



Agenda

Town of Boiling Springs Board of Commissioners

April 9, 2013

Town of Boiling Springs

P.O. BOX 1014
BOILING SPRINGS, NC 28017
Telephone 704-434-2357
Fax 704-434-2358
www.boilingspringsnc.net

AGENDA

TOWN OF BOILING SPRINGS BOARD OF COMMISSIONERS

April 9, 2013

7 p.m., Town Hall

1. **Call to Order – Max J. Hamrick, Mayor**
2. **Approval of Minutes** **2**
March 5, 2013 Meeting
3. **Recognition of Citizens Present**
4. **Regular Business** **4**
 - Consider Resolution Adopting New Records Retention Schedule* 5
 - Consider Resolution Supporting Use of DOT Funds* 6
 - Consider Bids for New Facility Site Survey* 7
 - Consider Power Line Relocation Right of Way* 8
 - Consider Financial Software Agreement* 14
5. **Staff Reports** **22**
6. **Commissioners' Reports/Comments** **23**
7. **Mayor's Report/Comments** **23**

It is the desire of the Board to allow all citizens an opportunity to speak and to conduct business in an open, professional, and productive manner. Persons not specifically listed on the agenda but wishing to speak must register with the Town Clerk prior to the start of the meeting. These persons will be recognized by the Mayor during the "Recognition of Citizens Present" portion of the meeting. A maximum of three (3) minutes will be allowed unless otherwise approved by a majority of the Board. Groups are urged to choose one spokesperson. If you require additional time, you may ask to be placed on the agenda for the next regularly scheduled meeting of the Board. This policy was adopted in an effort to allow the Board members adequate notice of business to come before it as well as time to familiarize themselves with an issue.

**Town of Boiling Springs
Board of Commissioners
March 5, 2013
Regular Meeting Minutes**

The Board of Commissioners of the Town of Boiling Springs met March 5, 2013 at the Boiling Springs Town Hall. Present were: Mayor Max J. Hamrick; Commissioners William Elliott, Darlene Gravett, John Glenn, James Beason, and Cliff Hamrick. Town Attorney John Schweppe, III was also present. Staff members present: Town Manager Tom Hart, Town Clerk Kimberly Greene, Finance Officer Rhonda Allen, Public Works Director Mike Gibert, and Police Chief Randy Page.

Others Present: Bob Smith, Jackie Sibley, Wayne Johnson, Pat Litton, and Scout Troop 117 with Scout Leader Tim Vinesett.

AGENDA ITEM I

Call to Order – Max J. Hamrick, Mayor

AGENDA ITEM II

Recognition of Citizens Present

Mayor Hamrick welcomed the Scout Troop 117.

AGENDA ITEM III

Approval of Minutes

Commissioner Elliott made the motion to approve the minutes of the February 5, 2013 regular meeting as previously mailed. Commissioner Gravett seconded and the vote was unanimous.

AGENDA ITEM IV

Regular Business

Presentation from the TDA

Mayor Hamrick recognized Boiling Springs Tourism Development Authority (TDA) member Ms. Jackie Sibley. Ms. Sibley is the Cleveland County Chamber of Commerce Director of Travel and Tourism. Ms. Sibley discussed the importance of tourism to our county. In 2012, Cleveland County Tourism hosted numerous sporting events which resulted in an economic impact combined of \$2.5 million in Cleveland County and over \$18 million regionally. The new Le Grande Center is starting to attract new business while recruiting for conferences and trade shows. Current facilities such as Shelby City Park, the Cleveland Mall, Gardner-Webb University, the Cleveland County Fair Grounds, and Uptown Shelby are still being utilized.

Cleveland County hosted the American Bus Association Tour on January 12, 2013. Cleveland County is also very proud to be the home of the legendary banjo player Mr. Earl Scruggs. The Earl Scruggs Center will open in 2013. The Annual Livermush Expo is held in Uptown Shelby each year.

Ms. Sibley reported the Boiling Springs TDA has awarded three tourism grants since 2009. The TDA also sponsors a billboard on Hwy 74 promoting Boiling Springs. They also made a contribution to the American Legion World Series. Ms. Sibley reported the AmericInn located in Boiling Springs is a fan favorite during the event; guests enjoy the indoor pool. The hotel is easily accessible to the Veterans Field and Keeter Stadium, located on the grounds of Shelby High School. The Hamrick-Goode House, a bed and breakfast located in Boiling Springs, has many repeat visitors each year.

The Board thanked Ms. Sibley for her informative presentation.

Power Line Right-of-Way Agreement

Mayor Hamrick recognized Mr. Wayne Johnson of Gardner-Webb University. Mr. Johnson presented a proposed pedestrian improvement plan as a joint partnership between the Town, NC Department of Transportation, and Gardner-Webb University. The proposed plan moves the overhead utilities from South Main Street to Town owned property located behind the cemetery. Gardner-Webb has agreed to fund the project. The Town would be responsible for adding street lighting after the utility poles are removed. Public and private crosswalks, sidewalks, curbing, traffic and pedestrian signals, pedestrian lighting and traffic calming devices are also included in the plan. The project would create a 1.7 mile sidewalk loop for health/wellness and general pedestrian navigation.

Mayor Hamrick inquired about Duke Energy's proposal to move the power poles by using mostly pre-existing poles. The Mayor and Commissioner Glenn expressed their concern regarding the location of

existing the poles. Commissioner Beason stated the Board appreciates what Gardner-Webb does to beautify the Town but he was also concerned about the proposal. Mayor Hamrick directed Mr. Hart contact the Duke Energy engineer to share the Board's concerns. The Board agreed to revisit this item at the next meeting after each Board member has the opportunity to view the property.

Agreement for Architecture/Engineering Services

Mr. Hart stated this is a standard agreement for architecture/engineering services. An attachment to the agreement (Section 13) spells out specific areas he requested the Architect to elaborate upon. Mr. Schweppe had reviewed the agreement and had no concerns to report.

Mr. Hart introduced Mr. Bob Smith of Talley & Smith Architecture. Mr. Smith discussed the proposed agreement. The basis for compensation will be a fee percentage (7.4%) of the market value of the construction work specified by the Architect. It gives a flexibility that is fair to the Town and the Architect. The Architect will be compensated on an hourly basis for additional services. The next step is to start floor plan drawings and site drawings. Commissioner Hamrick made the motion to approve the Agreement for Architecture/Engineering Services with Talley & Smith Architecture. Commissioner Gravett seconded and the vote was unanimous. A copy of the Agreement is hereby incorporated into and made a part of the minutes of the meeting.

