



## Regular Council - Minutes Monday, August 6, 2018

### **COUNCIL PRESENT:**

Mayor Mulhollem  
Mayor Pro Tem Castleberry  
Council Member Bruton  
Council Member Jackson  
Council Member Wilson

### **STAFF PRESENT:**

C.L. Gobble, Administrative Consultant  
Chip Hewett, Town Attorney  
Kim P. Batten, Finance Officer/Town Clerk  
Bob Clark, Planning/Zoning Administrator

### **COUNCIL ABSENT:**

Council Member Locklear

### **GUEST PRESENT:**

Archer Lodge Boy Scout Troop 421  
Jeff Brooks, AIA, MS Consultants, Inc.

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## **1. WELCOME/CALL TO ORDER:**

### **a) Invocation**

Mayor Mulhollem called the meeting to order at 6:38 p.m. in the Jeffrey D. Barnes Council Chambers located at 14094 Buffalo Road, Clayton, NC and declared a quorum was present. Council Member Jackson offered the invocation.

### **b) Pledge of Allegiance**

Archer Lodge Boy Scout Troop 421 led in the Pledge of Allegiance to the US Flag.

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## **2. APPROVAL OF AGENDA:**

### **a) No additions or changes noted.**

Moved by: Council Member Wilson  
Seconded by: Mayor Pro Tem Castleberry

### **Approved Agenda.**

CARRIED UNANIMOUSLY

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## **3. OPEN FORUM/PUBLIC COMMENTS:**

(Maximum of 30 minutes allowed, 3 minutes per person)

### **a) Mr. Tim Babcock of 117 Chatham Ct. Clayton, NC reminded Council that he spoke to them at their Regular Council meeting on July 9, 2018 and returned to further discuss the discharge of firearms.**

He provided Council with information that might assist them with discussing and possibly adopting an ordinance that addresses discharging firearms as well as plan specifications for small arms shooting ranges. He thanked Council for their time, attention, and consideration of an ordinance.

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## **4. CONSENT AGENDA:**

- a) **Approval of Minutes:**
  - 07 May 2018 Regular Council Meeting Minutes**
  - 24 May 2018 Special Meeting Minutes**
  - 04 June 2018 Regular Council Meeting Minutes**
  - 04 June 2018 Closed Session Minutes**

Moved by: Council Member Jackson  
Seconded by: Mayor Pro Tem Castleberry

**Approved Consent Agenda.**

CARRIED UNANIMOUSLY

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**5. DISCUSSION AND POSSIBLE ACTION ITEMS:**

- a) **Discussion and Consideration of MS Consultants, Inc. Contract Modification - Town Hall Expansion and ALVM Site Design**

Mr. Gobble explained that MS Consultant's Contract Modification was due to their engineering design of the Archer Lodge Veteran's Memorial site foundation. He concluded that doing both the expansion and the foundation at the same time is more economical and both were included in the contractor bid proposals. Discussion followed.

The Approved Contract Modification with MS Consultants, Inc. for the design of the ALVM site foundation appears as follows:

**ms consultants, inc.**

engineers, architects, planners

920 Main Campus Drive  
Suite 430  
Raleigh, NC 27606  
p 919.772.5565  
f 919.779.2308  
www.msconsultants.com



June 7, 2018

Matt Mullhollem, Mayor  
Town of Archer Lodge, NC  
14094 Buffalo Road  
Clayton, NC 27527

**RE: Contract Modification -- Archer Lodge Town Hall, Site Civil Design – Veteran’s Memorial**

Dear Mayor Mullhollem,

ms consultants presents this proposal to modify our existing contract in order to prepare design services and documentation associated with the Veteran’s Memorial project located next to the town hall addition. The services shall include the grading and design of a temporary access drive to the memorial location. Also, the design shall provide site grading for the memorial grade pad location so that drainage does not sheet flow across the site. Additionally, because of the memorial’s close proximity to the facility’s existing septic system, ms consultants shall contact local Health Department authorities to coordinate design assumptions.

**FEE, additional services:**

Compensation for the above services shall be as follows, billed lump sum: **\$ 3,950.00**

If this fee proposal and scope is acceptable to you, please provide a signature below. This fee and scope shall be an amendment to our existing executed contract and all previously agreed upon terms and conditions will apply. Once we have received formal notice to proceed, we are prepared to proceed immediately.

Should you have any questions, comments or concerns, please do not hesitate to contact me directly.

Sincerely,

Jeff Brooks, AIA  
Project Manager

JAB:jab

cc: C.L. Gobble, Town Manager, file



Signed, Approved:  
Matthew B. Mulhollem, Mayor  
Kim P. Batten, Town Clerk  
Printed Name:

August 6, 2018

Date:

Offices in: Akron, Cleveland, Columbus, Youngstown, OH; Charleston, WV; Indianapolis, IN; Mechanicsburg, Pittsburgh, PA; Raleigh, NC

