

# AGENDA



**CITY OF LENOIR**  
**CITY COUNCIL MEETING**  
**CITY/COUNTY CHAMBERS**  
**905 WEST AVENUE**  
**TUESDAY, SEPTEMBER 20, 2016**  
**6:00 P.M.**



## I. CALL TO ORDER

- A. Moment of Silence & Pledge of Allegiance
- B. Special Recognition; Loving Lenoir Week: Mayor Gibbons will present a proclamation to Ms. Karen Burton, Harper School of Music, proclaiming the week of September 26 through October 2 as “Loving Lenoir Week” throughout the City of Lenoir and Caldwell County.
- C. Special Recognition; Sandy Rossborough: Mayor Gibbons will present a resolution to Ms. Sandy Rossborough in honor and recognition of her twelve years of service as a member of the Lenoir Parks and Recreation Advisory Board.

## II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

## III. CONSENT AGENDA ITEMS

- A. Minutes: Approval of minutes from the City Council Meeting of Tuesday, September 6, 2016 as submitted.
- B. Minutes: Approval of minutes from the City Council Tours on Friday, September 9, 2016 of the Gunpowder Creek Wastewater Treatment Plant and the newly renovated E-911 Center at the Lenoir Police Department as submitted.
- C. Proclamation; Loving Lenoir Week: Approval of a proclamation proclaiming the week of September 26 through October 2 as “Loving Lenoir Week” throughout the City of Lenoir and Caldwell County.
- D. Resolution; Sandy Rossborough: Approval of a resolution honoring Ms. Sandy Rossborough for her twelve years of service as a member of the Lenoir Parks and Recreation Advisory Board.

## IV. REQUESTS AND PETITIONS OF CITIZENS

## V. REPORTS OF BOARDS AND COMMISSIONS

## VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER

- A. Items of Information
  - 1. The Sanitation Division’s Annual Fall Trash Bash Week ends on Friday, September 23. Citizens are encouraged to participate.
  - 2. A Ribbon Cutting Ceremony is scheduled for Friday, September 23 at 11:00 a.m. at the new Arbor Glen Apartment Complex located at the intersection of Abingdon Road.

3. The Planning Board meeting of Monday, September 26 has been cancelled due to not having any agenda items submitted. The next meeting will be held on Monday, October 24 at 5:30 p.m.
4. The Committee of the Whole Meeting for Tuesday, September 27 has been cancelled.
5. The Foothills Regional Airport Authority will meet on Wednesday, September 28 at noon.
6. A Cruise-In Event is scheduled for Saturday, October 1 from 4:00 p.m. – 9:00 p.m. in downtown Lenoir.
7. The Police Department's Annual National Night Out is scheduled for Tuesday, October 4 at 6:00 p.m. in downtown Lenoir.

#### B. Items for Council Action

1. NCDOT Agreement; Hospital Avenue Sidewalk Project: City Staff recommends approval of an agreement between the City of Lenoir and the North Carolina Department of Transportation (NCDOT) for federal funding for the Hospital Avenue Sidewalk Project. **Note:** City Council approved an authorizing resolution for this project on June 16, 2015 and committed a 20% cash match to the project in the amount of \$200,000.
2. NCLM Voting Delegates: City Council will appoint a Delegate and an Alternate Delegate to represent the City of Lenoir at the North Carolina League of Municipalities **Advocacy Goals Conference** to be held at the Raleigh Convention Center on Sunday, October 23 from 11:00 a.m. – 4:00 p.m. Those attending are Mayor Gibbons and City Councilmembers' Ike Perkins, Crissy Thomas and Ben Willis.
3. NCLM Voting Delegates: City Council will appoint a Delegate and an Alternate Delegate to represent the City at the North Carolina League of Municipalities **Annual Business Meeting** to be held at the Raleigh Convention Center on Monday, October 24 at 4:15 p.m. Those attending are Mayor Gibbons and City Councilmembers' Ike Perkins, Crissy Thomas and Ben Willis.

### **VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY**

### **VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR**

### **IX. REPORT AND RECOMMENDATIONS OF COUNCILMEMBERS**

### **X. ADJOURNMENT**



CITY MANAGER  
SCOTT E. HILDEBRAN

CITY OF LENOIR  
NORTH CAROLINA

MAYOR  
JOSEPH L. GIBBONS

CITY COUNCIL  
K. P. EDMISTEN  
T. H. PERDUE  
J. I. PERKINS  
T. J. ROHR  
D. F. STEVENS  
C. D. THOMAS  
B. K. WILLIS

**PROCLAMATION**

***“LOVING LENOIR WEEK”***

**WHEREAS**, music and arts are a vital part of our lives, and music/arts study, performance, and appreciation are important to our social, cultural, historical, and educational development; and

**WHEREAS**, the City of Lenoir is celebrating 175 years and is working to create an understanding and appreciation for the value of music/arts in the home, the school, the community and the world; and

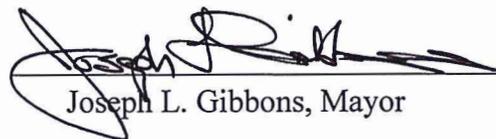
**WHEREAS**, the pursuit of music/arts, whether it be through study, composing, listening, performing, or participation, enriches our lives; and

**WHEREAS**, religious, educational, and civic groups throughout Lenoir are joining together to promote the benefits of music/arts education and performing arts, fostering lifelong and inter-generational musical talent, and creating a dynamic musical and cultural environment in our City and County.

