

RESOLUTION ADOPTING PROTEST PROCEDURES FOR THE CITY OF
CHARLOTTE CONCERNING EPA-FUNDED PROJECTS FOR CHARLOTTE-
MECKLENBURG UTILITY DEPARTMENT

WHEREAS, the City of Charlotte is a potential recipient of grant funds from the United States Environmental Protection Agency ("EPA") for the procurement of facilities to be operated by the Charlotte-Mecklenburg Utility Department; and

WHEREAS, the City of Charlotte endeavors to comply with all Federal and State laws and regulations in using such grant funds and in procuring facilities for use by the Charlotte-Mecklenburg Utility Department; and

WHEREAS, a recipient of an EPA grant is required to establish procedures for the prompt consideration of protests concerning certain procurement decisions of the grant recipient as set forth in Chapter 40, Part 33, Sub-part G of the Code of Federal Regulations; and

WHEREAS, the procedures attached hereto provide a reasonable and fair opportunity for such procurement decisions of the City to be reviewed to assure the City's continued compliance with applicable law.

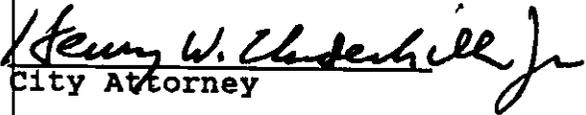
NOT, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlotte, North Carolina:

Section 1. That the attached "Protest Procedures for the City of Charlotte Concerning EPA Funded Projects from Charlotte-Mecklenburg Utility Department" are hereby adopted and will apply to any protest defined in said Procedures.

Section 2. That said Procedures will not apply to any other project, protest or procurement decision of the City of Charlotte, except as specifically set forth in said Procedures.

Section 3. That this Resolution is effective upon adoption.

Approved as to form:


City Attorney

CERTIFICATION

I, Pat Sharkey, City Clerk of the City of Charlotte, North Carolina, do hereby certify that the foregoing is a true and exact copy of a Resolution adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 10th day of October, 1989, the reference having been made in Minute Book 93, and is recorded in full in Resolution Book 25, at page(s) 437-443.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 17th day of October, 1989.

Pat Sharkey, City Clerk

PROTEST PROCEDURES FOR THE CITY OF CHARLOTTE
CONCERNING EPA-FUNDED PROJECTS
FROM CHARLOTTE-MECKLENBURG UTILITY DEPARTMENT

These Procedures set forth the administrative process of the City of Charlotte ("City") for the expeditious resolution of protests concerning projects of the Charlotte-Mecklenburg Utility Department of the City of Charlotte ("CMUD"), which are funded by grants from the United States Environmental Protection Agency ("EPA"). These Procedures do not apply to any project of the City not expressly covered by these Procedures.

1. Unless the context specifically indicates otherwise, the following terms and phrases, as used in these Procedures, will have the meanings hereinafter set forth.

A. Party. Any person who has responded to the City's request for proposals, qualifications or bids for a project under circumstances in which any response to such request is a basis for the protestable action which is the subject of a protest resolved under these Procedures. In order to be a party, a person must have responded to such request in accordance with the provisions thereof. If more than one request for proposals, qualifications or bids is made by the City, a person may only be a party with respect to the request to which such person responded and any protestable action based upon any response to such request. A person may not use status as a party concerning a request for proposals, qualifications or bids and any resulting protestable action in order to protest any action by the City which is based upon response(s) to any other request for proposals, qualifications or bids to which such person did not respond, even if such action would otherwise be a protestable action and even if the other request concerns the same project as the protestable action to which such person is a party. A person is a party to a protestable action, if such person responded to the request for proposals, qualifications or bids for a project under circumstances in which any response to such request is the basis for the protestable action which is the subject of a protest resolved under these Procedures.

B. Person. An individual, corporation, partnership, joint venture, association or other form of legal entity.

C. Protestable Action. Each action by the City set forth below will be considered to be a protestable action. No other action by the City will be considered to be a protestable action.

1. The determination by the Director of CMUD that the City does not intend to acquire equipment and/or facilities proposed by a party for a project.

ii. The award by the City Council of a contract for the purchase of equipment and/or construction or other acquisition of facilities for a project. Such award may be subject to favorable review of any protest under these Procedures or applicable protest procedures of the EPA.

D. Direct financial interest adversely affected by a protestable action. The loss of an opportunity by a party to sell, construct or otherwise provide equipment and/or facilities to the City for a project.

