

EXTRACTS FROM MINUTES OF CITY COUNCIL

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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 September 10, 2018:

Members Present: Lyles, Ajmera, Bokhari, Driggs, Egleston, Mayfield, Newton, Phipps, Eiselt, Harlow, Mitchell, Winston

Members Absent: None

\* \* \* \* \*

\* \* \*

Councilmember Newton/Mayfield introduced the following resolution (the "*Resolution*"), a summary of which had been provided to each Councilmember, copy of which was available with the City Clerk and which was read by title:

**RESOLUTION OF THE CITY OF CHARLOTTE, NORTH CAROLINA AUTHORIZING AND APPROVING AN INSTALLMENT FINANCING CONTRACT AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO**

*WHEREAS*, the City of Charlotte, North Carolina (the "*City*") is a municipal corporation duly created and validly existing under and by virtue of the constitution, statutes and laws of the State of North Carolina (the "*State*");

*WHEREAS*, the City has the power pursuant to the General Statutes of North Carolina to (1) purchase real and personal property, (2) enter into installment contracts in order to finance the purchase or improvement of real and personal property used, or to be used, for public purposes, and (3) grant a security interest in some or all of the property purchased or improved to secure repayment of the purchase price;

*WHEREAS*, the City Council of the City (the "*City Council*") hereby determines that it is in the best interest of the City to enter into an installment financing contract (the "*Contract*") with New Charlotte Corporation (the "*Corporation*") (1) in order to provide funds to finance (a) the acquisition and installation of equipment for, and improvements to, the Spectrum Center Arena (b) the acquisition, construction, furnishing, equipping and/or improvement of various governmental and public facilities, including the Bojangles' Coliseum/Ovens Auditorium Complex and various police stations and facilities and (c) the acquisition and installation of governmental equipment (the "*Equipment*"), all in accordance

with the City's Capital Improvement Plan (collectively, the "Projects") and (2) to pay certain costs incurred in connection with the execution and delivery of the Contract;

*WHEREAS*, in connection with the execution and delivery of the Contract, and to secure its obligations thereunder, the City Council hereby further determines that it is in the best interest of the City to authorize the City to (1) enter into a deed of trust, security agreement and fixture filing (the "Deed of Trust") related to all or a portion of the City's fee simple interest in certain of the real property on which the Projects are or will be located (the "Sites," and together with the improvements thereon, the "Mortgaged Property") and (2) grant to the Corporation and its assignee under the Contract a security interest in the Equipment acquired with the proceeds of the Contract, all as may be required for the benefit of the entity, or its assigns, providing the funds to the City under the Contract, including any future amendments thereto;

*WHEREAS*, City hereby determines that the acquisition, construction, furnishing and equipping of the Projects and/or the improvement thereof is essential to the City's proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the Projects will provide an essential use and will permit the City to carry out public functions that it is authorized by law to perform; and that entering into the Contract and Deed of Trust is necessary and expedient for the City by virtue of the findings presented herein;

*WHEREAS*, the City hereby determines that the Contract allows the City to finance the Projects and to take title thereto at a favorable interest rate currently available in the financial marketplace and on terms advantageous to the City;

*WHEREAS*, the City hereby determines that the estimated cost of financing the Projects is an amount not to exceed \$83,160,000, and that such cost of financing the Projects exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the City in the current fiscal year pursuant to Article V, Section 4 of the constitution of the State;

*WHEREAS*, although the cost of financing the Projects pursuant to the Contract is expected to exceed the cost thereof pursuant to a bond financing for the same undertaking, the City hereby determines that the cost of financing the Projects pursuant to the Contract and Deed of Trust and the obligations of the City thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of financing the Projects; and (3) insufficient revenues are produced by the Projects so as to permit a revenue bond financing;

*WHEREAS*, the City has determined and hereby determines that the estimated cost of financing the Projects pursuant to the Contract reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

*WHEREAS*, the City does not anticipate a future property tax increase to pay installment payments falling due under the Contract;

*WHEREAS*, the sums to fall due under the Contract will be adequate but not excessive for its proposed purpose;

*WHEREAS*, Parker Poe Adams & Bernstein LLP, as special counsel, will render an opinion to the effect that entering into the Contract and the transactions contemplated thereby are authorized by law;

*WHEREAS*, the obligation of the City to make installment payments under the Contract does not constitute a pledge of the faith and credit of the City within the meaning of any constitutional debt limitation and the taxing power of the City is not and may not be pledged in any way directly or indirectly or contingently to secure any money due under the Contract;

*WHEREAS*, no deficiency judgment may be rendered against the City in any action for its breach of the Contract;

*WHEREAS*, the City is not in default under any of its debt service obligations;

*WHEREAS*, the City's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the City has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget ordinance;

*WHEREAS*, past audit reports of the City indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the City has not been censured by the Local Government Commission of North Carolina (the "*LGC*"), external auditors or any other regulatory agencies in connection with such debt management and contract obligation payment policies;

*WHEREAS*, to assist the City in financing the Projects, the Corporation will execute and deliver one or more series of certificates of participation to evidence proportionate undivided interests in rights to receive certain payments pursuant to the Contract (collectively, the "*2018 Certificates*");

*WHEREAS*, in connection with the sale of the 2018 Certificates by the Corporation to Merrill Lynch, Pierce, Fenner & Smith Incorporated and Wells Fargo Bank, National Association (collectively, the "*Underwriters*"), the Corporation will enter into the Contract of Purchase (as defined below) and the City will execute a Letter of Representation to the Underwriters (the "*Letter of Representation*");

*WHEREAS*, there have been described to the City Council the forms of the following documents (collectively, the "*Instruments*"), copies of which have been made available to the City Council, which the City Council proposes to approve, enter into and deliver, as applicable, to effectuate the proposed installment financing:

- (1) the Contract;
- (2) the Deed of Trust;
- (3) an Indenture of Trust dated as of November 1, 2018 (the "*Indenture*") between the Corporation and U.S. Bank National Association;
- (4) a Contract of Purchase to be dated on or about October 25, 2018 (the "*Contract of Purchase*") between the Corporation and the Underwriters; and
- (5) the Letter of Representation;

*WHEREAS*, to make an offering and sale of the 2018 Certificates, there will be prepared a Preliminary Official Statement (the "*Preliminary Official Statement*"), a draft thereof having been made available to the City Council, and a final Official Statement (collectively with the Preliminary Official Statement, the "*Official Statement*") with respect to the 2018 Certificates, which Official Statement will contain certain information regarding the City;

*WHEREAS*, it appears that each of the Instruments and the Preliminary Official Statement is in an appropriate form and is an appropriate instrument for the purposes intended;

*WHEREAS*, the City Council conducted a public hearing on September 10, 2018 to receive public comment concerning the approval of the execution and delivery of the Contract and the Deed of Trust and the City's acquisition, construction, furnishing, equipping and/or improvement of the Projects; and

*WHEREAS*, the City has filed with the LGC an application with respect to the Contract and expects to receive approval of the Contract by the LGC at its October meeting;

*WHEREAS*, with respect to the 2018 Certificates, Parker Poe Adams & Bernstein LLP will serve as special counsel and Corporation's counsel, DEC Associates, Inc. will serve as financial advisor, Merrill Lynch, Pierce, Fenner & Smith Incorporated and Wells Fargo Bank, National Association will serve as underwriters, U.S. Bank National Association will serve as trustee and McGuireWoods LLP will serve as underwriters' counsel, (collectively, the "*Financing Team*");

***NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA, AS FOLLOWS:***

*Section 1. Ratification of Instruments.* All actions of the City, the Mayor, the City Manager, the Deputy City Manager, the Finance Officer (as defined in §159-24 of the General Statutes of North Carolina, as amended), the City Treasurer, the City Debt Manager, the City Clerk, the Deputy City Clerk and the City Attorney, including anyone serving as such in an interim capacity, or their respective designees (the "*Authorized Officers*"), whether previously or hereinafter taken, in effectuating the proposed financing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Instruments.

*Section 2. Authorization of the Official Statement.* The form, terms and content of the Official Statement are in all respects authorized, approved and confirmed, and the use of the Official Statement by the Underwriters in connection with the sale of the 2018 Certificates is hereby in all respects authorized, approved and confirmed.

*Section 3. Authorization to Execute the Contract.* The City approves the financing of the Projects pursuant to the Contract, which will be a valid, legal and binding obligation of the City in accordance with its terms. The form and content of the Contract are hereby authorized, approved and confirmed in all respects, and the Authorized Officers are hereby authorized, empowered and directed to execute and deliver the Contract, including necessary counterparts, in substantially the form and content presented to the City Council, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate. Execution by the Authorized Officers of the Contract will constitute conclusive evidence of the City's approval of any and all changes, modifications, additions or deletions therein from the form and content of the Contract presented to the City Council. From and after the execution and delivery of the Contract, the Authorized Officers are hereby authorized, empowered



and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Contract as executed.

*Section 4. Authorization to Execute the Deed of Trust.* The City approves the form and content of the Deed of Trust and the Deed of Trust is hereby authorized, approved and confirmed in all respects. The Authorized Officers are hereby authorized, empowered and directed to execute and deliver the Deed of Trust, including necessary counterparts, in substantially the form and content presented to the City Council, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate. Execution by the Authorized Officers of the Deed of Trust will constitute conclusive evidence of the City's approval of any and all such changes, modifications, additions or deletions therein from the form and content of the Deed of Trust presented to the City Council. From and after the execution and delivery of the Deed of Trust, the Authorized Officers are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Deed of Trust as executed.

*Section 5. Letter of Representation.* The form and content of the Contract of Purchase are hereby approved in all respects. The City Manager, the Deputy City Manager, the Finance Officer, or their respective designees, are authorized to execute the Letter of Representation for the purposes stated therein.

*Section 6. City Representative.* The Authorized Officers are hereby designated as the City's representatives to act on behalf of the City in connection with the transaction contemplated by the Instruments and the Official Statement. Each Authorized Officer is authorized to proceed with the financing of the Projects in accordance with the Instruments and to seek opinions as a matter of law from the City Attorney, which City Attorney is authorized to furnish on behalf of the City, and opinions of law from such other attorneys for all documents contemplated hereby as required by law. The City's representatives or designees are in all respects authorized on behalf of the City to supply all information pertaining to the City as purchaser under the Contract for use in the Official Statement and the transactions contemplated by the Instruments or the Official Statement. The Authorized Officers are hereby authorized, empowered and directed to do any and all other acts and to execute any and all other documents, which they, in their discretion, deem necessary or appropriate to consummate the transactions contemplated by the Instruments or the Official Statement or as they deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution. Any and all acts of the Authorized Officers may be done individually or collectively.

*Section 7. Financing Team.* The Financing Team for the 2018 Certificates is hereby approved.

*Section 8. Severability.* If any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration will not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

*Section 9. Repealer.* All motions, orders, resolutions and parts thereof in conflict with this Resolution are hereby repealed.

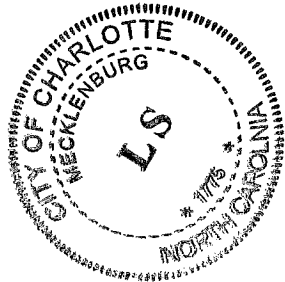
*Section 10. Effective Date.* This Resolution is effective on the date of its adoption.

STATE OF NORTH CAROLINA            )  
  )  
CITY OF CHARLOTTE                    )        ss:

I, Emily A. Kunze, the 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 entitled **“RESOLUTION OF THE CITY OF CHARLOTTE, NORTH CAROLINA AUTHORIZING AND APPROVING AN INSTALLMENT FINANCING CONTRACT AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO”** adopted by the City Council of the City of Charlotte, North Carolina, at a meeting held on the 10<sup>th</sup> day of September, 2018, the reference having been made in Minute Book 146, and recorded in full in Resolution Book 49, Page(s) 129-134.

*WITNESS* my hand and the corporate seal of the City of Charlotte, North Carolina, this the 10th day of September, 2018.

[Seal]



Emily A. Kunze  
Deputy City Clerk  
City of Charlotte, North Carolina

**RESOLUTION PASSED BY THE CITY COUNCIL OF THE  
CITY OF CHARLOTTE, NORTH CAROLINA ON SEPTEMBER 10, 2018**

A motion was made by Councilmember Egleston and seconded by Councilmember Mayfield for the adoption of the following Resolution, and upon being put to a vote was duly adopted:

WHEREAS, the City of Charlotte allocated Community Investment Plan (CIP) funding for bicycle and pedestrian enhancements as part of the I-485 Project (the "Project"),

WHEREAS, the Project will be partially funded using North Carolina Department of Transportation's State Transportation Improvement Program (STIP) funds,

WHEREAS, a Municipal Agreement between the City and the State will provide up to \$1,094,790 in City funding to the Project,

WHEREAS, the Municipal Agreement specifies items eligible for funding project costs that include betterments to enhance pedestrian and bicycle safety and connectivity to the Ballantyne Commons Parkway Bridge, the Elm Lane Bridge, and the Weddington Road Bridge, and their approaches, and

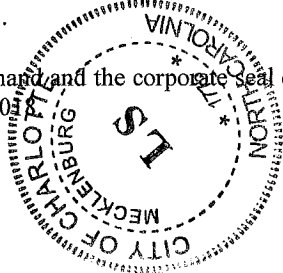
WHEREAS, the format and cost sharing philosophy is consistent with past municipal agreements.

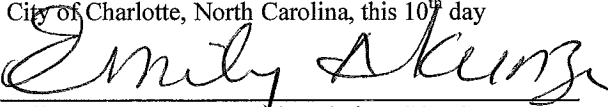
NOW, THEREFORE, BE IT RESOLVED that a Municipal Agreement with the North Carolina Department of Transportation for the City to provide \$1,094,790 for bicycle and pedestrian enhancements as part of the I-485 Project is hereby formally adopted by City Council of the City of Charlotte, and the City Manager and Clerk of this Municipality are hereby empowered to sign and execute the Agreement with the aforementioned groups.

**CERTIFICATION**

I, Emily A. Kunze, 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 10<sup>th</sup> day of September, 2018, the reference having been made in Minute Book 146, and recorded in full in Resolution Book 49, Page(s) 135-141.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 10<sup>th</sup> day of September, 2018.



  
Emily A. Kunze, Deputy City Clerk, NCCMC

NORTH CAROLINA

**TRANSPORTATION IMPROVEMENT PROJECT -  
DESIGN-BUILD AGREEMENT WITH BETTERMENTS**

MECKLENBURG COUNTY

DATE: 8/16/2018

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

TIP #: I-5507/R-0211EC/U-4714AB

AND

WBS Elements: 43609.3.2

CITY OF CHARLOTTE

THIS MUNICIPAL AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the City of Charlotte, a local government entity, hereinafter referred to as the "Municipality".

**WITNESSETH:**

WHEREAS, the Department has plans to make certain street and highway constructions and improvements within the Municipality under WBS Element 43609.3.2, in Mecklenburg County; and,

WHEREAS, the Department and the Municipality have agreed that the municipal limits, as of the date of the awarding of the contract for the construction of the above-mentioned project, are to be used in determining the duties, responsibilities, rights and legal obligations of the parties hereto for the purposes of this Agreement; and,

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly, including but not limited to, the following legislation: General Statutes of North Carolina (NCGS), Section 136-66.1, Section 160A-296 and 297, Section 136-18, and Section 20-169, to participate in the planning and construction of a Project approved by the Board of Transportation for the safe and efficient utilization of transportation systems for the public good; and,

WHEREAS, the Design-Build Project I-5507 is combined with R-0211EC and U-4714AB; and

WHEREAS, the parties to this Agreement have approved the construction of said Project with cost participation and responsibilities for the Project as hereinafter set out.

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

## **SCOPE OF THE PROJECT**

1. The Design-Build Project consists of the installation of express lanes on I-485 from I-77 to US 74 (Independence Boulevard), including construction of the I-485 / Weddington Road Interchange and improvements to the I-485 / East John Street - Old Monroe Road Interchange.

### **Ballantyne Commons Parkway**

- A. At the request of the Municipality, construction will include Betterments for additional 4-feet of bridge for raised sidewalk on the Ballantyne Commons Parkway Bridge. The Department and the Municipality will also participate in a cost share for 10-feet of shared use paths (5-feet on each side) on the bridge approaches along Ballantyne Commons Parkway. Said work shall be performed in accordance with Departmental policies, procedures, standards and specifications.

### **Elm Lane**

- B. At the request of the Municipality, construction will include Betterments for additional 1-foot of bridge width and cost of concrete barrier on the Elm Lane Bridge. The Department and the Municipality will also participate in a cost share for 5-feet sidewalk on the east side and 5-feet shared use path on the west side of bridge approaches along Elm Lane. Said work shall be performed in accordance with Departmental policies, procedures, standards and specifications.

### **Weddington Road**

- C. At the request of the Municipality, construction will include Betterments for additional 5-feet of bridge for a raised sidewalk on the west side of the Weddington Road Bridge. The Department will include Betterments for 1-foot additional sidewalk on the west side of Weddington Road throughout the Weddington Road construction limits. The Department and the Municipality will also participate in a cost share for 5-feet sidewalk in areas along the west side of Weddington Road that do not have existing sidewalk. Said work shall be performed in accordance with Departmental policies, procedures, standards and specifications.