AGENDA ITEM V

Staff Reports

Mike Gibert, Public Works Director, reported the following:

Mr. Gibert reported as part of the Capital Improvement Plan the 8" clay sewer line from Bethel Avenue to Woodland Avenue will be replaced with PVC pipe by Wesson Septic Tank. This area has been identified as contributing to the infiltration issue at the Lyman Street pump station.

Cleveland County Schools reimbursed the Town for work at the Springmore lift station.

Town Hall offices will be closed Friday, March 29, 2013 in observance of Good Friday. The garbage collection for Friday, March 29th will be collected on Thursday, March 28th. The remainder of the week will be on schedule. Recycling collection for Friday, March 29, 2013 will be on schedule for Route B, the Blue Route.

Tom Hart, Town Manager, reported the following:

Mr. Hart reported he and Mr. Gibert are looking into permitting B&W Fiber Glass and establishing testing criteria.

Mr. Hart reported after reviewing several quotes for accounting and utility billing software.

AGENDA ITEM VI

Commissioner's Report/Comments

Commissioner Beason reported the porch on the vacant house by the baseball fields should be torn down for safety purposes.

AGENDA ITEM VII

Mayor's Report/Comments

There being no further business to come before the Board, Mayor Hamrick declared the meeting adjourned at 8:07 p.m.

-----Max J. Hamrick, Mayor-----

Kimberly Greene, Town Clerk

Meeting Date: April 9, 2013

Subject: Regular Business

- **Resolution Adopting New Record Retention Schedule**

This resolution adopts the latest Municipal Records Retention and Disposition Schedule set by the State.

- **Resolution Supporting Use of DOT Funds**

This resolution has been requested by GWU and NCDOT. The resolution supports the use of NCDOT's small Construction Funds for sidewalk improvements on Stadium Drive. This is a part of GWU's overall plan to improve the streetscapes surrounding their property.

- **Facility Site Survey**

The Architect has received bids from two companies to conduct an initial site survey of the Town's property. The site survey includes extensive mapping of the property and a grading plan but is not related to the actual construction of the facility. No formal approval of the bids is needed as these services are included as a part of the Architect's contract however the Architect would like to include the Town in this decision. Bob Smith from Talley & Smith will be present to answer any questions.

- **Power Line Right-of-Way Agreement**

This right of way agreement reflects the most recently devised route for the power line relocation. That route is referred to as the "Ball Field Option" in the included materials. A letter explaining the project and some items the Town will need to take care of prior the project was drafted by Jerry Lippard, the Engineer we all met with, and that letter is included in the agenda packet. To pursue this option the Town needs to clear trees and the abandoned house from the project area and will need to install new street lighting along South Main. Early estimates for the lighting project range from under \$50,000 to in excess of \$250,000.

- **Software Agreement**

This is a 3 year agreement with QS1 software to provide utility billing, payroll, and financial software to the Town. After a review of available software and checking various references, QS1 seems to offer the best software for the cost. It was neither the most expensive nor the least. The Town Manager and Finance Officer have visited the company and seen the software demonstrated and we believe this software will serve the Town well. The agreement has a \$6,750 setup which includes installation of the software and the conversion of our utility billing data. After that, there is a \$7,860 annual fee as compared to our current \$6,000 agreement.

Town of Boiling Springs

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RESOLUTION ADOPTING THE MUNICIPAL RECORDS RETENTION AND DISPOSITION SCHEDULE RESOLUTION NO. 130409.2

BE IT RESOLVED by the Boiling Springs Board of Commissioners that the Board adopts the North Carolina Municipal Records Retention and Disposition Schedule, as updated by the North Carolina Department of Cultural Resources in accordance with the provision of Chapters 121 and 132 of the General Statutes of North Carolina, a copy of which is on file in the office of the Clerk.

BE IT FURTHER RESOLVED this schedule is to remain in effect from the date of approval until it is reviewed and updated.

Adopted this the 9th day of April, 2013.

Max J. Hamrick, Mayor

ATTEST:

Kim Greene, Town Clerk

Town of Boiling Springs

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RESOLUTION IN SUPPORT OF THE USE OF NC DEPARTMENT OF TRANSPORTATION SMALL CONSTRUCTION FUNDS FOR PEDESTRIAN IMPROVEMENTS RESOLUTION NO. 130409.1

WHEREAS, this area is highly utilized as a recreational area by the citizens of the Town of Boiling Springs, citizens of the State as well as guests of the community, guests of the campus, as well and students enrolled at Gardner-Webb University;

WHEREAS, the current terrain, volume of traffic and lack of walks is a clear danger to pedestrians;

WHEREAS, the area connects residential areas to student services, recreational facilities and stadiums;
and,

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Town of Boiling Springs, North Carolina, support the use of NCDOT Small Construction Funds for pedestrian improvements within the Town limits of Boiling Springs and specifically in the Stadium Drive area.

Adopted this the 9th day of April, 2013.

Max J. Hamrick, Mayor

ATTEST:

Kim Greene, Town Clerk



TALLEY & SMITH ARCHITECTURE, INC.



P.O. BOX 518 (28151-0518) 409 E. MARION STREET (28150) SHELBY, N.C. 704-487-7082 FAX 704-482-5596 TALLEYSMITHARCH.COM

March 22, 2013

also sent to: tom.hart@boilingspringsnc.net

Mr. Tom Hart, Town Manager
Town of Boiling Springs
PO Box 1014
Boiling Springs, NC 28017

Re.: Civil Engineering Services for Power Line
Municipal Building Project, Boiling Springs, NC

Dear Mr. Hart,

We prepared a scope of work and an RFP requesting a response from the two civil engineering/surveying firms in this area that we have had good experience with. We met with an engineer from each firm, walked the project site, and further explained the scope of work. We have reviewed the proposals from both.

The proposals include developing a topographic site survey of the Town property, a grading plan for the power line route, bid services for the grading project, and construction administration during the grading work. The following are the proposed fees from each:

West Consultants, Morganton, NC \$18,250

Robinson-Sawyer, Gastonia, NC \$25,260

The difference is \$7,010. Both firms are offering comparable services. We have successfully worked with both and would not hesitate to use either. We recommend hiring West Consultants based on their proposal and lower fee amount. If we proceed with West Consultants, the project engineer will be Todd Potteet.

