.

1. Term: This Agreement shall be binding on both parties for a period of ten years.
2. Water and Wastewater Capacity:
 - a. Point of Delivery "A": Subject to payment by Customer as set forth herein, the Town will provide instantaneous capacity to Customer of (i) 1,000 gallons per minute not to exceed 8,985 gallons per day (5 day rolling average) of water capacity effective upon payment described herein and (ii) 1,000 gallons per minute not to exceed 8,985 gallons per day (5 day rolling average) of wastewater capacity effective upon payment described herein and the Town and State terms and conditions for Customer's usage.
 - b. Point of Delivery "B": Subject to payment by Customer as set forth herein, the Town will provide instantaneous capacity to Customer of (i) 200 gallons per minute not to exceed 5,990 gallons per day (5 day rolling average) of water capacity effective upon payment described herein and (ii) 200 gallons per minute not to exceed 5,990 gallons per day (5 day rolling average) of wastewater capacity effective upon payment described herein and the Town and State terms and conditions for Customer's usage.
3. Quality and Quantity. The Town agrees, subject to availability of supply, to furnish the water at the current designated points of delivery, during the term of this Contract or any renewal or extension thereof. The water supplied shall be potable treated water meeting applicable purity standards of the State of North Carolina in such quantity as may be required by the Customer but not to exceed per day capacity allocated under this or prior agreements. If the quantity used by Customer exceeds allocated capacity, Customer is responsible for the cost of providing additional instantaneous water capacity, which shall be billed at the Town's current rate as set forth on the adopted fee schedule in place at the time of the exceedance.
4. Pressure. The parties agree that the water purchased hereunder will be furnished at reasonably constant pressure. If greater pressure than that normally available at the point of delivery is required by Customer, the cost of providing such greater pressure shall be borne by the Customer. Emergency failures of pressure or supply due to main supply line breaks, power failure, flood, fire and use of water to fight fire, earthquake or other catastrophe shall excuse the Town from this provision for such reasonable period of time as may be necessary to restore service.
5. Monthly Usage Billing Procedure and Payment Date. The Customer shall be billed based on the water used during the preceding month. Town shall furnish the Customer, not later than the 5th day of each month or otherwise on a day of the month consistent with the sites billing cycle, with an itemized statement of the amount of water furnished the Customer during the

preceding month. Customer shall pay the Town, not later than the 20th day of each month. In the event that Customer fails to pay any amounts due under this Agreement, or any other rates, fees or charges due for water or services provided by Town, then Town may shut off the supply of water until such time as payment is received from Customer.

6. Rates and Capacity Charges to Customer:

- a. The Town's current schedule of rates shall apply, provided that Town may, in its sole discretion, modify the rates charged hereunder at any time it modifies or raises its rates to its other customers.
- b. Not later than 14 days following execution of this Agreement, Customer shall pay to the Town the sum of three hundred thirty thousand nine hundred and twenty-nine US Dollars (\$330,929.00) for the water and sewer capacity to be provided under this Agreement. This sum is in addition to commodity charges under subsections 6.a. above.
- c. Exceedances of allocated capacity will result in additional charges to the Customer at the Town's current rate as determined by the adopted schedule of fees. If exceedance fees are incurred, the Town shall furnish the Customer a bill no later than thirty (30) days after exceedance occurred and Customer shall pay the amount due within twenty (20) days of receipt of the bill.

7. Metering Equipment. Town agrees to install, maintain and operate a 2" water meter and a 4" water meter or such other metering equipment as needed to measure the volume of water delivered and wastewater received under this Agreement. Town will calibrate such metering equipment whenever requested by the Customer but not more frequently than once every twelve (12) months. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate. The previous readings of any meter disclosed by test to be inaccurate shall be corrected for the two (2) months previous to such test in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless Town and Customer shall agree upon a different amount. The metering equipment shall be read by Town on or before the last day of each month.