**NOW, THEREFORE**, I Joseph L. Gibbons, Mayor of the City of Lenoir, North Carolina, and on behalf of the Lenoir City Council and all the citizens, do hereby declare the week of September 26 through October 2 as ***“Loving Lenoir Week”*** throughout the City of Lenoir and Caldwell County and encourage all citizens to observe and take part in activities recognizing the importance of art, music, musicians, educators, schools, performers and performances, arts and musical organizations to the cultured life of our City.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the seal of the City of Lenoir to be affixed this 20<sup>th</sup> day of September 2016.

SEAL

  
Joseph L. Gibbons, Mayor





## *RESOLUTION HONORING SANDY ROSSBOROUGH*

**WHEREAS, Sandy Rossborough**, has served as faithfully and diligently as a member and Vice-Chair of the Lenoir Parks and Recreation Board since April 12, 2004 and has been a current member of the Lenoir Housing Authority since January 1, 2005; and

**WHEREAS, Sandy Rossborough** has been a faithful member of First United Methodist Church for forty years and also served thirty-eight years over the Acolyte Program where she ministered to over 400 youth; and

**WHEREAS**, during her tenure, she has served with great competence and made important professional contributions to the community to briefly name a few:

- Active licensed real estate broker for thirty-six years.
- Current member of the Caldwell Memorial Foundation Board for eight years.
- Served as a volunteer for Caldwell Memorial Hospital for eight years.
- Served as Chief Judge for the Voting Precinct for twenty years.
- Served four years on the Caldwell Arts Council Board.
- Assisted the Caldwell Chamber of Commerce with the annual Bridge-to Bridge race for five years.
- Was the recipient of the “Volunteer of the Year Award” by Governor Mike Easley in 2005.
- Member of the Junior Woman’s Club for four years.
- Acted with the Foothills Performing Arts.

**WHEREAS, Sandy Rossborough** is being honored and recognized for her volunteerism, devotion to the community, her commitment and hard work;

**NOW THEREFORE BE IT RESOLVED**, that the Lenoir City Council hereby expresses sincere appreciation to our friend and colleague, who, through her leadership and dedicated service to the City has earned respect and has made lasting contributions for the betterment of the City,

**BE IT FURTHER RESOLVED**, I, Mayor Joseph L. Gibbons, by virtue of the authority vested in me as Mayor of the City of Lenoir, North Carolina, and on behalf of the City Council and all the citizens, do hereby extend sincere appreciation and deep gratitude to **Sandy Rossborough** for her devoted and outstanding service.

This the 20<sup>th</sup> day of September, 2016.

SEAL

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Joseph L. Gibbons, Mayor

**LENOIR CITY COUNCIL  
TUESDAY, SEPTEMBER 6, 2016  
6:00 P.M.**

**PRESENT:** Mayor Gibbons presiding. Councilmembers present were Edmisten, Perdue, Perkins, Rohr, Stevens, Thomas, and Willis. Also in attendance were City Manager Hildebran, City Attorney Blair and City Clerk Cannon.

**I. CALL TO ORDER**

A. The meeting was opened by a moment of silence followed by the Pledge of Allegiance led by Mayor Gibbons.

**WELCOME; DONNA**

**BEAN:** B. Mayor Gibbons welcomed and introduced Donna Bean as the City's new Finance Director. Ms. Bean began her duties with the City on Thursday, August 25.

**II. MATTERS SCHEDULED FOR PUBLIC HEARINGS**

**ECONOMIC DEVELOPMENT INCENTIVE;  
PROJECT A-FRAME:**

A. A public hearing was held to consider awarding an economic development incentive to Project A-Frame. If Council wishes to proceed with the economic incentive for Project A-Frame, approval and authorization is recommended of a three-year City tax grant for 30% of the new tax base added to the company's current assessed tax.

Mayor Gibbons stated the company is planning a \$4 million investment in new construction and equipment. He noted the proposed new production facility will employ up to fifteen (15) new workers and the remainder of the plant will continue to grow and expand with an additional fifteen (15) new jobs.

Mayor Gibbons opened the public hearing to receive public comments regarding the Economic Development Incentive request.

There being no public participation, Mayor Gibbons closed the public hearing and asked Council for action.

Councilmember Rohr stated he was glad for the company's proposed expansion, but pointed out, due to their hourly wage of \$13.00 being below the average salary for our area, the company should not be qualified to receive an incentive according to the City's matrix. Mr. Rohr commented that the lower salary may also bring down the average income for citizens in Lenoir. He respectfully asked Council to consider

opposing this request.

Councilmember Stevens referred to the company's proposed investment amount and stated he would rather see them expand in our area instead of somewhere else. He further added that an incentive may encourage other companies to stay in Lenoir.

Mayor Pro-Tem Willis concurred with Mr. Stevens and remarked it is a competitive market and important for the City to take care of its local businesses.

Councilmember Perkins also agreed that Project A-Frame is a good company and he is impressed with their operations.

Mayor Gibbons thanked Deborah Murray, Caldwell County Economic Development Commission Executive Director, for all of her hard work regarding this project.

Upon a motion by Councilmember Willis, Council voted 6 to 1 to approve and authorize a three-year City tax grant for 30% of the new tax base added to the company's current assessed tax following the company moving forward with their proposed expansion. Councilmember Rohr voted against this request.

### III. CONSENT AGENDA ITEMS

A. Upon a recommendation by City Manager Hildebran, the following Consent Agenda items were submitted for approval:

1. Minutes: Approval of minutes from the City Council Meeting of Tuesday, August 16, 2016 as submitted.
2. Minutes: Approval of minutes from the Committee of the Whole Meeting of Tuesday, August 23, 2016 as submitted.
3. Resolution; 15<sup>th</sup> Anniversary of September 11<sup>th</sup>: Approval of a Resolution by the City of Lenoir, North Carolina, recognizing the National Moment of Remembrance of the 15<sup>th</sup> Anniversary of September 11<sup>th</sup> and requests the moment of remembrance to last for 1 minute beginning at 1:00 p.m. Eastern Daylight Time by, to the extent maximum except practicable, ceasing all work or other activity; and marking the moment in an appropriate manner, including by ringing bells, blowing whistles, or sounding sirens. (A copy of the resolution is hereby incorporated into these minutes by reference. Refer to pages 213-215).