Due to the aggressive schedule of the power line project, the civil engineering and grading will be for the power line project only. Much of the future work for the new building and related parking will be a continuation of this first project, but we will not have enough information to prepare the grading plan for the new building as part of this first phase.

Please let us know the Town's preference. If you have any questions, please contact us.

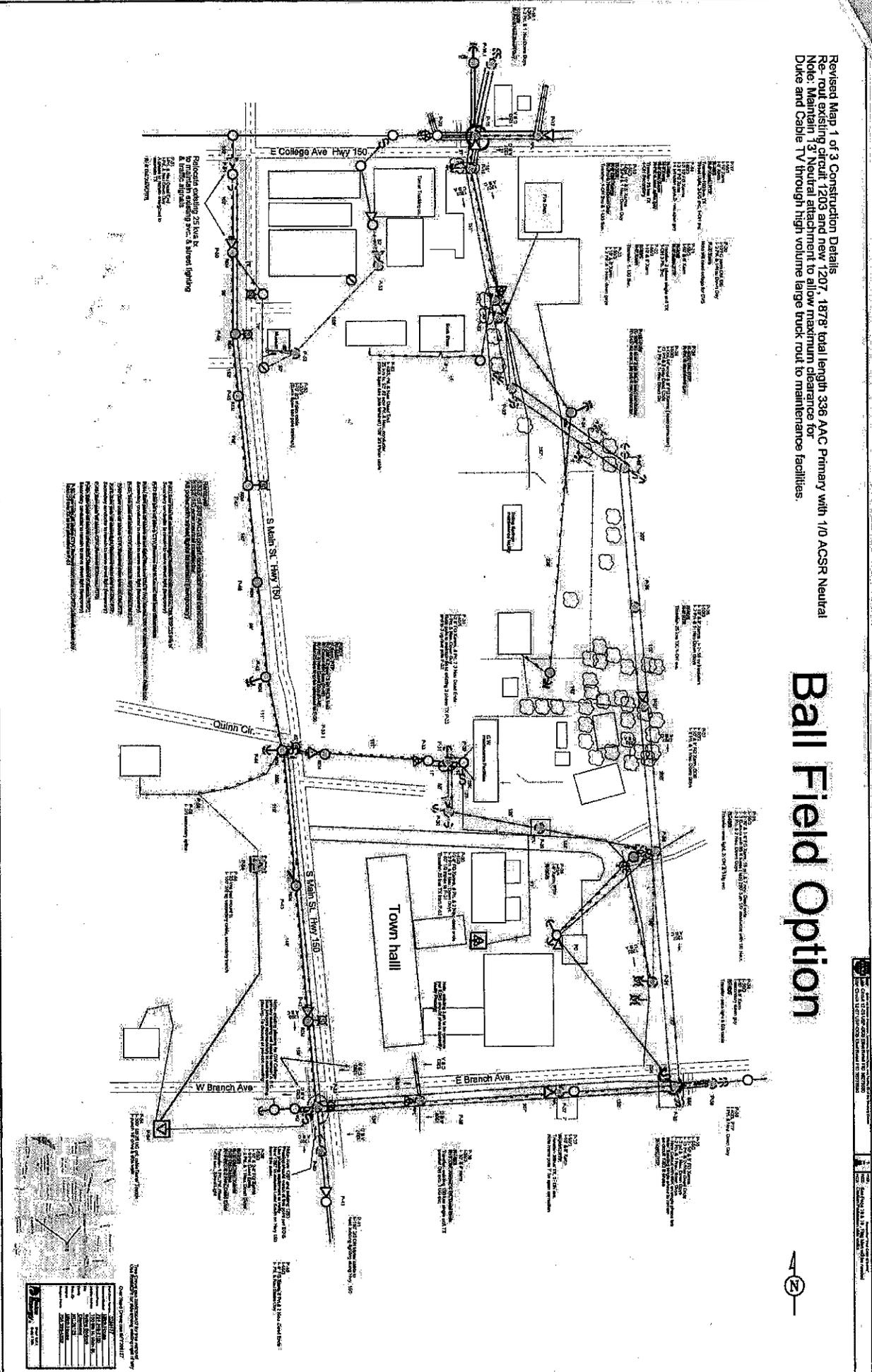
Sincerely,

TALLEY & SMITH ARCHITECTURE, INC.

Robert L. Smith III, AIA, LEED AP

Revised Map 1 of 3 Construction Details
 Re-route existing circuit 1203 and new 1207, 1878' total length 396 AAC Primary with 1/0 ACSR Neutral
 Note: Maintain 13' Neutral attachment to allow maximum clearance for Duke and Cable TV through high volume large truck route to maintenance facilities.

Ball Field Option



NO.	DESCRIPTION
1	1/2" = 100'
2	SEE PLAN FOR DIMENSIONS
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03/22/13

To:

The Town of Boiling Springs

Gardner Webb College

Mr. Johnson and Mr. Hart,

This letter is in reference to our last meeting on March 14th attended by several Duke Energy representatives (Yolanda Simms, Jerry Lippard, Greg Tibbs, Doug Gray and Mitch House) along with both of you representing the Town of Boiling Springs and Gardner-Webb University. Specifically, this letter outlines the three (3) relocation options discussed including the Duke Energy requirements for each. Hopefully, this will assist the Town of Boiling Springs and Gardner-Webb University in making a sound, long-term decision moving forward. Duke Energy provided the Town of Boiling Springs and Gardner-Webb University maps for three (3) options pertaining to the requested relocation of our overhead facilities currently located on Hwy 150 (Main Street) between College Avenue and E. Branch Avenue. The three (3) options discussed were: Original option, Blue Line option and Ball Field option

Original Option

An estimate has been provided to Gardner-Webb University prior to the meeting on March 14th. This proposal was developed utilizing existing access points along the duration of this route. Along this route the tree removal needed will be done by Duke Energy. This proposal requires the following:

- 1: Contribution In Aid of Construction (CIAC) Payment
- 2: Signed and notarized easement agreements from the Town of Boiling Springs, Gardner-Webb University, and Turner Trucking.
- 3: Museum electric service
 - A) Gardner-Webb University to re-feed Museum from another power source. This requires Gardner-Webb University to initiate the removal of metered service by calling Duke Energy at 800-777-9898.
 - Or
 - B) Gardner-Webb University to install new meter structure at a location adjacent to proposed Duke Energy facilities. This requires Gardner-Webb University to initiate a service application for the new metered service, as well as, requesting the existing service be removed by calling 800-777-9898. If the University requests an underground electric service the minimum service entrance must be 200 amps.



