

**RESOLUTION PASSED BY THE CITY COUNCIL OF THE CITY OF  
CHARLOTTE, NORTH CAROLINA ON APRIL 12, 2021**

A motion was made by Councilmember Driggs and seconded by  
Mayor Pro Tem Eiselt for the adoption of the following Resolution and upon being  
put to a vote was duly adopted:

WHEREAS, A Municipal Agreement between the City and the North Carolina Department of  
Transportation (NCDOT) will allow the City to be reimbursed for work associated with the  
installation of two traffic signals; and,

WHEREAS, the Municipal Agreement provides for reimbursement not to exceed \$90,900 of the  
total cost of the project at the intersection of Wilkinson Boulevard and Donald Ross Road; and,

WHEREAS, the Municipal Agreement provides for reimbursement not to exceed \$136,000 of  
the total cost of the project at the intersection of North Tryon Street and Bennett Street; and,

WHEREAS, the format and cost sharing philosophy is consistent with past Municipal  
Agreements: and,

NOW, THEREFORE, BE IT RESOLVED that this resolution authorizing the City Manager to  
execute a Supplemental Agreement with the NCDOT for NCDOT to reimburse the City up to  
\$226,900.00 for the installation of two traffic signals, is hereby formally approved by the 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, Stephanie C. Kelly, 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 12<sup>th</sup> day  
of April 2021, the reference having been made in Minute Book 152 and recorded in full in  
Resolution Book 51, Page(s) 387-387 V.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 12<sup>th</sup> day  
of April 2021.



Stephanie C. Kelly, City Clerk, MMC, NCCMC

NORTH CAROLINA

**LOCALLY ADMINISTERED PROJECT – STATE  
SPOT SAFETY AGREEMENT**

MECKLENBURG COUNTY

DATE: 10/7/2020

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

TIP #: SS-4910DO

AND

WBS Elements: 48487.1.1

48487.2.1

48487.3.1

CITY OF CHARLOTTE

THIS 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, hereinafter referred to as the "Municipality".

**WITNESSETH:**

WHEREAS, the parties have agreed to make certain improvements within the Municipality under Project SS-4910DO, in Mecklenburg County in accordance with the plans and specifications approved by the Department; 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 applicable legislation: General Statutes of North Carolina (NCGS) Section 136-66.1, Section 136-66.3, Section 136-18 (24) and (27), Section 20-169, Section 160A-296 and Section 297, to participate in the planning and construction of the Project approved by the Board of Transportation for the safe and efficient utilization of transportation systems for the public good; and,

WHEREAS, the Department and the Municipality have agreed that the jurisdictional limits of the Parties, 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, 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 PROJECT**

1. The Project consists of the installation of a traffic signal at the intersection of US 29/NC 49 (North Tryon Street) and Bennett Street. (hereinafter the "Project").

## **PROFESSIONAL AND ENGINEERING SERVICES**

2. The Municipality shall comply with the policies and procedures of this provision if the Municipality is requesting reimbursement for the Preliminary Engineering contract or the Construction Contract Administration / Construction Engineering and Inspection contract.

## **PROCUREMENT POLICY**

When procuring professional services, the Municipality must adhere to Title 2 Code of Federal Regulations Part 200; Title 23 of the Code of Federal Regulations, Part 172; Title 40 United States Code, Chapter 11, Section 1101-1104; NCGS 143-64, Parts 31 and 32; and the Department's *Policies and Procedures for Major Professional or Specialized Services Contracts*. Said policies and standards are incorporated in this Agreement by reference at [www.fhwa.dot.gov/legisregs/legislat.html](http://www.fhwa.dot.gov/legisregs/legislat.html) and [www.ncleg.net/gascripts/Statutes/Statutes.asp](http://www.ncleg.net/gascripts/Statutes/Statutes.asp).

- The Municipality shall ensure that a qualified firm is obtained through an equitable selection process, and that prescribed work is properly accomplished in a timely manner and at a just and reasonable cost.
- All Professional Services Firms shall be pre-qualified by the Department in the Work Codes advertised.
- A pre-negotiation audit will be conducted by the Department's External Audit Branch. The Municipality shall not execute a consultant contract until the Department's review has been completed.

## **SMALL PROFESSIONAL AND ENGINEERING SERVICES FIRMS REQUIREMENTS**

Any contract entered into with another party to perform work associated with the requirements of this Agreement shall contain appropriate provisions regarding the utilization of Small Professional Services Firms (SPSF). This policy conforms with the SPSF Guidelines as approved by the North Carolina Board of Transportation.

- The Municipality shall not advertise nor enter into a contract for services performed as part of this Agreement, unless the Department provides written approval of the advertisement or the contents of the contract.
- If the Municipality fails to comply with these requirements, the Department will withhold funding until these requirements are met.

## **WORK BY ENTITY**

If the Design, Planning, Contract Administration and/or Construction Engineering Inspection required for this project will be undertaken by the Municipality and the Municipality requests reimbursement, then the Municipality must submit a request and supporting documentation to the Department for review and approval, prior to any work being initiated by the Municipality.

## **PLANNING AND DESIGN**

3. The Municipality, and/or its consultant, shall prepare the environmental and/or planning document and obtain any environmental permits needed for the Project. All work shall be done in accordance with departmental standards, specifications, policies and procedures.
4. The Municipality shall design and prepare the plans and specifications for the Project, in accordance with the Department's standard practices, regulations and guidelines for transportation improvements. The Department shall review and approve Project plans and specifications.

## **UTILITIES**

5. It is understood that there are no municipally-owned water and sewer lines to be adjusted or relocated at this time. If during the project it becomes necessary to adjust or relocate municipally-owned water and/or sewer lines a separate Utility Agreement will be prepared at the appropriate time.

## **RIGHT OF WAY**

6. The Municipality, shall be responsible for acquiring any needed right of way and/or permanent easements required for said Project. If the Project is not to be constructed within the existing right of way, the Municipality will be responsible for any additional right of way or easements. Acquisition of right of way shall be accomplished in accordance with applicable policies, guidelines, statutes and the North Carolina Department of Transportation Right of Way Manual.

The Municipality shall remove from said right of way all obstructions and encroachments of any kind or character (including hazardous and contaminated materials). The Municipality shall indemnify and save harmless the Department from any and all claims for damages that might arise on account of said right of way acquisition, and construction easements for the construction of said Project.

## **CONSTRUCTION**

7. The Municipality 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 Municipality shall enter into and shall administer the construction contract for said Project and the procedures set out herein below shall be followed:
  - A. Prior to advertising the Project for construction bids, the Municipality or its agents, shall submit for approval by the Department, the final construction plans, the total contract proposal, and an estimate of the Project costs to the Division Engineer. Bids received along with proper documentation of Municipal approval shall be submitted to the Division Engineer for review and approval by the Department prior to the contract being awarded by the Municipality. Upon award of the Project, the Municipality shall provide the Division Project Manager copies of the executed contract and sets of plans as requested.
  - B. The Municipality shall follow Department regulations, and North Carolina General Statutes regulations pertaining to bid procedures in the award of the contract and purchases. The Municipality shall not enter into any contractual agreement for any phase of the Project without prior written approval from the Department.
  - C. The construction engineering and supervision will be furnished by the Municipality. Said work shall be accomplished in accordance with terms set out in Provision #2 of this Agreement.