**Note:** Mayor Gibbons read excerpts from the Resolution recognizing the National Moment of Remembrance of the 15<sup>th</sup> Anniversary of September 11<sup>th</sup> and stated this was a very important time of remembrance for our country. He encouraged all citizens to participate

in this worthy event.

Upon a motion by Councilmember Thomas, Council voted 7 to 0 to approve the above items on the Consent Agenda as listed above and as recommended by City Manager Hildebran.

#### **IV. REQUESTS AND PETITIONS OF CITIZENS**

#### **V. REPORTS OF BOARDS AND COMMISSIONS**

#### **VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER**

##### **A. Items of Information**

**SISTER CITIES:** 1. The Sister Cities Committee will meet on Thursday, September 8 at 1:15 p.m. at City Hall, Third Floor, former Council Chambers.

##### **LENOIR TOURISM DEVELOPMENT**

**AUTHORITY:** 2. The Lenoir Tourism Development Authority will meet on Thursday, September 8 at 3:30 p.m. at City Hall, Third Floor, former Council Chambers.

##### **LENOIR BUSINESS ADVISORY**

**BOARD:** 3. The Lenoir Business Advisory Board will meet on Thursday, September 8 at 6:00 p.m. at City Hall, Third Floor, former Council Chambers.

##### **ANNUAL SCULPTURE**

**CELEBRATION:** 4. The annual Sculpture Celebration will be held on Saturday, September 10 beginning at 9:00 a.m. at the T.H. Walking Broyhill Park.

##### **CITY/COUNTY SERVICES**

**COMMITTEE:** 5. The City/County Services Committee will meet on Monday, September 12 at 11:45 a.m.

##### **PARKS & RECREATION**

###### **ADVISORY BOARD:**

6. The Parks & Recreation Advisory Board will meet on Monday, September 12 at 6:00 p.m. at the Mulberry Recreation Center.

##### **CALDWELL COUNTY ECONOMIC DEVELOPMENT**

**COMMISSION:** 7. The Caldwell County Economic Development Commission will meet on Tuesday, September 13 at 8:00 a.m.

**ABC BOARD:** 8. The Lenoir ABC Board will meet on Tuesday, September 13 at 5:30 p.m. at Lenoir Store #1 located at 123 ABC Court.

##### **CALDWELL IS**

**HIRING:** 9. The annual Caldwell is Hiring Event is scheduled for Thursday, September

15 from 8:30 a.m. until noon at the J.E. Broyhill Civic Center. Mayor Pro-Tem Willis mentioned this is a great event for employers and prospective employees seeking employment.

**FABULOUS FILM**

**NIGHT:** 10. Fabulous Film Night is scheduled on Saturday, September 17 with the movie "Tomorrowland" being shown on the square at 8:30 p.m.

**NCDOT ANNUAL LITTER SWEEP**

**CAMPAIGN:** 11. The Annual North Carolina Department of Transportations' Litter Sweep Campaign begins on Saturday, September 17 through Saturday, October 1. Citizens are encouraged to participate in this event.

**SANITATION DIVISION'S ANNUAL  
FALL TRASH BASH:**

12. The Sanitation Division's Annual Fall Trash Bash Week is scheduled for the week of September 19 through 23. Citizens are encouraged to participate in this event.

**CITY/COUNTY COORDINATING**

**COMMITTEE:** 13. The City/County Coordinating Committee will meet on Monday, September 19 at 11:30 a.m.

**CANCELLED; COMMITTEE OF THE**

**WHOLE:** 14. The Committee of the Whole meeting scheduled for Tuesday, September 27 has been cancelled due to City Councilmembers scheduling a tour of the Gunpowder Creek Wastewater Treatment Facility and the newly renovated E-911Center at the Lenoir Police Department.

VI. Items for Council Action

**AUTHORIZING RESOLUTION; LOWER CREEK  
WWTP BIOSOLIDS FACILITY:**

A. City Staff recommends approval of a resolution to authorize Staff to submit an application for state loan/grant assistance for the improvements to the Lower Creek WWTP Biosolids facility. These funds will be sufficient to cover construction, related engineering, inspections, and administration of the project.

A copy of the resolution is hereby incorporated into these minutes by reference. (Refer to pages 216-217).

City Manager Hildebran referred to the presentation by Andy Lovingood, McGill Associates, at the June 28 Committee of the Whole Meeting regarding the City of Lenoir receiving a State Technical Assistance Grant for the Lenoir Biosolids Study which was completed in March 2016 for the City's Lower Creek Wastewater Treatment facility.

Councilmember Rohr expressed his opposition to state grants by commenting, if

the project is important enough to do, the City should pay for it themselves and not at the expense of the taxpayers.

Upon a motion by Councilmember Edmisten, Council voted 6 to 1 to approve the resolution authorizing Staff to submit an application for state loan/grant assistance for the improvements to the Lower Creek WWTP Biosolids Facility as recommended by City Staff. Councilmember Rohr voted against this request.

**RESOLUTION; ALLOW SPECIAL EQUIPMENT BIDS  
FOR WATER TREATMENT PLANT IMPROVEMENTS**

**PROJECT:** B. City Staff recommends approval of a resolution to allow special equipment bids for the Water Treatment Plant Improvements Project. Approval of the resolution is to afford the City the opportunity to continue to use the current technology already in place at the Water Treatment Plant while maintaining consistency in the operations of the treatment process.