Moved by: Council Member Jackson

Seconded by: Council Member Wilson

**Approved the Contract Modification with MS Consultants, Inc. for the design of the ALVM site foundation.**

CARRIED UNANIMOUSLY

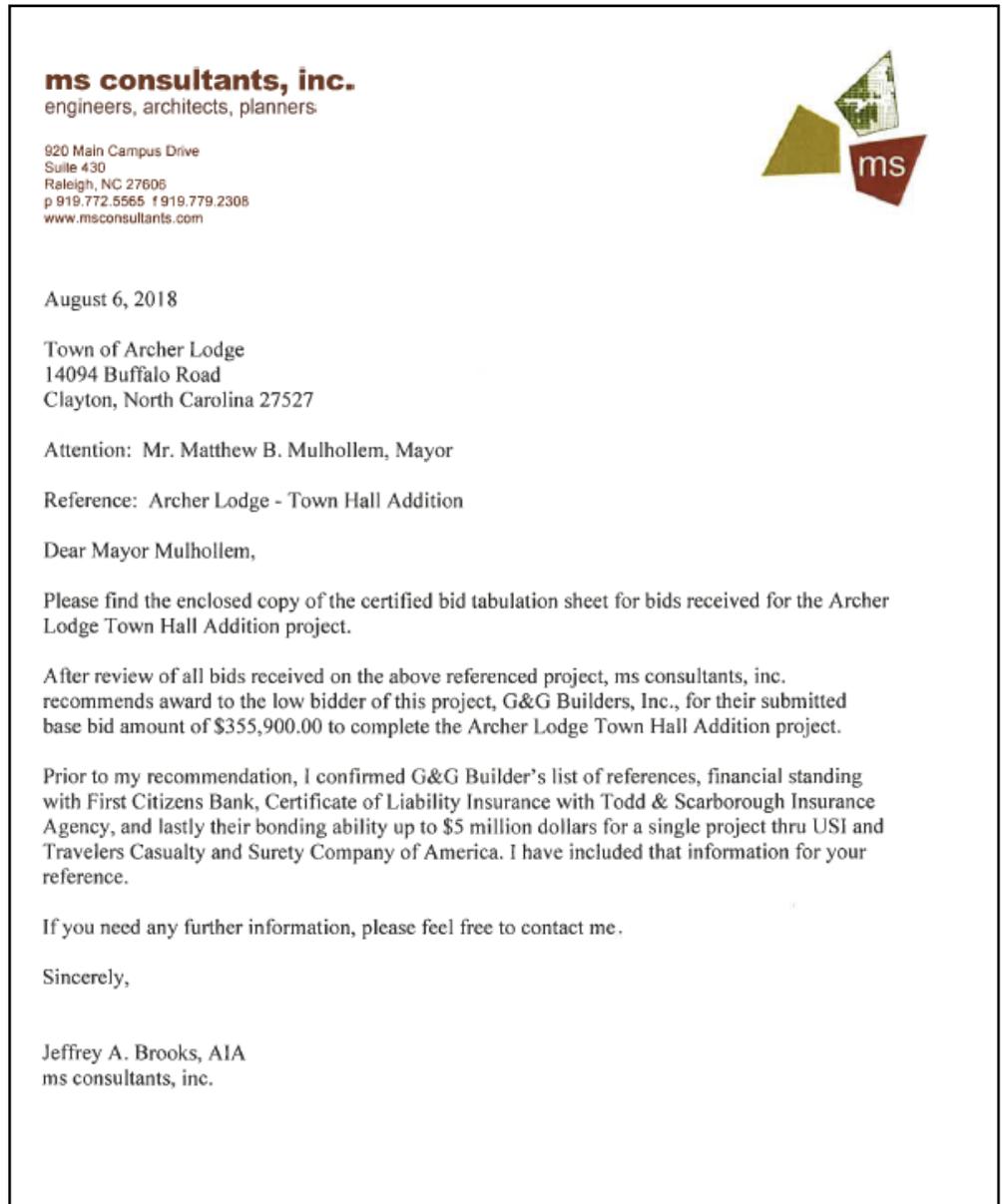
**b) Discussion and Consideration of Awarding the Town Hall Expansion Project including the Archer Lodge Veteran's Memorial site to a General Contractor**

Mr. Gobble introduced Mr. Jeff Brooks with MS Consultants, Inc. who summarized the Bid Opening which was held on Thursday, August 2, 2018 at 2:00 p.m. in the Jeffrey D. Barnes Council Chambers. A Project Bid Tab Form was provided to the Town Council and Mr. Brooks highlighted information on the form as follows:

- Received 8 bids
- Lowest bid was roughly \$48,000 under the original estimate of both projects totaling \$403,000
- G & G Builders, Inc. located in Wendell, NC was the lowest bidder totaling \$355,900
- References for G & G Builders, Inc. reported the Contractor was great to work with, finished jobs on time, kept projects in a forward motion even if disruptions happened, and provided good quality work
- References for G & G Builders, Inc. have been confirmed as well as their financial standing with First Citizens Bank, their Certificate of Liability Insurance and lastly their Bonding ability up to \$5 million

dollars

A Letter of Recommendation from MS Consultants, Inc. to the Archer Lodge Town Council to approve G & G Builders, Inc. as the General Contractor for the Town Hall Expansion/Veterans Memorial Site Project appears as follows:



Mr. Gobble reminded Council that the LGC will consider Approving the Town's Application for Installment Financing of this project at their meeting tomorrow, August 7, 2018. No further discussion.