8. Failure to Deliver Water. The Town will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the

Customer with quantities of water set forth herein. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of an extended shortage of water, or the supply of water available to the Town is otherwise diminished over an extended period of time, the supply of water to Customer shall be reduced or diminished in the same ratio or proportion as the supply to Town's consumers is reduced or diminished.

9. Modification. Except for the provisions of this Agreement pertaining to the schedule of rates to be paid by the Customer for water delivered, which may be modified in the sole discretion of Town at any time, the provisions of this Agreement may not be modified or altered except by mutual agreement.

10. Regulatory Agencies. Except as otherwise provided herein, this Agreement is subject to such rules, regulations, or laws as may be applicable to similar agreements in this State and the Town and Customer will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.

11. Severability; Integrated Contract. The terms of this Agreement are not severable. Each of the terms and conditions hereof are mutually dependent and this Agreement has been negotiated by the parties as an interdependent contract. If any term hereof should fail or be determined to be unenforceable, this Agreement shall be void in its entirety.

12. Successor to the Customer. In the event of any occurrence rendering the Customer incapable of performing under this Agreement, any successor of the Customer, whether the result of legal process, assignment, or otherwise, shall succeed to the rights, duties, and obligations of the Customer hereunder.

13. Indemnity. It is understood and agreed by and between Town and Customer that Town shall not be liable for any failure of the water supply distribution system or wastewater treatment systems of Customer or that of the Town and that Customer hereby agrees to indemnify Town against any loss, costs, expenses, causes of action and judgments in connection with any such failure.

14. Notices. All notices, requests, demands and other communications hereunder must be in writing and shall be deemed to have been duly given when delivered or when placed in the United States Mail and forwarded by Registered or Certified Mail, return receipt requested, postage prepaid, addressed to the party to whom such notice is being given at the following addresses:

IF TO TOWN: Town Manager
 Town of Clayton
 111 East Second Street
 Clayton, North Carolina _____

IF TO CUSTOMER: _____

Any party may change the address to which notices to it are to be sent by giving the notice of such change to the other parties in accordance with this paragraph.

15. Applicable Law. This Agreement shall be interpreted in accordance with the laws of the State of North Carolina and in accordance with the regulations and rules of the North Carolina Department of Environmental Quality and the Town's Code of Ordinances. Specifically, but not limited hereby, Customer shall comply with all applicable discharge requirements for users of the Town's wastewater system.

16. Waiver. No delay or omission of any party hereto in the exercise of any right accruing upon any default hereunder on the part of any party hereto shall impair such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by a party hereto of a breach of, or a default in, any of the terms and conditions of this Agreement by any other party hereto shall not be construed to be a waiver of any subsequent breach of or default in the same or any other provision of this Agreement.

17. Entire Agreement: This Agreement constitutes the entire agreement between the parties and neither of the parties shall be bound by any written or oral promises, representations, or agreements except as are herein expressly set forth.

IN WITNESS WHEREOF, Customer and Town have duly executed this Agreement as of the day and year first written.

TOWN:
TOWN OF CLAYTON

BY: _____

CUSTOMER

BY: _____

**TOWN OF CLAYTON
PROCLAMATION
NATIONAL LIBRARY WORKERS DAY**

WHEREAS, the Hocutt-Ellington Memorial Library serves as a cornerstone of knowledge and opportunity, providing essential resources, services, and programs that empower individuals to live, learn, and thrive in the 21st century; and

WHEREAS, libraries of all types—including academic, public, school, government, and specialized libraries—play a vital role in fostering literacy, lifelong learning, and community engagement for people of all ages, backgrounds, and socioeconomic statuses; and

WHEREAS, library workers are dedicated professionals who create welcoming, inclusive spaces where knowledge is accessible to all, treating every patron with dignity, respect, and a commitment to service; and

WHEREAS, librarians and library staff connect individuals with a world of information, offering expert guidance, digital literacy training, and critical access to books, technology, and research materials in person and online; and

WHEREAS, recruiting and retaining passionate library workers is crucial to maintaining the vitality and sustainability of library services in an evolving information landscape; and

WHEREAS, recognizing the invaluable contributions of library workers is essential to appreciating the role they play in strengthening communities, advancing education, and ensuring free and open access to information; and

WHEREAS, libraries, library workers, and library advocates across the nation are joining together to celebrate **National Library Workers Day**, an initiative of the American Library Association-Allied Professional Association (ALA-APA), to highlight the dedication and contributions of library professionals.