A copy of the resolution is hereby incorporated into these minutes by reference. (Refer to page 218).

Public Utilities Director Thomas explained the purpose of seeking special alternate bids from vendors is to allow Staff the option to compare the regular bid to the special alternate bid on equipment Staff is already using and purchase the equipment of their choice.

Upon a motion by Councilmember Perdue, Council voted 7 to 0 to approve a resolution to allow special equipment bids for the Water Treatment Plant Improvements Project as recommended by City Staff.

**VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY**

**VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR**

**BOARD VACANCY; PARKS & RECREATION  
ADVISORY BOARD:**

A. Mayor Gibbons announced an upcoming vacancy on the Parks and Recreation Advisory Board and reported that interested individuals may contact the City Clerk to obtain an application.

**IX. REPORT AND RECOMMENDATIONS OF COUNCILMEMBERS**

**X. ADJOURNMENT**

A. There being no further business, the meeting was adjourned at 6:30 p.m.

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Joseph L. Gibbons, Mayor

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Shirley M. Cannon, City Clerk



CITY MANAGER  
SCOTT E. HILDEBRAN

CITY OF LENOIR  
NORTH CAROLINA

MAYOR  
JOSEPH L. GIBBONS

CITY COUNCIL  
K. P. EDMISTEN  
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C. D. THOMAS  
B. K. WILLIS

**RESOLUTION**

**RECOGNIZING  
THE NATIONAL MOMENT OF REMEMBRANCE OF THE 15<sup>TH</sup>  
ANNIVERSARY OF SEPTEMBER 11<sup>TH</sup>**

**WHEREAS**, the City Council of the City of Lenoir expresses their support of the citizens of the United States coming together as a Nation and ceasing all work or other activity for a moment of remembrance beginning at 1:00 p.m. Eastern Daylight Time on September 11, 2016, in honor of the 15th anniversary of the terrorist attacks committed against the United States on September 11, 2001; and

**WHEREAS**, at 8:46 a.m., on September 11, 2001, hijacked American Airlines Flight 11 crashed into the upper portion of the North Tower of the World Trade Center in New York City, New York; and

**WHEREAS**, 17 minutes later, at 9:03 a.m., hijacked United Airlines Flight 175 crashed into the South Tower of the World Trade Center; and

**WHEREAS**, at 9:37 a.m., the west wall of the Pentagon was hit by hijacked American Airlines Flight 77, the impact of which caused immediate and catastrophic damage to the headquarters of the Department of Defense; and

**WHEREAS**, at approximately 10:03 a.m., the passengers and crew of hijacked United Airlines Flight 93 acted heroically to retake control of the airplane and thwart the taking of additional American lives by crashing the airliner in Shanksville, Pennsylvania, and, in doing so, gave their lives to save countless others; and

**WHEREAS**, nearly 3,000 innocent civilians were killed in the heinous attacks of September 11, 2001; and

**WHEREAS**, tens of thousands of individuals narrowly escaped the attacks at the Pentagon and World Trade Center and, as witnesses to this tragedy, are forever changed; and

**WHEREAS**, countless fire departments, police departments, first responders, governmental officials, workers, emergency medical personnel, and volunteers responded immediately and heroically to those horrific events; and



**WHEREAS**, the Fire Department of New York suffered 343 fatalities on September 11, 2001, the largest loss of life of any emergency response agency in United States history; and

**WHEREAS**, the Port Authority Police Department suffered 37 fatalities in the attacks, the largest loss of life of any police force in United States history in a single day; and

**WHEREAS**, the New York Police Department suffered 23 fatalities as a result of the terrorist attacks; and

**WHEREAS**, the impact of that day on public health continues through 2016, as nearly 90,000 people are at risk of or suffering from negative health effects as a result of the events of September 11, 2001, including 14,000 workers and 2,400 community residents who are sick, and tens of thousands of others whose health is being monitored; and

**WHEREAS**, 15 years later, the people of the United States and people around the world continue to mourn the tremendous loss of innocent life on that fateful day; and

**WHEREAS**, 15 years later, thousands of men and women in the United States Armed Forces remain in harm's way defending the United States against those who seek to threaten the United States; and

**WHEREAS**, on the 15th anniversary of this tragic day, the thoughts of the people of the City of Lenoir are with all of the victims of the events of September 11, 2001 and their families; and

**WHEREAS**, the lives of Americans were changed forever on September 11, 2001, when events threatened the American way of life; and

**WHEREAS**, in 2009, Congress and the President joined together to designate September 11 as a National Day of Service and Remembrance under the Serve America Act (Public Law 111-13; 123 Stat. 1460); and

**WHEREAS**, in September 2009 and 2010, President Obama issued Proclamation 8413 (74 Fed. Reg. 47045) and Proclamation 8559 (75 Fed. Reg. 56463) proclaiming September 11, 2009, and September 11, 2010, respectively, as Patriot Day and National Day of Service and Remembrance; and

**WHEREAS**, September 11 will never, and should never, be just another day in the hearts and minds of all people of the United States;

**NOW, THEREFORE BE IT RESOLVED** that I, Joseph L. Gibbons, Mayor, and on behalf of the Lenoir City Council:

(1) recognizes September 11, 2016, as a day of solemn commemoration of the events of September 11, 2001, and a day to come together as a Nation; and

(2) offers its deepest and most sincere condolences to the families, friends, and loved ones of the innocent victims of the September 11, 2001, terrorist attacks; and

(3) honors the heroic service, actions, and sacrifices of first responders, law enforcement personnel, State and local officials, volunteers, and countless others who aided the innocent victims of those attacks and, in doing so, bravely risked and often gave their own lives; and