- D. The Department's Division Engineer shall have the right to inspect, sample, test, and approve or reject any portion of the Project being performed by the Municipality or the Municipality's contractor, to ensure compliance with the provisions of this Agreement. The Department will furnish the Municipality with any forms that may be needed in order to follow standard Departmental practices and procedures in the administration and performance of the contract.
- E. The Municipality shall sample and test all materials in reasonable close conformity with the Department's Guide for Process Control and Acceptance Sampling and Testing. The Division Engineer shall be provided a copy of the testing results.
- F. During construction of the Project, if any changes in the plans are necessary, such changes must be approved by the Division Engineer prior to the work being performed.
- G. All materials incorporated in the Project and workmanship performed by the contractor shall be in reasonable close conformity with the Standards and Specifications of the Department.
- H. Upon completion of the Project, the Municipality shall furnish the Division Engineer with complete sets of "Plan of Record" and/or "As Built" plans as requested.
- I. Prior to the final acceptance and payment by the Department, the Division Engineer shall make a final inspection of the completed work. The Division Engineer will be responsible for final acceptance of the completed work on behalf of the Department.
- J. During construction of the Project, the Municipality shall provide and maintain adequate barricades, signs, signal lights, flagmen, and other warning devices for the protection of traffic in conformation with standards and specifications of the Department and the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways published by the Federal Highway Administration.
- K. In the event the Project is not let to contract within six (6) months after receiving final approval of construction plans and proposals from the Department, the Municipality shall be responsible for documenting to the Department justification for project delay and that the Project remains in compliance with the terms of this Agreement, the approved plans and specifications, and current codes.
- L. The Municipality shall complete construction of the Project, in accordance with the terms of this Agreement within one year year(s) of execution of this Agreement. If the Municipality has

not completed its responsibilities to the satisfaction of the Department, including satisfactory progress of the various phases of the Project, the unexpended balance of funds may be recalled by the Department and assigned to other Projects by the Board of Transportation and the Municipality shall reimburse costs incurred by the Department associated with the Project.

## **CONSTRUCTION SUBCONTRACTOR GUIDELINES**

8. Any construction contract entered into with another party to perform work associated with the requirements of this Agreement shall contain appropriate provisions regarding the utilization of Minority Businesses and Women Businesses as required by GS 136-28.4 and the North Carolina Administrative Code.
  - A. The Department will provide the appropriate provisions to be contained in those contracts. Those provisions are available on the Department's website at <https://connect.ncdot.gov/projects/Contracts/Pages/LGA-Projects.aspx>
  - B. No advertisement shall be made nor any contract be entered into for services to be performed as part of this Agreement without prior written approval of the advertisement or contents of the contract by the Department.
  - C. Failure to comply with these requirements will result in funding being withheld until such time as these requirements are met.

## **FUNDING**

9. Subject to compliance by the Municipality with the provisions set forth in this Agreement, and the availability of funds, the Department shall participate in the actual project costs up to a maximum amount of \$136,000 (estimated costs are \$136,000). The Department shall reimburse any excess project costs upon Departmental approval for the overruns. Reimbursement to the Municipality shall be made upon approval of the invoice by the Department's Division Engineer and the Department's Fiscal Section.
  - A. The Municipality may bill the Department for actual costs by submitting an itemized invoice and requested documentation to the Department. Reimbursement shall be made upon

completion. By submittal of said invoice, the Municipality certifies that it has adhered to all applicable state laws and regulations as set forth in this Agreement.

- B. Force account work is only allowed when 1) there is a finding of cost effectiveness for the work to be performed by some method other than contract awarded by competitive bidding process, and 2) the force account work is in compliance with NC General Statute 143-135, found at [www.ncleg.net/gascripts/Statutes/Statutes.asp](http://www.ncleg.net/gascripts/Statutes/Statutes.asp). Written approval from the Division Engineer is required prior to the use of force account by the Municipality. Said invoices for force account work shall show a summary of labor, labor additives, equipment, materials and other qualifying costs in conformance with the standards for allowable costs set forth in Office of Management and Budget (OMB) Circular A-87 (<http://www.whitehouse.gov/omb/circulars/a087/2004/>). Reimbursement shall be based on actual cost incurred with the exception of equipment owned by the Municipality or its Project partners. Reimbursement rates for equipment owned by the Municipality or its Project partners cannot exceed the Department's rates in effect for the time period in which the work is performed.
- C. In accordance with OMB Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations" ([http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133\\_revised\\_2007.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf)), the Municipality shall arrange for an annual independent financial and compliance audit of its fiscal operations. The Municipality shall furnish the Department with a copy of the annual independent audit report within thirty (30) days of completion of the report, but not later than nine (9) months after the Municipality's fiscal year ends.
- D. The Municipality shall maintain all books, documents, papers, accounting records, and such other evidence as may be appropriate to substantiate costs incurred under this Agreement. Further, the Municipality shall make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of final payment under this Agreement, for inspection and audit by the Department's Fiscal Section.
- E. The Municipality agrees that it shall bear all costs for which it is unable to substantiate actual costs.
- F. Failure on the part of the Municipality to comply with any of these provisions will be grounds for the Department to terminate participation in the costs of the Project.



- G. All invoices associated with the Project must be submitted within six months of the completion of the Project to be eligible for reimbursement by the Department.
- H. The Project must progress in a satisfactory manner as determined by the Department. If the Project does not remain active, the Department reserves the right to de-obligate said funding.
- I. The expenses incurred by the Department for reviews, approvals, inspections and other tasks set forth in this Agreement are an eligible Project cost and charged to allocated Project funding.

## **TRAFFIC**

- 10. All traffic operating controls and devices shall be established, enforced, and installed 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 maintained and controlled by the Department upon completion of the Project.

## **MAINTENANCE**

- 11. Upon completion of the Project, only those improvements within the state owned right of way shall be considered on the State Highway System and owned and maintained by the Department.

## **ADDITIONAL PROVISIONS**

- 12. The Municipality shall comply with Title VI of the Civil Rights Act of 1964 (Title 49 CFR, Subtitle A, Part 21) and related nondiscrimination authorities. Title VI and related authorities prohibit discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.
- 13. This Agreement is solely for the benefit of the identified parties to the Agreement and is not intended to give any rights, claims, or benefits to third parties or to the public at large.
- 14. It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency. By execution of this Agreement, the Municipality certifies,

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 a governmental department or agency.

