

RESOLUTION WAIVING IMMUNITY FOR THE CITY OF CHARLOTTE
THROUGH THE STATE TORT CLAIMS ACT

WHEREAS, the Charlotte City Council supports a policy that would reasonably and appropriately compensate persons injured or damaged by the legally wrongful acts or omissions of the City, or any of its officers, agents, or employees acting within the scope of their authority and the course of their employment; and

WHEREAS, the City Council does not believe that the right of a person so injured or damaged to be compensated should depend on whether the City was acting in its governmental capacity or its proprietary capacity; and

WHEREAS, despite the foregoing, the City Council has a duty to safeguard and preserve the resources of the City and its taxpaying citizens; and

WHEREAS, the City Council is firmly of the opinion that the City's immunities and potential liabilities should be the same as those of the State of North Carolina; and

WHEREAS, pursuant to G.S. 160A-485.5, the City of Charlotte is authorized to waive its immunity from civil liability in tort in a manner similar to the State of North Carolina's waiver of its immunity through the State Tort Claims Act; and

WHEREAS, the City Council hereby states its intent to waive the City of Charlotte's sovereign immunity in accordance with, and as authorized by G.S. 160A-485.5.

NOW, THEREFORE, be it resolved by the Charlotte City Council:

1. As authorized by G.S. 160A-485.5, the City of Charlotte hereby waives sovereign immunity from civil liability in tort pursuant to Article 31 of Chapter 143 of the General Statutes, as modified by G.S. 160A-485(b), and subject to the limitations set forth in G.S. 160A-485.5(c).
2. Except to the extent that it has waived its immunity herein, the City intends and hereby does retain its sovereign immunity from civil liability in tort for any and all amounts in excess of the maximum amount set forth in G.S. 143-299.2, as it may be amended from time to time.
3. Except to the extent that the City has waived its immunity pursuant to this resolution, the City Attorney, and such other attorneys who may be designated to defend the City or its agents, servants or employees acting within the course and scope of their employment or authority, are hereby instructed to assert the defense of sovereign immunity to the extent allowed by law in every tort claim or lawsuit against the City or its agents, servants or employees acting within the course and scope of their employment or authority, and to refrain from waiving such defense.

4. The Resolution adopted by the City Council on February 28, 2005, recorded in Resolution Book 39, pages 571-573, and titled "Resolution Waiving Governmental Immunity from Civil Liability in Tort for the City of Charlotte under Certain Specified Conditions and Limitations", is hereby repealed.
5. This Resolution shall be effective upon adoption, and shall apply to all claims arising on or after the passage of this resolution, until such time as this Resolution may be amended or repealed.

This the 12th day of October, 2009.

Mayor Pat McCrory

CERTIFICATION

I, Melissa T. Johnson, Deputy 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 12th day October, 2009, the reference having been made in Minute Book 128, and recorded in full in Resolution Book 42, Pages (226-227).

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 15th day of October, 2009.


Melissa T. Johnson, Deputy City Clerk

**A RESOLUTION AUTHORIZING THE REFUND OF
CERTAIN BUSINESS PRIVILEGE LICENSES**

Reference is made to the schedule of "Business Privilege License 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:

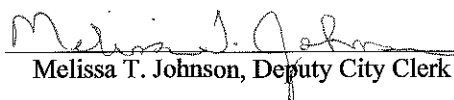
1. The City-County Tax Collector has collected certain taxes from the taxpayers set out on the list attached to the Docket.
2. The City-County Tax Collector has certified that those taxpayers have made proper demand in writing for refund of the amounts set out on the schedule within the required time limits.
3. The amounts listed on the schedule were collected through either a clerical or assessor error.

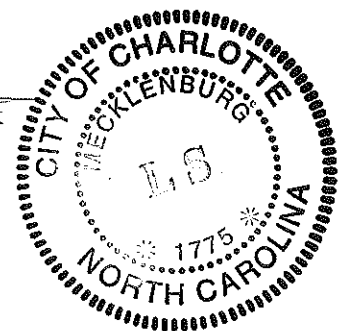
NOW, THEREFORE, BE RESOLVED by the City Council of the City of Charlotte, North Carolina, in regular session assembled this 12th day of October 2009 that those taxpayers listed on the schedule of "Business Privilege License Refunds Requested" be refunded in the amounts therein set up and that the schedule and this resolution be spread upon the minutes of this meeting.

CERTIFICATION

I, Melissa T. Johnson, Deputy 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 12th day October, 2009, the reference having been made in Minute Book 128, and recorded in full in Resolution Book 42, Pages (228-229).