Blue Line Option

The Blue Line option requires the removal of trees and 2 structures, a house and GW woodshop, by the Town of Boiling Springs. Also the relocation of a gate and fence at the town maintenance facility to provide access to proposed pole line. Two poles would be placed inside the fence of the Town of Boiling Springs maintenance facility. Permanent, unimpeded access would be required for all poles. Permanent, unimpeded access must accommodate a 40,000 lb. vehicle in all weather conditions. This proposal requires the following:

- 1: Contribution In Aid of Construction (CIAC) Payment
- 2: Signed and notarized easement agreements from the Town of Boiling Springs, Gardner-Webb University, and Turner Trucking.
- 3: Museum electric service
 - A) Gardner-Webb University to re-feed Museum from another power source. This requires Gardner-Webb University to initiate the removal of metered service by calling Duke Energy at 800-777-9898.
 - Or
 - B) Gardner-Webb University to install new meter structure at a location adjacent to proposed Duke Energy facilities. This requires Gardner-Webb University to initiate a service application for the new metered service, as well as, requesting the existing service be removed by calling 800-777-9898. If the University requests an underground electric service the minimum service entrance must be 200 amps.
- 4: Conversion of maintenance facility electric service to underground. This requires a minimum service entrance of 200 amps.

Ball Field Option

The Ball Field option requires the removal of trees and a house by the Town of Boiling Springs along the proposed overhead route behind both the Gardner-Webb University parcel and Town of Bowling Springs maintenance facility. Consistent with the Blue Line option, unimpeded and permanent access is required for the initial installation, as well as, the future maintenance of Duke Energy facilities. Permanent, unimpeded access must accommodate a 40,000 lb. vehicle in all weather conditions. This proposal requires the following:

- 1: Contribution In Aid of Construction (CIAC) Payment
- 2: Signed and notarized easement agreements from the Town of Boiling Springs, Gardner-Webb University, and Turner Trucking.
- 3: Museum electric service



A) Gardner-Webb University to re-feed Museum from another power source. This requires Gardner-Webb University to initiate the removal of metered service by calling Duke Energy at 800-777-9898.

Or

B) Gardner-Webb University to install new meter structure at a location adjacent to proposed Duke Energy facilities. This requires Gardner-Webb University to initiate a service application for the new metered service, as well as, requesting the existing service be removed by calling 800-777-9898. If the University requests an underground electric service the minimum service entrance must be 200 amps.

4: Conversion of maintenance facility electric service to underground. This requires a minimum service entrance of 200 amps.

Consistent with the three (3) options identified above these items are not included in any of the options. The Town of Boiling Springs will need to develop and implement a lighting plan with assistance from Sean McKinney (Duke Energy lighting engineer) along Hwy 150 (S. Main Street) from College Avenue to E. Branch Avenue and coordinate with Time Warner Cable for the relocation of their facilities before the wood poles along this same corridor can be removed. All wood poles at the intersection of College Avenue and Main Street will remain due to the existing traffic signal attachments. The Town of Boiling Springs will need to work with the NCDOT about intersection improvements such as mast arms.

As we have discussed previously, Duke Energy must be complete with our infrastructure upgrade no later than October 1, 2013 in advance of the cooler temperatures. This is to provide capacity to our system, as well as, ensuring a safe and reliable delivery for our customer base in the Boiling Springs area. To meet the October 1 milestone our construction resources must begin this installation in late 2nd/early 3rd quarter 2013. As a result, we expect a response from the Town of Boiling Springs and/or Gardner-Webb University on or before April 30, 2013. We realize there are many items to consider and are available to answer any questions or concerns during your decision-making process.

Regards,

W. Jerry Lippard

Distribution System Planning

Duke Energy

704-395-4394

WO No. 3299127 Resp. 5438 Project Elliot 12-07 Re-Lo
Drawn By: Mitch House
Project Description: Relocation of existing Over Head
Right of Way

Return Address: Duke Energy Carolinas
Attn: Mitch House
6325 Wilkinson blvd.
Charlotte NC, 28214
Grantor's Address: Town of Boiling Springs
PO Box 1014
Boiling Springs NC, 28017-1014

**STATE OF NORTH CAROLINA
COUNTY OF Cleveland**

RIGHT OF WAY AGREEMENT

KNOW ALL MEN BY THESE PRESENTS, That Town of Boiling Springs hereinafter called "Grantor" (whether one or more), in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, does hereby grant unto DUKE ENERGY CAROLINAS, LLC, and its successors and assigns, subsidiaries and divisions, hereinafter called "Grantee," the perpetual right, privilege and easement to go in and upon that certain land of Grantor (hereinafter "premises") situated in said County and State, property described as:

Parcel #596, Book 9E, Pg. 058, Parcel # 590, Book 17K, Pg. 197
Parcel # 585, Book 1085, Pg. 660, Parcel # 40337, Book 1278, Pg. 1643
Parcel # 594, Book 1200, Pg. 1392

and over and across said premises within a right-of-way strip (check applicable):

having a width of 15 feet on each side of a centerline determined by the centerline of the electrical facilities and/or the lighting facilities, as installed, to construct, maintain and operate with poles, lighting fixtures, crossarms, wires, guys, anchors, cables, transformers and other apparatus and appliances, overhead lines for the purpose of transporting electricity and/or providing lighting services and for the communications purposes of the Grantee and regulated telephone utilities. The following rights are also granted to Grantee: to enter said premises to inspect said lines, equipment and facilities, to perform maintenance and repairs, and to make alterations and additions thereto; and relocate its facilities and right-of-way strip over the premises to conform to any future highway or street relocation, widening or improvement; and to remove from the right-of-way strip, now or at any time in the future, trees, structures or other obstructions that may endanger the proper maintenance and operation of said lines or other facilities or equipment and trees of any species that Grantee determines will grow at maturity to a height that will endanger the proper maintenance and operation of said lines or other facilities or equipment; to trim or remove and to keep trimmed or remove dead, diseased, weak or leaning trees or limbs outside of the right-of-way strip which, in the opinion of the Grantee, might interfere with or fall upon the electric, lighting, or regulated telephone facilities within the right-of-way strip; and to install guy wires and anchors extending beyond the limits of the right-of-way strip.

having a width of 7.5 feet on each side of a centerline determined by the centerline of the electrical facilities and/or the lighting facilities, as installed, to construct, maintain and operate underground lines and conduits with other apparatus and appliances, either above ground or below ground, to include transformers and service connections, for the purpose of transporting electricity, providing lighting services and for the communications purposes of Grantee. The following rights are also granted to Grantee: to enter said premises to inspect said lines, equipment and facilities, to perform maintenance and repairs, and to make alterations and additions thereto; and relocate its facilities and right-of-way strip over the premises to conform to any future highway or street relocation, widening or improvement; and to clear the land within the right-of-way strip and to keep it clear of trees, structures or other obstructions; and to clear that land outside the right-of-way strip within ten feet of the service door of any transformer or cabinet located within the right-of-way strip and to keep the area within ten feet of said door clear of trees, structures or other obstructions.