(4) recognizes the valiant service, actions, and sacrifices of United States personnel, including members of the United States Armed Forces, the United States intelligence agencies, the United States diplomatic service, homeland security and law enforcement personnel, and their families, who have given so much, including their lives and well-being, to support the cause of freedom and defend the security of the United States; and

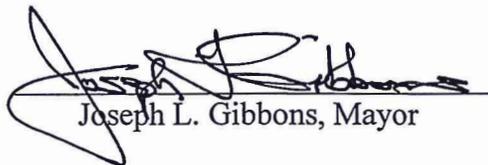
(5) reaffirms that the people of the City of Lenoir will never forget the challenges our country endured on and since September 11, 2001, and will work tirelessly to defeat those who attacked the United States; and

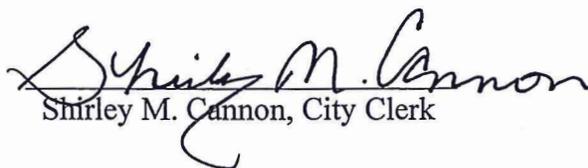
**BE IT FURTHER RESOLVED** that on the 15th anniversary of this tragic day in United States history the Lenoir City Council requests that citizens observe a moment of remembrance on September 11, 2016, and

**BE IT FURTHER RESOLVED** that the Lenoir City Council requests the observance of the moment of remembrance to last for 1 minute beginning at 1:00 p.m. Eastern Daylight Time by, to the maximum extent practicable ceasing all work or other activity; and marking the moment in an appropriate manner, including by ringing bells, blowing whistles, or sounding sirens.

Adopted this 6<sup>th</sup> day of September, 2016.

SEAL

  
Joseph L. Gibbons, Mayor

  
Shirley M. Cannon, City Clerk



CITY MANAGER  
SCOTT E. HILDEBRAN

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**RESOLUTION BY GOVERNING BODY OF APPLICANT**

- WHEREAS,** The Federal Clean Water Act Amendments of 1987 and the North Carolina 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 a wastewater treatment works project, and
- WHEREAS,** The **City of Lenoir** has need for and intends to construct a wastewater treatment works project generally described as Biosolids Facility Improvements at the City of Lenoir's Lower Creek Wastewater Treatment Plant including but not limited to replacement of the sludge dewatering and biosolids treatment systems, and
- WHEREAS,** The **City of Lenoir** intends to request state loan or grant assistance for the project,

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

That **City of Lenoir**, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan or grant award.

That the **Applicant** 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 **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the **City of Lenoir** to make scheduled repayment of the loan, to withhold from the **City of Lenoir** 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 **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

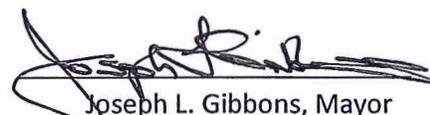
That **Scott Hildebran, City Manager**, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a (loan or grant) to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is 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 **Applicant** 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 **6<sup>th</sup> day of September, 2016** at Lenoir, North Carolina.

SEAL

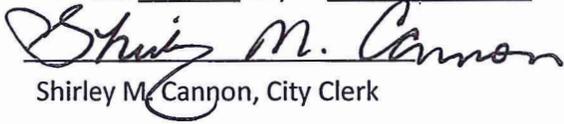
  
Joseph L. Gibbons, Mayor

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**CERTIFICATION BY RECORDING OFFICER**

The undersigned duly qualified and acting City Clerk of the City of Lenoir does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the City Council of the City of Lenoir duly held on the 6<sup>th</sup> day of September, 2016; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this 6<sup>th</sup> day of September, 2016.

  
Shirley M. Cannon, City Clerk





CITY MANAGER  
SCOTT E. HELDEBRAN

CITY OF LENOIR  
NORTH CAROLINA

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**RESOLUTION TO ALLOW SPECIAL EQUIPMENT BIDS FOR THE  
WATER TREATMENT PLANT IMPROVEMENTS PROJECT**

**WHEREAS**, the City of Lenoir owns, operates, and maintains a Water Treatment Plant for the benefit of the citizens of the City of Lenoir, Caldwell County, and the surrounding communities; and

**WHEREAS**, the **Lenoir City Council** has accepted a State Revolving Funding loan offer of \$6,540,000 for the Water Treatment Plant Improvements project; and

**WHEREAS**, as part of the treatment process, the Water Treatment Plant has existing automated sludge removal equipment and chemical feed pumps in operation; and

**WHEREAS**, the Water Treatment Plant Improvements project involves the replacement of certain components of the existing automated sludge removal equipment; and

**WHEREAS**, the Water Treatment Plant Improvements project also involves the replacement and addition of chemical feed pumps, and that after equipment research by City staff, a preferred brand alternate bid item will include the following general performance standards to improve the function of the chemical feed systems:

Pumps shall have cased drives with no exposed shaft bearings to avoid potential contact with chemicals. Pumps shall have flexible tubing that is produced by the pump manufacturer to ensure product quality and equipment service life. Pumps shall have integrated float switch to shut down pump in case of tubing failure. Pumps shall have motor speed up to 220 revolutions per minute to provide a greater flow range to meet varying chemical feed requirements.

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

That the Lenoir City Council does hereby decide to (1) purchase replacement equipment components for the automated sludge removal system; and (2) receive preferred brand alternate bid prices for the chemical feed pumps and to select preferred alternate equipment if deemed in the best interest of the City of Lenoir.