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 15th day of October, 2009.


Melissa T. Johnson, Deputy City Clerk



BUSINESS PRIVILEGE LICENSE
REFUNDS REQUESTED

<u>NAME</u>	<u>AMOUNT</u>
DenimAffair LLC	\$ 1,094.00
Inward Design	32.50
TOTAL	<u>\$ 1,126.50</u>

A RESOLUTION AUTHORIZING THE REFUND OF PROPERTY 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 property taxes from the taxpayers set out on the list attached to the Docket.
2. The City-County Tax Collector has certified that those taxpayers have made proper demand in writing for refund of the amounts set out on the schedule within the required time limits.
3. The amounts listed on the schedule were collected through either a clerical or assessor error.

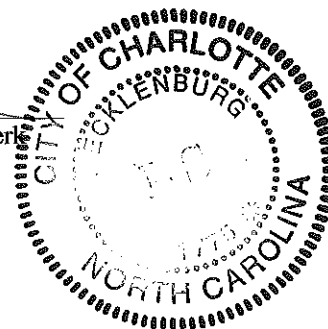
NOW, THEREFORE, BE RESOLVED by the City Council of the City of Charlotte, North Carolina, in regular session assembled this 12th day of October, 2009 that those taxpayers listed on the schedule of "Taxpayers and Refunds Requested" be refunded in the amounts therein set up and that the schedule and this resolution be spread upon the minutes of this meeting.

CERTIFICATION

I, Melissa T. Johnson, Deputy 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 12th day October, 2009, the reference having been made in Minute Book 128, and recorded in full in Resolution Book 42, Pages (230-231).

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 15th day of October, 2009.


Melissa T. Johnson, Deputy City Clerk



TAXPAYERS AND REFUNDS REQUESTED
(Clerical Error)

<u>NAME</u>	<u>AMOUNT</u>
HARRISON, EDWARD	\$ 55.04
WELLS FARGO HOME MORTGAGE	225.62
BAC TAX SERVICES CORP	447.65
NINE THOUSAND NAILS	26.73
WHITAKER, ROBERT	24.31
HILL, MARY A	62.04
BOVIS LEND LEASE HOLDINGS INC C/O RASH #63-33-1012	487.66
STACEY, NANCY M	76.79
WATTS, DORIS R	48.48
KYLIGLEN LLC	167.05
CP MORGAN COMMUNITIES OF CHARLOTTE LLC	82.09
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TOTAL	<u>\$ 1,703.46</u>

RESOLUTION DECLARING AN INTENT TO ABANDON AND CLOSE a residual portion of Matheson Avenue and a 10-foot alleyway between Wesley Avenue and Matheson Avenue in the City of Charlotte, Mecklenburg County, North Carolina

Whereas, **Paul V. Mee** has filed a petition to close **a residual portion of Matheson Avenue and a 10-foot alleyway between Wesley Avenue and Matheson Avenue** in the City of Charlotte; and

Whereas, a residual portion of Matheson Avenue and a 10-foot alleyway between Wesley Avenue and Matheson Avenue to be closed lies within the Historic North Charlotte Neighborhood Association. A residual portion of Matheson Avenue: beginning approximately 200-feet southeast from Clemson Avenue continuing approximately 30-feet southeastwardly to its terminus at a 10-foot alleyway. A 10-foot alleyway: beginning at Wesley Avenue and continuing approximately 80-feet in a southern direction to its terminus at Matheson Avenue, as shown in the maps marked "Exhibit A-1 and A-2" and is more particularly described by metes and bounds in documents marked "Exhibit B-1 and B-2" both of which are available for inspection in the office of the City Clerk, City Hall, Charlotte, North Carolina; and

Whereas, the procedure for closing streets and alleys as outlined in the North Carolina General Statutes, Section 160A-299, requires that City Council first adopt a resolution declaring its intent to close the street and calling a public hearing on the question; said statute further requires that the resolution shall be published once a week for two successive weeks prior to the hearing, and a copy thereof be sent by registered or certified mail to all owners of property adjoining the street as shown on the county tax records, and a notice of the closing and public hearing shall be prominently posted in at least two places along said street or alley.

Now, therefore, be it resolved, by the City Council of the City of Charlotte, at it's regularly scheduled session of October 12, 2009, that it intends to close a residual portion of Matheson Avenue and a 10-foot alleyway between Wesley Avenue and Matheson Avenue and that the said street (or portion thereof) being more particularly described on a map and calls a public hearing on the question to be held at 7:00pm on Monday, the 23rd day of November, 2009, in CMGC meeting chamber, 600 East 4th Street Charlotte North Carolina.