Moved by: Council Member Wilson  
Seconded by: Council Member Jackson

**Awarded the Town Hall Expansion including the Veteran's Memorial Site Project to G & G Builders, Inc. with a base bid of \$355,900 to include a Performance Bond and Payment Bond and subject to LGC Approving the Installment Financing Application for this project.**

CARRIED UNANIMOUSLY

**c) Discussion and Consideration of Awarding a Five-Year Lease to CEI, The Digital Office, for a Konica Minolta C258 Digital Network Copier/Scanner/Fax and Maintenance Services**

Ms. Batten explained that the lease contract with COECO for the copier ends October 2018. A letter of intent to not renew with COECO was sent on July 10, 2018 to the appropriate entity.

After extensive research of three different companies, staff recommends awarding a five-year leasing contract to CEI, which is located in Raleigh, NC for the following reasons:

- locally owned

- competitive pricing
- supplies & maintenance included
- will return current equipment at no cost
- CEI was highly recommended by Attorney Hewett
- Response time being within 24 to 48 hours

No further discussion.

The Approved Lease Contract and Equipment Maintenance Agreement appears as follows:



**ALFORD LEASING COMPANY**

**Equipment Lease Agreement**

Agreement # \_\_\_\_\_

**P.O. BOX 90755, RALEIGH, NC 27675-0755**

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**SUPPLIER:** CEI THE DIGITAL OFFICE  
(Full Legal Name)

8701 BRICKELL AVE.  
(Street Address)

RALEIGH NC 27617 WAKE  
(City) (State) (Zip Code) (County)

**LESSEE:** TOWN OF ARCHER LODGE  
(Full Legal Name)

14094 BUFFALO RD.  
(Street Address)

CLAYTON NC 27527 JOHNSTON  
(City) (State) (Zip Code) (County)

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Quantity	Equipment Model & Description	Serial Number
1	KONICA MINOLTA C258 COLOR COPIER/PRINTER/SCANNER/FAX	
	W/ 2 TRAYS STAPLE FINISHER, HOLE PUNCH	
	MAINTENANCE BILLED COST PER PAGE: BW - \$0.008 COLOR - \$0.055	

See attached schedule for additional Equipment

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**TRANSACTION TERMS:**

RENT \$ 89.17 (plus applicable taxes) LEASE TERM 60 MONTHS (plus applicable taxes)

PAYABLE: (check one)  Monthly  Other ( \_\_\_\_\_ )  SECURITY DEPOSIT \$ 0.00

ADVANCE RENT \$ 0.00

PURCHASE OPTION AT END OF LEASE TERM:  Fair Market Value

Equipment Location (if different from Lessee address above): SAME

Lessee Contact/Telephone: KIM BATTEN 919-359-9727

We have written this Lease in plain language because we want you to understand its terms. Please read your copy of this Lease carefully and feel free to ask us any questions you may have. The words "you" and "your" mean the Lessee named above. The words "we", "us", and "our" refer to the Lessor named below.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS LEASE (INCLUDING THOSE ON THE REVERSE SIDE) SHOULD BE READ CAREFULLY BECAUSE ONLY THE TERMS IN WRITING ARE ENFORCEABLE. TERMS OR ORAL PROMISES WHICH ARE NOT CONTAINED IN THIS WRITTEN LEASE MAY NOT BE LEGALLY ENFORCED. IF YOU SIGN THIS LEASE, YOU AGREE TO COMPLY WITH THE TERMS AND CONDITIONS OF THIS LEASE. THIS LEASE IS NOT CANCELABLE. YOU AGREE THAT THE EQUIPMENT WILL BE USED FOR BUSINESS PURPOSES ONLY AND NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES.

YOU CERTIFY THAT ALL THE INFORMATION GIVEN IN THIS LEASE AND YOUR APPLICATION WAS CORRECT AND COMPLETE WHEN THIS LEASE WAS SIGNED. THIS LEASE IS NOT BINDING UPON US OR EFFECTIVE UNTIL AND UNLESS WE EXECUTE THIS LEASE. THIS LEASE WILL BE GOVERNED BY THE LAWS OF THE STATE OF NORTH CAROLINA. YOU AGREE TO THE JURISDICTION AND VENUE OF THE STATE COURTS OF WAKE COUNTY, NORTH CAROLINA.

ACCEPTED BY:

LESSOR: ALFORD LEASING CO., INC.  
P.O. BOX 90755, RALEIGH, NC 27675-0755

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

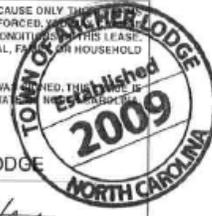
PROPOSED BY:

LESSEE: TOWN OF ARCHER LODGE  
(Legal Name)

BY: X   
(Signature of Authorized Signer)

Kim P. Batten Finance Officer/  
(Printed Name and Title) Town Clerk

DATE: 8/7/18 FED TAX ID#: 29-1989634



**ALFORD LEASING COMPANY TERMS AND CONDITIONS**

The words YOU and YOUR mean the lessee of Equipment. The words WE, US and OUR refer to Alford Leasing Company, the lessor.