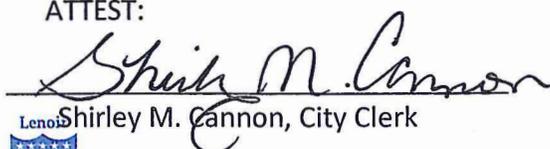
Adopted this 6<sup>th</sup> day of September, 2016.

SEAL



Joseph L. Gibbons, Mayor

ATTEST:



Shirley M. Cannon, City Clerk



**LENOIR CITY COUNCIL  
PUBLIC MEETING  
TOURS OF E-911 CENTER & GUNPOWDER WWTP  
FRIDAY, SEPTEMBER 9, 2016  
9:15 A.M.**

**PRESENT:** Mayor Gibbons along with Councilmembers Edmisten, Perkins, Stevens, and Willis. Also in attendance were City Manager Hildebran, Police Chief Brown, Public Utilities Director Thomas, Monte Wall, Robert Gilbert, Ronnie Hendrix, Captain Brent Phelps and Briana Adhikusuma, *News-Topic*.

**ABSENT:** Councilmembers Perdue, Rohr and Thomas.

**TOUR INFORMATION:**

- A. On Friday, September 9, 2016 several members of the Lenoir City Council along with City Staff participated in a tour of the newly renovated E-911 Center at the Lenoir Police Department and a tour of the recent improvements made at the Gunpowder Creek Wastewater Treatment Plant. City Council did not take any formal action while on these two tours. Below is an excerpt from these two tours as submitted by Police Chief Scott Brown and Public Utilities Director Radford Thomas.

**SITE VISIT; GUNPOWDER CREEK WASTE  
WATER TREATMENT PLANT:**

- B. City Council members gathered at the Lenoir Police Department at 9:15 on Friday morning September 9, 2016 to travel to the Gunpowder Creek Wastewater Treatment Plant in Hudson for a tour of the facility. The City recently completed a \$3.5 million dollar renovation to the treatment plant and the Council was interested in seeing the improvements that had been made. Robert Gilbert - Water Resources Superintendent, Monte Wall – Wastewater Treatment Plants Superintendent and Radford Thomas – Public Utilities Director led the group on a tour of the facility. Major aspects of the project included the construction of a new SBR (Sequential Batch Reactor) treatment basin, new air blowers and air piping systems, replacement of various valves and treatment equipment and a new SCADA monitoring system. Monte Wall reviewed the treatment process and the reconfiguring of the plant with the four existing SBR basins to treat the wastewater in three treatment “trains”. The tour lasted approximately one hour. The Council returned to the Lenoir Police Department and began a tour of the new Police Department communication center.

**POLICE DEPARTMENT;  
E-911 COMMUNICATIONS CENTER:**

- C. On Friday, September 9, 2016, members of City Council visited the Police Department to observe I.T. related projects, specifically patrol vehicles and the

E-911 Communications Center. Members were able to learn about how Officers are able to complete reporting and other paperwork related tasks from their vehicles, keeping them on the street rather than in the office. They were also able to observe Mobile Video Recording Systems (MVR), as well as Body Worn Camera Systems (BWC).

The highlight of the visit was a tour of the recently upgraded Communications Center. This center serves as the Primary Call Answering Point (PCAP) for all City of Lenoir police activity and as a Designated Back-Up Center for Caldwell County E-911 Communications. The \$1.8 million upgrade project, which is now in its final phase, has been a collaborative effort between Caldwell County and the City of Lenoir and largely funded by a \$1.6 million grant from the NC 911 Board of Directors. One issue that was briefly discussed was the need for additional I.T. staff for the City. The police department alone currently has over 430 individual pieces of technical equipment and only a single part-time employee to maintain it.

During the visit, Council members were able to interact with a number of LPD employees, who greatly appreciated their interest and support.

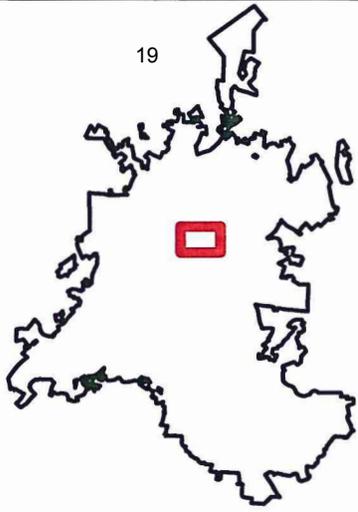
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Joseph L. Gibbons, Mayor

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Shirley M. Cannon, City Clerk





# CITY OF LENOIR 2015 LAPP APPLICATION PROJECT DETAIL MAP

Approx. 2,640 ft. (.5 mi)