15. The Municipality shall certify to the Department compliance with all applicable State laws and regulations and ordinances and shall indemnify the Department against any fines, assessments or other penalties resulting from noncompliance by the Municipality or any entity performing work under contract with the Municipality.
16. The Municipality is solely responsible for all agreements, contracts, and work orders entered into or issued by the Municipality for this Project. The Department is not responsible, for any expenses or obligations incurred for the Project except those specifically eligible in the terms of this Agreement. However, at no time shall the Department reimburse the Municipality costs which exceed the total funding for this Project.
17. The Municipality will indemnify and hold harmless the Department and the State of North Carolina, their respective officers, directors, principals, employees, agents, successors, and assigns from and against any and all claims for damage and/or liability in connection with the Project activities performed pursuant to this Agreement including construction of the Project. The Department shall not be responsible for any damages claims, which may be initiated by third parties.
18. The Department must approve any assignment or transfer of the responsibilities of the Municipality set forth in this Agreement to other parties or entities.
19. If the Municipality decides to terminate the Project without the concurrence of the Department, the Municipality shall reimburse the Department one hundred percent (100%) of all costs expended by the Department and associated with the Project. Any notification of termination of this Project shall be in writing to the other party. Reimbursement to the Department shall be made in one lump sum payment within sixty (60) days of billing. A late payment penalty and interest shall be charged on any unpaid balance due in accordance with G.S. 147-86.23 and G.S. 105-241.21.
20. In compliance with state policy, the Municipality, and/or its agent, including all contractors, subcontractors, or sub-recipients shall have a Conflict of Interest Policy and adhere to the Department's Women Business Enterprise (WBE) and Minority Business Enterprise (MBE) policy

which requires goals to be set and participation to be reported, as more fully described in the Subcontractor Guidelines section of this Agreement.

21. 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.
22. All terms and conditions of this Agreement are dependent upon, and subject to, the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.
23. Where the Department determines that the funds paid to the Municipality for this Project are not used in accordance with the terms of this Agreement, the Department reserves the right to deduct monies from the Municipality's Powell Bill Fund. Such determination shall be made, either by audit and/or inspection of books, documents, papers, accounting records, and such other evidence as may be appropriate to substantiate costs, not to be in compliance with the terms of this Agreement or in the event of non-payment by the Municipality.
24. 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 that the approval of the Project by the Department is subject to the conditions of this Agreement and that no expenditure of funds on the part of the Department will be made until the terms of this Agreement have been complied with on the part of the Municipality.

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 City of Charlotte by authority duly given.

L.S. ATTEST: CITY OF CHARLOTTE

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

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

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

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

(SEAL) \_\_\_\_\_  
(FINANCE OFFICER)

Federal Tax Identification Number  
\_\_\_\_\_

Remittance Address:  
City of Charlotte  
Attn: Mark Ammons  
600 East Fourth Street  
Charlotte, NC 28202-2858

DEPARTMENT OF TRANSPORTATION

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

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

PRESENTED TO THE BOARD OF TRANSPORTATION ITEM O: \_\_\_\_\_

NORTH CAROLINA

**LOCALLY ADMINISTERED PROJECT – STATE  
SPOT SAFETY AGREEMENT**

MECKLENBURG COUNTY

DATE: 10/6/2020

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

AND

TIP #: SS-6010B  
WBS Elements: 48892.1.1  
48892.2.1  
48892.3.1

CITY OF CHARLOTTE

THIS 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 City of Charlotte, hereinafter referred to as the “Municipality”.

**WITNESSETH:**

WHEREAS, the parties have agreed to make certain improvements within the Municipality under Project SS-6010B in Mecklenburg County in accordance with the plans and specifications approved by the Department; 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 applicable legislation: General Statutes of North Carolina (NCGS) Section 136-66.1, Section 136-66.3, Section 136-18 (24) and (27), Section 20-169, Section 160A-296 and Section 297, to participate in the planning and construction of the Project approved by the Board of Transportation for the safe and efficient utilization of transportation systems for the public good; and,

WHEREAS, the Department and the Municipality have agreed that the jurisdictional limits of the Parties, 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, 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 PROJECT**

1. The Project consists of the construction of a traffic half-signal at the intersection of US 29/74 (Wilkinson Boulevard) and Donald Ross Road. (hereinafter the "Project").

## **PROCUREMENT OF SPECIALIZED SERVICES**

2. If the Municipality causes the professional engineering services required by this Agreement to be performed by contracting with a private engineering firm and seeks reimbursement for said services under this agreement, it is agreed as follows:
  - A. The Municipality shall ensure that an engineering firm is obtained through an equitable selection process and that prescribed work is properly accomplished in a timely manner, at a just and reasonable cost.
  - B. The Municipality, when procuring architectural, professional and engineering services, must adhere to North Carolina Department of Transportation Policies and Procedures for Major Professional or Specialized Services Contracts. This policy conforms to N.C.G.S. 143-64, Parts 31 and 32.
  - C. The Municipality shall submit all professional services contract proposals to the Department for review and approval prior to execution of the professional services contract by the Municipality. In the event that the professional services contract proposal (engineering) exceeds \$30,000, a pre-negotiation audit must be requested from the Department's External Audit Branch. A pre-negotiation audit of a contract under \$30,000 will be performed by the Department's External Audit Branch if the Municipality requests it.
  - D. Reimbursement for construction administration costs cannot exceed fifteen percent (15%) of the actual construction contract cost. This applies to private engineering firms and/or work performed by the Municipality. If the Municipality elects to procure a private consulting firm to conduct Project administration, the Municipality shall be responsible for submitting the consulting firm's proposal to the Division Engineer for review and approval. The Municipality,

and/or its agent, shall perform Project administration in accordance with all Departmental policies and procedures.

- E. All work shall be prepared and submitted using computer software and applications approved by the Department and compatible with departmental equipment and programs.
- F. Small Professional and Engineering Services Requirements: Any contract entered into with another party to perform work associated with the requirements of this agreement shall contain appropriate provisions regarding the utilization of Small Professional Services Firms (SPSF). This policy conforms with the SPSF Guidelines as approved by the NC Board of Transportation. These provisions are incorporated into this Agreement by reference [www.ncdot.org/doh/preconstruct/ps/contracts/sp/2006sp/municipal.html](http://www.ncdot.org/doh/preconstruct/ps/contracts/sp/2006sp/municipal.html)
  - The Municipality shall not advertise nor enter into a contract for services performed as part of this Agreement, unless the Department provides written approval of the advertisement or the contents of the contract.
  - If the Municipality fails to comply with these requirements, the Department will withhold funding until these requirements are met.

## **PLANNING AND DESIGN**

- 3. The Municipality, and/or its consultant, shall prepare the environmental and/or planning document and obtain any environmental permits needed for the Project. All work shall be done in accordance with departmental standards, specifications, policies and procedures.
- 4. The Municipality shall design and prepare the plans and specifications for the Project, in accordance with the Department's standard practices, regulations and guidelines for transportation improvements. The Department shall review and approve Project plans and specifications.

## **UTILITIES**

- 6. It is understood that there are no municipally-owned water and sewer lines to be adjusted or relocated at this time. If during the project it becomes necessary to adjust or relocate municipally-owned water and/or sewer lines a separate Utility Agreement will be prepared at the appropriate time.

## **RIGHT OF WAY**

6. The Municipality, shall be responsible for acquiring any needed right of way and/or permanent easements required for said Project. If the Project is not to be constructed within the existing right of way, the Municipality will be responsible for any additional right of way or easements. Acquisition of right of way shall be accomplished in accordance with applicable policies, guidelines, statutes and the North Carolina Department of Transportation Right of Way Manual.