1. **AGREEMENT.** WE agree to rent to YOU and YOU agree to rent from US the Equipment, as set forth on the face of the Lease ("Equipment"), and/or in any attached schedule (together, the "Lease"). YOU promise to pay US A MONTHLY PAYMENT WHICH IS SET FORTH ON THE FACE OF THE LEASE under the heading "Transaction Terms."
2. **TERM AND RENT.** This Lease goes into effect and the term of this Lease begins when all of the following conditions are met: (1) the Lease is signed by YOU, (2) the Lease is accepted by US, and (3) the Equipment is installed (the "Commencement Date"). The Lease shall continue in full force and effect from the Commencement Date through the last day of the final month of the Lease Term ("Term") as defined on the face of the Lease. The first rent payment ("Rent") is due on the date set forth in the first monthly invoice sent to YOU by US following the Commencement Date, with subsequent Rent payments due on the same day of each successive month thereafter and timely meter readings at the end of each applicable billing period on the forms or other alternative means specified by US. If meter readings are not received in a timely manner, YOUR payment obligation may be estimated by US. Your obligation to pay the Rent and other payment obligations hereunder shall be absolute and unconditional. THE LEASE IS NON-CANCELABLE, except as provided herein by timely written notice of intent to cancel the Lease delivered by YOU to US and timely return of the Equipment pursuant to the terms expressed herein.
3. **USE.** Unless otherwise provided on the face of this Lease is understood and agreed that the Rent owed by YOU to US pursuant to the Lease includes only the use of designated Equipment and accessories.
4. **TITLE, PERSONAL PROPERTY, LOCATION AND INSPECTION.** WE own the Equipment and YOU have the right to use the Equipment for the full term of the Lease provided YOU comply with the terms and conditions stated herein. The Equipment is OUR personal property, regardless of whether the Equipment may become attached to any real estate during the Term of the Lease.
5. **ASSIGNMENT.** You shall not have the right to transfer, sell, sub-rent, assign, pledge or encumber either the Equipment or any of YOUR rights under the Lease without our prior written consent during the Term of the Lease.
6. **REDELIVERY AND AUTOMATIC RENEWAL.** UPON AT LEAST SIXTY (60) DAYS WRITTEN NOTICE TO US PRIOR TO THE EXPIRATION OF THE INITIAL TERM OF THE LEASE, YOU SHALL ADVISE US OF YOUR INTENTION TO RETURN THE EQUIPMENT TO US AND TERMINATE THE LEASE AT THE EXPIRATION OF THE INITIAL TERM. Provided YOU have given such a timely notice, YOU shall return the Equipment, freight and insurance prepaid, to US in good repair and working order, ordinary wear and tear excepted, and in a manner and to a location designated by US. Alternatively, YOU can make the Equipment available to US for pick-up for a pick-up fee designated by US. IF YOU FAIL TO PROVIDE SIXTY (60) DAYS WRITTEN NOTICE OF YOUR INTENT TO TERMINATE THE LEASE AFTER THE INITIAL TERM, THE LEASE SHALL RENEW AUTOMATICALLY FOR AN ADDITIONAL THREE-MONTH TERM, AND SHALL CONTINUE TO RENEW EVERY THREE MONTHS UNTIL WRITTEN NOTICE OF YOUR INTENT TO TERMINATE THE LEASE IS DELIVERED TO US ("AUTOMATIC RENEWAL TERM"). During the Automatic Renewal Term, YOU shall have the right to deliver written notice of YOUR intent to terminate the Lease, and the Lease shall then terminate sixty days after receipt of said notice, with Rent equal to the Rent owed during the Initial Term of the Lease payable by YOU until the Lease terminates pursuant to the terms of this Section. If, having timely notified US of YOUR intent to terminate the Lease, YOU fail to return the Equipment to US or make the Equipment available for pick-up by US for a fee, as provided herein above, the Lease shall renew for additional terms of three (3) months each with ALCO Payments and Additional copy charges equal to 100% of the ALCO Payments and Additional Copy Charges at the expiration of the initial term of the Lease, and the Lease shall be terminated upon written notice delivered to US by YOU in the same manner as if no written notice of your intent to terminate the Lease was delivered before the expiration of the Initial Term of the Lease.
7. **CANCELLATION.** The Lease is NON-CANCELABLE for the full Initial Term and your obligation to pay Rent and any additional charges incurred pursuant to the Lease for the full Term of the Lease cannot be canceled except as expressly provided herein.
8. **LOSS OR DAMAGE.** YOU are responsible for the risk of loss of, destruction of, or damage to the Equipment, and no such loss or damage relieves YOU from any obligation, including but not limited to payment of Rent, under the Lease. In the event of damage to, loss of, or destruction of the Equipment, YOU agree to notify US in writing within no more than five (5) days from the date such damage, loss, or destruction occurs, of such fact and shall, at OUR option and upon OUR request:
  - Repair the Equipment to good condition and working order;
  - Replace the Equipment with like equipment in good repair, condition and working order, approved by US and transfer clear title to such replacement equipment to US, and such equipment shall be subject to the Lease and be deemed the Equipment hereunder; or
  - Pay to US the value of the total of all unpaid Rent payments for the full term of the Lease, plus the estimated fair market value of the Equipment, as determined by US, at the end of the Initial Term, all discounted six percent (6%) per year whereupon the Lease shall terminate.
9. **HOLD HARMLESS.** YOU will indemnify and hold US harmless against any and all losses and cost liabilities, including attorneys' fees, which arise from any injury or damage caused in whole or in part by YOUR acts, omissions, or conduct.
10. **TAXES.** YOU agree to pay all license and registration fees, sale and use taxes, personal property taxes and all other taxes and charges, relating to the ownership, leasing, rental, sale, purchase, possession or use of the Equipment as part of the Rent payment or as otherwise billed by US.
11. **DEFAULT. IF YOU are in default under the Lease, then WE shall have the right to accelerate payment due for all outstanding Rent owed for the remaining Lease Term.** YOU shall be in default of this Lease upon occurrence of any of the following events:
  - YOU fail to timely pay any Rent payment or other sum when due, and such non-payment is not remedied within five (5) days of request for the same from US;
  - YOU breach any warranty or other obligation under the Lease, or any other agreement with US; or
  - YOU, or any guarantor to the Lease, or any of YOUR partners, shall voluntarily file or have filed against it involuntarily, a petition for liquidation, reorganization, adjustment of debt or similar relief under the Federal Bankruptcy Code or any other present or future federal or state bankruptcy or insolvency law, or have a trustee, receiver or liquidator otherwise appointed.
12. **REMEDIES. In the event of default, in OUR sole discretion, WE shall have the right to exercise one or more of the following remedies against YOU:**
  - Collect interest on all monies due to US at the rate of eighteen percent (18%) per year from the date of default until paid, but in no event shall WE collect more than the maximum interest rate permitted by law; and
  - Require YOU to pay (i) all expenses incurred by US in connection with the enforcement of any remedies available to US described herein, including all expenses of repossession, storing, shipping, repairing and selling the Equipment and (ii) reasonable attorneys' fees;
  - Notwithstanding anything to the contrary contained herein, whenever Rent and/or any additional charges are owed to US by YOU pursuant to the Lease, and payment is not received within five (5) days of the time such Rent or charges become due, YOU shall pay to US in addition to the owed balance a late fee equal to \$100.00. This amount shall be owed to US as compensation for our internal operations expenses resulting from the delayed payment.No failure on OUR part to exercise any right or remedy and no delay in exercising any right or remedy shall operate as a waiver of any right or remedy or modify the terms of the Lease. A waiver of default shall not be construed as a waiver of any other or subsequent default.
13. **WARRANTY OF BUSINESS PURPOSE.** YOU hereby warrant and represent that the Equipment will be used for business purposes, and not for personal, family or household purposes.
14. **NOTICE.** Written notices will be deemed to have been given when delivered personally or two (2) days from the date that they are deposited with the United States Postal Service, postage prepaid, addressed to such party at its address is set forth on the face of the Lease or at such other address as such party may have subsequently provided in writing.
15. **ENTIRE AGREEMENT; SEVERABILITY; WAIVERS.** The Lease contains the entire agreement and understanding between YOU and US. No agreements or understandings are binding on the parties unless set forth in writing and signed by the parties. Any provision of the Lease which for any reason may be held unenforceable in a court of competent jurisdiction shall not serve to invalidate the remaining provisions of the Lease, which shall continue thereafter in full force and effect. It is further agreed that all rights and remedies of the parties are governed exclusively by the Lease.
16. **MISCELLANEOUS.** YOU authorize us (or our agent) to (a) obtain credit reports, (b) make such other credit inquiries as we may deem necessary, and (c) furnish payment history information to credit reporting agencies. To the extent permitted by law, we will charge you a fee of \$95.00 to cover our documentation and investigation costs.