Grantor, for itself and its successors and assigns, agrees to hold Grantee, its successors and assigns, harmless for replacement and/or repair of paving, landscaping and fences as a result of future system maintenance and repair. All underground facilities are to be installed in accordance with the provisions of Grantee's Underground Distribution Installment Plan, NCUC Docket E-7, Sub 828, receipt of a copy of which is acknowledged by Grantor.

IN WITNESS WHEREOF, this instrument is executed on this _____ day of _____, _____

GRANTOR

TOWN OF _____

By: _____

Name: _____

Title: _____

STATE OF NORTH CAROLINA

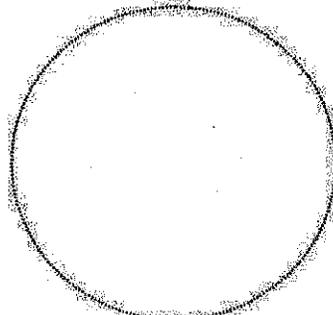
COUNTY OF _____

I, _____, a Notary Public for said County and State, certify that _____ personally came before me this day and acknowledged that he/she is _____ of the Town of _____, and that by authority duly given and as the act of the Town, the foregoing instrument was signed in its name by its _____.

Witness my hand and official seal, this _____ day of _____, _____.

My Commission Expires _____

Notary Public



Affix (Notary or Corporation) Seal



JM Smith Corporation

March 29, 2013

Executive Summary

Town of Boiling Springs Board of Commissioners

The Town of Boiling Springs currently uses software that is quite old, unreliable and poorly supported. Instead of living with the constant concern of hardware failure and data loss, Boiling Springs can choose to partner with QS/1 which will increase efficiency, empower employees, increase service to your citizens and customers and ultimately, **REDUCE COST!**

Why QS/1?

- Headquartered in Spartanburg, South Carolina
 - You are supported by a strong partner that is less than forty miles away!
- 540 employees
- Founded in 1977
- Part of the JM Smith Corporation
 - Founded in 1943, JM Smith is the third largest privately held corporation in South Carolina. You can be confident in the strength of a business with \$2.5 billion in annual revenues and is diversified over multiple industries.

Benefits of QS/1's Software and Services:

- Cloud Computing – your software is served from two state-of-the-art data centers
 - No more expensive and unreliable servers
- Internet Payments through a secure website
- Toll-free number to accept automated phone payments
- Document management to save time and increase efficiency
- Daily data backup at two facilities with a tertiary offsite backup weekly
- Unlimited, toll-free support that has a 95% call answer rate
- Multiple upgrades per year, which means you will always have up-to-date software
- Training that will give your staff the confidence they need to be productive
- As a member of North Carolina Rural Water Association, you get all these services at a reduced price. This is the same great offering that has been chosen by the Rural Water Associations of South Carolina, Virginia, Georgia, Arkansas and Michigan.

With the new fiscal year starting in July, time is of the essence. I look forward to the opportunity of providing the Town of Boiling Springs with many years of excellent service. Please let me know if I can answer any questions for you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Will Cauthen', written over a light-colored background.

Will Cauthen, MBA
704.860.4885 cell
800.236.0762 x 7034 office
864.253.8692 fax
wcauthen@QS1gov.com
www.QS1gov.com



JM Smith Corporation

Rural Water Technology Program - Contract for Software & Technical Services

Town of Boiling Springs
 145 South Main Street
 Boiling Springs, NC 28017

Scope of Services

QS/1 Data Systems is providing the following services in consideration for the monthly service fees as outlined in this Agreement:

- Utility Billing Software module (hosted at QS/1 data center)
- Handheld Interface for Utility Billing module
- Online Payments module (if chosen as a option) – This does not include transaction fees for credit card transactions made using the online payments module
- IVR Phone Payments (included with Online Payments module option)
- Remote Backup Services (all QS/1 data is backed up daily)
- Remote Hosting
- Data Conversion from previous utility billing program (for systems with 2,500+ accounts)
- Optional Software Modules: GL/AP/Budget, Payroll, Inventory, Fixed Assets

Pricing of Services

The service fees are based on the number of active customers being billed for utility service. QS/1 will regularly verify this number, and make adjustments to service fees when necessary. The beginning rate for services is based on estimate of billed customers at time of contract.

Pricing Table

	Number of Billed Accounts	1,795 (EPA)
	Utility Billing Module & Enhancements	
<input checked="" type="checkbox"/>	Utility Billing	\$300.00 /month
<input checked="" type="checkbox"/>	Internet Payments/IVR (Phone) Payments for UB	\$75.00 /month
<input checked="" type="checkbox"/>	Electronic Bill Presentment for UB (PDF Statements Online)	\$50.00/month
<input checked="" type="checkbox"/>	Document Management for UB	\$50.00 /month
	Financial Software Modules	
<input checked="" type="checkbox"/>	General Ledger/Accounts Payable/Budget	\$120.00 /month
<input checked="" type="checkbox"/>	Payroll	\$110.00 /month
<input type="checkbox"/>	Centralized Collections - Municipal	\$125.00/month
<input type="checkbox"/>	Knowledge License	\$85.00/month
<input type="checkbox"/>	Project Accounting (multi-year project codes assigned in GL)	\$75.00 /month
<input type="checkbox"/>	Fixed Assets	\$90.00 /month
<input type="checkbox"/>	Inventory	\$90.00 /month
	Total Monthly Fee	655 /month
	Initial Technical Services Fee	\$750.00
	Data Conversion from customer-provided reports for Utility Billing	\$6,000.00

Terms of Contract

Software prices in this quote are valid for a period of 30 days.