The Municipality shall remove from said right of way all obstructions and encroachments of any kind or character (including hazardous and contaminated materials). The Municipality shall indemnify and save harmless the Department from any and all claims for damages that might arise on account of said right of way acquisition, and construction easements for the construction of said Project.

## **CONSTRUCTION**

7. The Municipality 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 Municipality shall enter into and shall administer the construction contract for said Project and the procedures set out herein below shall be followed:
  - A. Prior to advertising the Project for construction bids, the Municipality or its agents, shall submit for approval by the Department, the final construction plans, the total contract proposal, and an estimate of the Project costs to the Division Engineer. Bids received along with proper documentation of Municipal approval shall be submitted to the Division Engineer for review and approval by the Department prior to the contract being awarded by the Municipality. Upon award of the Project, the Municipality shall provide the Division Project Manager copies of the executed contract and sets of plans as requested.
  - B. The Municipality shall follow Department regulations, and North Carolina General Statutes regulations pertaining to bid procedures in the award of the contract and purchases. The Municipality shall not enter into any contractual agreement for any phase of the Project without prior written approval from the Department.
  - C. The construction engineering and supervision will be furnished by the Municipality. Said work shall be accomplished in accordance with terms set out in Provision #2 of this Agreement.



- D. The Department's Division Engineer shall have the right to inspect, sample, test, and approve or reject any portion of the Project being performed by the Municipality or the Municipality's contractor, to ensure compliance with the provisions of this Agreement. The Department will furnish the Municipality with any forms that may be needed in order to follow standard Departmental practices and procedures in the administration and performance of the contract.
- E. The Municipality shall sample and test all materials in reasonable close conformity with the Department's Guide for Process Control and Acceptance Sampling and Testing. The Division Engineer shall be provided a copy of the testing results.
- F. During construction of the Project, if any changes in the plans are necessary, such changes must be approved by the Division Engineer prior to the work being performed.
- G. All materials incorporated in the Project and workmanship performed by the contractor shall be in reasonable close conformity with the Standards and Specifications of the Department.
- H. Upon completion of the Project, the Municipality shall furnish the Division Engineer with complete sets of "Plan of Record" and/or "As Built" plans as requested.
- I. Prior to the final acceptance and payment by the Department, the Division Engineer shall make a final inspection of the completed work. The Division Engineer will be responsible for final acceptance of the completed work on behalf of the Department.
- J. During construction of the Project, the Municipality shall provide and maintain adequate barricades, signs, signal lights, flagmen, and other warning devices for the protection of traffic in conformation with standards and specifications of the Department and the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways published by the Federal Highway Administration.
- K. In the event the Project is not let to contract within six (6) months after receiving final approval of construction plans and proposals from the Department, the Municipality shall be responsible for documenting to the Department justification for project delay and that the Project remains in compliance with the terms of this Agreement, the approved plans and specifications, and current codes.
- L. The Municipality shall complete construction of the Project, in accordance with the terms of this Agreement within one year year(s) of execution of this Agreement. If the Municipality has

not completed its responsibilities to the satisfaction of the Department, including satisfactory progress of the various phases of the Project, the unexpended balance of funds may be recalled by the Department and assigned to other Projects by the Board of Transportation and the Municipality shall reimburse costs incurred by the Department associated with the Project.

## **CONSTRUCTION SUBCONTRACTOR GUIDELINES**

8. Any construction contract entered into with another party to perform work associated with the requirements of this Agreement shall contain appropriate provisions regarding the utilization of Minority Businesses and Women Businesses as required by GS 136-28.4 and the North Carolina Administrative Code.
  - A. The Department will provide the appropriate provisions to be contained in those contracts. Those provisions are available on the Department's website at <https://connect.ncdot.gov/projects/Contracts/Pages/LGA-Projects.aspx>
  - B. No advertisement shall be made nor any contract be entered into for services to be performed as part of this Agreement without prior written approval of the advertisement or contents of the contract by the Department.
  - C. Failure to comply with these requirements will result in funding being withheld until such time as these requirements are met.

## **FUNDING**

9. Subject to compliance by the Municipality with the provisions set forth in this Agreement, and the availability of funds, the Department shall participate in the actual project costs up to a maximum amount of \$90,900 (estimated costs are \$90,900). The Department shall reimburse any excess project costs upon Departmental approval for the overruns. Reimbursement to the Municipality shall be made upon approval of the invoice by the Department's Division Engineer and the Department's Fiscal Section.
  - A. The Municipality may bill the Department for actual costs by submitting an itemized invoice and requested documentation to the Department. Reimbursement shall be made upon

completion. By submittal of said invoice, the Municipality certifies that it has adhered to all applicable state laws and regulations as set forth in this Agreement.

- B. Force account work is only allowed when 1) there is a finding of cost effectiveness for the work to be performed by some method other than contract awarded by competitive bidding process, and 2) the force account work is in compliance with NC General Statute 143-135, found at [www.ncleg.net/gascripts/Statutes/Statutes.asp](http://www.ncleg.net/gascripts/Statutes/Statutes.asp). Written approval from the Division Engineer is required prior to the use of force account by the Municipality. Said invoices for force account work shall show a summary of labor, labor additives, equipment, materials and other qualifying costs in conformance with the standards for allowable costs set forth in Office of Management and Budget (OMB) Circular A-87 ([http://www.whitehouse.gov/omb/circulars\\_a087\\_2004/](http://www.whitehouse.gov/omb/circulars_a087_2004/)). Reimbursement shall be based on actual cost incurred with the exception of equipment owned by the Municipality or its Project partners. Reimbursement rates for equipment owned by the Municipality or its Project partners cannot exceed the Department's rates in effect for the time period in which the work is performed.
- C. In accordance with OMB Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations" ([http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133\\_revised\\_2007.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf)), the Municipality shall arrange for an annual independent financial and compliance audit of its fiscal operations. The Municipality shall furnish the Department with a copy of the annual independent audit report within thirty (30) days of completion of the report, but not later than nine (9) months after the Municipality's fiscal year ends.
- D. The Municipality shall maintain all books, documents, papers, accounting records, and such other evidence as may be appropriate to substantiate costs incurred under this Agreement. Further, the Municipality shall make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of final payment under this Agreement, for inspection and audit by the Department's Fiscal Section.
- E. The Municipality agrees that it shall bear all costs for which it is unable to substantiate actual costs.
- F. Failure on the part of the Municipality to comply with any of these provisions will be grounds for the Department to terminate participation in the costs of the Project.

- G. All invoices associated with the Project must be submitted within six months of the completion of the Project to be eligible for reimbursement by the Department.
- H. The Project must progress in a satisfactory manner as determined by the Department. If the Project does not remain active, the Department reserves the right to de-obligate said funding.
- I. The expenses incurred by the Department for reviews, approvals, inspections and other tasks set forth in this Agreement are an eligible Project cost and charged to allocated Project funding.

## **TRAFFIC**

- 10. All traffic operating controls and devices shall be established, enforced, and installed 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 maintained and controlled by the Department upon completion of the Project.

## **MAINTENANCE**

- 11. Upon completion of the Project, only those improvements within the state owned right of way shall be considered on the State Highway System and owned and maintained by the Department.