## Non-Appropriation Addendum (for State or Local Governmental Lease or Loan)

<b>Lessee/Renter/Customer:</b> TOWN OF ARCHER LODGE	<b>Title of lease, rental or other agreement:</b> KONICA MINOLTA C258 dated
<b>Lessor or Lender:</b> ALFORD LEASING COMPANY	<b>Lease, rental or contract #:</b>

This Non-Appropriation Addendum (this "Addendum") is made by and between the above-referenced lessee, renter or other customer ("Customer") and the above-referenced lessor or lender ("Creditor").

**Introduction:** Customer and Creditor are simultaneously herewith entering into the above-referenced lease, rental, loan or other credit agreement (the "Agreement"); and Customer and Creditor wish to modify and/or supplement the terms of the Agreement, as more particularly set forth herein below. This Addendum shall be effective as of the same date as the Agreement (the "Effective Date").

1. **Incorporation and Effect.** This Addendum is hereby made a part of, and incorporated into, the Agreement as though fully set forth therein. As modified or supplemented by the terms set forth herein, the provisions of the Agreement shall remain in full force and effect, provided that, in the event of a conflict between any provision of this Addendum and any provision of the Agreement, the provision of this Addendum shall control. In entering into this Addendum, it is the intent of Customer and Creditor to conform the terms and conditions of the Agreement to the requirements of all applicable federal, state and local laws, rules and regulations relating to governmental entities and public finance. If any term or condition of this Addendum is unenforceable or unlawful, then such provision shall be deemed null and void without invalidating the remaining provisions of the Agreement.

2. **Definitions.** Capitalized terms herein that are not otherwise specifically defined herein shall have the same meanings as set forth in the Agreement. As used in this Addendum, the following terms shall have the following-described meanings:

"Goods" shall have the same meaning as the term "Equipment," "Leased Equipment," "Goods" or "Property" (or a similar term) as defined and used in the Agreement.