Services Agreement Period and Termination Policy

Client agrees for a period of thirty-six (36) months from the date of this Agreement to pay the monthly services charge listed in Pricing Table above. If Client chooses to terminate this Agreement for any reason before the three year period is up, Client agrees to pay the remaining balance of the services charge. Upon completion of the thirty-six month period, Client may terminate the contract without penalty at any time. Client will continue to be billed the monthly charge until this contract is terminated in accordance with the terms of the termination clause in the attached license agreement.

Invoicing

Invoices for this order will be created on a quarterly or annual (chosen by customer) basis. These invoices are due and payable upon receipt. The account must be paid by the 15th of the following month. Amounts not paid when due will be subject to a finance charge of 1.5% per month (18% per year).

Maintenance

Software Maintenance

Software Maintenance is included in the charges for services.

Software Licensing

The parties acknowledge and agree that all software-licensing issues for software not produced by QS/1 Data Systems are between client and software manufacturer, and QS/1 Data Systems is not acting as an agent for any such manufacturers. Client acknowledges that it is their responsibility to know how many licenses are needed for their business and to purchase the legal amount. Client understands and agrees that QS/1 Data Systems cannot be held liable in any way for performing work on a client computer that has illegally pirated software. QS/1 Data Systems will assist client in determining licensing requirements but any and all such efforts not included in this agreement will be considered in addition to the services herein and will be invoiced separately.

Conversion of Data

Data Conversion Requirements

The following information must be provided by the client from their current vendor for the data files they want converted:

- 1). Data must be in a 'fixed length' ASCII file format.
- 2). Data layouts must contain field name, description and position.
- 3). Sample data of the files to be converted.

Training

QS/1 Data Systems takes pride in the proper training of your employees so they may effectively utilize the system. Training will be scheduled by a QS/1 Data Systems representative with the designated person from your staff. This Training will take place with a QS/1 Data Systems representative either at the customer site or remotely via the Internet. This proposal includes training for each software system purchased in accordance with the schedule that follows.

Software Module	Remote Hours	On-site Days
Utility Billing	16	0
Handheld Interface for UB	2	0
Online Payments for UB*	4	0
General Ledger/Accounts Payable/Budget*	16	2
Electronic Bill Presentment for UB*	4	0
Project Accounting*	4	0
Document Management for UB *	2	0
Payroll*	14	0
Centralized Collections -- Municipal*	12	0
Privilege License	6	0
Fixed Assets*	4	0
Inventory*	4	0
*Optional Modules	Total	

Please Note: If training exceeds the number of visits specified above, a charge per visit for training will apply. It is the responsibility of the customer to have the employee or employees available to be trained at the scheduled training sessions. Cancellation of a scheduled training session requires a minimum of 24 hours advance notice. Failure to notify QS/1 Data Systems of a training cancellation in a timely manner will result in the forfeiture of the allotted training visit(s).

Online Payments

This is an agreement to provide the participating city/county/utility entity with a system to upload unpaid utility data to a website furnished by QS/1. At which time payments can be processed and a payment file returned to the customer via the Internet. Utility bills can be paid over the Internet by using a credit/debit or ATM card. Credits cards that can be accepted are Visa and MasterCard. The Service Fee for utility Internet payments is as follows:

Option A - Fee paid by Customer

In this option, the Convenience Fee is added to the bill amount and paid by the utility customer at the time of the online transaction. From the list below, select the Convenience Fee and the Maximum Bill Amount for on-line payment taken via the Internet. It is recommended that the entity choose the Maximum Bill Amount that is equal to or greater than ninety percent of the bills of customers that will wish to pay via the Internet.

Convenience Fee	Maximum Bill Amount
\$3.00	Up to \$75.00
\$4.00	Up to \$100.00
\$5.00	Up to \$150.00
\$6.00	Up to \$200.00
\$7.00	Up to \$250.00
\$8.00	Up to \$300.00
\$9.00	Up to \$350.00
\$10.00	Up to \$400.00
\$11.00	Up to \$450.00
\$12.00	Up to \$500.00

Option B - Fee paid by Utility

In this model, the participating city/county/utility entity (hereafter, Utility) will enroll as merchants directly with QS/1's credit card service providers (e.g. Globalpayments) under the utility billing programs of Visa and MasterCard. Global will contact the Utility and set a per transaction processing fee for each credit card transaction. This obligation will be directly between the Utility and the service provider. QS/1's participation in the service will be to provide necessary hardware, systems, and infrastructure, to carry and route electronic transaction information, and to provide record creation, maintenance and reporting. For its participation, QS/1 will charge (direct monthly invoice) the Utility a separate per-transaction fee of \$.25 which is independent of the transaction method (e.g. telephone, Internet, point-of-sale). The Utility will therefore realize total fees of the per transaction fee from Global plus a \$.25 assessment by QS/1 for each credit card transaction.

Over the Counter Payments

If the utility district wishes to accept credit card payments at the counter, they must contract directly with Global Payments Inc. for rates on credit card payments. Global would provide an external terminal for processing credit card payments at the counter.

Bill Presentment File

QS/1 will provide a system to upload data to the utility payment website. The data transmitted will include account number, name of customer, service address, PCRF (Plant, Cycle, Route, Folio) and total due. It will be the utility districts responsibility to build and transmit this file to the website as needed on daily basis.

Bill Payment File

QS/1 will provide a system to process the payment file retrieved by the utility district from the QS/1 Website. The file will contain the account number and the amount paid. The utility district will be provided with a system that can process this file and update customer accounts with the new payment information. It is the responsibility of the utility district to retrieve and process this file as needed.

Utility District Responsibilities

The utility district is responsible for properly transmitting the data to the website on a timely basis and receiving and processing the payment data on a timely basis. This includes balancing the payment data from the website to the collections marked on the utility district computer.

Connectivity

The utility district must provide a high-speed internet connection with a static IP address. If not already available, then QS/1 can assist you in obtaining this connectivity.

Equipment Installation and Setup

The installation and setup of equipment in the proposed system includes the following:

QS/1 to install: N/A – All hardware to be handled on a separate contract.

In addition, the setup of network and testing of all equipment functions, with all computers booting from their hard drives, is included.

Change Orders

Third party delays, incomplete customer task list items, or items not included in this agreement may require a signed additional contract. This may include, but is not limited to, additional engineering services, travel expenses for additional or rescheduled visits, "lost" engineering time, or changes in client objectives. Change order items may cause QS/1 Data Systems project management to suspend project implementation due to other prearranged commitments.