The City Clerk is hereby directed to publish a copy of this resolution in the Mecklenburg Times once a week for two successive weeks next preceding the date fixed here for such hearing as required by N.C.G.S. 160A-299.

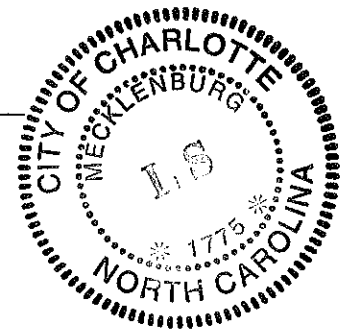
CERTIFICATION

I, Melissa T. Johnson, Deputy 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 12th day October, 2009, the reference having been made in Minute Book 128, and recorded in full in Resolution Book 42, Pages (232-233).

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 15th day of October, 2009.



Melissa T. Johnson, Deputy City Clerk



EXTRACTS FROM MINUTES OF CITY COUNCIL

* * *

A Regular Meeting of the City Council of the City of Charlotte, North Carolina was duly held in the Meeting Chamber at the Charlotte-Mecklenburg Government Center in Charlotte, North Carolina, the regular place of meeting, at 7:00 p.m. on October 12, 2009:

Members Present: Turner, Mitchell, Peacock, Burgess, Mayor McCrory,
Lassiter, Foxx, Carter, Kinsey, Barnes, Dula,
Cooksy

Members Absent: None

* * * * *

* * *

Councilmember Burgess introduced the following resolution, a summary of which had been provided to each Councilmember, copy of which was available with the City Council and which was read by title:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA, DIRECTING THE APPLICATION TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF WATER AND SEWER SYSTEM REVENUE BONDS; REQUESTING LOCAL GOVERNMENT COMMISSION APPROVAL OF THE CITY'S WATER AND SEWER SYSTEM REVENUE BONDS, SERIES 2009B AND CERTAIN RELATED MATTERS.

WHEREAS, the City Council (the "City Council") of the City of Charlotte, North Carolina (the "City") hereby determines that it is desirable to (1) refinance all of the City's outstanding Water and Sewer System Commercial Paper Revenue Bond Anticipation Notes, Series 2004 (the "Commercial Paper"), the proceeds of which were used to improve its water and sanitary sewer systems (collectively, the "Water and Sewer System"), including, but not limited to, the extension of existing water and sewer lines and rehabilitation or replacement of others; construction of new water and sewer mains and outfalls; rehabilitation and upgrades of water and wastewater treatment plants; and acquisition of land and (2) finance additional improvements to the Water and Sewer System (collectively with the projects being refinanced, the "Project");

WHEREAS, the City Council is considering the issuance of not to exceed \$400,000,000 Water and Sewer System Revenue Bonds, Series 2009B of the City (the "2009B Bonds") to refinance the Commercial Paper and finance the Project;

WHEREAS, the City Council wants to (A) retain Parker Poe Adams & Bernstein LLP, as bond

counsel; (B) retain Wachovia Bank, National Association (d/b/a Wells Fargo Securities), and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as underwriters for the 2009B Bonds (the "*Underwriters*"); (C) approve the selection by the Underwriters of McGuireWoods LLP, as underwriters' counsel; (D) retain Waters and Company LLC, as financial consultant, and DEC Associates, Inc., as financial advisor; and (E) retain U. S. Bank National Association of Charlotte, North Carolina, as trustee for the 2009B Bonds (collectively, the "*Financing Team*"); and

WHEREAS, the City Council wants the Director of Finance of the City to file with the Local Government Commission of North Carolina (the "*Commission*") an application for its approval of the 2009B Bonds, on a form prescribed by the Commission, and (1) request in such application that the Commission approve (A) the negotiation of the sale of the 2009B Bonds to the Underwriters, (B) the City's use of the Financing Team in connection with the issuance of the 2009B Bonds; and (2) state in such application such facts and to attach thereto such exhibits in regard to the 2009B Bonds and to the City and its financial condition, as may be required by the Commission, and to take all other action necessary to the issuance of the 2009B Bonds.

WHEREAS, a form of the Preliminary Official Statement (the "*Preliminary Official Statement*") with respect to the 2009B Bonds has been made available to the City Council;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA DOES RESOLVE AS FOLLOWS:

Section 1. That the 2009B Bonds are to be issued by the City in one or more series for the purpose of providing funds (1) to finance and refinance the costs of the Project, (2) to fund a debt service reserve for the 2009B Bonds or purchase a surety policy in lieu thereof, if necessary, and (3) to pay the costs of issuing the 2009B Bonds all as set out fully in the documents attached to the City's application to the Commission. The use of the proceeds of the 2009B Bonds, as described, is necessary in order to meet the expanding needs of the users of the Water and Sewer System and to assure that the Water and Sewer System remains in full compliance with all state and federal requirements for the provision of water and sanitary sewer services.