3. **Non-Appropriation of Funds.** Customer hereby represents, warrants and covenants to Creditor that: (a) Customer intends, subject only to the provisions of this Section 3, to remit to Creditor all sums due and to become due under the Agreement for the full multi-year term thereof; (b) Customer's governing body has appropriated sufficient funds to pay all amounts due to Creditor during Customer's current fiscal period; (c) Customer reasonably believes that legally available funds in an amount sufficient to make all such payments for the full multi-year term can be obtained; and (d) Customer intends to do all things lawfully within its power to obtain and maintain funds from which all such payments to become due during the full multi-year term of the Agreement, including making provision for such payments to the extent necessary in each budget or appropriation request submitted and adopted in accordance with applicable law. Notwithstanding the foregoing, the decision whether or not to budget and appropriate funds is within the discretion of Customer's governing body. In the event Customer's governing body fails to appropriate sufficient funds to make all payments and pay other amounts due and to become due during Customer's next fiscal period, Customer may, subject to the terms hereof, terminate the Agreement as of the last day of the fiscal period for which appropriations were received (an "Event of Non-appropriation"). Customer agrees to deliver notice of an Event of Non-appropriation to Creditor at least 30 days prior to the end of Customer's then-current fiscal period, or if an Event of Non-appropriation has not occurred by that date, promptly upon the occurrence of any such Event of Non-appropriation and to return the Goods pursuant to the return requirements stated in the Agreement on or before the effective date of termination. In the event the Agreement is terminated following an Event of Non-appropriation, Customer agrees (but only to the extent permitted by applicable law) that, for a period of one (1) year from the effective date of such termination, Customer shall not purchase, lease, rent or otherwise acquire any personal property performing functions similar to those performed by the Goods, for use at the site where the Goods are located, except as may be required for public health, safety or welfare purposes. Customer and Creditor understand and intend that Customer's obligation to make payments and pay other amounts due under the Agreement shall constitute a current expense and shall not in any way be construed to be a debt in contravention of any applicable constitutional or statutory limitations or requirements concerning Customer's creation of indebtedness, nor shall anything contained herein constitute a pledge of Customer's general tax revenues, funds or monies.

4. **Additional Representations, Warranties and Covenants of Customer.** In addition to the other representations, warranties and covenants made by Customer as set forth in the Agreement, Customer hereby represents, warrants and covenants to Creditor that: (a) Customer has the power and authority under applicable law to enter into the Agreement and this Addendum and the transactions contemplated herein and therein and to perform all of its obligations hereunder and thereunder; (b) Customer has duly authorized the execution and delivery of the Agreement and this Addendum by appropriate official action of its governing body and has obtained such other authorizations, consents and/or approvals as are necessary to consummate the Agreement and this Addendum; (c) all legal and other requirements have been met, and procedures have occurred, to render the Agreement and this Addendum enforceable against Customer in accordance with their terms; and Customer has complied with such public bidding requirements as may be applicable to the Agreement and this Addendum and the transactions contemplated herein and therein; (d) upon Creditor's request, Customer will provide Creditor with a copy of Customer's current financial statements within 150 days after the end of each fiscal period; and (e) during the term of the Agreement, unless and until the Agreement is terminated in accordance with Section 3 above, Customer shall provide to Creditor, no later than 10 days prior to the end of each fiscal period, with current budgets or other proof of appropriation for the ensuing fiscal period, and such other financial information relating to Customer's ability to continue the Agreement, as Creditor may request. Customer hereby acknowledges that the representations, warranties and covenants made by Customer in this Addendum and those set forth in the Agreement are being materially relied upon by Creditor in entering into the Agreement and this Addendum.

5. **Indemnification.** To the extent Customer is or may be obligated to indemnify, defend or hold Creditor harmless under the terms of the Agreement, any such indemnification obligation shall arise only to the extent permitted by applicable law and shall be limited solely to sums lawfully appropriated for such purpose in accordance with Section 3 above.

6. **Remedies.** To the extent Creditor's remedies for a Customer default under the Agreement include any right to accelerate amounts to become due under the Agreement, such acceleration shall be limited to amounts to become due during Customer's then current fiscal period.

7. **Governing Law.** Notwithstanding anything in the Agreement to the contrary, the Agreement and this Addendum shall be governed by, construed and enforced in accordance with the laws of the state in which Customer is located.

8. **Miscellaneous.** This Addendum, together with the provisions of the Agreement not expressly inconsistent herewith, constitutes the entire agreement between the parties with respect to the matters addressed herein, and shall supersede all prior oral or written negotiations, understandings and commitments. This Addendum may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall be deemed to constitute one and the same agreement. A facsimile or other copy of this Addendum with facsimile or copied signatures shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

<b>Customer:</b> TOWN OF ARCHER LODGE	<b>Creditor:</b> ALFORD LEASING COMPANY
By: <input checked="" type="checkbox"/> <i>Kim P. Batten</i>	By: <input checked="" type="checkbox"/>
Print: <i>KIM P. BATTEN</i>	Print: _____
Title: <i>FINANCE OFFICER</i>	Title: _____

58514 v10

*TOWN CLERK*





P.O. Box 90635 • Raleigh, NC 27675 • (919) 781-8885 • (919) 781-0222 Fax

### Equipment Maintenance Agreement

In order to assist our customers in maintaining their copier or facsimile equipment in efficient operating condition, Commercial Equipment Inc. agrees to furnish service and install parts for the copier or facsimile equipment below on the conditions set forth herein.