## **ADDITIONAL PROVISIONS**

- 12. The Municipality shall comply with Title VI of the Civil Rights Act of 1964 (Title 49 CFR, Subtitle A, Part 21) and related nondiscrimination authorities. Title VI and related authorities prohibit discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.
- 13. This Agreement is solely for the benefit of the identified parties to the Agreement and is not intended to give any rights, claims, or benefits to third parties or to the public at large.
- 14. It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency. By execution of this Agreement, the Municipality certifies,

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 a governmental department or agency.

15. The Municipality shall certify to the Department compliance with all applicable State laws and regulations and ordinances and shall indemnify the Department against any fines, assessments or other penalties resulting from noncompliance by the Municipality or any entity performing work under contract with the Municipality.
16. The Municipality is solely responsible for all agreements, contracts, and work orders entered into or issued by the Municipality for this Project. The Department is not responsible, for any expenses or obligations incurred for the Project except those specifically eligible in the terms of this Agreement. However, at no time shall the Department reimburse the Municipality costs which exceed the total funding for this Project.
17. The Municipality will indemnify and hold harmless the Department and the State of North Carolina, their respective officers, directors, principals, employees, agents, successors, and assigns from and against any and all claims for damage and/or liability in connection with the Project activities performed pursuant to this Agreement including construction of the Project. The Department shall not be responsible for any damages claims, which may be initiated by third parties.
18. The Department must approve any assignment or transfer of the responsibilities of the Municipality set forth in this Agreement to other parties or entities.
19. If the Municipality decides to terminate the Project without the concurrence of the Department, the Municipality shall reimburse the Department one hundred percent (100%) of all costs expended by the Department and associated with the Project. Any notification of termination of this Project shall be in writing to the other party. Reimbursement to the Department shall be made in one lump sum payment within sixty (60) days of billing. A late payment penalty and interest shall be charged on any unpaid balance due in accordance with G.S. 147-86.23 and G.S. 105-241.21.
20. In compliance with state policy, the Municipality, and/or its agent, including all contractors, subcontractors, or sub-recipients shall have a Conflict of Interest Policy and adhere to the Department's Women Business Enterprise (WBE) and Minority Business Enterprise (MBE) policy

which requires goals to be set and participation to be reported, as more fully described in the Subcontractor Guidelines section of this Agreement.

21. 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.
22. All terms and conditions of this Agreement are dependent upon, and subject to, the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.
21. Where the Department determines that the funds paid to the Municipality for this Project are not used in accordance with the terms of this Agreement, the Department reserves the right to deduct monies from the Municipality's Powell Bill Fund. Such determination shall be made, either by audit and/or inspection of books, documents, papers, accounting records, and such other evidence as may be appropriate to substantiate costs, not to be in compliance with the terms of this Agreement or in the event of non-payment by the Municipality.
22. 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).
23. IT IS UNDERSTOOD AND AGREED that the approval of the Project by the Department is subject to the conditions of this Agreement and that no expenditure of funds on the part of the Department will be made until the terms of this Agreement have been complied with on the part of the Municipality.

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 City of Charlotte by authority duly given.

L.S. ATTEST:

CITY OF CHARLOTTE

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

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

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

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

(SEAL)

\_\_\_\_\_  
(FINANCE OFFICER)

Federal Tax Identification Number

\_\_\_\_\_  
Remittance Address:

City of Charlotte

Attn: Mark Ammons

600 East Fourth Street

Charlotte, NC 28202-2858

DEPARTMENT OF TRANSPORTATION

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

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

PRESENTED TO THE BOARD OF TRANSPORTATION ITEM O: \_\_\_\_\_

RESOLUTION TO CLOSE CECIL STREET IN THE CITY OF CHARLOTTE, MECKLENBURG COUNTY,  
NORTH CAROLINA

---

WHEREAS, pursuant to the provisions of Chapter 160A-299 of the General Statutes of North Carolina, the City Council has caused to be published a Resolution of Intent to close Cecil Street which calls for a public hearing on the question; and

WHEREAS, the petitioner has caused a copy of the Resolution of Intent to close Cecil Street registered or certified mail to all owners of property adjoining said right-of-way and prominently posted a notice of the closing and public hearing in at least two places along said street or alleys, all as required by G.S.160A-299; and

WHEREAS, the city may reserve its right, title, and interest in any utility improvement or easement within a street closed pursuant to G.S.160A-299; and

WHEREAS, an easement shall be reserved in favor of the Duke Energy over, upon, and under a portion of the area petitioned to be abandoned for ingress, egress, and regress to access, maintain, install, and/or replace the Duke Energy utilities as noted on the attached map marked "Exhibit A"; and

WHEREAS, an easement shall be reserved in favor of AT&T over, upon, and under a portion of the area petitioned to be abandoned for ingress, egress, and regress to access, maintain, install, and/or replace the AT&T utilities as noted on the attached map marked "Exhibit A"; and

WHEREAS, an easement shall be reserved in favor of the Crown Castle Fiber over, upon, and under a portion of the area petitioned to be abandoned for ingress, egress, and regress to access, maintain, install, and/or replace the Duke Energy utilities as noted on the attached map marked "Exhibit A"; and

WHEREAS, an easement shall be reserved in favor of Charter Spectrum over, upon, and under a portion of the area petitioned to be abandoned for ingress, egress, and regress to access, maintain, install, and/or replace the AT&T utilities as noted on the attached map marked "Exhibit A"; and

WHEREAS, the public hearing was held on the 22<sup>nd</sup> day of March 2021, and City Council determined that closing Cecil Street is not contrary to the public interest, and that no individual, firm or corporation owning property in the vicinity thereof will be deprived of reasonable means of ingress and egress to their or its property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlotte, North Carolina at its regularly assembled meeting of April 12, 2021 during a virtual meeting that included an option for written comments (of 375 words or less) to be submitted from the date of notice of the public hearing up to the 23<sup>rd</sup> day of March 2021 at 11:59 p.m., that the Council hereby orders the closing of Cecil Street in the City of Charlotte, Mecklenburg County, North Carolina as shown in the map marked "Exhibit A," and is more particularly described by metes and bounds in the document marked "Exhibit B," all of which are attached hereto and made a part hereof. This action shall be effective on the date the Private Right-of-Way agreement for access to the abutting parcels is recorded in the Register



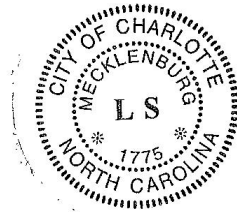
of Deeds for Mecklenburg County. This abandonment approval shall be void if the above conditions are not met within 90 days after April 12, 2021.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be filed in the Office of the Register of Deeds for Mecklenburg County, North Carolina.

**CERTIFICATION**

I, Stephanie C. Kelly, 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 12<sup>th</sup> day of April 2021, the reference having been made in Minute Book 152 and recorded in full in Resolution Book 51, Page(s) 388-392.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 12<sup>th</sup> day of April 2021.