## **PLANNING AND DESIGN**

2. The Department shall prepare the environmental and/or planning document, and obtain any environmental permits needed to construct the Project, and prepare the Project plans and

specifications needed to construct the Project. All work shall be done in accordance with departmental standards, specifications, policies and procedures.

### **RIGHT OF WAY**

3. The Department shall be responsible for acquiring any needed right of way required for the Project. Acquisition of right of way shall be accomplished in accordance with the policies and procedures set forth in the North Carolina Right of Way Manual.

### **UTILITIES**

4. If a request for utility betterments is received from the Municipality, a separate Utility Agreement will be prepared to determine the reimbursement terms and costs for the relocation and/or adjustment of municipally owned utilities. The Municipality shall be responsible for reimbursing the Department the costs associated with said relocation.

### **CONSTRUCTION**

5. The Department shall construct, or cause to be constructed, the Project in accordance with the plans and specifications of said Project as filed with, and approved by, the Department. The Department shall administer the construction contract for said Project.

### **MAINTENANCE**

6. Upon completion of the Project, only those improvements within the state owned right of way shall be owned and maintained by the Department. The Department shall be responsible for all traffic operating controls and devices which shall be established, enforced, and installed and maintained in accordance with the North Carolina General Statutes, the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, the latest edition of the "Policy on Street and Driveway Access to North Carolina Highways", and departmental criteria.
7. The Municipality, at no expense to the Department, shall assume all maintenance responsibilities for the betterments and release the Department from all liability relating to such maintenance.

### **BETTERMENT COST AND FUNDING**

8. The Project Construction contract will be executed as a Lump Sum contract with no breakdown of construction quantities and associated costs. The Municipality will participate in the Project cost

by submitting a check for the lump sum of \$1,094,790.00 to the Department's Division Engineer upon partial execution of this Agreement by the Municipality. Both parties understand that there will be no adjustment to this fixed cost. A late payment penalty and interest shall be charged on any unpaid balance due in accordance with NCGS § 147-86.23.

9. In the event the Municipality fails for any reason to pay the Department in accordance with the provisions for payment herein above provided, NCGS § 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to said Municipality by NCGS § 136-41.1 until such time as the Department has received payment in full under the reimbursement terms set forth in this Agreement.

### **ADDITIONAL PROVISIONS**

10. It is the policy of the Department not to enter into any agreement with another party that has been debarred by any government agency (Federal or State). The Municipality certifies, by signature of this agreement, that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Department or Agency.
11. To the extent authorized by state and federal claims statutes, each party shall be responsible for its respective actions under the terms of this agreement and save harmless the other party from any claims arising as a result of such actions.
12. All terms of this Agreement are subject to available departmental funding and fiscal constraints.
13. This Agreement contains the entire agreement between the parties and there are no understandings or agreements, verbal or otherwise, regarding this Agreement except as expressly set forth herein.
14. The parties hereby acknowledge that the individual executing the Agreement on their behalf is authorized to execute this Agreement on their behalf and to bind the respective entities to the terms contained herein and that he has read this Agreement, conferred with his attorney, and fully understands its contents.
15. A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the Agreement as binding as an original, and the parties agree that this Agreement can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the Agreement.

16. By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor ( i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Environmental Quality, Health and Human Services, Information Technology, Military and Veterans Affairs, Natural and Cultural Resources, Public Safety, Revenue, Transportation, and the Office of the Governor).

IT IS UNDERSTOOD AND AGREED upon that the approval of the Project by the Department is subject to the conditions of this Agreement.



IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:

CITY OF CHARLOTTE



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

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

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

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Approved by \_\_\_\_\_ of the local governing body of the City of Charlotte as attested to by the signature of Clerk of said governing body on \_\_\_\_\_ (Date)

This Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

(SEAL)

BY: \_\_\_\_\_  
(FINANCE OFFICER)

Federal Tax Identification Number  
**TAX #521333483**

Remittance Address:  
City of Charlotte *Attn: Russ Carpenter*  
**Charlotte Department of Transportation  
Engineering & Operations Division  
600 East Fourth Street  
Charlotte, NC 28202-2858**

DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_  
(CHIEF ENGINEER)

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

APPROVED BY BOARD OF TRANSPORTATION ITEM O: \_\_\_\_\_ (Date)

**RESOLUTION PASSED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE,  
NORTH CAROLINA ON SEPTEMBER 10<sup>th</sup>, 2018**

A motion was made by Egleston and seconded by Phipps  
for the adoption of the following Resolution, and upon being put to a vote was duly adopted:

WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, and

WHEREAS, The City of Charlotte has need for and intends to construct a wastewater treatment works project described as the Mallard Creek WWTP Reuse Line Extension Project at the Mallard Creek Wastewater Treatment Plant, and

WHEREAS, The City of Charlotte intends to request state loan assistance for the project,

**NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:**

That the City of Charlotte, will arrange financing for all remaining costs of the project, if approved for a State loan award.

That the City of Charlotte will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the City of Charlotte agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Charlotte to make scheduled repayment of the loan, to withhold from the City of Charlotte any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the City of Charlotte will provide for efficient operation and maintenance of the project on completion of construction thereof.

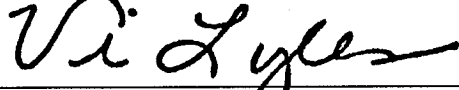
That the City of Charlotte, Angela Lee (Director), and any successor so titled, or her designees, is hereby authorized to execute and file an application on behalf of the City of Charlotte with the State of North Carolina for a loan to aid in the construction of the project described above.

That, if accepted into the loan program by the State, Robert Campbell (Finance Officer) and any successor so titled, or his designee, is hereby authorized to execute and accept a loan offer and promissory note on behalf of the City of Charlotte with the State of North Carolina for a loan to aid in the construction of the project described above in the amount of \$5,540,000 plus or minus 10% in accordance with the loan program based on actual project costs.

That except as set forth above, Angela Lee (Director), and Robert Campbell (Finance Officer), and successors so titled, or their respective designees, individually or collectively, are hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application and the loan.

That the City of Charlotte has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.


Adopted this the 10<sup>th</sup> day of September, 2018 at Charlotte, North Carolina.

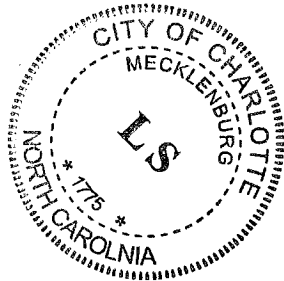
  
\_\_\_\_\_  
Vi Lyles, Mayor, City of Charlotte

**CERTIFICATION**

I, Emily A. Kunze, 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 10<sup>th</sup> day of September, 2018, the reference having been made in Minute Book 146, and recorded in full in Resolution Book 49, Page(s) 142-143.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 10<sup>th</sup> day of September, 2018.

  
\_\_\_\_\_  
Emily A. Kunze, Deputy City Clerk, NCCMC



**RESOLUTION PASSED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE,  
NORTH CAROLINA ON SEPTEMBER 10<sup>th</sup>, 2018**

A motion was made by Egleston and seconded by Phipps  
for the adoption of the following Resolution, and upon being put to a vote was duly adopted:

WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, and

WHEREAS, The City of Charlotte has need for and intends to construct a wastewater treatment works project described as the Mallard Creek WWTP Reliability and UV Improvements Project at the Mallard Creek Wastewater Treatment Plant, and

WHEREAS, The City of Charlotte intends to request state loan assistance for the project,

**NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:**

That the City of Charlotte, will arrange financing for all remaining costs of the project, if approved for a State loan award.

That the City of Charlotte will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the City of Charlotte agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Charlotte to make scheduled repayment of the loan, to withhold from the City of Charlotte any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the City of Charlotte will provide for efficient operation and maintenance of the project on completion of construction thereof.

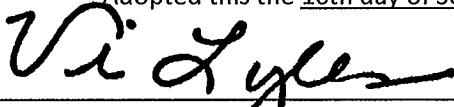
That the City of Charlotte, Angela Lee (Director), and any successor so titled, or her designees, is hereby authorized to execute and file an application on behalf of the City of Charlotte with the State of North Carolina for a loan to aid in the construction of the project described above.

That, if accepted into the loan program by the State, Robert Campbell (Finance Officer) and any successor so titled, or his designee, is hereby authorized to execute and accept a loan offer and promissory note on behalf of the City of Charlotte with the State of North Carolina for a loan to aid in the construction of the project described above in the amount of \$24,877,892.00 plus or minus 10% in accordance with the loan program based on actual project costs.

That except as set forth above, Angela Lee (Director), and Robert Campbell (Finance Officer), and successors so titled, are hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the City of Charlotte has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

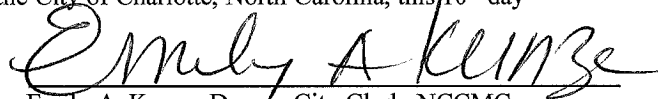
Adopted this the 10th day of September, 2018 at Charlotte, North Carolina.

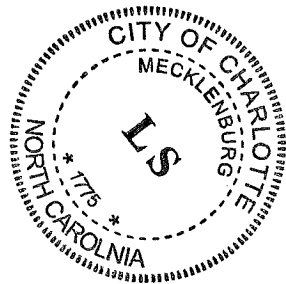
  
\_\_\_\_\_  
Vi Lyles, Mayor, City of Charlotte

**CERTIFICATION**

I, Emily A. Kunze, 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 10<sup>th</sup> day of September, 2018, the reference having been made in Minute Book 146, and recorded in full in Resolution Book 49, Page(s) 144-145.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 10<sup>th</sup> day of September, 2018.

  
\_\_\_\_\_  
Emily A. Kunze, Deputy City Clerk, NCCMC



**CHARLOTTE, NORTH CAROLINA  
CITY COUCIL**

**RESOLUTION AUTHORIZING EXECUTION OF INTERLOCAL AGREEMENT  
TO ACCEPT FLOW INTO CHARLOTTE WATER'S SANITARY SEWER SYSTEM  
BETWEEN THE  
CITY OF CHARLOTTE AND THE CITY OF MOUNT HOLLY**

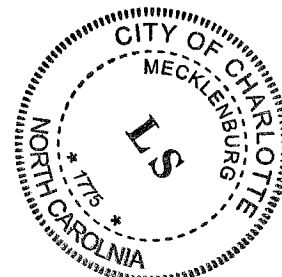
WHEREAS, North Carolina General Statute §160A-461 and North Carolina General Statute §153A-445 authorize units of local government to enter into agreements with each other in order to execute an undertaking by one unit of local government on behalf of another unit of local government; and

WHEREAS, the City of Charlotte and the City of Mount Holly wish to enter into the attached Interlocal Agreement to Accept Flow into Charlotte Water's Sanitary Sewer System (the "Interlocal Agreement") by which the City of Charlotte will accept and treat the City of Mount Holly's wastewater flows in the manner described in the Interlocal Agreement.

**NOW THEREFORE BE IT RESOLVED** that the Charlotte City Council hereby:

1. Approves and ratifies the attached Interlocal Agreement; and
2. Authorizes the City Manager to execute the Interlocal Agreements in substantially the form presented to City Council with technical corrections and minor modifications as he may deem necessary consistent with the spirit and intent of the transactions; and
3. Authorizes the City Manager to take all actions necessary to effectuate the transactions contemplated by the Interlocal Agreement; and
4. Directs that this resolution be reflected in the minutes the Charlotte City Council.

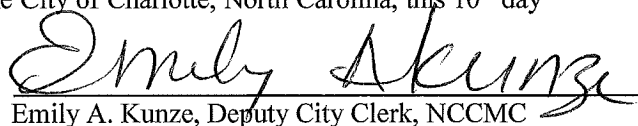
This 10 day of September, 2018.



**CERTIFICATION**

I, Emily A. Kunze, 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 10<sup>th</sup> day of September, 2018, the reference having been made in Minute Book 146, and recorded in full in Resolution Book 49, Page(s) 146.- 146AD.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 10<sup>th</sup> day of September, 2018.

  
Emily A. Kunze, Deputy City Clerk, NCCMC

KAM 8-27-2018 A  
KAM 8-22-2018  
KAM 8-8-2018  
KAM 6-8-2018  
KAM 10-30-2017

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**INTERLOCAL AGREEMENT REGARDING  
REGIONAL SEWER INTERCONNECT BETWEEN THE CITY OF MOUNT HOLLY AND  
THE CITY OF CHARLOTTE**

This **INTERLOCAL AGREEMENT** (the "Agreement") is made and entered into and deemed effective as of the 27 day of August, 2018, by and between the City of Mount Holly (referred to herein as "MH") and the City of Charlotte (referred to herein as "CLT"), each a "Party," (or collectively the "Parties"), and each a duly incorporated municipality under the laws of the State of North Carolina.

I.

**BACKGROUND AND PURPOSE**

WHEREAS, the purpose of this Agreement is to eliminate the treatment and discharge from the MH System into the Catawba River and to provide for the treatment of MH wastewater by CLT thereby creating a regional wastewater treatment interconnect.

WHEREAS, CLT owns and operates the Long Creek Pump Station ("LCPS") and appurtenant pipes and facilities in Mecklenburg County, North Carolina and desires to design and construct a new regional wastewater treatment facility near the confluence of Long Creek and the Catawba River (the "Long Creek WWTP" or "New Plant") and make other renovations and improvements to the CLT System to provide wastewater treatment capacity for multiple jurisdictions in western Mecklenburg County and eastern Gaston County and maintain water quality protection for Lake Wylie (the "LC Facilities Expansion Project" or the "Regional Project");

WHEREAS, pursuant to a Purchase and Sale Agreement dated on or about May 13, 2013, CLT purchased approximately one hundred eighty (180) acres of real property in Mecklenburg County from Clariant Corporation, and 90% of the permitted Nitrogen and Phosphorous allocations in Clariant's NPDES permit to prepare for the construction of the LC Facilities Expansion Project;

WHEREAS, MH owns and operates a wastewater treatment plant (the "MH WWTP") together with appurtenant pipes and facilities in Gaston County, North Carolina (collectively the "MH System") that is in need of renovation, expansion and/or replacement to meet the needs of MH's customers and remain in regulatory compliance;

**WHEREAS**, pursuant to a Memorandum of Agreement between the Parties dated January 14, 2013, (the “MOA”) the Parties agreed it is in their mutual interest to pursue cooperatively the construction of the Regional Project hereinafter defined;

**WHEREAS**, pursuant to the MOA and as consideration for the collaboration on the design and construction of the Regional Project, CLT agrees to provide MH with four (4) MGD upgraded treatment capacity at one or more of CLT treatment plants at no capital cost to MH other than as provided for herein and MH agrees to transfer to CLT at no cost the nutrient discharge allocation into Lake Wylie currently assigned to MH and thereafter close and decommission the MH WWTP;

**WHEREAS**, in accordance with the provisions of the MOA, and pursuant to the authority under Article 16 of Chapter 160A of North Carolina General Statutes related to Public Enterprises and under Article 20 thereof related to Interlocal Cooperation, the Parties desire to enter into this Interlocal Agreement to set forth the terms and conditions upon which CLT and MH will cooperate to develop, design, construct and operate the Regional Project so the Parties may obtain the benefits associated therewith.

**NOW THEREFORE**, in consideration of the foregoing recitals and mutual covenants contained herein, the Parties hereto agree as follows:

## **AGREEMENT**

### **II. DEFINITIONS**

When used in this Agreement, capitalized terms not otherwise defined shall have the meanings set forth below:

- A. “Agreement” means this Interlocal Agreement Regarding Regional Sewer Interconnect between MH and CLT.
- B. “Bid Documents” means the plans and specifications, together with all contract documents and bid instructions, relating to construction of each component of the Project.
- C. “Billing Period” means the period between periodic billings to MH for wastewater treatment on an every thirty (30) day cycle or as determined by CLT in its reasonable discretion.
- D. “CLT” means the City of Charlotte, North Carolina, and includes Charlotte Water, and the Director of Charlotte Water.



- E. "CLT Component" means a portion of the Regional Project consisting of the New Plant, a renovated, expanded and/or relocated Long Creek Pump Station, CLT Force Main connecting said Pump Station to the New Plant, CLT Equalization Basins, the secondary MH Force Main, and appurtenances and related lines, all to be located on property owned or controlled by CLT, all of which to be constructed, owned and operated by CLT in conjunction with the Regional Project.
- F. "CLT Permit" means the NPDES Permit No. NC0089630 for the discharge of treated wastewater into the Catawba River.
- G. "CLT System" means the facilities, equipment and appurtenances owned by CLT, related to its sewer utility system, including future additions and expansions thereof.
- H. "Contracts" means the contracts, permits, approvals, and licenses relating to or arising out of the acquisition, construction and operation of the Project.
- I. "Effective Date" means the last date of execution of this Agreement by the Parties; provided all of the Parties must execute this Agreement for it to be effective.
- J. "Long Creek Pump Station" or "LCPS" means the pump station structure and related facilities, equipment and appurtenances owned by CLT at or near the future Long Creek Wastewater Treatment Plant, including additions and expansions thereof.
- K. "MGD" means million gallons per day.
- L. "MH" means the City of Mount Holly, North Carolina, and includes the sewer department and the Director of this department.
- M. "MH Component" includes a Pump Station, Flow Equalization Basin, Discharge Meter and Metering Facilities, a primary Force Main, and property transfer and/or easements, appurtenances, and related lines, all to be located on property belonging to MH or under the Catawba River, all of which to be constructed, owned, maintained, and operated by CLT in connection with the Regional Project.
- N. "MH Flow Equalization Basin" means a basin that is part of the MH Component and will hold MH wastewater or a portion thereof until such wastewater can be pumped through the MH Pump Station into its Force Main. The MH Flow Equalization Basin will have a design capacity that is sufficient to: permit MH to operate and maintain its wastewater collection system under all normal foreseeable conditions; and permit the operation of the MH Pump Station in accordance with the provisions of this Agreement and such operating agreements as the Parties may approve. The terms under which said basin will be designed, constructed, re-constructed, expanded or subjected to any substantial repair will be approved by CLT, such approval not to be withheld or delayed unreasonably. Without limiting the foregoing, it is expressly understood that said basin may include or otherwise incorporate all or any portion of one or more existing facilities that are suitable for use as part of said basin.