**Ship To:**

TOWN OF ARCHER LODGE  
Customer Name  
  
14094 BUFFALO RD.  
CLAYTON, NC 27527  
Address

**Bill To:**

TOWN OF ARCHER LODGE  
Customer Name  
  
14094 BUFFALO RD.  
CLAYTON, NC 27527  
Address

Equipment to be covered by Maintenance Agreement:

Billing Interval: Monthly

Konica Minolta C258

BW- \$0.008

Color- \$0.055

Make & Model

Serial #

Equip. ID #

CPC Rate

To be billed in lease payment

Coverage period for above listed equipment will begin on 10/01/2018 and end on 09/30/2023

BEGIN METER READING b/w -

color- \_\_\_\_\_

Listed equipment will be maintained under the terms and conditions specified on the reverse side of this sheet. Items not covered under the maintenance agreement are PAPER, STAPLES, AND NETWORK SUPPORT

ACCEPTED BY:

*[Signature]*  
Customer Signature RIM P. BATTEN  
FINANCE OFFICER / 8/7/2018  
Title TOWN CLERK Date

CEI Authorized Signature \_\_\_\_\_  
Title \_\_\_\_\_ Date \_\_\_\_\_



**EQUIPMENT MAINTENANCE AGREEMENT (EMA) TERMS AND CONDITIONS**

**EMA**

For maintaining the walk-up copying functionality of the base copier equipment, CEI agrees to perform maintenance service in accordance with the following terms and conditions:

- 1) The equipment shall be in good working condition on the date of commencement of this agreement.
- 2) CEI will furnish all parts and labor for repairs and maintenance necessitated by normal usage of the walk-up copying/faxing function of the serialized equipment during CEI's normal business hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, exclusive of holidays.
- 3) SMA agreements include toner, developer, PM kits and drums in an amount consistent with the manufacturer's published yields and servicing intervals.
- 4) The term of this agreement will be for 1 year ending on the date shown on the reverse side hereof, or the designated number of prints/copies. This agreement continues in effect at the existing rate with ~~increases not to exceed 12.5% annually for periods of similar length and are included in the annual billing cycle. The annual billing cycle may expire by mutual consent before the end of the year.~~ This agreement will automatically renew for each year thereafter at the then prevailing rates, or as otherwise stated, unless cancelled by either party in writing at least 30 days prior to the expiration date. ~~If cancellation occurs prior to anniversary date, liquidated damages of \$-times the monthly fee or an amount equal to parts and supplies used for 6 months will be invoiced.~~
- 5) The amount of the charges under this agreement shall be licensed by the amount equal to any applicable tax now or hereafter assessed, levied, or imposed by the federal, state, or local authority, on such charges, on this agreement upon the service rendered or parts supplied. Additional fees and surcharges may apply.
- 6) This agreement does not cover:
  - a) Service necessitated by the malfunction of Non-Original Manufacturer's Equipment parts, supplies, attachments, or supplies not authorized by CEI.
  - b) Repairs or cleaning necessitated by the improper installation of toner, developer, or foreign agents.
  - c) Exterior hardware including: door, covers, hinges, operation panel, stands, wheels, castors, work tables, exit trays, document lids, ADF covers, staplers, paper cassettes, sheet by-pass, instruction manuals, drivers, etc. which may become broken, lost or damaged.
  - d) Exterior or add-on copy counting or monitoring devices (i.e. Hecon, Equitrac, ecopy, etc.).
  - e) Major in-shop rebuilding for machines that have exceeded their manufacturer's recommended life.
  - f) Circuit board failures unless a CEI approved surge protection device is installed inline with the listed equipment. Surge protection can be purchased through CEI at a one-time cost per machine.
  - g) Replacement or repair of any network devices not directly involved with the walk-up copying process. (i.e. controllers, (internal or external), memory, printing systems, storage devices (internal or external), drivers, harnesses, wiring, hard drives, network harnesses or cards.) A separate service agreement may be purchased for the items listed in 8g.
  - h) Calibration of the Fiery Print Controller, CREO Print Controller, Micropress Device or any other 3rd party print controller that will interface with the networked copier equipment.
  - i) Service or repair of optional print server/monitor offered by CEI to be used with any wide format printing and scanning system - any print server/monitor that is provided is covered only by manufacturer warranty.
- 7) Customer agrees to:
  - a) Provide suitable electrical service and maintain proper environmental conditions.
  - b) Pay for the special servicing that may be required to prepare the equipment for movement or to reinstall and adjust after a movement.
  - c) Provide CEI with meter readings as needed and to accept estimated meter readings based on service history for billing purposes. ~~Any additional bill costs are the customer's responsibility. Minimum of actual print usage.~~
  - d) Expense incurred for supplies consumed in the course of service performed by CEI technical personnel or damaged/misused by the customer are non-recoverable and replenishment of such supplies is the sole responsibility of the customer, as well as freight expenses for supplies.
  - e) Pay CEI its reasonable attorney fees, plus court costs and out-of-pocket expenses, incurred in enforcing this agreement.
- 8) CEI is not responsible for delays of service due to manufacturers' non-availability of the customer parts or supplies necessary to complete such service as described in this agreement. CEI may use any parts appropriate for a safe and complete repair, including manufacturer's modifications.
- 9) This agreement is non-transferable, non-refundable, & becomes void upon sale or transfer of equipment. CEI may apply any unused portion of the annual maintenance charges toward future purchase with CEI.
- 10) CEI may withhold service or terminate this agreement if the Customer fails to comply with any of the items and conditions of this agreement, or acquires a past-due balance for services rendered and/or products sold of more than 60 days from date of invoice.
- 11) This agreement will not apply to any equipment lost or damaged through accident, abuse, misuse, theft, neglect, acts of third parties, fire, water, casualty, or any other natural force, and any loss or damage occurring from uncontrollable circumstances.