NOW, THEREFORE, on behalf of the Clayton Town Council, we hereby proclaim Tuesday, April 8, 2025, as “National Library Workers Day” in the Town of Clayton. We encourage all residents to recognize the efforts of library workers, take advantage of the invaluable resources offered by libraries, and express their appreciation for the essential role libraries and their staff play in enriching our communities and our nation.

Proclaimed by the Clayton Town Council this the 7th day of April 2025.

Jody L. McLeod
Mayor

**TOWN OF CLAYTON
NATIONAL LINEMAN APPRECIATION DAY
PROCLAMATION**

WHEREAS, linemen are often first responders during weather emergencies and other catastrophic events, they diligently work to make scenes safer for other emergency responders; and

WHEREAS, linemen often work under challenging and dangerous conditions, braving severe weather, high altitudes, and hazardous situations to maintain and restore power; and

WHEREAS, these dedicated professionals respond at all hours of the day and night to repair damaged infrastructure, often leaving their families behind to serve the greater good for the Town of Clayton; and

WHEREAS, the contributions of linemen are vital to our daily lives, supporting economic growth, public safety, and overall community well-being.

NOW, THEREFORE, on behalf of the Clayton Town Council, we hereby proclaim Friday, April 18, 2025, as “**NATIONAL LINEMAN APPRECIATION DAY**” in the Town of Clayton and encourage all residents to join in recognizing and thanking our linemen for their invaluable service.

Proclaimed by the Clayton Town Council this the 7th day of April 2025.

Jody L. McLeod
Mayor

**TOWN OF CLAYTON
PROCLAMATION
ARBOR DAY**

WHEREAS, in 1872, the Nebraska Board of Agriculture set aside a special day for the planting of trees, and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

WHEREAS, Arbor Day is now observed throughout the nation and the world, and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife, and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

WHEREAS, trees in our community increase property values, enhance the economic vitality of business areas, and beautify our community, and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal

NOW, THEREFORE, on behalf of the Clayton Town Council, we hereby proclaim Friday, April 25, 2025 as Arbor Day and we urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

FURTHER, we urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

Proclaimed by the Clayton Town Council this the 7th day of April, 2025.

Jody L. McLeod
Mayor

**TOWN OF CLAYTON
PROCLAMATION
APRIL 2ND AS “WORLD AUTISM DAY” and
THE MONTH OF APRIL AS “AUTISM AWARENESS MONTH”**

WHEREAS, Autism Spectrum Disorder, the fastest growing developmental disability in the United States, affecting 1-in-36 children, is an urgent public health crisis that demands a national response; and

WHEREAS, Zeta Phi Beta Sorority, Incorporated (Zeta), is dedicated as a premier organization that provides noteworthy contributions in education, research, and funding for persons of color who are impacted by the autism spectrum disorder; and

WHEREAS, while there is currently no identified cause or cure for autism, Zeta is devoted to promoting solutions, across the spectrum and throughout the life span, for the needs of individuals with autism and their families; and

WHEREAS, in light of the growing impact of Autism Spectrum Disorder and the need for greater awareness, Zeta’s vision is to improve the lives of people of color affected by ASD through championing autism awareness, education, advocacy, and funding. Zeta implements the Extraordinary Power of S.H.E. worldwide through social, health, and economic justice programs; and

WHEREAS, Chi Xi Zeta Chapter of Zeta Phi Beta Sorority, Inc. proudly implements Autism Awareness program to support and uplift the autism community. Chi Xi Zeta Chapter of Zeta Phi Beta Sorority, Inc. is honored to participate in the annual observance of Autism Acceptance Month and World Autism Awareness Day, fostering greater awareness, understanding, and inclusion for individuals with autism.