E. Project. Any equipment or facilities for use by CMUD which the City proposes to acquire by any means using grant funds of the EPA.

2. A protestable action may be protested by a party with a direct financial interest adversely affected by the protestable action. Such protest must be filed in accordance with the provisions of these Procedures. Failure to follow these procedures will result in the dismissal of the protest.

3. A protest must:

A. Be written and signed by the protesting party;

B. Identify the protestable action which is the subject of the protest;

C. Be based upon alleged non-compliance by the City with applicable law in taking the protestable action which is the subject of the protest;

D. State the basis of the protest, including but not limited to: the citation of each applicable statute, regulation, ordinance or other legal requirement with which non-compliance is alleged; complete statement of all, alleged facts demonstrating such non-compliance; and any other information which the protesting party desires to present;

E. Include such supporting documentation as is available to the protesting party;

F. Request such relief as is appropriate and is provided by these procedures;

G. Include a list of all parties to the protestable action which is the subject of the protest; and

H. Be filed with the Office of the City Attorney within seven (7) calendar days after receipt of notice of the protestable action which is the subject of the protest.

4. A. At the same time that the protest is filed, the protesting party must serve a copy of the protest documents,

including all attachments, on every other party to the protestable action which is the subject of the protest. Such service must be made at each party's last known address by actual delivery or by first class mail of the United States Postal Service, postage pre-paid.

B. The City will send notice of the protest to every party to the protestable action which is the subject of the protest by certified or registered mail, return receipt requested, of the United States Postal Service.

5. Any party to the protestable action which is the subject of the protest may file a written response and appropriate supporting documentation with the Office of the City Attorney within seven (7) days after the date of such party's receipt of the protest documents, or the notice of protest, whichever date is earlier.

6. At the same time that any person files any document with the Office of the City Attorney concerning a protest, such person must serve such document upon every party to the protestable action which is the subject of the protest and concurrently file proof of service with the Office of the City Attorney. Service must be made in the same manner used for serving copies of the protest documents. Documents not properly served are subject to being excluded from the record.

7. If any due date for filing documents under these Procedures falls on a Saturday, Sunday or holiday observed by the City, the next regular business day of the City will be the last day for such filing.

8. A. The hearing officer who will review and determine the proper resolution of the protest will be the City Manager or his/her designee.

B. The hearing officer may, in his/her sole discretion, establish reasonable rules for the conduct of the review and proper resolution of the protest. These rules will include the reasonable opportunity to submit additional documents and affidavits relevant to the protest; provided that, the hearing officer must conclude the review and proper resolution of the protest in as expeditious a manner as is reasonably possible. Absent extraordinary circumstances, review and resolution of a protest should be concluded with thirty (30) calendar days after such protest is filed.

C. Unless the hearing officer determines that testimony is necessary to the proper resolution of a protest, all evidence must be submitted in writing and must be supported by affidavit. Sound and visual recordings and any other evidence in non-documentary form will also be received if supported by affidavit. Such affidavits must be filed as part of the party's protest, response or other filing permitted by these Procedures or

the hearing officer. Each affidavit must be completed by an individual having personal knowledge of its contents and swearing or affirming such contents to be true and accurate before an individual authorized by law to administer oaths.

D. Written arguments may be filed, as permitted by the hearing officer. A conference will be held of the hearing officer, protesting party and the Director of CMUD in order to permit the protesting party and Director to present such arguments as the hearing officer determines to be appropriate upon the filing of a written request with the Office of the City Attorney within ten (10) days of the filing of the protest by the protesting party or the Director of C-MUD or upon the direction of the hearing officer. If testimony is to be considered by the hearing officer, such testimony may be presented at the conference. Notice of a conference must be given at least five (5) calendar days before the conference is to be held; provided that, the conference may be continued until such time and with such notice as the hearing officer may determine. No other person will be permitted to participate in such conference, unless expressly permitted by the hearing officer. Such conference will be open to the public.

E. The hearing officer will declare the record of the review of the protest closed after the protesting party and the Director of CMUD have had a reasonable opportunity to present their respective positions. No further documents, affidavits or testimony will be considered by the hearing officer; provided that, the hearing officer may, in his/her sole discretion, permit the parties to the protestable action which is the subject of the protest to file additional written arguments, subject to such terms and conditions as the hearing officer may describe.

F. In the event that two or more protests are filed concerning the same protestable action, the hearing officer may require any two or more of such protests to be consolidated under such terms and conditions as the hearing officer determines to be appropriate.