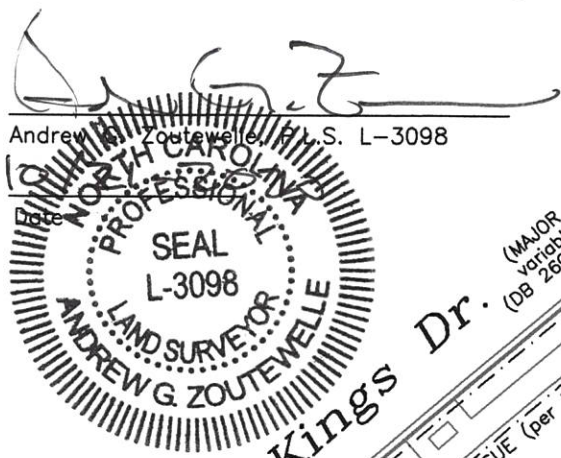


A handwritten signature in cursive script that reads 'Stephanie C. Kelly'. The signature is written in dark ink and is positioned above a horizontal line.

Stephanie C. Kelly, City Clerk, MMC, NCCMC

STATE OF NORTH CAROLINA, Mecklenburg County

I, ANDREW G. ZOUTEWELLE, do hereby certify that this map was drawn from an actual field survey performed under my supervision; that the precision is 1:15,000; that the angular precision is less than 7.5 seconds per angle; that this map is not intended to meet G.S. 47-30 recording requirements.



Andrew G. Zoutewelle, P.S. L-3098

South Kings Dr.

Baxter Street

new Sidewalk & Utility Easement (shaded area)

Luther St.

Midtown Area Partners II, LLC  
D.B. 26168 Pg. 362  
Tax I.D. 12522801

Midtown Area Partners Holdings, LLC  
D.B. 31548 Pg. 823  
Tax I.D. 12522199

The Asian Korean Herald, Inc.  
D.B. 9929 Pg. 318  
Tax I.D. 12522104

The Asian Korean Herald, Inc.  
D.B. 9929 Pg. 318  
Tax I.D. 12522107

iron rebar found  
NAD83 Grid Coords.  
N = 536,746.48'  
E = 1,452,008.91'

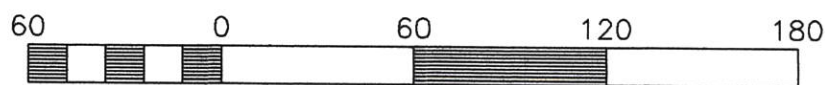
CALL BEFORE YOU DIG  
1-800-632-4949

Exhibit A  
Sheet 1 of 2

**A.G. ZOUTEWELLE**  
**SURVEYORS**

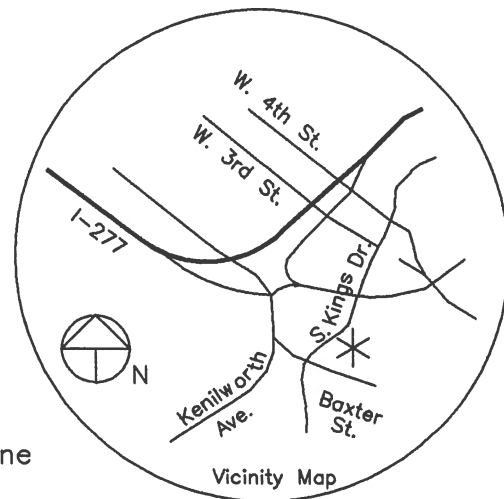
1418 East Fifth St. Charlotte, NC 28204  
Phone: 704-372-9444 Fax: 704-372-9555  
Firm Licensure Number C-1054

ABANDONMENT SURVEY  
**Cecil Street**  
CHARLOTTE, MECKLENBURG COUNTY, N.C.  
for MIDTOWN AREA PARTNERS II, LLC  
Date of Map: April 24, 2020



LEGEND

square	feet (by coordinates)		
MB,DB	record map and deed references		
IPF	iron pipe found	⊙	sanitary sewer manhole
IRF	iron pin found	⊙	storm drain manhole
IRS	iron pin set (1/2" rebar)	⊕	water meter
PKF/S	P.K. nail found/set	—SS—	sanitary sewer
←	guy anchor	—W—	water line
⊙	utility pole	—G—	gas line
⊙	light pole	—x—	fence line
⊙	water valve	—OE—	overhead utilities
⊙	fire hydrant	—UE—	underground electric line
■	catch basin	—FO—	underground fiber optic line
⊕	water meter		
⊙	gas valve		

GENERAL NOTES

- 1.) Cecil Street is shown on GIS as 40 feet in width, but based on the existing field monumentation it varies in width from 35 feet to 38.2 feet.
- 2.) Utilities shown hereon have been located based on: (1) observed surface indications, (2) Charlotte Water Customer Service maps, and (3) paint designation markings by the North Carolina One-Call Utility Locating Center. Additional utilities may exist. Contractors should contact the North Carolina ONE-CALL Center at 1-800-632-4949 before any digging or excavation is begun.
- 3.) Total area of abandonment is 16,293 S.F. (or 0.3740 ac.), by coordinates.
- 4.) Grid ties provided by Survey and Mapping Control, Pineville, N.C., in 2005. All distances shown hereon are horizontal ground distances. Horizontal datum is NAD83(CORS96). Combined Grid Factor = 0.99984619.
- 5.) Per the CRTPO Thoroughfare Map, South Kings Drive is a Major Thoroughfare and may be subject to an 80' proposed thoroughfare right-of-way (40' from centerline). Prior to any design the City of Charlotte DOT should be consulted to determine the location and/or applicability of said R/W. No thoroughfare right-of-way is shown on this map.
- 6.) Utility easements reserved for those utility service providers with existing lines located within the abandoned right-of-way area as referenced on the attached resolution.



Aug 7  
10/2/2020

NUMBER	DIRECTION	DISTANCE
L1	N 63°22'44" W	17.79'
L2	N 63°09'23" W	9.59'
L3	NOT USED	
L4	S 64°18'20" E	20.15'
L5	S 16°14'10" W	81.59'
L6	S 16°10'50" W	93.80'
L7	S 16°16'44" W	56.18'
L8	S 62°52'43" E	99.88'
L9	S 47°41'53" W	34.39'

NUMBER	RADIUS	ARC LENGTH	CHORD DIRECTION	CHORD DIST.
C1	208.18	48.64	N 57°32'33" W	48.53
C2	1279.70	15.40	S 71°37'50" E	15.40
C3	21.64	35.74	N 62°57'24" E	31.81
C4	22.30	33.82	N 28°30'40" W	30.67
C5	528.00	40.48	N 43°22'32" E	40.47
C6	20.00	26.01	N 78°26'13" E	24.22
C7	22.30	4.18	N 77°19'35" W	4.17

Exhibit A  
Sheet 2 of 2

## ABANDONMENT SURVEY Cecil Street

CHARLOTTE, MECKLENBURG COUNTY, N.C.

for MIDTOWN AREA PARTNERS II, LLC

Date of Map: April 24, 2020

**A.G. ZOUTEWELLE**  
**SURVEYORS**

1418 East Fifth St. Charlotte, NC 28204  
Phone: 704-372-9444 Fax: 704-372-9555  
Firm Licensure Number C-1054



Scale: 1" = 60'