Customer Responsibilities

It is the responsibility of the customer to provide a suitable environment for the equipment to be installed. This includes, but is not limited to, proper electrical supply of the correct voltage and proper grounding of electrical components. Additionally, it is the responsibility of the customer to coordinate the dates of installation so as not to interfere with court sessions, special meetings, and other similar occurrences.

Governing Law and Jurisdiction

This agreement and performance hereunder shall be governed by the laws of the State of South Carolina. The sole jurisdiction for any legal proceedings under this agreement shall be South Carolina.

No Third-Party Beneficiary

It is specifically agreed between the parties executing this Agreement that it is not intended by reason of any of the provisions of any part of this Agreement to establish in favor of the public or any member thereof the rights of a third-party beneficiary hereunder, or to authorize anyone not a party to the Agreement to maintain a suit for damages pursuant to the terms or provisions of this Agreement.

Express Warranties, Disclaimers and Damage Limits

- (a) Limited Express Warranty. QS/1 Data Systems warrants that it will supply the hardware described in this Agreement in accordance with the understandings of the parties as expressed in this Agreement.
- (b) THE ABOVE WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
- (c) Right to Damages Limited. Under no circumstances will QS/1 Data Systems be liable for incidental, special, punitive or consequential damages whether under warranty, tort, contract, strict liability or otherwise.

Complete Agreement

This Agreement cancels and supersedes all prior written and unwritten agreements, attachments, schedules, appendices and understandings between the parties pertaining to the matters covered in this agreement, and contains the entire agreement between the parties. No obligations, agreements or understandings shall be implied from any of the terms and provisions of this agreement, all obligations, agreements and understandings with respect to the subject matter hereof being expressly set forth herein. No representations or statements, other than those expressly set forth in this Agreement were relied upon by the parties in entering into this Agreement. No amendment, modification or waiver of, addition to, or deletion from the terms of this Agreement will be effective unless reduced to writing and signed by the representatives of both parties with actual authority to bind the parties.

Terms

Invoices will be billed at the end of the month. Your account must be paid by the 15th of the following month. Amounts not paid when due will be subject to a finance charge of 1.5% per month (18% per year). Billing begins at inception of training or data conversion, whichever occurs first.

License Agreement

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG

THIS SOFTWARE LICENSE AGREEMENT (hereinafter "Agreement") is made this ____ day of _____, 20____ between J M Smith Corporation d/b/a QS/1 Data Systems, (hereinafter referred to interchangeably as "Licensor" and QS/1 Data Systems) and **Town of Boiling Springs, North Carolina** (hereinafter Licensee").

1. RECITALS

J M SMITH CORPORATION, d/b/a QS/1 Data Systems, a South Carolina Corporation, is the licensor of the QS/1 software UTILITY BILLING, UTILITY HANDHELD INTERFACE, UTILITY INTERNET PAYMENTS, UTILITY IVR PAYMENTS (hereinafter referred to as the "System"), to be used on the computer equipment as set forth on Exhibit A or such other computer or computers as Licensor may approve in writing.

2. LICENSE

1.1 Grant of License. Licensor grants to Licensee, pursuant to the following terms and conditions, a perpetual non-exclusive, non-transferable license to use Licensor's software and the software user's manual (hereinafter collectively "Software").

1.2 Use of Software by Licensee. The License granted under this Agreement authorizes Licensee to use the Software in machine readable form on a single central processing unit (hereafter "CPU"). Licensee may temporarily transfer the software to backup equipment if the CPU is inoperative and Licensee gives Licensor advance notification of such transfer. The Software shall be used only for Licensee's own business and Licensee shall not permit any parent, subsidiaries, affiliated entities or third parties to use the Software.

3. CONSIDERATION.

In consideration of the forgoing license, Licensee shall pay Licensor the sum set forth on Exhibit A. Any equipment to be provided by Licensor shall be furnished in accordance with the schedule set forth on Exhibit A.

4. COPIES.

Licensee shall not copy or duplicate in whole or in part the Software provided under this agreement in computer code form. Licensee may, solely to enable it to use Software, make two archival copies of the Software. Licensee shall have no other right to copy or print, in whole or in part, the Software or the Procedure Manual without the prior approval of the Licensor. All copies made by Licensee are the exclusive property of Licensor.

5. SOFTWARE OWNERSHIP.

4.1 Licensor's Representation. Licensor represents that it is the owner of the Software and all portions thereof.

4.2 Modifications. Only Licensor shall have the right to modify, maintain, enhance or otherwise alter the Software.

4.3 Transfer. Under no circumstances shall Licensee transfer in any manner, in whole or in part, the Software or any copy thereof, without Licensor's prior written consent.

6. TITLE TO SOFTWARE AND CONFIDENTIALITY.

The Software is proprietary to Licensor and title to it remains with Licensor. All applicable rights to trade secrets or any modifications or enhancements made by Licensor or at Licensee's request shall remain with Licensor. Licensee shall not sell, publish, disclose, display or otherwise make available the Software or copies thereof to others. Licensee agrees to secure and protect the Software in a manner consistent with the maintenance of Licensor's rights therein and to take appropriate action by instruction or agreement with its employees, agents or consultants who are permitted access to the Software to satisfy Licensee's obligations hereunder.

7. PATENT AND COPYRIGHT INDEMNIFICATION.

Licensee is neither authorized nor obligated to defend any action brought against the Licensee to the extent that it is based on a claim that the Software used within the scope of the license granted hereunder, infringes a copyright in the United States or a United States patent. Licensor, at its own expense, will defend any action brought against Licensee to the extent it is based on a claim that the Software used within the scope of this agreement infringes any patent, copyright, license, trade secret or any other proprietary right, provided that the Licensor is immediately notified in writing of such a claim. Licensor shall have the right to control the defense of all such claims, lawsuits and other proceedings. In no event shall Licensee settle any such claim, lawsuit or proceeding without Licensor's prior written approval. Licensor shall have no liability for any claim under this section if a claim for patent, copyright, license or trade secret infringement is based on the use of a superseded or altered version of the Software, if such infringement would have been avoided by the use of the latest unaltered version of the Software available as an update.

8. DELIVERY AND ACCEPTANCE.

Licensor shall deliver the Software at the location designated in Exhibit A. Licensee shall be deemed to have accepted the Software as of the date of the first training session unless another date is specified in Exhibit A.