Section 2. That the Financing Team is hereby approved in connection with the issuance by the City of the 2009B Bonds.

Section 3. That the Director of Finance of the City with advice from the City Manager and bond counsel, is hereby authorized, directed and designated to file an application with the North Carolina Local Government Commission for its approval of the issuance of the 2009B Bonds.

Section 4. That the City Council finds and determines and asks the Commission to find and determine from the City's application and supporting documentation:

- (a) that the issuance of the 2009B Bonds is necessary or expedient;
- (b) that the not to exceed stated principal amount of the 2009B Bonds will be sufficient but is not excessive, when added to other moneys available to the Water and Sewer System, to refinance the Commercial Paper and finance the Project;
- (c) that the Water and Sewer System as now constituted and after the completion of the Project is feasible;
- (d) that the City's debt management procedure and policies are excellent; and
- (e) that the 2009B Bonds can be marketed at a reasonable interest cost to the City.

Section 5. That the Mayor, the City Manager and the Director of Finance are hereby authorized to do any and all other things necessary to complete the steps necessary for the issuance of the 2009B Bonds.

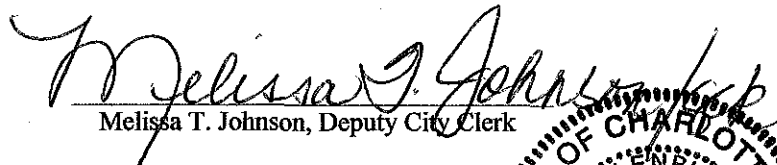
Section 6. That the City Council requests that the Commission sell the 2009B Bonds through negotiation to the Underwriters on such terms as may be agreed on but at a true interest cost not exceeding 5.75%. The form and content of the Preliminary Official Statement with respect to the 2009B Bonds are in all respects authorized, approved and confirmed, and the use of the Preliminary Official Statement by the Underwriters in connection with the sale of the 2009B Bonds is hereby in all respects authorized, approved and confirmed.

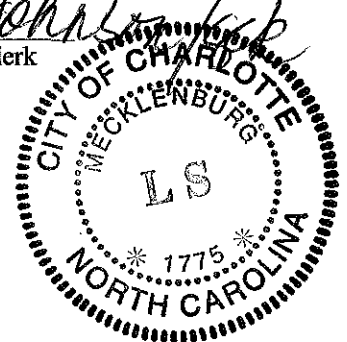
Section 7. That this Resolution is effective on the date of its adoption.

CERTIFICATION

I, Melissa T. Johnson, Deputy 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 12th day October, 2009, the reference having been made in Minute Book 128, and recorded in full in Resolution Book 42, Pages (234-236).

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 15th day of October, 2009.


Melissa T. Johnson, Deputy City Clerk



RESOLUTION AUTHORIZING THE LEASE
OF CELL TOWER PROPERTY TO T-MOBILE SOUTH LLC

WHEREAS, the City of Charlotte owns approximately 10.86 acres of property at 5315 Sharon Road, in Charlotte, Mecklenburg County, North Carolina (the "Property"); and

WHEREAS, the Property contains a telecommunications tower, constructed and used by the City, which has square footage and space which is suitable for the placement of additional communications equipment which will not interfere with the City's current or future needs; and

WHEREAS, T-Mobile South LLC desires to lease approximately 300 square feet of the Property, along with space on the tower, for the installation and maintenance of personal communications equipment, services and related facilities for a term of five years, with the right to renew for four additional five-year terms; and

WHEREAS, in consideration of leasing this portion of the Property, T-Mobile South LLC has agreed to pay market rent in the monthly amount of One Thousand Five Hundred Dollars (\$1,500) through June 30, 2010, with the monthly rent increasing by three percent (3%) on July 1, 2010 and on July 1 of each successive year of the lease term; and

WHEREAS, Section 8.131 of the Charter of the City of Charlotte authorizes the City to lease its property for terms of more than ten years upon resolution of the City Council adopted at a regular meeting after public notice; and

WHEREAS, the required notice has been published and Council is convened in a regular meeting;

NOW THEREFORE, BE IT RESOLVED by the City Council for the City of Charlotte, pursuant to Section 8.131 of the City of Charlotte Charter, that it hereby authorizes the lease of the above referenced Property as follows:

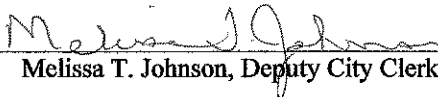
The City Council hereby approves lease of the City property described above to T-Mobile South LLC for five years, with the lessee holding a right to renew for four additional five-year periods, and authorizes the City Manager or his Designee to execute any instruments necessary to the lease.