LEGAL DESCRIPTION

*BEING all that certain road right-of-way tract known as Cecil Street as shown on the City of Charlotte Powell Bill Map and as shown on Mecklenburg County's Geographic Information System map ("GIS"), and being located between South Kings Drive, Luther Street and Baxter Street and being more particularly described as follows:*

*BEGINNING at an existing iron rebar ("Beginning Point") located at the northeasterly terminus of the intersection curve connecting the northerly right-of-way margin of Baxter Street, said right-of-way having a width of 52 feet as described in Deed Book 26057 Page 225 of the Mecklenburg County Registry, and the westerly right-of-way margin of Cecil Street, said right-of-way having a width which varies from 35 feet to 38.2 feet, said existing iron rebar Beginning Point having North Carolina State Plane coordinates of Northing = 536,746.48 feet and Easting = 1,452,008.91 feet as based on the CORS96 realization of the North American Horizontal Datum of 1983, said datum having a combined grid factor of 0.99984619 to convert from the ground distances noted herein, and running thence from said POINT AND PLACE OF BEGINNING along the westerly right-of-way margin of the said Cecil Street, said right-of-way margin also being the common boundary line with Midtown Area Partners II, LLC, as described in Deed Book 26168 Page 362 of the Mecklenburg County Registry, the following two (2) calls: (1) North 15-38-16 East 315.76 feet to an existing iron rebar and (2) following along a circular curve to the left having a radius of 22.30 feet and an arc length of 33.82 feet (chord bearing North 28-30-40 West 30.67 feet) to a new surveyor's pk nail; thence the following three (3) new calls: (1) along the new southeasterly right-of-way margin of South Kings Drive following along the arc of a circular curve to the left having a radius of 528.00 feet and an arc length of 40.48 feet (chord bearing North 43-22-32 East 40.47 feet) to a new surveyor's pk nail, (2) following along the arc of a circular curve to the right having a radius of 20.00 feet and an arc length of 26.01 feet (chord bearing North 78-26-13 East 24.22 feet) to a new surveyor's pk nail and (3) South 64-18-20 East 20.15 feet to an existing surveyor's pk nail; thence along the easterly right-of-way margin of the said Cecil Street, said right-of-way margin also being the common boundary line with Midtown Area Partners Holdings, LLC, as described in Deed Book 31548 Page 823 of the Mecklenburg County Registry, the following two (2) calls: (1) South 16-14-10 West 81.59 feet to an existing iron rebar and (2) South 16-10-50 West 93.80 feet to an existing iron rebar; thence continuing along the easterly right-of-way margin of the said Cecil Street, said right-of-way margin also being the common boundary line with The Asian Korean Herald, Inc., as described in Deed Book 9929 Page 318 of the Mecklenburg County Registry, the following two (2) calls: (1) South 16-16-44 West 56.18 feet to a new surveyor's pk nail and (2) South 16-13-06 West 189.71 feet to an existing nail in the public sidewalk; thence along the northerly right-of-way margin of the aforesaid Baxter Street the following three (3) new lines: (1) North 63-22-44 West 17.79 feet to a point, (2) North 63-09-23 West 9.59 feet to a point and (3) following along the arc of a circular curve to the right having a radius of 208.18 feet and an arc length of 48.64 feet (chord bearing North 57-32-33 West 48.53 feet) to an existing iron rebar; thence along the common boundary lines with the aforesaid Midtown Area Partners II, LLC, the following two (2) calls: (1) following along the arc of a circular curve to the left having a radius of 1,279.70 feet and an arc length of 15.40 feet (chord bearing South 71-37-50 East 15.40 feet) to an existing surveyor's pk nail and (2) following along the arc of a circular curve the left having a radius of 21.64 feet and an arc length of 35.74 feet (chord bearing North 62-57-24 East 31.81 feet) to the point and place of BEGINNING, containing 0.3740 acre, more or less, as shown on an Abandonment Survey prepared by Andrew G. Zoutewelle, North Carolina Professional Land Surveyor No. L-3098, dated April 24, 2020.*

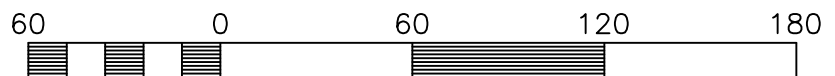
Exhibit B

ABANDONMENT SURVEY  
**Cecil Street**

CHARLOTTE, MECKLENBURG COUNTY, N.C.  
for MIDTOWN AREA PARTNERS II, LLC  
Date of Map: April 24, 2020

**A.G. ZOUTEWELLE**  
**SURVEYORS**

1418 East Fifth St. Charlotte, NC 28204  
Phone: 704-372-9444 Fax: 704-372-9555  
Firm Licensure Number C-1054



Scale: 1" = 60'

RESOLUTION PROVIDING APPROVAL OF A MULTIFAMILY HOUSING FACILITY TO BE KNOWN AS THE PARK SENIORS IN THE CITY OF CHARLOTTE, NORTH CAROLINA AND THE FINANCING THEREOF WITH MULTIFAMILY HOUSING REVENUE BONDS IN AN AMOUNT NOT TO EXCEED \$9,000,000

WHEREAS, the City Council (the “City Council”) of the City of Charlotte (the “City”) met in Charlotte, North Carolina at 6:30 p.m. on the 12<sup>th</sup> day of April, 2021; and

WHEREAS, INLIVIAN (formerly known as 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 \$9,000,000 (the “Bonds”), for the purpose of financing the acquisition, construction and equipping by The Park Seniors, LLC, a North Carolina limited liability company, or an affiliated or related entity (the “Borrower”), of a multifamily residential rental facility for seniors to be known as The Park Seniors (the “Development”); and

WHEREAS, the Development will consist of approximately 80 units in one residential building and related facilities, located on an approximately 3.91-acre site at 5915 Beatties Ford 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 Council of the City following a public hearing with respect to such plan; and

WHEREAS, on March 25, 2021, 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 Council 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 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 \$9,000,000 are hereby approved for purposes of Section 147(f) of the Code.

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

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

Ayes: Council members Eiselt, Ajmera, Driggs, Egleston, Graham, Johnson, Newton, Phipps, Watlington, Winston, Bokhari

Nays: None

Not voting: N/A

\* \* \* \* \*

### **CERTIFICATION**

I, Stephanie C. Kelly, 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 12<sup>th</sup> day of April 2021, the reference having been made in Minute Book 152 and recorded in full in Resolution Book 51, Page(s) 393-396.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 12<sup>th</sup> day of April 2021.



Stephanie C. Kelly, City Clerk, MMC, NCCMC

**Exhibit A**

**Certificate and Summary of Public Hearing**

(Attached)



### CERTIFICATE AND SUMMARY

The undersigned Executive Vice President of Development and the designated hearing officer of INLIVIAN hereby certifies as follows:

1. Notice of a public hearing (the "Hearing") to be held on March 25, 2021, with respect to the issuance of bonds by INLIVIAN for the benefit of The Park Seniors, LLC, a North Carolina limited liability company, or an affiliate or subsidiary thereof (the "Borrower") was published on March 12, 2021, in *The Charlotte Observer*.
2. I was the hearing officer for the Hearing.
3. The following is a list of names and addresses of all persons who spoke at the Hearing:  
  
None
4. The following is a summary of the oral comments made at the Hearing:  
  
None

IN WITNESS WHEREOF, my hand this 25<sup>th</sup> day of March, 2021.