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- O. "MH Force Main" means two (2) force mains that will transport MH wastewater from the MH Pump Station under the Catawba River to the CLT System. Each MH Force Main will have a design capacity of at least twelve (12) MGD. The Parties agree that there shall be two force mains constructed of equal design capacity under the Catawba River, one (1) primary and one (1) secondary, to provide flow in case the initial force main shall fail or shall undergo routine repair or maintenance. The primary force main will be considered part of the MH Component cost with the secondary force main a part of the CLT Component cost.
- P. "MH Permit" means the NPDES Permit No. NC0021156 for the discharge of treated wastewater into the Catawba River.
- Q. "MH Pump Station" means a pump station, with a design capacity of twelve (12) MGD, that will pump wastewater from MH into the MH Force Main.
- R. "MH Purchased Treatment Capacity" means the maximum quantity of wastewater which MH is authorized to pump at the O & M Rate into the MH Force Main in accordance with the terms of this Agreement during a Billing Period (stated in terms of gallons of wastewater, expressed as a daily average and calculated over the course of a Billing Period) for transport to and treatment (including without limitation disposal of by-products of the treatment process) in the CLT System. The MH Purchased Treatment Capacity on the Effective Date of this Agreement is four (4) MGD and is subject to increase in accordance with the provision of Section IX of this Agreement up to the MH Maximum Treatment Allocation (6 MGD) with potential for future additional increases in accordance with the provisions of Section IX.E.
- S. "MH Wastewater Discharge" means the total amount of wastewater pumped by MH into the MH Force Main during any specified period of time. No reduction or other adjustment will be made for ground water, rain water or water from any other source which enters the MH wastewater collection system in any manner and is discharged into the MH Force Main.
- T. "MH System" means the facilities, equipment and appurtenances owned by MH, related to its sewer utility system, including future additions and expansions thereof.
- U. "MH WWTP" means the wastewater treatment plant owned and operated by MH.
- V. "New Plant" means a wastewater treatment plant known as Long Creek Wastewater Treatment Plant, to be designed and constructed by CLT in Mecklenburg County at or near the confluence of Long Creek and the Catawba River.
- W. "New Plant Costs" means the total of all reasonable costs incurred by CLT in undertaking a study, design and/or construction of the New Plant, including costs of engineering services, design, construction, permits, property and right of way acquisition costs, but not including MH Component costs.



- X. "New Plant Expansion" means a substantial expansion, improvement or other modification to the New Plant, as either desired or requested by either Party, or as necessitated by applicable regulatory requirements.
- Y. "New Plant Expansion Costs" means the costs incurred by CLT in any substantial expansion, improvement or other modification to the New Plant, including costs of an engineering study, design, construction, permits, property and right of way acquisition costs.
- Z. "New Plant Treatment Capacity" means the MGD of capacity CLT will be permitted to treat at the New Plant under applicable State and Federal law at any point in time. For purposes of this Agreement, no NPDES permit that has not been accepted by CLT shall be considered. If no NPDES permit for the New Plant has been issued on the Effective Date of this Agreement then the anticipated initial Long Creek Treatment Capacity is fifteen (15) MGD.
- AA. Omitted on purpose.
- BB. "O & M Sewer Treatment Rate" means a charge per gallon for the treatment of wastewater, such charge being calculated within a reasonable time after the adoption by CLT's governing body of the annual budget for CLT and being equal to the quotient of the sum of the direct operating budgets of every wastewater treatment plant owned and/or operated by CLT included in said annual budget (which sum of direct operating budgets shall not include any capital cost of construction or expansion of any wastewater facilities related to the initial four (4) MGD of plant capacity used by MH) divided by the number of gallons of wastewater which are projected to be treated in wastewater treatment plants operated by CLT in the fiscal year covered by said annual budget. Notice of such Rate will be given by CLT to MH within thirty (30) calendar days after such Rate is calculated, however, failure to give 30 days' notice does not relieve MH's responsibility for the treatment cost under the applicable rate. New rates will typically be calculated for each new fiscal year.
- CC. "Party" or "Parties" means CLT and MH, individually or collectively, as applicable.
- DD. "Preliminary Engineering Report" means the study conducted by Black & Veatch Engineering Company for the purpose of evaluating among other things the feasibility and costs associated with the development of the wastewater interconnect between MH and CLT.
- EE. "Regional Project" means, collectively, a.) the CLT Component which includes the Long Creek Facilities Expansion Project, a renovated/expanded/relocated Long Creek Pump Station, Force Main, Equalization Basin, a new Long Creek Wastewater Treatment Plant; and b.) the Mount Holly Component which includes a Force Main, Pump Station, Flow Equalization Basin, Discharge Meter, and Metering Facilities.

FF. "TMDL" means Total Maximum Daily Limit.

GG. "Standard Sewer Treatment Rate" means the rate, exclusive of surcharge for exceeding nutrient limits of NPDES Permit, charged by CLT to sewer customers of CLT in Mecklenburg County. If more than one rate is established by CLT for sewer service to CLT customers within Mecklenburg County, the rate(s) for such service applicable to MH will be the same rate(s) for service provided to CLT commercial, sewer customers within the Long Creek basin in Mecklenburg County, except as otherwise expressly provided herein.

HH. "Sewer Use Ordinance" or "SUO" means the ordinance, as adopted (and amended from time to time) by the governing board of MH or CLT, whichever may apply, that governs wastewater discharge into the MH or CLT system, whichever may apply, which complies with applicable law and with this Agreement.

II. "Significant Industrial User" or "SIU" means any user of the Publically Owned Treatment Works (POTW) who:

- 1) Discharges an average of 25,000 gpd or more of process wastewater to the POTW, excluding sanitary, noncontact cooling, and boiler blowdown wastewater; or
- 2) Contributes process wastewater which makes up five percent or more of the NPDES or non-discharge permitted flow limit or organic capacity of the POTW treatment plant. In this context, organic capacity refers to BOD, TSS, and NH<sub>3</sub>; or
- 3) Is required to meet a national categorical pretreatment standard; or
- 4) Is found by CLT, the Division of Environmental Quality or the Environmental Protection Agency to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.
- 5) Subject to division approval under 15A NCAC 02H .0907(b), the control authority may determine that an industrial user meeting the criteria in paragraphs (1) and (2) above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standards or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for contributing to violations of the POTW's receiving stream standard, or for limiting the POTW's sludge disposal options, and thus is not a significant industrial user.

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- 6) Subject to division approval under 15A NCAC 02H .0907(b), the control authority may determine that an industrial user meeting the criteria in paragraph (3) above meets the requirements of 40 CFR Part 403.3(v)(2) and thus is a non-significant categorical industrial user.
- 7) Subject to division approval under 15A NCAC .0907(b), the control authority may determine that an industrial user meeting the requirements of paragraph (3) above meets the requirements of 40 CFR Part 403.12(e)(3) and thus is a middle tier significant industrial user. Sampling and inspection requirements may be cut in half as per 40 CFR Parts 403.8 (f)(2)(v)(C) and 403.12(e)(3).

### **III. DEVELOPMENT OF THE PROJECT**

A. Components and Description. The Regional Project consists of two primary components: the CLT Component and the MH Component. The Regional Project will be constructed in accordance with plans and specifications approved by both Parties consistent with the outline specifications generally described and illustrated in that Preliminary Engineering Report by Black & Veatch Engineering Company incorporated herein by reference.

B. Design and Construction of the Project. CLT shall take any and all actions necessary or useful to design and construct the Regional Project. The Parties agree to cooperate so that the work can be performed consistent with the terms and conditions described herein and otherwise in accordance with the terms and conditions of such construction plans and specifications hereafter prepared for and approved by the Parties (the "Approved Plans and Construction Documents"). In addition, the Parties agree to follow all state and federal requirements so that MH's cost of the MH Component and MH's cost of decommissioning its wastewater plant qualify for funding through the North Carolina Clean Water State Revolving Fund. CLT further agrees to use its best efforts to meet all milestones as outlined in the "Letter of Intent to Fund Wastewater Treatment Plant Regionalization Project April 2018 Application Cycle Project No.: CS370747-01 dated August 1, 2018" which is incorporated herein by reference.

C. General Ownership, Interests and Access Rights to Components of the Project. Upon completion of the MH Component, CLT shall own and be responsible for the operation and maintenance, including repairs and replacements necessitated by any cause, of all facilities associated with the CLT Component and the MH Component at CLT's sole cost without contribution or reimbursement from MH. MH will convey to CLT sufficient property, at no cost to CLT, upon which to construct, access, and maintain such portions of the MH Component as are located on the west bank of the Catawba River. In addition, CLT will acquire in CLT's name, sufficient easements under the Catawba River for the installation, maintenance, repair, and replacements of the MH Force Mains, the reasonable cost of which shall be included as part of the MH Component costs, subject to the limitations in Section IV.D below. The parties agree that the ownership and operation by CLT of the Regional Project, including the MH Component, creates a potential substantial liability of CLT for damages to persons and property which could result from any cause whatsoever, including, but not limited to, operational or equipment failures, breaches, vandalism, Acts of God, or sabotage. Such liability includes environmental contamination, health and safety risks, and property damage. CLT assumes any liability associated with ownership and operation of the Regional Project, including the MH Component, subject to any defenses it may have, including governmental immunity, which defenses CLT expressly does not waive herein.

#### IV. DESIGN OF THE PROJECT

A. Design, Engineering and Construction Management Service. Except as otherwise provided for in this Agreement, CLT agrees to procure and coordinate the professional engineering services, construction management services, and all permits, approvals, certificates of completion and certifications, necessary to design and construct the Regional Project (hereinafter the "Professional Services"). To the extent the design has not yet commenced as of the Effective Date, CLT agrees to use its best efforts to award a contract in accordance with applicable law to an engineer or design-build team acceptable to MH (the "Engineer or DB Team") for Professional Services for the design of the MH Component and such portions of the CLT Component necessary for MH to connect into CLT's system and begin discharging wastewater to CLT within nine (9) months of the Effective Date.

B. Project Design Approval. CLT will provide MH with copies of all work product produced by Engineer or DB Team. MH shall have the right to review and comment on the design plans associated with the MH Component during schematic design phase, the design development phase and the construction documents phase. CLT will have final approval of work product by the Engineer or DB team. Once approved, such final plans and specifications shall be the "Approved Plans and Construction Documents."

C. Construction Budget. CLT and MH further agree that as part of the Professional Services rendered by the Engineer or DB Team, the Engineer or DB Team will develop a detailed construction budget for the MH Component, taking into account all of the work contemplated by the Approved Plans and Construction Documents (the "Construction Budget"). The Construction Budget shall provide estimated construction costs associated with the MH Component.

*CLT*



D. Construction Estimate. Under the terms on the MOA, MH committed to an expenditure up to a maximum of \$14,000,000 for the MH Component, which included one (1) force main. The Parties have now agreed that there should be a second MH Force Main, which was not contemplated in the MOA. In addition, the Parties have now agreed upon how the costs of the MH Component above \$14,000,000, if any, will be paid. Therefore, the Parties agree to work collaboratively during the design phase to ensure the needs of the MH Component of the Project are met and also to maintain cost-effectiveness. If bids and/or final pricing from a DB Team for the MH Component nevertheless exceed \$14,000,000, CLT and MH agree to review the project scope to determine whether revisions can be made to reduce scope and keep the project within or below the targeted \$14,000,000 cost.

In the event that bids or final pricing from a DB team exceed \$14,000,000 for the MH Component, and the effort to reduce scope and cost is not successful, the parties agree to share the financial responsibility of cost in excess of \$14,000,000, up to a cost of \$15,400,000, according to the ratio of treatment capacity in the New Plant being allocated to each entity. Using this ratio (4 MGD/15 MGD), the MH cost share shall be 26.67% of any cost above \$14,000,000. The CLT cost share shall be 73.33% of any cost above \$14,000,000. The 26.67% MH cost share shall be limited to \$375,000 for actual cost above \$14,000,000 for the MH Component, as finally determined, exclusive of the cost of a second MH Force Main, which shall be bid as an alternate, and CLT shall pay the balance of the costs of the MH Component up to a cost of \$1,025,000, exclusive of the cost of a second MH Force Main. CLT shall also pay the cost of the second MH Force Main as part of the CLT Component costs.

E. Cost of Design. Except as otherwise provided herein, CLT will advance and be responsible to pay the cost of the Professional Services relating to the Project, subject to its right to reimbursement from MH for a portion of such costs related to the MH Component. Professional Services relating to the MH Component, including but not limited to engineering, design and architectural, geotechnical investigations, and surveying, shall be deemed part of the costs of construction of the MH Component and subject to the limitation of financial responsibility of MH as outlined in Section IV.D above.

F. Omitted on purpose.

G. Retention of Design Accounting Records. CLT shall keep or supervise the keeping of complete records of all receipts and all disbursements and all other materials necessary to show the financial condition of the Design Budget. In connection with this information, CLT will distribute to MH such periodic financial reports regarding the MH Component as CLT may receive or prepare from time to time. Copies of any and all agreements made by CLT shall be maintained together with the financial records. All of these documents may be inspected by MH upon request.

H. Changes in Design. Without invalidating this Agreement, the Parties may agree to add services to the Engineer's or DB Team's contract. Payment for any such additional services shall be the responsibility of the Party that requires the additional service. If the service applies to and benefits both Parties equally, payment for the additional services shall be allocated equitably between the Parties or as otherwise agreed upon.

**V.**  
**CONSTRUCTION OF THE MH COMPONENT**

A. General. All physical facilities to be constructed or acquired as part of the Regional Project, including the MH Component, shall be constructed by CLT. The Parties agree that it is their mutual intent that the construction proceed and be completed as expeditiously as possible. Accordingly, CLT may elect to pursue alternative project construction methodology for purposes of expediting completion of the Project, such as Design Build ("DB") or Construction Manager at Risk ("CMAR"). If the MH Component shall be constructed under a contract separate from the Regional Project contract, then MH may elect to have CLT proceed with the selected construction methodology unless this method shall not be deemed to be cost effective.

B. Award of MH Component Construction Contract. CLT, itself or through the actions of an alternate delivery construction method, will solicit bids for the construction of the MH Component, including all of the labor, materials and services necessary to execute the work associated with the Approved Plans and Construction Documents, and award the contract for said work ("Contract") to a qualified contractor or contractors ("Contractor") in accordance with applicable law. Before awarding any contract, CLT must notify MH of all bid amounts for MH Components. CLT will not award a contract for MH Components without MH approval, which approval shall not be unreasonably withheld, and given within thirty (30) days of notification.

C. Conditions of Bid Documents and Contract. The Bid Documents shall provide that the contract between CLT and the Contractor shall be substantially in the form of a standard industry (i.e. EJDCD, AIA, or DBIA) documents as determined by CLT. In addition, the Bid Documents relating to the MH Component must include the following requirement related to the construction of the MH Component:

1. Each contractor bidding on the Regional Project must segregate all bid costs related to each component of the Regional Project, so CLT's and MH's cost for their respective component may be calculated;
2. MH shall be named as an additional insured on the contractors' insurance policies;
3. MH shall be named as an additional beneficiary under the contractor's performance and payment bonds. In the event a surety will not agree to this condition, then the Parties acknowledge that CLT may secure performance and payment bonds under which CLT is the only designated beneficiary; and





4. MH shall be named as a third party beneficiary under the contract for construction of the MH Component.

In the event the Parties do not agree upon the Bid Documents for the MH Component, CLT agrees it will not proceed with the MH Component until the Parties resolve the matter through the dispute resolution process set forth in this Agreement.

D. Construction Management Services. CLT shall provide or cause to be provided (a) construction management and contact administration services and (b) routine engineering inspection and payment verification services with respect to the design and construction elements of the MH Component in the same manner as it will provide such services in connection with the design and construction elements of the CLT Component.

E. CLT Obligation for Inspection. CLT agrees to use good faith and reasonable efforts to ensure that the MH Component is completed in accordance with the Approved Plans and Construction Documents and other requirements set forth in the Bid Documents (the "Contract Documents"). CLT will notify MH of any construction defects that come to its attention as soon as practicable and in no event later than five (5) calendars days (excluding CLT holidays) after obtaining knowledge of the defect.

F. MH Right of Inspection. MH shall have a reasonable right to access and inspect the Regional Project as construction progresses and CLT shall not interfere with such access or inspection by MH or its designated representative(s). In the event MH discovers any construction defect during an inspection of the Regional Project, MH shall promptly report any such defect to CLT.

G. CLT Payment Responsibilities for Construction. All construction contracts and other agreements relating to the construction of the Regional Project, including the MH Component, will contain provisions to the effect that CLT shall be the party responsible for making all payments of sums coming due thereunder. All pay requests shall specify the percentage of construction completed for the Project and CLT will ensure that each invoice for payment shall segregate costs and services related to each component of the Regional Project for proper allocation of costs between the Parties.