Customer specifically agrees that NO OTHER representative, constitutions or warranties other than those set forth specifically in writing herein have been made or have been relayed in the making of this agreement.

Moved by: Mayor Pro Tem Castleberry  
Seconded by: Council Member Jackson

**Awarded CEI a Five-Year Lease for a Konica Minolta C258 Digital Network Copier and Equipment Maintenance.**

CARRIED UNANIMOUSLY

**6. TOWN ATTORNEY'S REPORT:**

- a) **Attorney Hewett advised that the Closing Dates for both the Park Land Acquisition and the Town Hall Expansion/Veterans Memorial Site Project are pending and contingent on receiving approval from the Local Government Commission (LGC).**

**7. ADMINISTRATIVE CONSULTANT'S REPORT:**

- a) **Mr. Gobble reported on the following:**

- He and Ms. Batten would attend the LGC Meeting in Raleigh, NC on Tuesday, August 7, 2018 regarding their Consideration to Approve the Town's Installment Financing Applications for Park Land Acquisition and for the Town Hall Expansion/Veteran's Memorial Site Project.
- Today, he and Ms. Batten met with Adam Lindsey, Clayton Town Manager and Police Chief Blair Myhand to explore the option of

Clayton Police Department providing law enforcement back-up as needed for Amber Butler, Animal Control Officer for Archer Lodge. All agreed that an Inter-Local Agreement was a possibility and will ask Attorney Hewett to DRAFT an agreement to begin the process.

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**8. FINANCIAL/TOWN CLERK'S REPORT:**

**a) July 31, 2018 Financials & Year-to-Date Comparison (FY18 to FY19)**

With the beginning of the fiscal year, Ms. Batten noted that the July revenues are extremely low for the General Fund. She reviewed all three funds: General Fund, Capital Reserve Fund and Park Reserve Fund with Council Members. In comparison with July 2017, the revenues received in 2017 were slightly higher than those in 2018. Also, expenditures were higher in July 2018 than in 2017 due to: 1) the request from ALCC to provide additional funding for their fall projects and 2) Professional Fees incurred from MS Consultants for Architectural/Engineering Design of the Town Hall Expansion/ALVM Site project. No further discussion.

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**9. PLANNING/ZONING REPORT:**

**a) Mr. Clark shared the following:**

- Recommended law enforcement back-up for Amber Butler, Animal Control Officer due to a couple of difficult situations he encountered before she join the Town
  - Covered Bridge Road Project is about 75% planned by NCDOT officials with potential sidewalks for certain areas
  - Staff and Council Members Bruton and Locklear provided input on choosing the design firm for the Bicycle/Pedestrian Grant. Hopefully designing will begin in early fall
  - Potential minor subdivision with 10 to 14 lots
  - Continuing to work on Non-Residential guidelines manual.
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**10. VETERAN'S COMMITTEE REPORT:**

**a) Mike Mulhollem reported on the following:**

- Met with Parker Monument, Knightdale, NC to assist with centerpiece with a lower quote
  - Thanked the Town for supporting their efforts with the memorial
  - Additional fund raiser was offered to sell 12 x 12 brick pavers to local businesses with their logos
  - Goal is for the project to be completed by Veteran's Day 2018
- Council Member Wilson added that the monthly biscuit sale would be Friday, August 17, 2018.
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**11. MAYOR'S REPORT:**

**a) Mayor Mulhollem reminded Council of the LGC meeting on August 6, 2018 at 2:30 p.m. and reiterated that Mr. Gobble and Ms. Batten will be attending in hopes of both applications being approved.**

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**12. COUNCIL MEMBERS' REMARKS:  
(non-agenda items)**

a) Council Member Wilson announced the TJCOG's Regional Summit will be on Thursday, September 27, 2018 at the Dennis A. Wicker Civic Center located in Sanford, NC and all are welcome to attend. He offered appreciation to Mr. Babcock for providing information on discharging firearms to Council.

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b) Council Member Jackson shared with Mr. Babcock that prohibiting firearms had been brought to Council's attention earlier in the year and at a very busy time for the Council. However, the item needs to be addressed.

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c) Mayor Pro Tem Castleberry thanked the Veteran's Committee for all of the things they have accomplished and was proud to share their accomplishments with his acquaintances. He commended USMC/Vietnam Veteran Steve Mulhollem, who passed away on July 27, 2018, for his accomplishments on the Veteran's Committee, and that he would be missed.

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d) Council Member Bruton thanked the Archer Lodge Boy Scout Troop 421 for attending the meeting, and welcomed them back anytime, Mayor Mulhollem reiterated.

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**13. ADJOURNMENT:**

a) **No Further Business**

Moved by: Council Member Jackson

Seconded by: Mayor Pro Tem Castleberry

**Meeting adjourned at 7:36 p.m.**

CARRIED UNANIMOUSLY

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Matthew B. Mulhollem, Mayor



Kim P. Batten, Town Clerk