  
\_\_\_\_\_  
Connie Staudinger, Hearing Officer



**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:

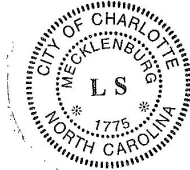
1. The City-County Tax Collector has collected property taxes from the taxpayers set out on the list attached to the Docket.
2. The City-County Tax Collector has certified that those taxpayers have made proper demand in writing for refund of the amounts set out on the schedule within the required time 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 12<sup>th</sup> day of April 2021 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, Stephanie C. Kelly, 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 12<sup>th</sup> day of April 2021, the reference having been made in Minute Book 152 and recorded in full in Resolution Book 51, Page(s) 397-398.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 12<sup>th</sup> day of April 2021.



A handwritten signature in cursive script, reading "Stephanie C. Kelly".

Stephanie C. Kelly, City Clerk, MMC, NCCMC

**Taxpayers and Refunds Requested**

ACOSTA INC	57.24
AQUEDUCT CAPITAL GROUP LLC	9.00
AQUEDUCT CAPITAL GROUP LLC	86.34
AQUEDUCT CAPITAL GROUP LLC	72.51
AQUEDUCT CAPITAL GROUP LLC	46.04
BELK INC - E COM #888	18,212.11
BELK INC - E COM #888	25,235.40
BELK INC - E COM #888	10,004.50
BELK INC - E COM #888	34,041.92
BELK INC - E COM #888	35,975.95
BELK INC #986	30,337.55
BELK INC #986	145,638.57
BELK INC #986	77,988.71
BELK INC #986	83,023.76
BELK INC #986	61,158.29
BELK MERCHANDISING LLC #967	146.28
BELK MERCHANDISING LLC #967	364.32
BELK MERCHANDISING LLC #967	306.92
BELK MERCHANDISING LLC #967	2,489.12
CHARLOTTE COUNTRY CLUB INC	358.23
CHARLOTTE COUNTRY CLUB INC	589.36
CHARLOTTE COUNTRY CLUB INC	387.82
CHARLOTTE COUNTRY CLUB INC	166.94
CHARLOTTE RENAISSANCE	273.28
COSTAR REALTY INFORMATION	19.58
CRADLE, HATTIE M	369.42
DAVIS, WILLIE J	144.62
DRANE, KENNETH	163.30
FAMOUS TOASTERY	1,108.16
FAMOUS TOASTERY	994.08
FAMOUS TOASTERY	630.78
HARKEY, WALTER LEE	22.26
HOLIDAY INN EXPRESS & SUITES - CHARLOTTE SOUTH END	418.62
LENNY BOY BREWING CO	269.01
NAVEX GLOBAL INC	294.49
NAVEX GLOBAL INC	105.44
SABOR LATIN STREET GRILL- HAWTHORNE/SALUD 2 LLC	174.38
SABOR LATIN STREET GRILL- HAWTHORNE/SALUD 2 LLC	200.78
SABOR LATIN STREET GRILL- HAWTHORNE/SALUD 2 LLC	122.50
SABOR LATIN STREET GRILL- HAWTHORNE/SALUD 2 LLC	111.42
SABOR LATIN STREET GRILL SOUTH END/FIDEO ITALIANO LLC	80.48
SABOR LATIN STREET GRILL-UPTOWN/SABOR 10 UP LLC	66.25
SAFETY KLEEN-CHARLOTTE NC - BRANCH (SAFETY-KLEEN SYSTEMS	35.06
SERVICE MATERIAL GROUP LLC	15.60
SERVICE MATERIAL GROUP LLC	14.62
SERVICE MATERIAL GROUP LLC	13.65
SERVICE MATERIAL GROUP LLC	12.94

**Taxpayers and Refunds Requested**

SERVICE MATERIAL GROUP LLC	7.50
SERVICE MATERIAL GROUP LLC	8.72
SIMS, JOHN ELMER	183.45
SMITH, DEMETRUS ANTUAN	6.97
SONIC AUTOMOTIVE INC	294.76
SONIC AUTOMOTIVE INC	1,614.53
SONIC AUTOMOTIVE INC	794.67
SONIC AUTOMOTIVE INC	253.92
SONIC AUTOMOTIVE INC	11.52
SQUIRES, DONNA GORDON	10.95
STONE, TATLYN	421.73
STOROPACK INC	99.28
WELLS, LUCY ANN	345.84
WHOLE FOODS MARKET GROUP INC 10592	7,503.52
WHOLE FOODS MARKET GROUP INC 10592	4,474.51
WHOLE FOODS MARKET GROUP INC 10644	4,454.54
WIGAND, SILVIA	336.95
WILLIAMS BUICK GMC	72.18
WOODFOREST NATIONAL BANK	37.95
WOODFOREST NATIONAL BANK	26.05
WOODFOREST NATIONAL BANK	39.22
WOODFOREST NATIONAL BANK	26.54
WOODFOREST NATIONAL BANK	54.42
WOODFOREST NATIONAL BANK	32.89
WOODFOREST NATIONAL BANK	31.97
WOODFOREST NATIONAL BANK #0819	32.71

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553,534.89

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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 **BEATTIES FORD SUNSET ROAD PEDESTRIAN** 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 **BEATTIES FORD SUNSET ROAD PEDESTRIAN** Project estimated to be **50 sq. ft. (0.001 ac.) Permanent Easement, 2,966 sq. ft. (0.068 ac.) 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.037-073-94 said property currently owned by **The Woodlands Community Association, Inc.** and or their owners' successors in interest.

ESTIMATED JUST COMPENSATION:

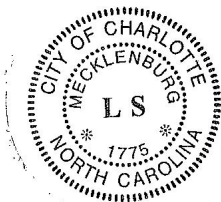
Such estimated just compensation as may be determined based upon the takings required by the final construction plans.

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, Stephanie C. Kelly, 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 12<sup>th</sup> day of April 2021, the reference having been made in Minute Book 152 and recorded in full in Resolution Book 51, Page(s) 399.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 12<sup>th</sup> day of April 2021.



Stephanie C. Kelly, City Clerk, MMC, 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 **MALLARD TRIBUTARY REPLACEMENT SEWER** 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 **MALLARD TRIBUTARY REPLACEMENT SEWER** Project estimated to be **16,776 sq. ft. (0.39 ac.) Permanent Easement, 2,812 sq. ft. (0.065 ac.) 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.051-021-02 said property currently owned by **James F. Alexander, Susan Alexander Boone, Stella Alexander Harman, and John W. Alexander** and 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, Stephanie C. Kelly, 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 12<sup>th</sup> day of April 2021, the reference having been made in Minute Book 152 and recorded in full in Resolution Book 51, Page(s) 400.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 12<sup>th</sup> day of April 2021.



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Stephanie C. Kelly, City Clerk, MMC, NCCMC