H. MH Rights of Review. Upon CLT's approval of each invoice for payment, CLT will transmit a copy of the invoice to MH accompanied by documentation accounting for the costs. If MH does not request additional information, or object to any invoice of costs related to MH Components within ten (10) business days of receipt thereof, such invoice shall be deemed reasonable and payable. Upon objection or requests for additional information, the Parties agree to work together to resolve any issues relating to any invoice, or failing that to submit to alternative dispute resolution as outlined in Section XIII below. Thereafter, CLT will promptly pay each undisputed invoice as they become due.



I. MH Payment Responsibilities for Construction. Except as otherwise agreed by the Parties in Section IV.D above, the payment obligation of MH for the MH Component shall not exceed Fourteen Million and 00/100s Dollars (\$14,000,000), and shall not include the costs of a second MH Force Main, which MH payment obligation will be financed by CLT at MH's election at the most favorable interest rate and other terms available at that time. Such payment shall be in accordance with the terms and conditions of such financing arrangements as are agreed upon between the Parties as shown in Exhibit A. Depending upon the payment terms established by the Parties, MH will transfer the appropriate amount of funds to CLT within the applicable time period.

J. Retention of Accounting Records for Construction. CLT shall keep or supervise the keeping of complete records of all receipts and all disbursements and all other materials necessary to show the financial condition of the construction budget. In connection with this information, CLT will distribute to MH such periodic financial reports regarding the MH Component as CLT may receive or prepare from time to time. Copies of any and all agreements made by CLT shall be maintained together with the financial records. All of these documents may be inspected by MH upon request.

K. Schedule. CLT shall commence the MH Component pursuant to Contract documents and the terms of this Agreement. The projected schedule for the MH Component shall be contained within the Contract documents.

L. Sequence of Construction. The construction of the MH Component will precede the construction of the New Plant and will be staged for completion as soon as possible based upon MH's notice, herein given, of its election to discharge all of its wastewater, up to four (4) MGD, into CLT's System. The rate charged by CLT to MH will be the O & M Sewer Treatment Rate. At such time as the conditions precedent in Section VII below have been completed, then MH will begin discharging its wastewater into CLT's System and MH shall decommission its wastewater plant without undue delay. The rate to be paid by MH under the provisions of this paragraph will be the same rate as would have been charged by CLT to MH as if the discharge were being treated in the New Plant. If MH should elect additional discharge in excess of four (4) MGD, prior to completion of the New Plant, then MH may request such additional Purchased Treatment Capacity under the terms and conditions of Section IX below. In the event MH should discharge in excess of Purchased Treatment Capacity, then such overage would be subject to the rate outlined in Section VIII.B below.

M. Construction Delay Damages. The Parties agree that under no circumstances will failure to complete the Project, including any or all portions of the MH Component so that the MH System is not fully operational by the agreed upon date or any other date established by the Parties, subject CLT to liability of any kind to MH or any other person or entity. The Parties further agree that MH shall have no interest in any damages (whether considered as compensatory, liquidated or any other classification) that are or may be collected by CLT from any Contractor constructing all or any portion of the Regional Project, including without limitation delay in the completion of all or any portion of the MH Component, except to the extent such delays negatively impact the MH Discharge Permit or cause MH to be subject to regulatory fines.

N. Regulatory Fines/Penalties. CLT shall reimburse MH for any lawful fine and/or penalty assessed against MH by a governmental agency for a violation of applicable law under the following conditions:

1. A delay occurs in the completion of the MH Component that is caused by any act(s) and/or omission(s) by CLT, its employees, contractors, and/or officers which are negligent or a violation of applicable law or a violation of this Agreement; and
2. Such delay causes MH to violate any applicable law; and
3. MH took all actions necessary or convenient to avoid, and if avoidance was not reasonably possible, to minimize such violation. For purposes of this subsection, the only actions that MH is required to take are those that are reasonable and practical under the circumstances and which do not involve incurring an unreasonable expense or other liability.

O. Administration. CLT shall identify one or more of its employees to serve as the construction manager (the "CLT Project Manager") to: (i) act as CLT's representative, (ii) coordinate the work, (iii) facilitate communication with MH and others concerning the work, (iv) coordinate the work with all affected utility companies and agencies, and (v) to forward invoices to MH for review. MH shall identify an employee to act as its project manager (the "MH Project Manager") to (a) act as MH's representative, (b) make periodic inspections on behalf of MH to determine compliance of the work with contract documents, (c) serve as liaison between CLT and agencies of MH, and (d) review and approve invoices and make the periodic payments to CLT based upon approval of such approved invoices. The names and addresses of the initial Project Managers for the parties are as follows:

CLT Project Manager:	Nicole Bartlett Charlotte Water 5100 Brookshire Boulevard Charlotte, NC 28216 704.497.8801
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MH Project Manager:	Miles Braswell Mount Holly City Hall Mount Holly, NC 28120 704.951.3018
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P. Changes. Without invalidating this Agreement, CLT may order changes in the work, including the MH Component, pursuant to change orders with or change directives to its Contractor, subject, however, to approval by MH (acting through the MH Project Manager) of any proposed change that results in an increase in the amount payable to the Contractor on the MH Component. If MH does not request additional information, or object to the proposed change order or change directive within five (5) business days of receipt by the MH Project Manager of a request from CLT for review and approval, such change order or change directive shall be deemed reasonable and payable. Thereafter, the requisite paperwork will be executed and CLT will pay the increased amount under an invoice as it becomes due and the financial obligation of MH shall be increased in the same amount, subject to the limitation of financial responsibility of MH as outlined in Section IV.D above. If any such change results in an increase in the amount payable to the Contractor on account of the CLT Component, the payment obligation of CLT shall be increased in the same amount. CLT may, with notification to MH, order minor changes in the work that do not adversely affect the quality or design of the work and that do not require increases in the payment by MH.

MH's financial obligation shall also be increased to the extent that CLT incurs actual costs for (a) subsurface or otherwise concealed conditions which differ from those indicated in the Contract Documents at the unit prices specified therein, if applicable, or (b) unknown physical condition of an unusual nature which differ from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, subject to the limitation of financial responsibility of MH as outlined in Section IV.D above.

Q. Acceptance. Upon final completion of construction of the MH Component, and prior to acceptance and final payment of retainage to the MH Component contractor, CLT shall obtain certification from the Engineer that the MH Component has been fully completed in accordance with Contract Documents and any applicable change orders, and that the facilities have been tested and approved for use in accordance with the approved Contract Documents and as required by any and all regulatory agencies.

R. Contract Terms. Matters pertaining to Warranties, Records, Dispute or Litigation, Insurance and Risk Management will be as set forth in the applicable Contract Documents used by CLT relating to the MH Component.

**VI.  
FUTURE PLANT IMPROVEMENTS  
AND EMERGENCY REPAIRS**

A. General. The initial total capacity of the New Plant is currently projected to be fifteen (15) MGD, of which amount 4 MGD would be allocated to MH. Notwithstanding the foregoing, the actual capacity of the New Plant and the allocation of the facility capacity between the Parties may change by agreement of the Parties. CLT will keep MH informed of CLT's actions to modify the New Plant in order to substantially increase the treatment capacity of the New Plant and, upon request by MH, provide MH with information and documentation related thereto.

B. CLT Assume Lead for Expansions. Except as otherwise agreed upon by the Parties, CLT shall be responsible for design and construction of any expansions in which both CLT and MH participate. The design, construction and payment of such expansions shall proceed in accordance with the terms and conditions set forth in this Agreement under Sections IV, V, and IX.

C. Cooperation During Maintenance or Emergency. The Parties will cooperate during periods of an emergency or required maintenance of the New Plant and/or related facilities of the CLT System and, if necessary, CLT will discontinue, cycle, test, inspect or otherwise operate and maintain CLT's wastewater systems and the MH Component at CLT's expense in a manner necessary to the safe and efficient completion of repairs or the replacement of the Project's facilities, the restoration of service, and the protection of the public health, safety, and welfare of each of the Party's customers. CLT will use its best efforts to provide MH reasonable notice under the circumstance of the actions to be undertaken by CLT and cooperate to try to minimize inconvenience to MH and MH's customers.

**VII.  
MH NUTRIENT TRANSFER, CLT ACCEPTANCE OF FLOW, AND  
DECOMMISSIONING OF MH WWTP**

A. MH Nutrient Transfer.

1. In anticipation of this Agreement, the parties requested a permit modification to the MH Permit which will set forth conditions for the transfer of MH's permitted Nitrogen and Phosphorus Allocations ("Nutrient Allocation") to CLT, as set forth in the draft "Projected Nitrogen and Phosphorus Limits Lake Wylie Nutrients TMDL Catawba River Subwatershed" dated February 10, 2017 ("Draft TMDL"), incorporated herein by reference. This proposed permit modification supports the Nutrient Allocation transfer and requires the following:

- a. The daily limits for Total Nitrogen and Total Phosphorous set forth in MH's Permit include the transfer of Total Nitrogen and Total Phosphorous from the permit formerly held by Clariant Corporation ("Clariant Nutrient Allocation") now retained by CLT. The transfer of daily limits from CLT to MH as set forth in the Draft TMDL shall become effective upon a permit modification issued by the NC Department of Environmental Quality.
  - b. MH has elected to discharge all of its wastewater into CLT's System prior to the completion of the New Plant in accordance with Section V.L above, therefore once all conditions for the nutrient transfer have been satisfied, MH shall transfer the entire Nutrient Allocation within its permit to CLT as CLT shall direct.
2. Once all conditions for the nutrient transfer have been satisfied, or at any other time agreed to by the Parties, MH at its sole expense shall take the steps reasonably necessary to fully and unconditionally undertake and complete the nutrient transfer and shall provide the North Carolina Department of Environmental Quality with a written notification as prescribed in the MH Permit authorizing the transfer to CLT of all nutrient allocations from the MH Permit. CLT agrees to cooperate with MH and reasonably assist MH in the completion of the Nutrient Transfer in a timely manner.
3. In consideration of the nutrient transfer and other mutual promises set forth herein, CLT agrees to provide to MH the MH Purchased Treatment Capacity of four (4) mgd, effective on the date when the nutrient transfer is completed and is not subject to further condition or contingency.
4. Each party shall use its best efforts to maintain and preserve the Nutrient Allocation for use by CLT in accordance with this Agreement and applicable law as reflected in the MH Permit and as transferred to CLT.
5. As a condition of the discharge of all of MH's wastewater into the CLT System and the Nutrient Allocation being fully transferred to CLT, MH must discontinue the treatment of wastewater at its wastewater plant. MH is also fully responsible for the closure and decommissioning of that wastewater plant. MH may request, and CLT may agree, to the extent permitted by applicable law, to finance MH's cost in decommissioning its wastewater plant at the most favorable interest rate and other terms available at that time, as shown in Exhibit A.

B. Conditions Precedent to Pump MH Wastewater into MH Force Main. Upon completion of the following, CLT shall take such actions without undue delay as are necessary to permit MH to discharge wastewater into the MH Force Mains in accordance with the terms of this Agreement:

1. Completion of:
  - a) The MH Force Mains,
  - b) The MH Pump Station,

- c) The MH Flow Equalization Basin,
  - d) The MH Discharge Meter and Metering Facilities; and
2. The issuance of a SIU permit to MH for the MH Wastewater Discharge pursuant to Section XI; and
  3. Omitted on purpose.
  4. CLT will operate and maintain the MH Component as of the time that MH begins to discharge wastewater into the MH Force Mains pursuant to this Agreement; and
  5. The full and unconditional completion of the Nutrient Transfer to CLT simultaneously with sewer discharge from MH to CLT.

### VIII.

#### WASTEWATER TREATMENT SERVICE RATES

A. Wastewater Treatment Service Rates. MH will pay for wastewater treatment at the O & M Sewer Treatment Rate for wastewater discharge up to the MH Purchased Treatment Capacity. The O & M Sewer Treatment Rate is a rate equal to the average per gallon budgeted cost to operate and maintain the five (5) existing wastewater plants in the Mecklenburg portion of the CLT Water system, as set forth in Section II (BB).

B. MH Payment for Wastewater Treatment over MH Purchased Treatment Capacity. MH shall pay the O & M Sewer Treatment Rate for treatment of wastewater during any Billing Period. However, should MH discharge wastewater to CLT in excess of the MH Purchased Treatment Capacity during any one (1) Billing Period, then MH will pay the Standard Sewer Treatment Rate on the volume of flow in excess of the MH Purchased Treatment Capacity.

### IX.

#### REQUESTS FOR INCREASE IN TREATMENT CAPACITY

A. General. Subject to the terms, limitations and conditions set forth in this Agreement, MH shall have the right to an increase in the MH Purchased Treatment Capacity upon written request. MH may give CLT written notice to increase the MH Purchased Treatment Capacity above 4 mgd at any time before or after completion of the New Plant. MH may increase its discharge allocation from four (4) mgd up to six (6) mgd in single or multiple increments of 100,000 gal/day.

B. Increase Prior to Completion of New Plant. If MH chooses to increase its Purchased Treatment Capacity prior to the completion of the New Plant, the cost of each increment will be based proportionally on the New Plant Costs, i.e. determined by multiplying the New Plant Costs (once finally determined) by a fraction the numerator of which is the increase in the MH Purchased Treatment Capacity and the denominator of which is the anticipated total New Plant treatment capacity.



C. Increase After Completion of New Plant. If MH chooses to increase its Purchased Treatment Capacity after the completion of the New Plant, then CLT will determine if such requested increment increase is reasonably available in the initial phase of the New Plant. If such requested increment increase is reasonably available in the initial phase of the New Plant, then the cost of such increment will be based proportionally on the New Plant Costs only, i.e. determined by multiplying the New Plant costs by a fraction the numerator of which is the increase in the MH Purchased Treatment Capacity and the denominator of which is the total New Plant treatment capacity. If the requested increment increase is not reasonably available in the initial phase of the New Plant, then the cost of each increment will be based proportionally on the sum of the New Plant Costs and the New Plant Expansion Costs, i.e. determined by multiplying the sum of the New Plant Costs and the New Plant Expansion Costs (once finally determined) by a fraction the numerator of which is the increase in the MH Purchased Treatment Capacity and the denominator of which is the total New Plant Treatment Capacity immediately after the most recent substantial expansion, repair, re-construction, improvement or other modification is completed. CLT will provide MH with its analysis used to determine that the requested capacity is not available in the initial phase of the New Plant.

D. MH Treatment Allocation During Expansion Project. Except as otherwise agreed upon by the Parties, during the design and construction of an expansion of the New Plant to accommodate MH's request, MH will be subject to the following guidelines:

1. Subject to the terms of this Agreement, MH shall have the right to increase the MH Purchased Treatment Capacity up to the MH Maximum Treatment Allocation.
2. MH may request, and CLT may agree, to the extent permitted by applicable law, to finance MH's proportionate share of the capital cost of the increased Purchased Treatment Capacity at the most favorable interest rate and other terms available at that time.
3. The Parties may consolidate multiple, separate payment schedules or make other minor modifications to any payment schedule by written agreement. Only the governing bodies of the parties may approve a substantial modification to a party's obligations or rights under any payment schedule authorized by this Agreement.
4. Within a reasonable time after MH requests an increase in the MH Purchased Treatment Capacity, and in any event, prior to any increase in the MH Purchased Treatment Capacity taking effect, the Parties shall meet and determine in good faith if the conditions set forth below have been satisfied. The Parties must determine in good faith that such conditions have been satisfied before any increase in the MH Purchased Treatment Capacity can take effect:



- i) All necessary revisions to implement such increase have been issued by CLT and accepted by MH in the permit described in Section XI;
- ii) The MH Force Mains, the MH Pump Station and the MH Flow Equalization Basin can accommodate such increase.

E. The parties agree that the capital cost of any increments over six (6) mgd will be negotiated in good faith.

**X.**  
**OPERATION OF IMPROVEMENTS, COMPLIANCE WITH  
REGULATIONS**

A. General. CLT shall operate, maintain and improve the New Plant and related facilities in the CLT System in accordance with accepted good business and engineering practices, and in accordance with requirements of the Clean Water Act, and all other applicable laws, as such laws may be amended in the future, and any rules and regulations issued and to be issued by appropriate agencies in the administration of said laws. MH shall collect and deliver wastewater to CLT, and operate, maintain and improve facilities in the MH System in accordance with accepted good business and engineering practices, and in accordance with requirements of the Clean Water Act, and all other applicable laws, as such laws may be amended in the future, and any rules and regulations issued and to be issued by appropriate agencies in the administration of said laws.

B. Metering Facilities for MH Wastewater Discharge. The volume of the MH Wastewater Discharge will be measured by metering facilities installed at MH's expense. The design, construction and location of such metering facilities shall be specified by CLT and approved by MH, such approval not to be withheld or delayed unreasonably. The parties agree that CLT is responsible for installing the metering facilities in accordance with the terms of this Agreement. Such metering facilities will be owned by CLT and will be operated and maintained by CLT in a reasonable manner and at its sole expense, except as otherwise expressly set forth herein or agreed by the Parties. CLT shall be responsible for the repair and replacement of such metering facilities; provided that, MH shall reimburse CLT for any damage to such facilities caused by the negligence or intentional acts of an employee or agent of MH. MH may inspect such metering facilities at reasonable times.