9. The hearing officer may summarily dismiss a protest without further proceedings under any of the of the following conditions:

A. The protesting party fails to meet the time requirements for filing a protest or substantially fails to comply with any other provision of these procedures or with any order, decision or other direction of the hearing officer; or

B. The protesting party does not agree to the request of the hearing officer or the City Council for a reasonable extension of the bid and bond period; or

C. After considering the protest in the light most favorable to the protesting party, the hearing officer determines

that the protestable action which is the subject of the protest was taken in accordance with applicable law.

10. In determining the proper resolution of a protest, the hearing officer is authorized to:

A. In the event of a protest of a protestable action defined in Paragraph 1(B)(i) of these Procedures which the hearing officer resolves in favor of the protesting party, the hearing officer will require that the Director of CMUD consider such equipment and/or facilities of a protesting party for acquisition as part of the project on such basis and under such conditions as the hearing officer may specify. Such equipment and/or facilities of the protesting party as are covered by this subsection are limited to the equipment and/or facilities as were included in the protesting parties response to the request for proposals, qualifications or bids for the project which resulted in the protestable action which is the subject of the protest.

B. In the event of a protest of a protestable action defined in Paragraph 1(B)(ii) in which the hearing officer determines that the award of the contract by the City Council would not be in accordance with applicable law, the hearing officer will: recommend that the City Council not award the contract but award the contract to such different party as the hearing officer determines to be in accordance with applicable law; or recommend that all bids be rejected and new bids be solicited. In recommending that the award of the contract be to a different party than was previously decided by the City Council, the hearing officer is not limited to recommending the award of such contract to the protesting party.

C. Affirm the protestable action which is the subject of the protest as being in accordance with applicable law.

D. Take such action as is reasonably necessary to provide for the fair and expeditious review of the protest.

11. The hearing officer will issue a written decision setting forth the proper resolution of the protest as soon as practical after the close of the record. A copy of the hearing officer's decision must be served on the protesting party and every other party to the protestable action who files a response or other document with the Office of the City Attorney.

COPY OF A RESOLUTION PASSED BY THE CITY COUNCIL
OF THE CITY OF CHARLOTTE, NORTH CAROLINA

A motion was made by Councilmember Patterson and seconded by
Councilmember Vinroot for the adoption of the following

Resolution, and upon being put to a vote was duly adopted:

WHEREAS, the City of Charlotte and the North Carolina Department of Transportation propose to make certain traffic control improvements under Project 6.677020 and 6.677021, Mecklenburg County, said project to consist of the installation of an electronic variable message sign and support structure and a video camera surveillance system at the interchange of I-77 and Tyvola Road in Charlotte; and,

WHEREAS, the City of Charlotte desires to enter into a municipal agreement with the Department of Transportation whereby the City shall purchase or provide and install the required equipment for the project.

WHEREAS, the Department of Transportation shall reimburse the City a lump-sum amount of \$62,300.00 for the work performed by the City.

NOW, THEREFORE, BE IT RESOLVED that Project 6.677020 and 6.677021, Mecklenburg County, is hereby formally approved by the City Council of the Municipality of Charlotte and that the Mayor and Clerk of this Municipality are hereby empowered to sign and execute the Agreement with the Department of Transportation.

I, Pat Sharkey, Clerk of the Municipality of Charlotte, do hereby certify that the foregoing is a true and correct copy of the excerpts from the Minutes of the meeting of the City Council duly held on the 10th day of October, 1989.

WITNESS, my hand and the official seal of said Municipality on this the 17th day of October, 1989.

(SEAL)

CLERK
MUNICIPALITY OF CHARLOTTE
NORTH CAROLINA

Approved as to Form

Henry W. Underhill Jr.
CITY ATTORNEY

A RESOLUTION PROVIDING FOR PUBLIC
HEARINGS ON PETITIONS FOR ZONING CHANGES

WHEREAS, the City Council has received petitions for zoning changes, which petitions, numbered 89-98 through 89-116 are on record in the Office of the City Clerk, and

WHEREAS, the City Council deems it in the public interest that hearings be held on said petitions,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlotte, that public hearings will be held in the Meeting Chamber located in the Charlotte-Mecklenburg Government Center, Lobby Level, at 600 East Fourth Street beginning at 6:00 o'clock P.M. on Monday, the 30th day of October, 1989 on petitions for zoning changes numbered 89-98 through 89-116.