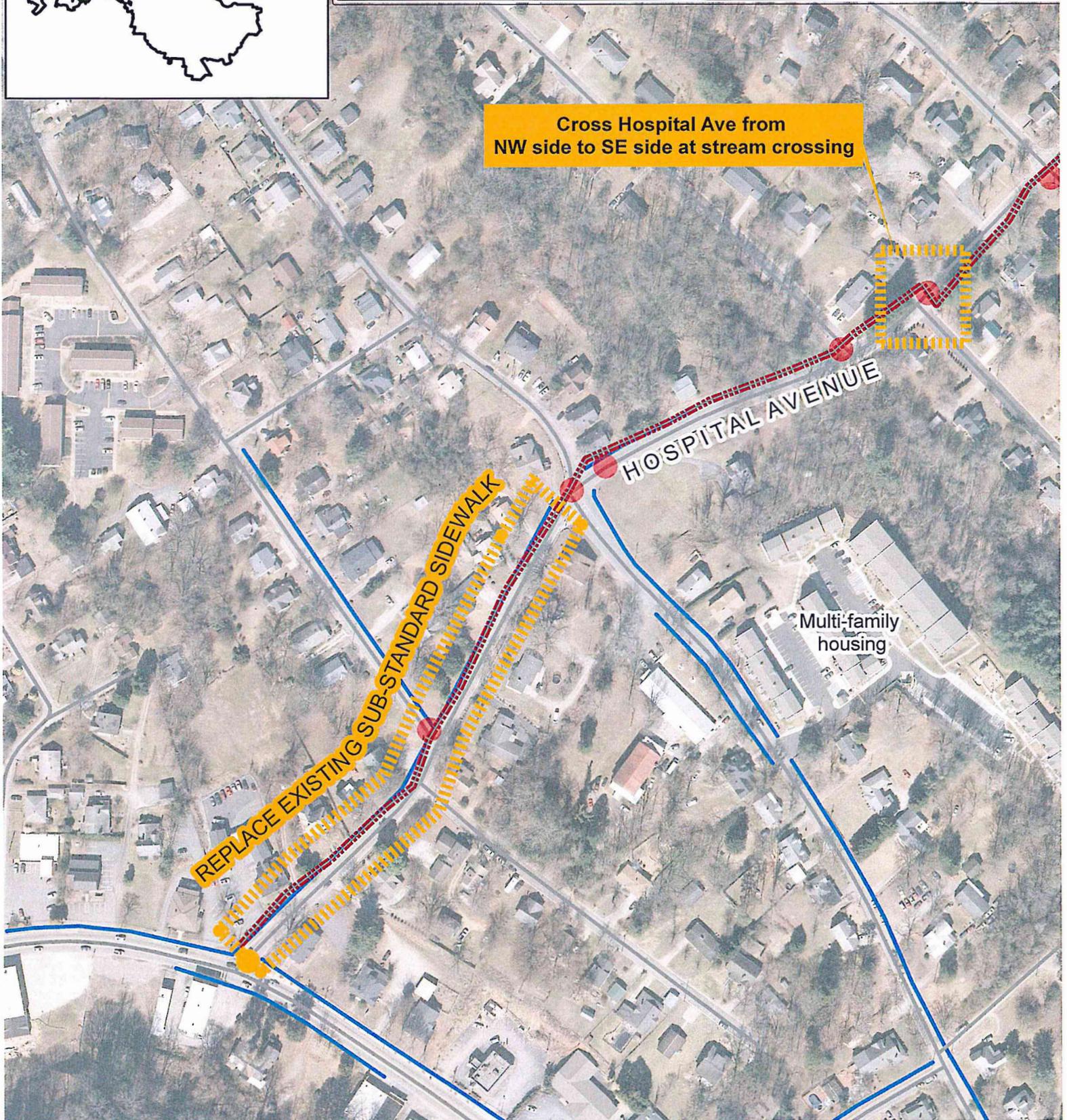
of sidewalk and pedestrian improvements along  
Hospital Avenue from Harper Ave. to U.S. HWY

Cross Hospital Ave from  
NW side to SE side at stream crossing

REPLACE EXISTING SUB-STANDARD SIDEWALK

HOSPITAL AVENUE

Multi-family  
housing



NORTH CAROLINA  
CALDWELL COUNTY

**LOCALLY ADMINISTERED PROJECT - FEDERAL**

DATE: 8/22/2016

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

TIP #: EB-5806

AND

WBS Elements: PE 46457.1.1

ROW 46457.2.1

CITY OF LENOIR

CON 46457.3.1

OTHER FUNDING:

FEDERAL-AID NUMBER: STPDA-0321(036)

CFDA #: 20.205

Total Funds [NCDOT Participation] \$800,000

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 Lenoir, hereinafter referred to as the "Municipality".

**WITNESSETH:**

WHEREAS, Fixing America's Surface Transportation (FAST) Act allows for the allocation of Transportation Alternatives Program funds to be available for certain specified transportation activities; and,

WHEREAS, the Municipality has requested federal funding for Hospital Avenue Sidewalk, hereinafter referred to as the Project, in Caldwell County, North Carolina; and,

WHEREAS, subject to the availability of federal funds, the Municipality has been designated as a recipient to receive funds allocated to the Department by the Federal Highway Administration (FHWA) up to and not to exceed the maximum award amount of \$800,000 for the Project; and,

WHEREAS, the Department has agreed to administer the disbursement of said funds on behalf of FHWA to the Municipality for the Project in accordance with the Project scope of work and in accordance with the provisions set out in this Agreement; and,

WHEREAS, the Department has programmed funding in the approved Transportation Improvement Program for the Project; and,

WHEREAS, the governing board of the Municipality has agreed to participate in certain costs and to assume certain responsibilities in the manner and to the extent as hereinafter set out; 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 136-71.6, Section 160A-296 and 297, Section 136-18, Section 136-41.3 and Section 20-169, to participate in the planning, construction and/or implementation of the Project approved by the Board of Transportation.

NOW, THEREFORE, this Agreement states the promises and undertakings of each party as herein provided, and the parties do hereby covenant and agree, each with the other, as follows:

## **1. GENERAL PROVISIONS**

### **FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT**

All parties to this Agreement, including contractors, subcontractors, and subsequent workforces, associated with any work under the terms of this Agreement shall provide reports as required by the Federal Funding Accountability and Transparency Act (FFATA) for this Project.

### **AGREEMENT MODIFICATIONS**

Any modification to scope, funding, responsibilities, or time frame will be agreed upon by all parties by means of a Supplemental Agreement.

### **LOCAL PUBLIC AGENCY TO PERFORM ALL WORK**

The Municipality shall be responsible for administering all work performed and for certifying to the Department that all terms set forth in this Agreement are met and adhered to by the Municipality and/or its contractors and agents. The Department will provide technical oversight to guide the Municipality. The Department must approve any assignment or transfer of the responsibilities of the Municipality set forth in this Agreement to other parties or entities.