C. Calibration of Metering Facilities. CLT will cause such metering facilities to be calibrated accurately at CLT's expense at such time(s) and in such manner as the Parties may agree. CLT will maintain reasonable records of such calibrations which will be available for MH inspection. MH may request in writing that the CLT cause such metering facilities to be calibrated at any time that MH has reason to believe that such metering facilities are not properly calibrated. In the event of a malfunction in such metering facilities (including without limitation a lack of proper calibration of any metering facilities described in the immediately preceding sentence), CLT will give MH written notice of the date when such malfunction began, if known (and if not known the approximate date when such malfunction is believed to have begun), the date when the malfunction ended, and a reasonable estimate of the volume of wastewater which such metering facilities failed to measure accurately, based upon available information. If MH objects to such estimate by written notice to the CLT within thirty (30) days of receipt of the notice of the malfunction of such metering facilities, CLT will consider such objection and such additional information as the MH may submit in writing with such notice of objection. Based upon such notice of objection and any additional information MH included in such notice of objection, MH will be given a reasonable opportunity to meet and confer with the CLT concerning such estimate. If the Parties are unable to agree upon such estimate or are unable to meet and confer within thirty (30) days of receipt of such request, the estimate prepared by the CLT and any revision thereto will be final and will not be subject to further review.

**XI.**  
**MH AS SIGNIFICANT INDUSTRIAL USER;**  
**SEWER USE ORDINANCE AND ENFORCEMENT**

A. MH Permit as Significant Industrial User. MH agrees that it will be a significant industrial user in discharging wastewater into the CLT system under applicable provisions of State and Federal Statutes and Regulations and under applicable provision of ordinances of CLT. In accordance with this agreement, the Parties further agree:

1. At least one hundred eighty (180) days prior to the commencement of wastewater discharge to CLT, MH shall apply for a permit for the MH Wastewater Discharge as a SIU. Such permit shall be issued for such period of time as CLT may determine, but not in excess of five (5) years. Such permit shall limit the quantity of wastewater in the MH Wastewater Discharge, the peak flow of the MH Wastewater Discharge and may also impose limits upon one or more of the constituents and/or characteristics of the wastewater in the MH Wastewater Discharge; provided that the limit(s) imposed in such permit may not be determined or otherwise enforced in a manner which prevents the MH Wastewater Discharge during any Billing Period from equaling (so long as MH does not exceed) the MH Purchased Treatment Capacity. MH hereby expressly agrees to be fully bound by the terms of all applicable rules, regulations, ordinances, and permits of CLT concerning the operation of CLT's water and sewer systems, as the same currently exists and may be hereafter be amended.

2. The issuance of a permit pursuant to this Paragraph shall not be construed to change, amend or otherwise modify any term of this Agreement. Without limiting the foregoing and by way of example, the issuance of a permit authorizing MH to discharge wastewater in excess of the MH Purchased Treatment Capacity shall not limit the right of CLT to enforce any terms of this Agreement, including without limitation provisions that restrict MH's ability to discharge wastewater in excess of the MH Purchased Treatment Capacity and provisions that authorize CLT to enforce terms and pursue remedies authorized by this Agreement for wastewater discharges that exceed the MH Purchased Treatment Capacity.
3. At any time that the MH Purchased Treatment Capacity is increased, the permit in effect prior to such increase shall be re-opened and any appropriate revisions made to said permit that allow MH to receive the full benefit of such increase.
4. Upon the written request of the CLT, MH shall provide the CLT or his/her designee access to any information in MH's possession concerning sewer customers or any other person or entity discharging wastewater or any other substance into a MH sewer line. CLT shall maintain, treat and protect such records and information as described in this Paragraph to the same extent as it would if the customer(s) to whom such information relates were customers of CLT. CLT shall not release such information except as may be authorized by MH or required by applicable law and/or directed by any official with the State of North Carolina or the United States with apparent authority to do so. Upon written request from CLT, MH shall provide CLT with a grab and/or composite sample of wastewater discharge for analysis from any user discharging into MH's wastewater collection system. CLT shall provide the results of such analysis to MH. CLT may provide a representative to be present when such sample is taken.
5. At all times, MH shall maintain and enforce a sewer use ordinance ("SUO"), which shall include an industrial pretreatment program and a fats, oils, and grease (FOG) program and any other program as required by federal, state or local regulation, regulating and protecting MH sewer lines, and all facilities of CLT that collect, transport and treat wastewater discharged from MH sewer lines into the MH Force Mains. Such SUO shall be maintained in compliance with all applicable law and shall be enforced.

6. The CLT may demand in writing that MH take appropriate enforcement action against any sewer customer or other person or entity discharging wastewater or other substance into a MH sewer line in violation of the SUO. Within thirty (30) days after receipt of such demand, MH shall take such action as has been requested or advise CLT in writing why such action is not appropriate. If either Party brings enforcement action against the other, the prevailing party shall recover from the other Party its reasonable attorney fees and arbitration and/or litigation expenses.
7. Nothing in this Agreement shall limit, modify, or prohibit the enforcement of any MH ordinance now in force or hereinafter adopted pertaining to the collection of fees or rates charged to any MH waste water customer.

**XII.  
SERVICE AREA TERRITORIES**

This Agreement imposes no limitations on the manner in which CLT may provide, finance or extend water and sewer service, except as expressly set forth herein. This Agreement imposes no limitations on the manner in which MH may provide, finance or extend water and sewer service, except as expressly set forth herein. It is expressly understood and agreed that CLT will not provide water or sewer service, directly or indirectly, within any portion of Gaston County located both north of I-85 and east of Hwy. 321 without first providing to MH the option of providing such service contemplated by CLT upon the same terms as CLT is proposing, which option to serve must be exercised by MH within 30 days of written notice from CLT. MH hereby agrees that this limitation does not apply to CLT's provision of water or sewer service to any property within the City of Belmont or its ETJ.

**XIII.  
NEGOTIATION AND MEDIATION OF DISPUTES**

A. Alternative Dispute Resolution. It is the Parties' intent to resolve any disputes relating to the interpretation or application of this Agreement informally through discussions between CLT and MH, or their authorized designees. If a dispute arises from or relates to this Agreement or a breach thereof and the dispute cannot be resolved through direct discussions, the Parties agree to endeavor to first settle the dispute in an amicable manner by mediation administered by a professional mediator before proceeding to arbitration. All fees and expenses for mediation shall be borne by the Parties equally. However, each Party shall bear the expense of its own counsel, experts, witnesses and preparation and presentation at the mediation.

B. Any arbitrable claim or controversy arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the applicable Arbitration Rules of the American Arbitration Association.





#### XIV REQUIRED TERMS

The following provisions are included in this Agreement as required by Article 20, Part 1 of Chapter 160A of the North Carolina General Statutes:

- A. Purpose. The purpose of this Agreement is as set forth in Section I.
- B. Effective Date; Term of Agreement. This Agreement shall be effective on the date by which both have executed this Agreement (“Effective Date”) and shall be perpetual in duration. MH and CLT hereby agree that such perpetual duration is reasonable in light of the purposes of this Agreement. If it should be judicially determined that this Agreement is not enforceable for such perpetual duration, it is the express intent of the parties that the resulting duration of this Agreement be ninety-nine (99) years (it being the express agreement of the parties that such duration of ninety-nine (99) years is reasonable in light of the purposes of this Agreement). If it should be judicially determined that this Agreement is not enforceable for such duration of ninety-nine (99) years, it is the express intent of the parties that the resulting duration of this Agreement be the maximum period of time that is judicially determined to be enforceable.

Except as expressly set forth herein, this Agreement may be terminated only upon the agreement of the parties following the procedures described herein for amending this Agreement.

- C. Omitted on purpose.
- D. No Joint Venture. No joint venture, partnership or agency is established by this Agreement.
- E. Appointment of Authorized Personnel. No officers, employees or agents of one Party or any of its contractors or subcontractors shall be deemed, or represent themselves to be, employees of the other Party. CLT shall have the sole responsibility and authority to select, appoint or otherwise employ the personnel necessary or convenient to design, construct, operate, maintain and take all other action necessary or convenient in the management and operation of Regional Project. CLT agrees that it will give hiring priority to employees of MH who are skilled and experienced in the operation of sewer treatment facilities and whose jobs may be eliminated by construction of the Regional Project. CLT agrees that former employees of MH shall be allowed to carry over their respective tenures, vacation days, and sick leave.
- F. Modification of Agreement. This Agreement may be amended only when made in writing and approved by the governing bodies of each Party or their authorized designee and duly executed by each party.

*RAM*

- G. Binding Effect. This Agreement shall be binding upon, inure to the benefit of and be enforceable by the Parties hereto and their respective successors and assigns.

**XV  
INDEMNIFICATION**

A. CLT agrees, to the fullest extent permitted by law, to indemnify and hold harmless MH, its employees, agents, and elected officials, of and from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, suits, judgments including reasonable attorney's fees, liens, demands, obligations, actions, proceedings, or causes of action of every kind in connection with or arising out of this Agreement and/or the performance hereof, except to the extent caused by the gross negligence or the intentional misconduct of MH, its employees, agents, and elected officials.

B. MH agrees, to the fullest extent permitted by law, to indemnify and hold harmless CLT, its employees, agents, and elected officials, of and from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, suits, judgments including reasonable attorney's fees, liens, demands, obligations, actions, proceedings, or causes of action of every kind in connection with or arising out of this Agreement and/or the performance hereof to the extent caused by the gross negligence or the intentional misconduct of MH, its employees, agents, and elected officials.

C. If any claim is filed for damages related to the provisions of this agreement, then the parties agree to cooperate with each other in the defense of the same, unless there shall arise a conflict of interest between CLT and MH. The cost of defense will be handled in accordance with the foregoing provisions of this Paragraph XV.

**XVI.  
MISCELLANEOUS GENERAL PROVISIONS**

- A. No Third Party Rights. This Agreement is entered into by and between the parties hereto for their exclusive benefit and is not intended and shall not be construed to create or establish any rights in any other person or entity who is not a party to the Agreement.
- B. Severability. If any section or part of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such action shall not affect the validity or enforceability of any other section or part of this Agreement.
- C. Notices. Whenever written notice is required under this Agreement, said notice shall be sufficient when received by the person identified below for each party. Said notice may be mailed or delivered by any other means but shall not be effective unless actually received. Any notice directed to CLT shall be sent to:



Director of Charlotte Water  
4222 Westmont Drive  
Charlotte, North Carolina 28217

Any notice directed to MH shall be sent to:

City Manager  
City of Mount Holly  
P.O. Box 406  
Mount Holly, North Carolina 28120

With a copy to:  
Office of City Attorney  
124 W. Catawba Ave.  
Mount Holly, North Carolina 28120

Either Party may change the person authorized to receive notice or its address, by giving written notice of such change. Unless so changed, the persons authorized to receive notice and the addresses set forth above will apply.

D. Entire Agreement. This Agreement contains the entire agreement between CLT and MH and supersedes all prior discussions and agreements.

E. Applicable Law. This Agreement shall be enforced, interpreted and construed by and under the laws of the State of North Carolina.

F. Omitted on purpose.

G. Omitted on purpose.

H. Waiver. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement, unless stated to be such through written approval of the non-breaching Party and attachment of such written approval of this Agreement.

I. Insurance. Each Party shall obtain and maintain insurance coverage from a solvent insurance provider, solvent insurance pool or self-insurance program that is sufficient to address and cover the duties, responsibilities and obligations of this Agreement. Upon request, a Party shall provide evidence of insurance coverage, in the form of a certificate of insurance from an insurance provider or a letter confirming coverage from an insurance pool or self-insurance program.

MH  
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J. Regulatory Agencies. This Agreement is subject to any rules, regulations or laws as may be applicable to similar wastewater treatment service agreements in the State of North Carolina, and CLT and MH shall collaborate for the benefit of each other in obtaining any required permits. By its signature below, CLT agrees to follow and abide by all ordinances, rules, regulations and requirements of MH applicable to its customers, including CLT. By its signature below, MH agrees to follow and abide by all ordinances, rules, regulations and requirements of CLT applicable to its customers, including MH.

K. Captions. Headings used in this Agreement are intended for convenience or reference only and will not control or affect the meaning or construction of any provision of this Agreement.

L. Multiple Originals. This Agreement is executed in multiple originals, one of which is being retained by each of the parties hereto and each of which shall be deemed an original hereof.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first above written.

This the \_\_\_\_\_ day of \_\_\_\_\_ 2018.

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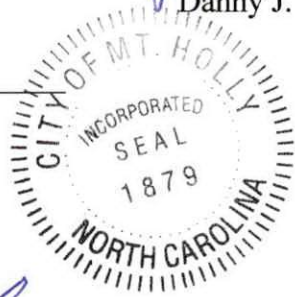
**CITY OF MOUNT HOLLY**

ATTEST:

By:

*Danny J. Jackson*  
\_\_\_\_\_  
Danny J. Jackson, City Manager

*Amy Miller*  
\_\_\_\_\_  
Clerk



Approved as to form:

*Greg A. Michael*  
\_\_\_\_\_  
City Attorney

This instrument has been preaudited in the manner required by G.S. 159-28(a1).

*Alyssa* 8/28/18  
\_\_\_\_\_  
Finance Officer

*12 AM*

CITY OF CHARLOTTE:  
CITY MANAGER'S OFFICE

BY: Kim Gu  
PRINT NAME: Kim Eagle  
TITLE: Assistant City Manager  
DATE: 9/6/18

CITY OF CHARLOTTE:  
CITY CLERK'S OFFICE

BY: Emily A Kunze  
PRINT NAME: EMILY A KUNZE  
TITLE: DEPUTY CITY CLERK  
DATE: 09/07/18

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Finance Officer

\_\_\_\_\_  
Date

**No Pre-Audit Required.**

\_\_\_\_\_  
Finance Officer

## EXHIBIT A

### REPAYMENT OF PROJECT COST

CLT and MH agree that construction costs of the MH Component will initially be paid by CLT on a reimbursement basis using proceeds of construction period financing (short-term, variable rate debt). The construction period financing will subsequently be refinanced by CLT using proceeds of long-term fixed-rate revenue bonds. The proceeds of the portion of the revenue bonds allocable to MH will not exceed \$14 million, including bond premium and issuance cost. MH will pay to CLT the total principal of revenue bonds allocable to MH over a 20-year period using level annual principal payments. Interest will accrue on the principal amount payable by MH at the rate equal to the "all-in true interest cost," commonly referred to as the All-In TIC, on the long-term fixed rate revenue bonds issued by CLT related to the project. Payments will be made by MH to CLT on the same basis as principal and interest on the long-term fixed rate revenue bonds issued by CLT related to the project. See example of payment schedule (Exhibit A-1). MH may prepay its payment obligations on the same basis as the long-term fixed rate revenue bonds issued by CLT related to the MH Component.

CLT agrees to apply all payments from MH towards the bond principal and/or interest payment that is due at that respective time. CLT reserves the right to refinance the long-term fixed rate revenue bonds at its sole discretion.

In the event MH does not elect to finance the costs of the MH Component through CLT, then the parties shall reach a further agreement on the terms of reimbursement by MH to CLT.