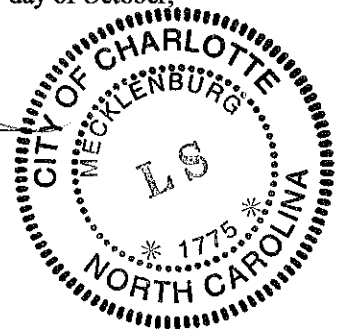
THIS THE 12th DAY OF OCTOBER, 2009.

CERTIFICATION

I, Melissa T. Johnson, Deputy 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 12th day October, 2009, the reference having been made in Minute Book 128, and recorded in full in Resolution Book 42, Pages (237-238).

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 15th day of October, 2009.


Melissa T. Johnson, Deputy 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 **TUCKASEEGEE ROAD SIDEWALK-HEATHER GLEN LANE AT BROWN AVENUE 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 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:

PROPERTY DESCRIPTION:

Amount necessary for the **TUCKASEEGEE ROAD SIDEWALK-HEATHER GLEN LANE AT BROWN AVENUE PROJECT** and estimated to be approximately **2,987 square feet (.069 acre) of sidewalk/utility easement and temporary construction easement** and any additional property or interest as the City may determine to complete the Project, as it relates to Tax Parcel No. 061-171-93, said property currently owned by **VINCENT K. MORRIS and spouse, if any, Any Other Parties in Interest**, or the owners' successor-in-interest.

ESTIMATED JUST COMPENSATION:


Such estimated just compensation as may be determined based upon the takings required by the final construction plans.

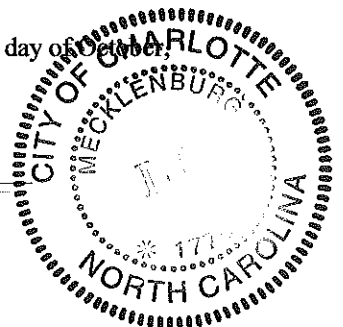
IT IS FURTHER RESOLVED that the estimated just compensation for the property is hereby authorized to be deposited in the Office of the Clerk of Superior Court, Mecklenburg County, North Carolina, together with the filing of the Complaint and Declaration of Taking.

CERTIFICATION

I, Melissa T. Johnson, Deputy 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 12th day October, 2009, the reference having been made in Minute Book 128, and recorded in full in Resolution Book 42, Page 239.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 15th day of October, 2009.


Melissa T. Johnson, Deputy City Clerk



**Resolution of Support for TIGER Grant Stimulus Funding for the
North Corridor Commuter Rail Line**

Whereas, the Charlotte Mecklenburg Region has made tremendous progress in providing mass transit alternative means of transportation; and

Whereas, the LYNX Blue Line project exceeded original ridership estimates by 65%; and

Whereas, the Metropolitan Transit Commission (MTC) has identified the Northeast and North corridors as priorities for future construction because of existing high density land use decisions near the corridors and area citizen support; and

Whereas, the Northeast corridor has qualified for federal "New Starts" funding and is being considered for continued federal funding for engineering design; and

Whereas, the North Corridor has advanced design and is relatively easy to construct for commuter rail service, but does not meet current federal standards for funding; and

Whereas, the federal stimulus package contains \$1.5 billion nationwide for TIGER grant funding for innovative regional transportation projects; and

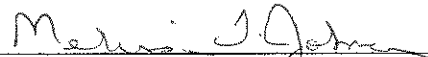
Whereas, the State of North Carolina has requested the maximum TIGER grant for any single state of \$300 million for replacing the I-85 Bridge over the Yadkin River.

Now therefore, be it resolved that the Charlotte City Council endorses the TIGER grant request for replacement of the Yadkin River Bridge, but requests that the State of North Carolina and our federal legislative Delegation fully support the North Corridor Commuter Rail project for TIGER funding in the event the Yadkin River Bridge project does not qualify for TIGER grant funding.

CERTIFICATION

I, Melissa T. Johnson, Deputy 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 12th day October, 2009, the reference having been made in Minute Book 128, and recorded in full in Resolution Book 42, Pages (240-241).

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 15th day of October, 2009.


Melissa T. Johnson, Deputy City Clerk