9. HARDWARE REQUIREMENTS.

Because of compatibility requirements, Licensee agrees that it will use the system only in conjunction with the computer equipment as set forth on the current Exhibit A or such other computer or computers as Licensor may approve in writing.

10. WARRANTY.

10.1 Scope. Licensor warrants that for ninety (90) days after acceptance, the Software will conform to the Software specifications set forth in the QS/1 Data Systems System Procedure Manual including, but not limited to, operating performance and compatibility. During the warranty period, Licensor will use its best efforts to correct defects which substantially affect system performance and shall without additional charge, correct system errors, and issue corrected releases to Licensee. After the expiration of the warranty period, Licensor shall provide maintenance for Software if Licensee subscribes to software maintenance service.

10.2 Warranty Limitation. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE STATED EXPRESS WARRANTY IS IN LIEU OF ALL LIABILITIES OR OBLIGATIONS OF LICENSOR FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND THE DELIVERY, USE AND PERFORMANCE OF THE SOFTWARE.

10.3 Liability Limitation. Licensor shall have no liability with respect to its obligations under the Agreement for consequential, exemplary, or incidental damages even if it has been advised of the possibility of such damages. Licensor's sole liability, including liability arising out of contract, negligence, and strict liability in tort, shall not exceed any amounts paid by Licensee for the Software.

11. RESPONSIBILITIES OF LICENSE.

11.1 Use by Licensee. Licensor has no control over the conditions under which Licensee makes use of the Software and Licensor does not and cannot warrant the results obtained by such use. The Licensee shall be exclusively responsible for the supervision, management and control of its use of the Software, including but not limited to: audit controls and operating methods; establishing adequate backup plans; and implementing sufficient procedures and checkpoints to satisfy its requirements for security and accuracy of input and output as well as restart and recovery in the event of a malfunction.

11.2 Responsibility for Accuracy of Information. Licensee shall remain solely responsible for the accuracy of information obtained from the use of the Software and the use of such information, even if any inaccuracy is due to Software errors or malfunctions. Specifically, and without limitation, Licensee shall remain solely responsible for procedures performed or information provided to third parties and shall indemnify and hold Licensor harmless from any claim arising there from.

12. TAXES.

Licensee shall, in addition to the other amounts payable under the Agreement, pay all sales, use, value added or other taxes, federal, state or otherwise, however designated, which are levied or imposed by reason of the transactions contemplated by this Agreement, unless exempt per a tax exempt status.

13. ASSIGNMENT.

The license granted hereby shall terminate automatically upon the sale or transfer by Licensee of all or substantially all of its assets or upon a sale or transfer of a controlling interest (deemed to be 50% or more of the beneficial ownership of Licensee) in Licensee without the prior written consent of Licensor which consent will not be unreasonably withheld.

14. TERMINATION.

Licensor shall have the right to terminate this Agreement and the license granted herein:

(a) Upon ten (10) days written notice in the event the Licensee, its officers, agents, or employees violate any provision of the Agreement; or

(b) In the event Licensee (i) terminates or suspends its business, (ii) becomes subject to any bankruptcy or insolvency proceeding under Federal or state statute, (iii) becomes insolvent or becomes subject to direct control by a trustee, receiver or similar authority, or (iv) has wound up or liquidated voluntarily or otherwise.

In event of termination by reason of Licensee's failure to comply with any part of the Agreement, or upon any act which shall give rise to Licensor's right to terminate, Licensor shall have the right at any time to terminate the license and take immediate possession of the Software and all copies wherever located, without demand or notice. Within thirty (30) days after termination of the license, Licensee will return to Licensor the Software in the form provided by Licensor or as modified or, upon request by Licensor, destroy the Software and all copies, and certify in writing that they have been destroyed. Termination under this paragraph shall not relieve Licensee of its obligations regarding confidentiality of the Software.

15. MISCELLANEOUS.

15.1 Complete Agreement. Each party acknowledges that it has read and understands this Agreement and agrees to be bound by its terms. The parties further agree that this Agreement, including Exhibit A is the complete and exclusive statement of the Agreement between the parties, which supersedes and merges all prior proposals, understandings and all other agreements, oral or written, between the parties relating to this Agreement. This Agreement may not be modified or altered except by written instrument duly executed by both parties.

15.2 Notices. All notices required or permitted under this Agreement shall be in writing and shall be deemed delivered when delivered in person or deposited in the United States Mail, postage prepaid, registered or certified mail, return receipt requested, addressed as follows:

- (a) To Licensor: QS/1 Data Systems
Post Office Box 1412
Spartanburg, SC 29304
- (b) To Licensee: Town of Boiling Springs
145 South Main Street
Boiling Springs, NC 28017

15.3 Governing Law and Jurisdiction. The Agreement and performance hereunder shall be governed by the laws of the State of South Carolina. The sole jurisdiction for any legal proceedings under this Agreement shall be South Carolina.

15.4 Statute of Limitations. No action, regardless of form, arising out of this Agreement may be brought by Licensee more than one (1) year after the cause of action has arisen.

15.5 Waiver. The waiver or failure of Licensor to exercise in any respect any right provided for herein shall not be deemed a waiver of any further right hereunder.

15.6 Severability. If any provision of this Agreement is invalid, illegal or unenforceable under any application statute or rule of law, it is to that extent to be deemed omitted, and the remaining provisions shall not be affected in any way.

15.7 Headings. The headings of the various Paragraphs and Subparagraphs herein are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the day and year first above written.

Licensor: JM Smith Corporation
d/b/a: QS/1 Data Systems

Licensor:	JM Smith Corporation d/b/a QS/1 Data Systems
By:	
Print Name:	Will Cauthen
Title:	Account Representative
Date:	

Licensor:	Town of Boiling Springs, North Carolina
By:	
Print Name:	
Title:	
Date:	

Meeting Date: April 9, 2013

Subject: Staff Reports

Police

Public Works

Finance

Town Clerk

Town Attorney

Town Manager

~Set date for FY13/14 Budget Workshop

~ Set date for Workshop to discuss features of new facility

Meeting Date: April 9, 2013
Subject: Commissioners' Reports

Commissioner Gravett

Commissioner Elliott

Commissioner Beason

Commissioner Glenn

Commissioner C. Hamrick

Meeting Date: April 9, 2013
Subject: Mayor's Report