**Exhibit A-1**

Date	Principal	Interest (for example 5.5%)	Total	Remaining Debt Balance
7-1-XX				\$ 14,000,000
1-1-XX	-	385,000	385,000	14,000,000
7-1-XX	700,000	385,000	1,085,000	13,300,000
1-1-XX	-	365,750	365,750	13,300,000
7-1-XX	700,000	365,750	1,065,750	12,600,000
1-1-XX	-	346,500	346,500	12,600,000
7-1-XX	700,000	346,500	1,046,500	11,900,000
1-1-XX	-	327,250	327,250	11,900,000
7-1-XX	700,000	327,250	1,027,250	11,200,000
1-1-XX	-	308,000	308,000	11,200,000
7-1-XX	700,000	308,000	1,008,000	10,500,000
1-1-XX	-	288,750	288,750	10,500,000
7-1-XX	700,000	288,750	988,750	9,800,000
1-1-XX	-	269,500	269,500	9,800,000
7-1-XX	700,000	269,500	969,500	9,100,000
1-1-XX	-	250,250	250,250	9,100,000
7-1-XX	700,000	250,250	950,250	8,400,000
1-1-XX	-	231,000	231,000	8,400,000
7-1-XX	700,000	231,000	931,000	7,700,000
1-1-XX	-	211,750	211,750	7,700,000
7-1-XX	700,000	211,750	911,750	7,000,000
1-1-XX	-	192,500	192,500	7,000,000
7-1-XX	700,000	192,500	892,500	6,300,000
1-1-XX	-	173,250	173,250	6,300,000
7-1-XX	700,000	173,250	873,250	5,600,000
1-1-XX	-	154,000	154,000	5,600,000
7-1-XX	700,000	154,000	854,000	4,900,000
1-1-XX	-	134,750	134,750	4,900,000
7-1-XX	700,000	134,750	834,750	4,200,000
1-1-XX	-	115,500	115,500	4,200,000
7-1-XX	700,000	115,500	815,500	3,500,000
1-1-XX	-	96,250	96,250	3,500,000
7-1-XX	700,000	96,250	796,250	2,800,000
1-1-XX	-	77,000	77,000	2,800,000
7-1-XX	700,000	77,000	777,000	2,100,000
1-1-XX	-	57,750	57,750	2,100,000
7-1-XX	700,000	57,750	757,750	1,400,000
1-1-XX	-	38,500	38,500	1,400,000
7-1-XX	700,000	38,500	738,500	700,000
1-1-XX	-	19,250	19,250	700,000
7-1-XX	700,000	19,250	719,250	-

*12/2/18*

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 September 10, 2018:

Members Present: Lyles, Eiselt, Ajmera, Bokhari, Driggs, Egleston, Harlow, Mayfield, Mitchell, Newton, Phipps, Winston

Members Absent: None

\* \* \* \* \*  
\* \* \*

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

**RESOLUTION ADOPTING THE BOND ORDER AUTHORIZING THE ISSUANCE OF WATER AND SEWER SYSTEM REVENUE BOND ANTICIPATION NOTE OF THE CITY OF CHARLOTTE, NORTH CAROLINA IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$100,000,000**

*WHEREAS*, the City of Charlotte, North Carolina (the "City") is authorized by The State and Local Government Revenue Bond Act, General Statutes of North Carolina, Section 159-80 *et seq.*, as amended (the "Act"), to issue, subject to the approval of the Local Government Commission of North Carolina (the "LGC"), at one time or from time to time, revenue bond anticipation notes of the City for the purposes specified in the Act; and

*WHEREAS*, the City has previously issued Water and Sewer System Revenue Bonds under the terms of the General Trust Indenture dated as of November 1, 1996 between the City and U.S. Bank National Association, as successor trustee, (the "Trustee"), as amended (the "General Indenture"), to finance the capital costs of improvements to the water and sanitary sewer systems of the City (the "Water and Sewer System");

*WHEREAS*, the City Council has determined that it is in the best interest of the City to issue its Water and Sewer System Revenue Bond Anticipation Note, Series 2018 (the "Bond Anticipation Note") in an aggregate principal amount not to exceed \$100,000,000 to finance the costs of extensions, additions and capital improvements to, or the acquisition, renewal or replacement of capital assets of, or purchasing and installing new equipment for the Water and Sewer System (the "Projects");

*WHEREAS*, the City will issue the Bond Anticipation Note under the General Indenture and Series Indenture, Number 18 dated as of October 1, 2018 (the "Series Indenture") between the City and the Trustee; and

*WHEREAS*, the City and the LGC have arranged for Wells Fargo Bank, National Association, or a wholly owned subsidiary thereof (the "Lender") to purchase the Bond Anticipation Note and advance

the funds to finance the Projects under the terms of a Note Purchase and Advance Agreement to be dated on or about October 10, 2018 (the "*Purchase Agreement*"); and

*WHEREAS*, an application has been filed with the LGC requesting approval of the Bond Anticipation Note as required by the Act.

*NOW, THEREFORE, BE IT ORDERED* by the City Council of the City of Charlotte, North Carolina, as follows:

**Section 1.** The Bond Anticipation Note is authorized and will be issued pursuant to and under the Act and this bond order (this "*Bond Order*") in order to raise the money required to finance the Projects, in addition to any funds which may be made available for such purpose from any other source.

**Section 2.** The aggregate principal amount of the Bond Anticipation Note authorized by this Bond Order will not exceed \$100,000,000. The Bond Anticipation Note hereby authorized will be a special obligation of the City, secured by and paid solely from the proceeds thereof or from revenues, income, receipts and other money received or accrued by or on behalf of the City from or in connection with the operation of the City's Water and Sewer System, as more specifically provided in the General Indenture and the Series Indenture. The principal of, premium, if any, and interest on the Bond Anticipation Note will not be payable from the general funds of the City, nor will they constitute a legal or equitable pledge, charge, lien or encumbrance upon any of its property or upon any of its income, receipts or revenues except the funds which are pledged under the General Indenture. Neither the credit nor the taxing power of the State of North Carolina or the City are pledged for the payment of the principal of, premium, if any, or interest on the Bond Anticipation Note, and no holder of the Bond Anticipation Note has the right to compel the exercise of the taxing power by the State of North Carolina or the City or the forfeiture of any of its property in connection with any default thereon.

**Section 3.** The form and content of the Bond Anticipation Note and the provisions of the Series Indenture and the Purchase Agreement with respect to the Bond Anticipation Note (including without limitation the maturities and rate setting mechanisms) will be approved and confirmed in a separate resolution of the City Council.

**Section 4.** The Bond Anticipation Note will be purchased by the Lender under the terms of the Purchase Agreement and the proceeds from the sale of the Bond Anticipation Note will be deposited in accordance with the Series Indenture.

**Section 5.** If any one or more of the agreements or provisions herein contained is held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or is for any reason whatsoever held invalid, then such covenants, agreements or provisions are null and void and deemed separable from the remaining agreements and provisions and in no way affect the validity of any of the other agreements and provisions hereof or of the Bond Anticipation Note authorized hereunder.

**Section 6.** All resolutions or parts thereof of the City Council in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

**Section 7.** This Bond Order will take effect immediately on its adoption and pursuant to §159-88 of the General Statutes of North Carolina, as amended, need not be published or subjected to any procedural requirements governing the adoption of ordinances or resolutions by the City Council other than the procedures set out in the Act.

STATE OF NORTH CAROLINA            )  
  )  
CITY OF CHARLOTTE                    )        ss:

I, Emily A. Kunze, the 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 entitled “**RESOLUTION ADOPTING THE BOND ORDER AUTHORIZING THE ISSUANCE OF WATER AND SEWER SYSTEM REVENUE BOND ANTICIPATION NOTE OF THE CITY OF CHARLOTTE, NORTH CAROLINA IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$100,000,000**” adopted by the City Council of the City of Charlotte, North Carolina, at a meeting held on the 10<sup>th</sup> day of September, 2018, the reference having been made in Minute Book 146, and recorded in full in Resolution Book 49, Pages 147-149.

*WITNESS* my hand and the corporate seal of the City of Charlotte, North Carolina, this the 10th day of September, 2018.

[Seal]



Emily A. Kunze  
Deputy City Clerk  
City of Charlotte, North Carolina

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 September 10, 2018:

Members Present: Lyles, Eiselt, Ajmera, Bokhari, Driggs, Egleston, Harlow, Mayfield, Mitchell, Newton, Phipps, Winston

Members Absent: None

\* \* \* \* \*  
\* \* \*

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA, FOR THE APPROVAL, EXECUTION AND DELIVERY OF CITY OF CHARLOTTE, NORTH CAROLINA WATER AND SEWER SYSTEM REVENUE BOND ANTICIPATION NOTE, SERIES 2018**

*WHEREAS*, the City of Charlotte, North Carolina (the "City") is authorized by The State and Local Government Revenue Bond Act, General Statutes of North Carolina, Section 159-80 *et seq.*, as amended (the "Act"), to issue, subject to the approval of the Local Government Commission of North Carolina (the "LGC"), at one time or from time to time, revenue bond anticipation notes of the City for the purposes specified in the Act; and

*WHEREAS*, the City has previously issued Water and Sewer System Revenue Bonds under the terms of the General Trust Indenture dated as of November 1, 1996 between the City and U.S. Bank National Association, as successor trustee, (the "Trustee"), as amended (the "General Indenture"), to finance the capital costs of improvements to the water and sanitary sewer systems of the City (the "Water and Sewer System");

*WHEREAS*, the City Council has determined that it is in the best interest of the City to issue its Water and Sewer System Revenue Bond Anticipation Note, Series 2018 (the "Bond Anticipation Note") in an aggregate principal amount not to exceed \$100,000,000 to finance the capital costs of extensions, additions and capital improvements to, or the acquisition, renewal or replacement of capital assets of, or purchasing and installing new equipment for the Water and Sewer System (the "Projects");

*WHEREAS*, the City will issue the Bond Anticipation Note under the General Indenture and Series Indenture, Number 18 dated as of October 1, 2018 (the "Series Indenture") between the City and the Trustee; and

*WHEREAS*, Wells Fargo Bank, National Association, or a wholly owned subsidiary thereof (the "Lender") will purchase the Bond Anticipation Note and provide the City with the funding for the Projects on a draw-down basis under the terms of the Series Indenture and a Note Purchase and Advance Agreement dated on or about October 10, 2018 (the "Purchase Agreement") among the City, the Lender and the LGC;



*WHEREAS*, the City Council has considered and recognized that variable interest rate debt instruments may subject the City to the risk of higher interest rates in the future;

*WHEREAS*, the City Council believes that a draw-down program as contemplated in the Series Indenture and the Purchase Agreement is superior to a fixed rate financing because it will lower the City's overall cost of capital;

*WHEREAS*, the City Council wants to (A) retain Parker Poe Adams & Bernstein LLP, as bond counsel ("*Bond Counsel*"); (B) approve the Lender, as the purchaser of the Bond Anticipation Note; (C) retain DEC Associates, Inc., as the financial advisor, and Waters and Company, LLC, as the financial consultant; (D) retain U.S. Bank National Association, as trustee and paying agent for the Bond Anticipation Note; and (E) retain such other professionals as the Finance Officer (as defined in §159-24 of the General Statutes of North Carolina, as amended) of the City determines necessary to carry out the financing contemplated in this Resolution (collectively, the "*Financing Team*");

*WHEREAS*, the City Council desires to ratify the filing by the Finance Officer of the City of an application with the LGC for its approval of the Bond Anticipation Note, on a form prescribed by the LGC, (1) requesting in such application that the LGC approve (a) the negotiation of the sale of the Bond Anticipation Note to the Lender and (b) the City's use of the Financing Team and (2) stating in such application such facts and attaching thereto such exhibits in regard to the Bond Anticipation Note and to the City and its financial condition, as required by the LGC, and taking all other action necessary to the issuance of the Bond Anticipation Notes; and

*WHEREAS*, copies of the Series Indenture and the Purchase Agreement have been filed with the City and made available to the City Council;

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

**Section 1.** The issuance of the Bond Anticipation Note by the City in the principal amount not to exceed \$100,000,000, in substantially the form and content set forth in the Series Indenture, subject to appropriate insertions and revisions in order to comply with the provisions of the General Indenture and the Series Indenture, is in all respects approved and confirmed. The form and content of the Bond Anticipation Note set forth in the Series Indenture are in all respects approved and confirmed. The provisions of the General Indenture and the Series Indenture with respect to the Bond Anticipation Note (including without limitation the maturities and rate setting mechanisms) are in all respects approved and confirmed and are incorporated herein by reference.

The Bond Anticipation Note will be issued by the City for the purpose of providing funds (1) to finance the costs of the Projects and (2) to pay the costs of issuing the Bond Anticipation Note, all as set out fully in the documents attached to the City's application to the LGC. The use of the proceeds of the Bond Anticipation Note, 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.** The filing by the Finance Officer of the City of an application with the LGC requesting its approval of the issuance of the Bond Anticipation Note is in all respects ratified, approved and confirmed. The Financing Team for the Bond Anticipation Note is approved and confirmed.

**Section 3.** The City Council finds and determines and asks the LGC to find and determine from the City's application and supporting documentation:

- (a) that the issuance of the Bond Anticipation Note is necessary or expedient;
- (b) that the not to exceed stated principal amount of the Bond Anticipation Note is adequate and not excessive for its proposed purpose;
- (c) that the Projects are feasible;
- (d) that the City's debt management procedures and policies are good; and
- (e) that the Bond Anticipation Note can be marketed at a reasonable interest cost to the City.

**Section 4.** The form and content of the Series Indenture and the exhibits thereto are in all respects approved and confirmed. The Mayor, the City Manager, the Deputy City Manager, the Finance Officer, the Finance Director, the City Treasurer, the City Debt Manager, the City Clerk, the Deputy City Clerk and the City Attorney, including anyone serving as such in an interim capacity, or their respective designees (the "*Authorized Officers*"), are authorized, empowered and directed to execute and deliver the Series Indenture for and on behalf of the City, including necessary counterparts, in substantially the form and content presented to the City, but with such changes, modifications, additions or deletions therein as to them seem necessary, desirable or appropriate. Execution by the Authorized Officers of the Series Indenture will constitute conclusive evidence of the City's approval of any and all such changes, modifications, additions or deletions therein from the form and content of the Series Indenture presented to the City Council. From and after the execution and delivery of the Series Indenture, the Authorized Officers, are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Series Indenture as executed.

**Section 5.** The City requests that the LGC sell the Bond Anticipation Note at private sale without advertisement through negotiation to the Lender pursuant to the terms of the Purchase Agreement but at an initial interest rate not exceeding 4% and thereafter at an interest rate to be set in accordance with the Purchase Agreement. The form and content of the Purchase Agreement are in all respects approved and confirmed. The Authorized Officers are hereby authorized, empowered and directed to execute and deliver the Purchase Agreement for and on behalf of the City, including necessary counterparts, in substantially the form and content presented to the City, but with such changes, modifications, additions or deletions therein as to them seem necessary, desirable or appropriate. Execution by the Authorized Officers of the Purchase Agreement will constitute conclusive evidence of the City's approval of any and all such changes, modifications, additions or deletions therein from the form and content of the Purchase Agreement presented to the City Council. From and after the execution and delivery of the Purchase Agreement, the Authorized Officers are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Purchase Agreement as executed.

**Section 6.** The City Manager, Finance Officer or the Finance Director of the City, or their designees, are hereby authorized to execute a no-arbitrage certificate in order to comply with Section 148 of the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated thereunder.

**Section 7.** No stipulation, obligation or agreement herein contained or contained in the Bond Anticipation Note, the General Indenture, the Series Indenture, the Purchase Agreement or any other instrument related to the issuance of the Bond Anticipation Note is deemed to be a stipulation, obligation or agreement of any officer, agent or employee of the City in his or her individual capacity, and no such officer, agent or employee will be personally liable on the Bond Anticipation Note or be subject to personal liability or accountability by reason of the issuance thereof.

**Section 8.** The Authorized Officers are hereby authorized, empowered and directed to do any and all other acts and to execute any and all other documents, which they, in their discretion, deem necessary and appropriate in order to consummate the transactions contemplated by (a) this Resolution

and the Bond Order, (b) the General Indenture, (c) the Series Indenture and (d) the Purchase Agreement; except that the Authorized Officers are not authorized or empowered to do anything or execute any document which is in contravention, in any way, of (1) the specific provisions of this Resolution or the Bond Order, (2) the specific provisions of the General Indenture, (3) the specific provisions of the Series Indenture, (4) the specific provisions of the Purchase Agreement, (5) any agreement to which the City is bound, (6) any rule or regulation of the City or (7) any applicable law, statute, ordinance, rule or regulation of the United States of America or the State of North Carolina.

**Section 9.** Any and all past acts and doings of the Authorized Officers that were in conformity with the purposes and intents of this Resolution and in the furtherance of the issuance of the Bond Anticipation Note and the execution, delivery and performance of the Series Indenture and the Purchase Agreement are in all respects ratified, approved and confirmed. Any and all future acts and doings of the Authorized Officers that are in conformity with the purposes and intents of this Resolution and in the furtherance of the issuance of the Bond Anticipation Note and the execution, delivery, performance and on-going administration of the Series Indenture and the Purchase Agreement are in all respects approved and confirmed. Any and all acts of the Authorized Officers may be done individually or collectively.

**Section 10.** If any one or more of the agreements or provisions herein contained is held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or for any reason whatsoever is held invalid, then such covenants, agreements or provisions are null and void and will be deemed separable from the remaining agreements and provisions and in no way affect the validity of any of the other agreements and provisions hereof or of the Bond Anticipation Note authorized hereunder.

**Section 11.** All resolutions or parts thereof of the Board in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

**Section 12.** This Resolution is effective on its adoption.

STATE OF NORTH CAROLINA            )  
  )  
CITY OF CHARLOTTE                    )        ss:

I, Emily A. Kunze the 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 entitled “**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA, FOR THE APPROVAL, EXECUTION AND DELIVERY OF CITY OF CHARLOTTE, NORTH CAROLINA WATER AND SEWER SYSTEM REVENUE BOND ANTICIPATION NOTE, SERIES 2018**” adopted by the City Council of the City of Charlotte, North Carolina, at a meeting held on the 10<sup>th</sup> day of September, 2018, the reference having been made in Minute Book 146, and recorded in full in Resolution Book 49, Page(s) 150-154.

***WITNESS*** my hand and the corporate seal of the City of Charlotte, North Carolina, this the 10<sup>th</sup> day of September, 2018.



Emily A. Kunze  
Deputy City Clerk  
City of Charlotte, North Carolina



**RESOLUTION DECLARING INTENT TO ABANDON AND CLOSE a portion of an alleyway off of W. Worthington Avenue the City of Charlotte, Mecklenburg County, North Carolina**

Whereas, **TAG Ventures, LLC** has filed a petition to close a portion of an alleyway off of W. Worthington Avenue in the City of Charlotte; and

Whereas, a portion of an alleyway off of W. Worthington Avenue is a 10-foot wide right-of-way that begins at a #4 rebar set, the common rear corner of tract 2 Southern Tryon Ventures, LLC property, continuing east bound for approximately 113 feet to its terminus at #4 rebar set the common corner of Shackelford Property, and consisting 1,134 square feet, as shown in the map marked "Exhibit A" and are more particularly described by metes and bounds in the document marked "Exhibit B" all 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 North Carolina General Statutes, Section 160A-299, requires that City Council first adopt a resolution declaring its intent to close the alleyway 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.