NOW, THEREFORE, on behalf of the Clayton Town Council and Chi Xi Zeta Chapter of Zeta Phi Beta Sorority, Inc., of the Town of Clayton, we hereby recognize April 2, 2025 as World Autism Day and recognizes April 2025 as Autism Awareness Month in the Town of Clayton to raise public awareness of Autism Spectrum Disorder and the myriad of issues surrounding autism, as well as to increase knowledge of the programs that have been and are being developed to support autistic individuals and their families.

Proclaimed by the Clayton Town Council this the 7th day of April 2025.

Jody L. McLeod
Mayor



Town Council Regular Meeting Agenda Cover Sheet

Meeting Date

April 7, 2025

Agenda Location

OLD BUSINESS

Item Title

Starmount and Liberty - W. Main St. Pump Stations Decommissioning Budget Ordinance

Presenter(s)

Robert W. McKie, Jr., Finance Director

Suggested Action

Adoption of Ordinance

Strategic Priorities Alignment



☐ Vibrant Downtown



☐ Desirable Amenities and Spaces



☒ Sustainable Infrastructure



☐ Mobility, Transportation, and Transit



☒ Diversified Economic Development



☐ Community Outreach and Engagement



☐ Public Safety

Public Hearing: No

Applicable General Statute Number: G.S. 159-13.2

If Approved, Will Document Require Recordation? No

Does This Item Require a Communication Plan?

- ☐ Public Hearing (Required by GS)
- ☐ Newspaper Notice (Required by GS)
- ☐ Public Forum/Input Session
- ☐ E-News Distribution
- ☐ Social Media

- ☐ Public Hearing (Not Required by GS)
- ☐ Newspaper Notice (Not Required by GS)
- ☐ Press Release
- ☐ Website
- ☐ Survey

☐ Special Mailing

☒ None Required

Summary

The Town will incur costs for professional services and easements prior to decommissioning the pump stations. Startup funding in the amount of \$300,000 is needed to proceed with the project.

Recommendation

The Executive Team recommends adoption of the ordinance.

Funding Source

NC DEQ Grant Funds

Cost

Yes

Corresponding Documentation

[Capital Project Budget Ordinance Starmount & Liberty-W Main St Pump Station Decommissioning Revised April 7, 2025](#)

Submitted By: Robert McKie, Finance Department

Reviewed By:

Robert McKie, Finance Director

Rich Cappola, Town Manager

Heidi Holland, Town Clerk

Approved - Mar 28 2025

Approved - Apr 02 2025

Approved - Apr 03 2025

**TOWN OF CLAYTON
STARMOUNT & LIBERTY-W. MAIN ST. PUMP STATIONS
DECOMMISSIONING
CAPITAL PROJECT BUDGET ORDINANCE**

BE IT HEREBY ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF CLAYTON that the following ordinance shall be established to decommission the Starmount and Liberty/W. Main St. pump stations for operational efficiency:

Revenues

<u>Line Item</u>	<u>Description</u>	<u>Amount</u>
647-45 76	NC DEQ Grant	\$300,000
	Total	\$300,000

Expenditures

<u>Line Item</u>	<u>Description</u>	<u>Amount</u>
647-56 00	Professional Services	\$210,995
647-58 02	Easement Acquisition	\$42,500
647-58 99	Contingency	\$46,505
	Total	\$300,000

Duly adopted this ____ day of _____, 2025 while in regular session.

Jody L. McLeod
Mayor

Attest:

APPROVED AS TO FORM

Heidi L. Holland, MMC, NCCMC
Town Clerk

Emily C. Cauley-Schulken
Town Attorney