BE IT FURTHER RESOLVED that notice of said hearings be published as required by law.

APPROVED AS TO FORM:


Henry Underhill, City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 10th day of October, 1989, the reference having been made in Minute Book 93, and is recorded in full in Resolution Book 25, at page(s) 445.

Pat Sharkey
City Clerk

**A RESOLUTION AUTHORIZING THE
REFUND OF CERTAIN TAXES**

Reference is made to the schedule of "Taxpayers and Refunds Requested" attached to the Docket for consideration of the City Council. On the basis of that schedule, which is incorporated herein, the following facts are found:

1. The City-County Tax Collector has collected certain taxes from the taxpayers set out on the list attached to the Docket.
2. The City Tax Collector has certified that those taxpayers have made proper demand in writing for refund of the amounts set out on the schedule within eight years from the date the amounts were due to be paid.
3. The amounts listed on the schedule were collected through clerical error or by a tax illegally levied and assessed.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlotte, North Carolina, in regular session assembled this 10th day of February, 1986, that those taxpayers listed on the schedule of "Taxpayers and Refunds Requested" be refunded in the amounts therein set out and that the schedule and this resolution be spread upon the minutes of this meeting.

Approved as to form:

Henry W. Underhill Jr.
City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 10th day of October, 1989, the reference having been made in Minute Book 93 and recorded in full in Resolution Book 25, page(s) 446.

Pat Sharkey
City Clerk

TAXPAYERS AND REFUNDS REQUESTED

<u>Name</u>	<u>Refund Requested</u>	<u>Reason</u>
Thomas W. Rice	\$ 48.43	Illegal Levy
Thomas W. Rice	67.69	Illegal Levy
Vicki H. Bunton	52.44	Clerical Error
Thomas W. Rice	53.49	Illegal Levy
Jill S. Smith	54.76	Clerical Error
Faison & Associates, Inc.	60.10	Clerical Error
Whitehurst, Don Pontiac, Buick & GMC	66.58	Illegal levy
George Cindric	30.43	Illegal Levy
George Cindric	89.09	Illegal Levy
Vicki H. Bunton	50.06	Clerical Error
Lisa M. Cannon	86.49	Clerical Error
George J. Cindric	64.22	Clerical Error
George J. Cindric	15.90	Illegal Levy
Eric C. & Bettie H. Clark	443.77	Clerical Error
Kelly B. Hamilton	22.95	Illegal Levy
Mark R. Hamilton	73.65	Illegal Levy
Cynthia W. Johnson	53.01	Clerical Error
Benjamin E. Lopez	68.95	Clerical Error
Dorcas C. Rice	97.14	Clerical Error
Jill S. Smith	51.25	Clerical Error
John E. & Diane E. Thomas	90.07	Clerical Error
David O. Vann	75.30	Clerical Error
George W. White	33.70	Clerical Error
Edmund Charles Zuslin	51.17	Illegal Levy
Faison & Associates, Inc.	228.49	Clerical Error
Kentucky Fried Chicken of Matthews	1,245.27	Illegal Levy
McDonnell Douglas Auto Leasing Corp.	84.88	Illegal Levy
N.C.F. Financial Corp.	727.08	Clerical Error
Ninos Bakery, Inc.	522.76	Clerical Error
Sharon R. Osborne	72.60	Illegal Levy
Steve Oxford	18.75	Illegal Levy
Rusty Fuller	50.00	Clerical Error
Ad Management Group of Charlotte	25.00	Clerical Error
Barbara C. Bennett	1,603.24	Clerical Error
Total	\$ 6,378.71	

A RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS
FOR THE ACQUISITION OF CERTAIN REAL PROPERTY

WHEREAS, the City Council of The City of Charlotte finds as a fact that it is necessary to acquire certain property as indicated below for the Back Creek Outfall Receiving Outfall Project; and

WHEREAS, the City either in good faith has undertaken to negotiate for the purchase of this property but has been unable to reach an agreement with the owners for the purchase price or, after reasonable diligence, has been unable to locate all the parties in interest, and has, therefore, been unable to negotiate a purchase price;

NOW, THEREFORE, BE IT RESOLVED by the City Council of The City of Charlotte, that condemnation proceedings are hereby authorized to be instituted against the property indicated below, under the authority and procedures of the laws of the State of North Carolina:

Parties in Interest

Carolina Water Services, Inc. of North Carolina; Any Other Parties in Interest

Property Description

5,485.15 square feet for fee-simple, 3,254.99 square feet for temporary construction easement and any other interest as shown on the Plat attached hereto and incorporated herein by reference for Tax Parcel No. 051-221-59

Appraised Value

\$ 700.00

IT IS FURTHER RESOLVED that the appraised value of the property is hereby authorized to be deposited in the Office of the Clerk of Superior Court, Mecklenburg County, North Carolina, together with the filing of the Complaint and Declaration of Taking.