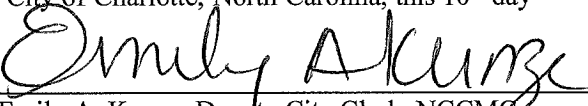
Now, therefore, be it resolved, by the City Council of the City of Charlotte, at its regularly scheduled session of September 10, 2018, that it intends to close a portion of an alleyway off of W. Worthington Avenue and that the said street (or portion thereof) being more particularly described on a map and calls a public hearing on the question to be held at 7:00pm on Monday, the 22<sup>nd</sup> day of October, 2018, in CMGC meeting chamber, 600 East 4<sup>th</sup> Street, Charlotte, North Carolina.

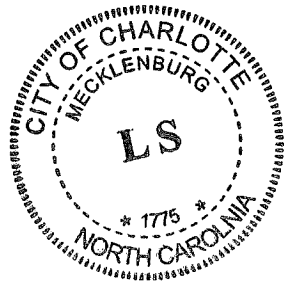
The City Clerk is hereby directed to publish a copy of this resolution in the Mecklenburg Times once a week for two successive weeks next preceding the date fixed here for such hearing as required by N.C.G.S. 160A-299.

**CERTIFICATION**

I, Emily A. Kunze, 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 10<sup>th</sup> day of September, 2018, the reference having been made in Minute Book 146, and recorded in full in Resolution Book 49, Page(s) 155-156.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 10<sup>th</sup> day of September, 2018.

  
\_\_\_\_\_  
Emily A. Kunze, Deputy City Clerk, NCCMC





**RESOLUTION FIXING DATE OF PUBLIC HEARING  
ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31**

**NORTHLAKE 3 AREA**

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency of the petition; and

WHEREAS, certification by the City Clerk as to the sufficiency of the petition has been made;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlotte, North Carolina that:

Section 1. A public hearing on the question of annexation of the area described herein will be held in the Meeting Chamber of the Charlotte-Mecklenburg Government Center, 600 E. Fourth Street, Charlotte, N.C. at 7:00 p.m. on September 10<sup>th</sup> 2018.

Section 2. The area proposed for annexation is described as follows:

**LEGAL DESCRIPTION**

Beginning at an existing #4 rebar, said rebar being situated on the Southeasterly margin of Interstate 485 (a variable width controlled access) (North Carolina Department of Transportation); said rebar also being the northeasterly corner of Lot 1 as shown in Map Book 59, Page 198, Mecklenburg County Registry; thence with said Interstate 485 controlled access the following four (5) courses and distances: (1.) N 39 ° 47' 04" E, a distance of 300.44 feet to an existing R/W monument; (2.) N 41 ° 43' 44" E, a distance of 230.84 feet to an existing R/W monument; (3.) N 45 ° 19' 12" E, a distance of 192.08 feet to an existing R/W monument; (4.) N 59 ° 30' 42" E, a distance of 349.79 feet to an existing R/W monument; (5.) N 61 ° 58' 46" E, a distance of 120.57 feet to an existing #4 rebar, said rebar being situated on the northwesterly margin of Northlake Centre Parkway, a variable width public right-of-way as shown in Map Book 43, pages 43 & 57, Mecklenburg County Registry; thence with said margin the following for (6) courses and distances: (1.) S 26°03'28" E, a distance of 8.62 feet to an existing #4 rebar; (2.) with the arc of a circular curve to the right having a radius of 770.21 feet, an arc distance of 172.32 feet (said arc subtended by a chord of S 19°40'01" E, 171.96 feet) to a point; (3.) S 76 ° 44' 19" W, a distance of 64.80 feet to a point; (4.) S 09 ° 53' 35" E, a distance of 199.82 feet to a point; (5.) S 02°04'57" W, a distance of 201.87 feet to a point; (6.) S 18 ° 02' 16" W, a distance of 267.64 feet to a point; thence leaving said margin with four (4) lines through the Metrolina Properties Limited Partnership property, as recorded in Deed Book 5809, Page 855; (1.) N 72 ° 41' 50" W, a distance of 195.15 feet to point; (2.) S 14 ° 47' 15 " W, a distance of 378.72 feet to a point; (3.) with the arc of a circular curve to the right having a radius of 216.85 feet, an arc distance of 90.25 feet (said arc subtended by a chord of S. 27 ° 24' 20" W., 89.60 feet) to a point; (4.) S 41 ° 58' 37" W, a distance of 311.74 feet to a point, said point being situated on the northeasterly right-of-way margin of Calhoun Street, a variable width public right-of-way as shown in Map Book 59, Page 198, Mecklenburg County Registry; thence with said margin N 47°58'39" W, a distance of 265.62 feet to an existing #4 rebar, said rebar marking the southeasterly intersection of said Calhoun Street and Tisbury Road, a 71' public right-of-way as shown in Map Book 59, Page 198;

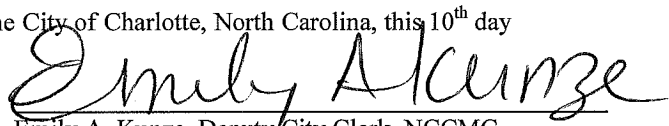
thence with the southeasterly right-of-way of Tisbury Road the following three (3) courses and distances: (1.) N 55°25'53" E, a distance of 29.19 feet to an existing #4 rebar, (2) with the arc of a circular curve to the left having a radius of 235.50 feet , an arc distance of 55.11 feet (said arc subtended by a chord of N 48°43'37" E., 54.99 feet) to an existing #4 rebar; (3 .) N 42°01' 21" E, a distance of 224.83 feet to an existing #4 rebar; thence along the easterly margin of said Lot 1, Map Book 59 , Page 198, N 48°00'27" W, a distance of 429.03 feet to an existing #4 rebar and being the point and place of BEGINNING, and being portions of the Metrolina Properties Limited Partnership properties as recorded in Deed Book 5809, page 855, Deed Book 17474, page 707; and Deed Book 29652, page 418 and Deed Book 24707 , Page 577 and containing 15.047 acres, more or less.

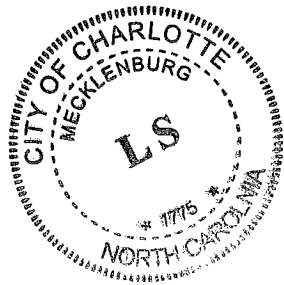
Section 3. Notice of the public hearing shall be published in the *Mecklenburg Times*, a newspaper having general circulation in the City of Charlotte, at least ten (10) days prior to the date of the public hearing.

**CERTIFICATION**

I, Emily A. Kunze, 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 10<sup>th</sup> day of September, 2018, the reference having been made in Minute Book 146, and recorded in full in Resolution Book 49, Page(s) 157-160.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 10<sup>th</sup> day of September, 2018.

  
Emily A. Kunze, Deputy City Clerk, NCCMC

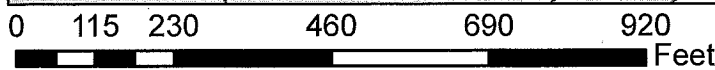
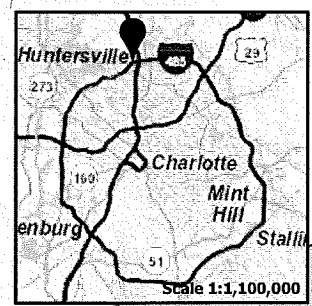
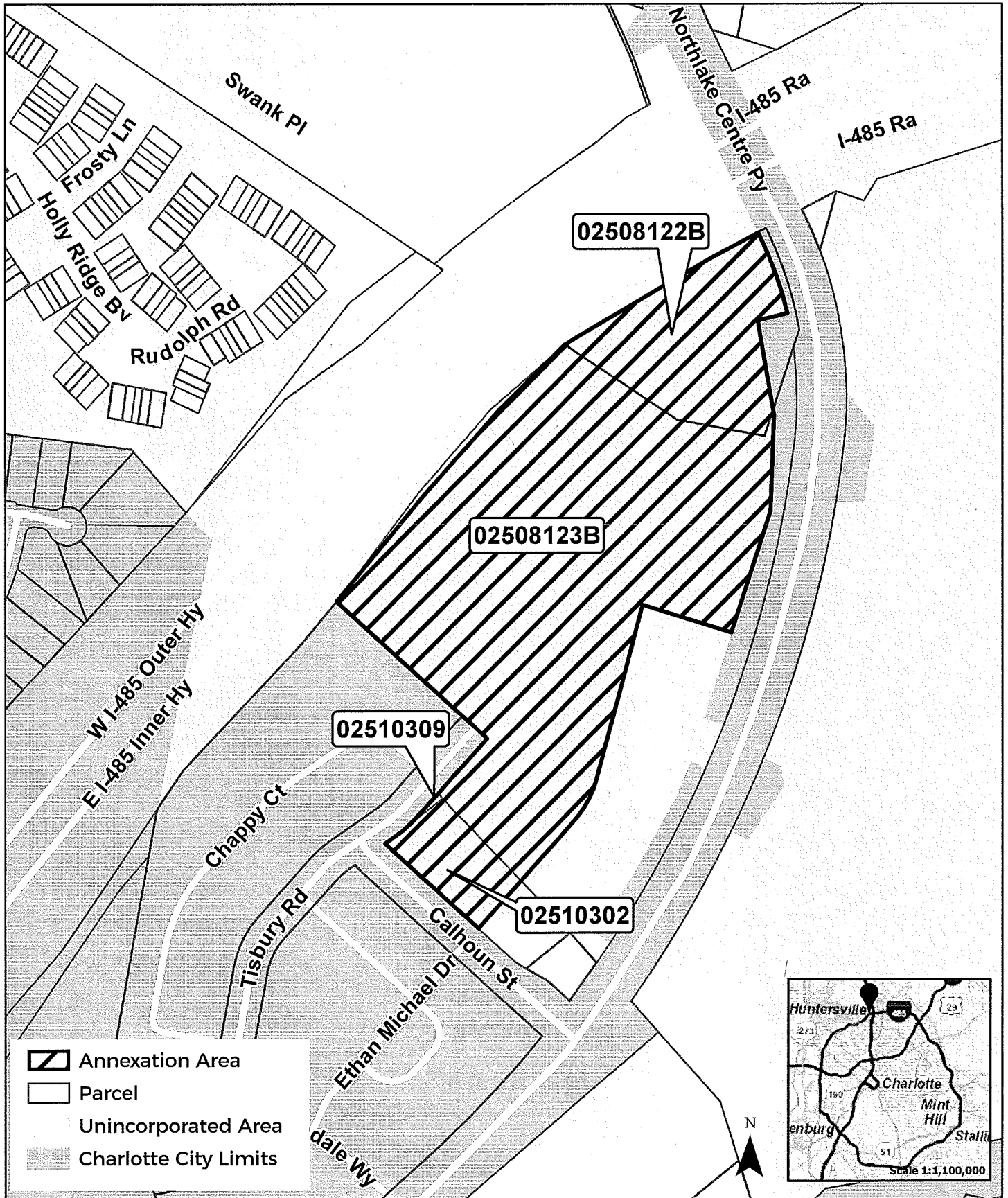




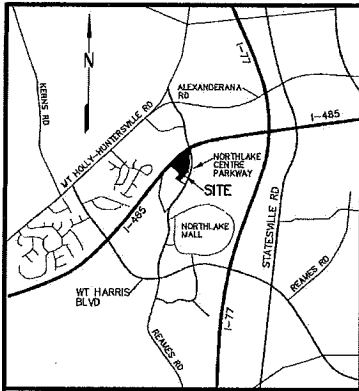
CHARLOTTE-MECKLENBURG  
PLANNING

# Northlake 3 Voluntary Annexation

September 10, 2018, Resolution Book 49, Page 159



Map Created 6/14/2018



VICINITY MAP

**LEGEND**

- PROPOSED ANNEXATION
- CURRENT CITY LIMITS
- TAX PARCEL LINE

September 10, 2018  
Resolution Book 49, Page 160

(NCCS GRID NAD-83)

**Interstate 485**

METROLINA PROPERTIES LIMITED PARTNERSHIP  
DB 24707 PG 577  
PORTION OF  
TAX PARCEL 025-081-22B

ANNEXATION BOUNDARY

METROLINA PROPERTIES LIMITED PARTNERSHIP  
DB 5809 PG 855  
PORTION OF  
TAX PARCEL 025-081-23B

CURRENT CITY LIMITS

**15.047 ACRES TOTAL**

P.O.B.

ANNEXATION BOUNDARY

CURRENT CITY LIMITS

MASON ANDREW NC PARTNERS LLC  
DB 32207 PG 36  
TAX PARCEL 025-103-03  
LOT 1  
MB 59 PG 198

METROLINA PROPERTIES LIMITED PARTNERSHIP  
DB 29635 PG 418  
TAX PARCEL 025-103-09

TIBBURY ROAD  
(71' PUBLIC R/W)

METROLINA PROPERTIES LIMITED PARTNERSHIP  
DB 17474 PG 707  
PORTION OF  
TAX PARCEL 025-103-02

CURRENT CITY LIMITS  
(VARIABLE WIDTH PUBLIC R/W)

METROLINA PROPERTIES LIMITED PARTNERSHIP  
DB 17474 PG 711  
TAX PARCEL 025-103-03

**NORTHLAKE CENTRE PARKWAY**

METROLINA PROPERTIES LIMITED PARTNERSHIP  
DB 17474 PG 707  
PORTION OF  
TAX PARCEL 025-103-02



GRAPHIC SCALE 1" = 200'

5/30/18  
NORTH CAROLINA PROFESSIONAL SEAL L-3470  
LAND SURVEYOR  
EDWIN S. GODSEY  
*Edwin S. Godsey*

LONG CREEK TOWNSHIP  
MECKLENBURG COUNTY, NORTH CAROLINA  
ANNEXATION PLAT FOR:

**CITY OF CHARLOTTE**

SURVEY DATE(S):	6-18
PLAT DATE:	6-18
DRAWING SCALE:	1" = 200'

**LANDTEC**  
SURVEYING ■ MAPPING

157 CROSS CENTER RD #255 OFFICE 704-483-3201  
DENVER, NC 28037 FAX 704-483-3202

N.C. FIRM LICENSE # F-1329



RESOLUTION PROVIDING APPROVAL OF A MULTIFAMILY HOUSING FACILITY TO BE KNOWN AS OLD CONCORD APARTMENTS AT THE BLUE LINE IN THE CITY OF CHARLOTTE, NORTH CAROLINA AND THE FINANCING THEREOF WITH MULTIFAMILY HOUSING REVENUE BONDS IN AN AGGREGATE AMOUNT NOT TO EXCEED \$20,000,000

WHEREAS, the City Council of the City of Charlotte (the "City") met in Charlotte, North Carolina at 7:00 p.m. on the 10<sup>th</sup> day of September, 2018; and

WHEREAS, the Housing Authority of the City of Charlotte, N.C. (the "Issuer") has tentatively agreed to issue its multifamily housing revenue bonds in an amount not to exceed \$20,000,000 (the "Bonds"), for the purpose of financing the acquisition, construction and equipping by Old Concord Apartments at the Blue Line LLC, a North Carolina limited liability company, or an affiliate or subsidiary thereof (the "Borrower"), of a multifamily residential rental facility to be known as Old Concord Apartments at the Blue Line (the "Development"); and

WHEREAS, the Development will consist of approximately 198 units, located in five three-story buildings and one four-story building on an approximately 12.44 acre site at the northwest corner of the intersection of North Tryon Road and Old Concord Road in the City of Charlotte, Mecklenburg County, North Carolina; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires that any bonds issued by the Issuer for the Development may only be issued after approval of the plan of financing by the City following a public hearing with respect to such plan; and

WHEREAS, on July 3, 2018, the Issuer held a public hearing with respect to the issuance of the Bonds to finance, in part, the Development (as evidenced by the Certificate and Summary of Public Hearing attached hereto) and has requested the City to approve the issuance of the Bonds as required by the Code; and

WHEREAS, the City has determined that approval of the issuance of the Bonds is solely to satisfy the requirement of Section 147(f) of the Code and shall in no event constitute an endorsement of the Bonds or the Development or the creditworthiness of the Borrower, nor shall such approval in any event be construed to obligate the City of Charlotte, North Carolina for the payment of the principal of or premium or interest on the Bonds or for the performance of any pledge, mortgage or obligation or agreement of any kind whatsoever which may be undertaken by the Issuer, or to constitute the Bonds or any of the agreements or obligations of the Issuer an indebtedness of the City of Charlotte, North Carolina, within the meaning of any constitutional or statutory provision whatsoever;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

1. The proposed low income housing development consisting of the acquisition, construction and equipping of the Development described above in the City of Charlotte, Mecklenburg County, North Carolina by the Borrower and the issuance of the Authority's

multifamily housing revenue bonds therefor in an amount not to exceed \$20,000,000 are hereby approved for purposes of Section 147(f) of the Code. The Mayor is hereby authorized to execute such approval certificates as may be required to evidence the City's approval of the issuance of the Bonds for purposes of Section 147(f) of the Code.

2. This resolution shall take effect immediately upon its passage.

Council member Egleston moved the passage of the foregoing resolution and Council member Harlow seconded the motion, and the resolution was passed by the following vote:

Ayes: Council members Eiselt, Ajmera, Bokhari, Driggs, Egleston, Harlow, Mayfield, Mitchell, Newton, Phipps, Winston

Nays: None

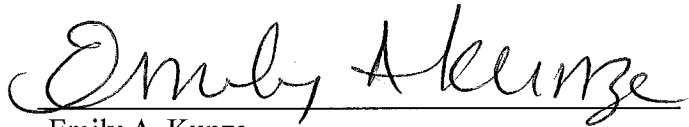
Not voting: None

\* \* \* \* \*

CERTIFICATION

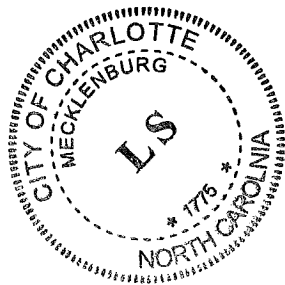
I, Emily A. Kunze, Deputy City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of a Resolution adopted by the City Council for the City of Charlotte, North Carolina, in regular session convened on September 10, 2018, the reference having been in Minute Book 146, and recorded in full in Resolution Book 49, Pages 161-165.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 10<sup>th</sup> day of September, 2018.



Emily A. Kunze  
Deputy City Clerk

(SEAL)



**AUTHORIZE THE CEO TO PROVIDE PRELIMINARY  
APPROVAL TO ISSUANCE OF REVENUE BONDS TO  
FINANCE THE ACQUISITION, CONSTRUCTION AND  
EQUIPPING OF AN AFFORDABLE HOUSING  
DEVELOPMENT (OLD CONCORD AT THE BLUE LINE)**

WHEREAS, The NRP Group LLC, an Ohio limited liability company, or an affiliated or related entity (the "Borrower"), has requested that the Housing Authority of the City of Charlotte, N.C. (the "Authority") assist in financing the acquisition, construction and equipping of a 204-unit multifamily housing development to be known as Old Concord at the Blue Line, located at the intersection of North Tryon Street and Old Concord Road in Charlotte, North Carolina (the "Development"); and

WHEREAS, the Borrower has described to the Authority the benefits of the Development to the City of Charlotte and the State of North Carolina and has requested the Authority to agree to issue its revenue bonds in such amounts as may be necessary to finance the costs of acquiring, constructing and equipping the Development; and

WHEREAS, the Authority is of the opinion that the Development is a facility which can be financed under the Act and that the financing of the same will be in furtherance of the purposes of the Act;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSING AUTHORITY OF THE CITY OF CHARLOTTE, N.C.:

1. It is hereby found and determined that the Development will involve the acquisition, construction and equipping of a housing facility to serve persons of low and moderate income, and that therefore, pursuant to the terms and subject to the conditions hereinafter stated and the Act, the Authority agrees to assist the Borrower in every reasonable way to issue bonds to finance the acquisition, construction and equipping of the Development, and, in particular, to undertake the issuance of the Authority's revenue bonds (the "Bonds") in one or more series in an aggregate amount now estimated not to exceed Twenty Million Dollars (\$20,000,000) to provide all or part of the cost of the Development.

2. The Authority intends that the adoption of this resolution be considered as "official action" toward the issuance of the Bonds within the meaning of Treasury Regulations Section 1.150-2 promulgated by Internal Revenue Service pursuant to the Internal Revenue Code of 1986, as amended (the "Code").

3. The Bonds shall be issued in such series and amounts and upon such terms and conditions as are mutually agreed upon among the Authority and the Borrower. The Authority and the Borrower shall enter into a "financing agreement" pursuant to the Act for a term and upon payments sufficient to pay the principal of, premium, if any, and interest on the Bonds and to pay all of the expenses of the Authority in connection with the Bonds and the Development. The Bonds will be issued pursuant to an indenture or other agreement between the Authority and a trustee (the "Trustee") or the bondholder which will set forth the form and terms of the Bonds and

**Resolution No. 2334**

will assign to the Trustee for the benefit of the holders of the Bonds, or directly to the bondholder, the Authority's rights to payments under the financing agreement. The Bonds shall not be deemed to constitute a debt or a pledge of the faith and credit of the State of North Carolina or any political subdivision or agency thereof, including the Authority and the City of Charlotte, but shall be payable solely from the revenues and other funds provided under the proposed agreements with the Borrower.

4. The Authority will proceed, upon the prior advice, consent and approval of the Borrower, bond counsel and the Authority's counsel, to obtain approvals in connection with the issuance and sale of the Bonds, including, without limitation, from the City of Charlotte and, if applicable, the North Carolina Local Government Commission.

5. It having been represented to the Authority that it is desirable to proceed with the acquisition, construction and equipping of the Development, the Authority agrees that the Borrower may proceed with plans for such acquisition, construction and equipping, enter into contracts for the same, and take such other steps as it may deem appropriate in connection therewith, provided that nothing herein shall be deemed to authorize the Borrower to obligate the Authority without its written consent in each instance to the payment of any monies or the performance of any act in connection with the Development and no such consent shall be implied from the Authority's adoption of this resolution. The Authority agrees that the Borrower may be reimbursed from the proceeds of the Bonds for all qualifying costs so incurred by it as permitted by Internal Revenue Service Regulations Section 1.150-2.

6. All obligations hereunder of the Authority are subject to the further agreement of the Authority and the Borrower, to satisfactory review by the Authority of the financial capability of the Borrower and satisfactory underwriting of the Development, and mutual agreement to the terms for the Bonds, including the execution of a financing agreement, indenture, or security agreement and other documents and agreements necessary or desirable for the issuance, sale and delivery of the Bonds. The Authority has not authorized and does not authorize the expenditure of any funds or monies of the Authority from any source other than the issuance of the Bonds. All costs and expenses in connection with the financing and the acquisition, construction and equipping of the Development and the issuance of the Bonds, including the reasonable fees and expenses of the Authority's counsel, bond counsel, and the agent or underwriter for the sale of the Bonds, shall be paid from the proceeds of the Bonds or by the Borrower, but if for any reason the Bonds are not issued, all such expenses shall be paid by the Borrower and the Authority shall have no responsibility therefor. It is understood and agreed by the Authority and the Borrower that

**Resolution No. 2334**

nothing contained in this resolution shall be construed or interpreted to create any personal liability of the officers or commissioners from time to time of the Authority.

7. The officers of the Authority are hereby authorized and directed to take all actions in furtherance of the issuance of the Bonds, including calling for a public hearing with respect to the financing of the Development through the issuance of the Bonds.

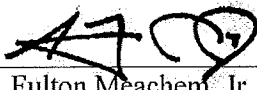
8. McGuireWoods LLP, Raleigh, North Carolina, shall act as bond counsel for the Bonds.

9. This resolution shall take effect immediately upon its passage.

**RECORDING OFFICER'S CERTIFICATION**

I, A. Fulton Meachem, Jr., the duly appointed Secretary of the Housing Authority of the City of Charlotte, N.C., do hereby certify that Resolution No. 2334 was properly adopted at a regular meeting held March 20, 2018.

(SEAL)

By:   
\_\_\_\_\_  
A. Fulton Meachem, Jr.,  
Secretary



**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:

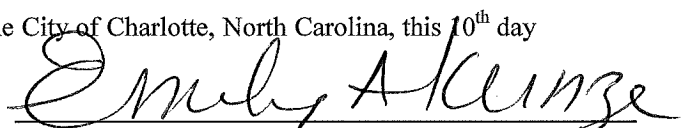
1. The City-County Tax Collector has collected property taxes from the taxpayers set out on the list attached to the Docket.
2. The City-County Tax Collector has certified that those taxpayers have made proper demand in writing for refund of the amounts set out on the schedule within the required time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

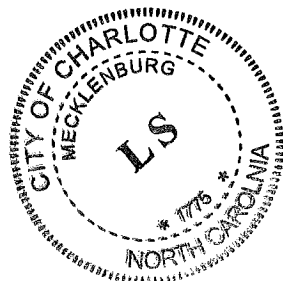
NOW, THEREFORE, BE RESOLVED by the City Council of the City of Charlotte, North Carolina, in regular session assembled this 10th day of September 2018 that those taxpayers listed on the schedule of "Taxpayers and Refunds Requested" be refunded in the amounts therein set up and that the schedule and this resolution be spread upon the minutes of this meeting.

**CERTIFICATION**

I, Emily A. Kunze, 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 10<sup>th</sup> day of September, 2018, the reference having been made in Minute Book 146, and recorded in full in Resolution Book 49, Page(s) 166-167.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 10<sup>th</sup> day of September, 2018.

  
Emily A. Kunze, Deputy City Clerk, NCCMC



**Taxpayers and Refunds Requested**

BLADEN, DOROTHY CATER	\$	119.68
BLAKE, ANDREW WILLIAM	\$	15.03
CARGO USA INC	\$	376.04
CARPENTER, WALTER F JR	\$	219.92
CLEANSOURCE INC	\$	55.31
CLEANSOURCE INC	\$	53.28
DUNCAN, ROSALYN DIANNE	\$	228.82
FREEMAN, MICHAEL W	\$	215.42
GBL HOLDINGS LLC .	\$	447.16
JOS A BANK CLOTHIERS INC	\$	632.79
JOS A BANK CLOTHIERS INC	\$	888.59
LUCKEY, HERMAN L	\$	223.79
LUCKEY, HERMAN L	\$	223.79
LUCKEY, HERMAN L	\$	223.79
MARS, WILLIAM ROBERT	\$	12.08
PALMER, MARVIN	\$	215.42
SWEET, HOWARD (2013)	\$	47.00
SWEET, HOWARD (2014)	\$	47.00
SWEET, HOWARD (2015)	\$	25.00
SWEET, HOWARD (2016)	\$	33.00
SWEET, HOWARD (2017)	\$	39.00
TRACK STAR INTERNATIONAL INC	\$	6.65
VISIONCOR SOLUTIONS INC	\$	191.20
XU, SU	\$	24.48
	\$	<u>4,564.24</u>

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 **FOUR MILE CREEK TRIBUTARY SEWER REPLACEMENT 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 **FOUR MILE CREEK TRIBUTARY SEWER REPLACEMENT PROJECT** and estimated to be **2,258 square feet (.052 acre) of sanitary sewer easement and 1,120 square feet (.026 acre) of 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. 227-402-19, said property currently owned **CHRISTOPHER M. GUSHUE and spouse, DENISE L. GUSHUE**, or their owners' successors in interest.

ESTIMATED JUST COMPENSATION:

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

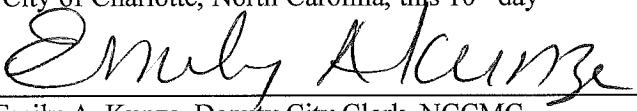
IT IS FURTHER RESOLVED that the estimated just compensation for the property is hereby authorized to be deposited in the Office of the Clerk of Superior Court, Mecklenburg County, North Carolina, together with the filing of the Complaint and Declaration of Taking.

CERTIFICATION

I, Emily A. Kunze, 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 10<sup>th</sup> day of September, 2018, the reference having been made in Minute Book 146, and recorded in full in Resolution Book 49, Page(s) 168.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 10<sup>th</sup> day of September, 2018.



  
Emily A. Kunze, Deputy City Clerk, NCCMC

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 **FOUR MILE CREEK TRIBUTARY SEWER REPLACEMENT 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 **FOUR MILE CREEK TRIBUTARY SEWER REPLACEMENT PROJECT** and estimated to be **12,109 square feet (.048 acre) of sanitary sewer easement; 4,315 square feet (.099 acre) of temporary construction easement, 3,649 square feet (.084 acre) of existing sanitary sewer easement** and any additional property or interest as the City may determine to complete the Project, as it relates to Tax Parcel No. 227-402-60, said property currently owned **MATTHEW T. CROWGEY and spouse, LESLIE P. CROWGEY; FAIRWAY INDEPENDENT MORTGAGE CORPORATION, Lender; MERS, Beneficiary**, or their owners' successors in interest.

ESTIMATED JUST COMPENSATION:

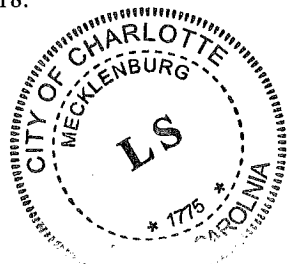
Such estimated just compensation as may be determined based upon the takings required by the final construction plans.

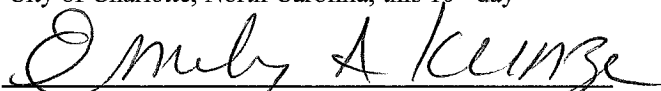
IT IS FURTHER RESOLVED that the estimated just compensation for the property is hereby authorized to be deposited in the Office of the Clerk of Superior Court, Mecklenburg County, North Carolina, together with the filing of the Complaint and Declaration of Taking.

CERTIFICATION

I, Emily A. Kunze, 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 10<sup>th</sup> day of September, 2018, the reference having been made in Minute Book 146, and recorded in full in Resolution Book 49, Page(s) 169.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 10<sup>th</sup> day of September, 2018.



  
Emily A. Kunze, Deputy City Clerk, NCCMC

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 **FOUR MILE CREEK TRIBUTARY SEWER REPLACEMENT 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 **FOUR MILE CREEK TRIBUTARY SEWER REPLACEMENT PROJECT** and estimated to be **1,514 square feet (.035 acre) of sanitary sewer easement; 4,262 square feet (.098 acre) of access easement; 6,337 square feet (.145 acre) of temporary construction easement, and 51,111 square feet (1.173 acre) of existing sanitary sewer easement**, and any additional property or interest as the City may determine to complete the Project, as it relates to Tax Parcel No. 227-291-01, said property currently owned **WILLIAMS BUSINESS PROPERTIES, LLC**, or their owners' successors in interest.

ESTIMATED JUST COMPENSATION:

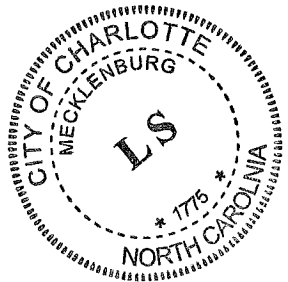
Such estimated just compensation as may be determined based upon the takings required by the final construction plans.

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, Emily A. Kunze, 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 10<sup>th</sup> day of September, 2018, the reference having been made in Minute Book 146, and recorded in full in Resolution Book 49, Page(s) 170.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 10<sup>th</sup> day of September, 2018.



*Emily A. Kunze*  
Emily A. Kunze, Deputy City Clerk, NCCMC



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 **STEELE CREEK SANITARY SEWER IMPROVEMENTS 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 **STEELE CREEK SANITARY SEWER IMPROVEMENTS PROJECT** and estimated to be **3,993.49 square feet (.092 acre) of sanitary sewer easement; 19,462.21 square feet (.447 acre) of permanent access easement, and 5,246.09 square feet (.120 acre) of 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. 203-152-02, said property currently owned by **HMI LAKEMONT WEST, LLC; NEW YORK LIFE INSURANCE COMPANY, Beneficiary/Lender; EMPIRE DISTRIBUTORS OF NORTH CAROLINA, INC., Possible Lessee**, or their owners' successors in interest.

ESTIMATED JUST COMPENSATION:

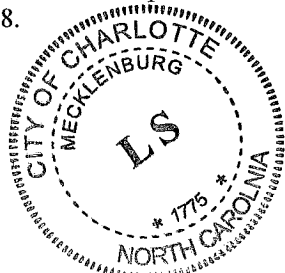
Such estimated just compensation as may be determined based upon the takings required by the final construction plans.

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, Emily A. Kunze, 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 10<sup>th</sup> day of September, 2018, the reference having been made in Minute Book 146, and recorded in full in Resolution Book 49, Page(s) 171.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 10<sup>th</sup> day of September, 2018.



*Emily A. Kunze*  
\_\_\_\_\_  
Emily A. Kunze, Deputy City Clerk, NCCMC

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 **STEELE CREEK SANITARY SEWER IMPROVEMENTS 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 **STEELE CREEK SANITARY SEWER IMPROVEMENTS PROJECT** and estimated to be **1,816.71 square feet (.042 acre) of access easement** and any additional property or interest as the City may determine to complete the Project, as it relates to Tax Parcel No. 203-152-04, said property currently owned by **HMI LAKEMONT WEST, LLC; NEW YORK LIFE INSURANCE COMPANY, Beneficiary; STAPLES CONTRACT & COMMERCIAL, INC., Tenant; EMPIRE DISTRIBUTORS OF NORTH CAROLINA, INC., Lessee**, or their owners' successors in interest.

ESTIMATED JUST COMPENSATION:

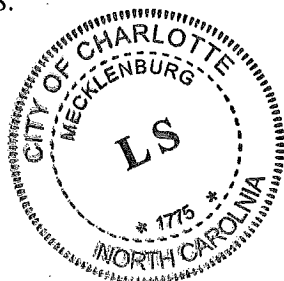
Such estimated just compensation as may be determined based upon the takings required by the final construction plans.

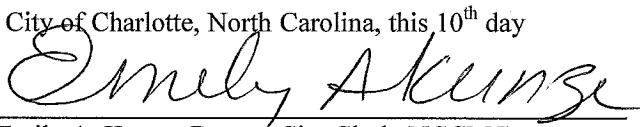
IT IS FURTHER RESOLVED that the estimated just compensation for the property is hereby authorized to be deposited in the Office of the Clerk of Superior Court, Mecklenburg County, North Carolina, together with the filing of the Complaint and Declaration of Taking.

CERTIFICATION

I, Emily A. Kunze, 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 10<sup>th</sup> day of September, 2018, the reference having been made in Minute Book 146, and recorded in full in Resolution Book 49, Page(s) 172.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 10<sup>th</sup> day of September, 2018.



  
Emily A. Kunze, Deputy City Clerk, NCCMC