Approved as to form:


City Attorney

CERTIFICATION

I, Pat Sharkey, City Clerk of the City of Charlotte, North Carolina, do hereby certify that the foregoing is a true and exact copy of a Resolution adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 10th day of October, 1989, the reference having been made in Minute Book 93, and is recorded in full in Resolution Book 25, at page(s) 448.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 17th day of October, 1989.

Pat Sharkey, City Clerk

A RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS
FOR THE ACQUISITION OF CERTAIN REAL PROPERTY

WHEREAS, the City Council of The City of Charlotte finds as a fact that it is necessary to acquire certain property as indicated below for the Sanitary Sewer to Serve Sardis Road Storage Tank and Repump Facility; and

WHEREAS, the City either in good faith has undertaken to negotiate for the purchase of this property but has been unable to reach an agreement with the owners for the purchase price or, after reasonable diligence, has been unable to locate all the parties in interest, and has, therefore, been unable to negotiate a purchase price;

NOW, THEREFORE, BE IT RESOLVED by the City Council of The City of Charlotte, that condemnation proceedings are hereby authorized to be instituted against the property indicated below, under the authority and procedures of the laws of the State of North Carolina:

Parties in Interest

Sardis Mill, Inc.; G. Robert Turner, III, Pender R. McElroy, J. Harold Barnes, Jr., Trustees; Home Federal Savings and Loan Association, Beneficiary; Any Other Parties in Interest

Property Description

7,848.39 square feet for fee-simple; 4,995.07 square feet for temporary construction easement and any other interest as shown on the Plat attached hereto and incorporated herein by reference for Tax Parcel No. 213-032-11

Appraised Value

\$ 4,900.00

IT IS FURTHER RESOLVED that the appraised value of the property is hereby authorized to be deposited in the Office of the Clerk of Superior Court, Mecklenburg County, North Carolina, together with the filing of the Complaint and Declaration of Taking.

Approved as to form:


City Attorney

CERTIFICATION

I, Pat Sharkey, City Clerk of the City of Charlotte, North Carolina, do hereby certify that the foregoing is a true and exact copy of a Resolution adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 10th day of October, 1989, the reference having been made in Minute Book 93, and is recorded in full in Resolution Book 25, at page(s) 449.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 17th day of October, 1989.

Pat Sharkey, City Clerk

A RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS
FOR THE ACQUISITION OF CERTAIN REAL PROPERTY

WHEREAS, the City Council of The City of Charlotte finds as a fact that it is necessary to acquire certain property as indicated below for the Beatties Ford Road Widening Project; and

WHEREAS, the City either in good faith has undertaken to negotiate for the purchase of this property but has been unable to reach an agreement with the owners for the purchase price or, after reasonable diligence, has been unable to locate all the parties in interest, and has, therefore, been unable to negotiate a purchase price;

NOW, THEREFORE, BE IT RESOLVED by the City Council of The City of Charlotte, that condemnation proceedings are hereby authorized to be instituted against the property indicated below, under the authority and procedures of the laws of the State of North Carolina:

Parties in Interest

Fisher and Irvin Co.; and Any Other Parties in Interest

Property Description

14,818 square feet for fee-simple acquisition; 3,166 square feet for temporary construction easement; and any other interest as shown on the Plat attached hereto and incorporated herein by reference for Tax Parcel No. 041-011-04.

Appraised Value

\$ 18,100.00

IT IS FURTHER RESOLVED that the appraised value of the property is hereby authorized to be deposited in the Office of the Clerk of Superior Court, Mecklenburg County, North Carolina, together with the filing of the Complaint and Declaration of Taking.

Approved as to form:

Henry W. Underhill Jr.
City Attorney

CERTIFICATION

I, Pat Sharkey, City Clerk of the City of Charlotte, North Carolina, do hereby certify that the foregoing is a true and exact copy of a Resolution adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 10th day of October, 1989, the reference having been made in Minute Book 93, and is recorded in full in Resolution Book 25, at page(s) 450.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 17th day of October, 1989.

Pat Sharkey, City Clerk