### **PERSON IN RESPONSIBLE CHARGE**

The Municipality shall designate a person or persons to be in responsible charge of the Project, in accordance with Title 23 of the Code of Federal Regulations, Part 635.105. The person, or persons, shall be expected to:

- Administer governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;

- Maintain knowledge of day to day project operations and safety issues;
- Make or participate in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
- Visit and review the project in accordance with the project scope and scale;
- Review financial processes, transactions and documentation to reduce the likelihood of fraud, waste, and abuse;
- Direct project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation; and
- Be aware of the qualifications, assignments and on-the-job performance of the agency and consultant staff at all stages of the project.

The person in responsible charge must be a full-time employee of the Municipality, but the duties may be split among several employees, if necessary.

#### **COMPLIANCE WITH STATE/FEDERAL POLICY**

The Municipality, and/or its agent, including all contractors, subcontractors, or sub-recipients shall comply with all applicable Federal and State policies and procedures, stated both in this Agreement and in the Department's guidelines and procedures, including the *Local Programs Management Handbook*.

#### **FAILURE TO COMPLY - CONSEQUENCES**

Failure on the part of the Municipality to comply with any of the provisions of this Agreement will be grounds for the Department to terminate participation in the costs of the Project and, if applicable, seek repayment of any reimbursed funds.

## **2. SCOPE OF PROJECT**

The Project consists of construction sidewalks on Hospital Avenue between Harper Avenue and US 321.

The Department's funding participation in the Project shall be restricted to the following eligible items:

- Design
- Environmental Documentation
- ROW Acquisition
- Utility Relocation
- Construction

as further set forth in this Agreement.

### 3. FUNDING

#### REIMBURSEMENT FOR ELIGIBLE ACTIVITIES

Subject to compliance by the Municipality with the provisions set forth in this Agreement and the availability of federal funds, the Department shall reimburse (80%) of eligible expenses incurred by the Municipality up to a maximum amount of Eight Hundred Thousand Dollars (\$800,000), as detailed below. The Municipality shall provide the non-federal match, as detailed in the FUNDING TABLE below, and all costs that exceed the total estimated cost.

#### FUNDING TABLE

Fund Source	Federal Funds Amount	Reimbursement Rate	Non-Federal Match \$	Non-Federal Match Rate
Transportation Alternatives Program	\$800,000	80 %	\$200,000	20 %
<b>Total Estimated Cost</b>			<b>\$1,000,000</b>	

#### WORK PERFORMED BY NCDOT

All work performed by the Department on this Project, including, but not limited to, reviews, inspections, and Project oversight, during any phase of the delivery of the Project, shall reduce the funding available to the Municipality under this Agreement. The Department will set aside ten percent (10%) of the total estimated cost, or \$100,000, to use towards the costs related to review and oversight of this Project, including, but not limited to review and approval of plans, environmental documents, contract proposals, engineering estimates, construction engineering

and inspection oversight, and other items as needed to ensure the Municipality's appropriate compliance with state and federal regulations.

In the event that the Department does not utilize all the set-aside funding, then those remaining funds will be available for reimbursement to the Municipality at the above reimbursement rate. For all costs of work performed on the Project, whether incurred by the Municipality or by the Department, the Municipality shall provide the non-federal match. The Department will bill the Municipality for the non-federal match of any costs that the Department incurs on the Project and for any costs that exceed the Total Estimated Cost.

#### **4. PERIOD OF PERFORMANCE**

The Municipality has five (5) years to complete all work outlined in the Agreement from the date of authorization of Federal funds for the initial phase of work. Completion for this Agreement is defined as completion of all construction activities or implementation activities, acceptance of the project, and submission of a final reimbursement package to the Department.

If additional time is needed to complete the Project, then a supplemental agreement must be executed. The Department and/or FHWA reserves the right to revoke the funds awarded if the Municipality is unable to meet milestone dates included herein.

#### **5. PRELIMINARY ENGINEERING AUTHORIZATION**

If Preliminary Engineering is an eligible expense, then upon receipt of an executed agreement, the Department will authorize Preliminary Engineering funds and shall notify the Municipality, in writing, once funds have been authorized and can be expended. The Municipality shall not initiate any work, nor solicit for any professional services prior to receipt of written authorization from the Department to proceed. Any work performed, or contracts executed, prior to receipt of written authorization to proceed will be ineligible for reimbursement.

#### **6. PROFESSIONAL AND ENGINEERING SERVICES**

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/legregs/legislat.html](http://www.fhwa.dot.gov/legregs/legislat.html) and [www.ncleg.net/gascritps/Statutes/Statutes.asp](http://www.ncleg.net/gascritps/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 and 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.

## 7. PLANNING / ENVIRONMENTAL DOCUMENTATION

The Municipality shall prepare the environmental and/or planning document, including any environmental permits, needed to construct the Project, in accordance with the National Environmental Policy Act (NEPA) and all other appropriate environmental laws and regulations. All work shall be performed in accordance with Departmental procedures and guidelines. Said documentation shall be submitted to the Department for review and approval.

- The Municipality shall be responsible for preparing and filing with all proper agencies the appropriate planning documents, including notices and applications required to apply for those permits necessary for the construction of the desired improvements. Copies of approved permits should be forwarded to the Department.
- The Municipality shall advertise and conduct any required public hearings.
- If any permit issued requires that action be taken to mitigate impacts associated with the improvements, the Municipality shall design and implement a mitigation plan. The Department will determine if any mitigation costs are eligible for reimbursement. The Municipality shall bear all costs associated with penalties for violations and claims due to delays.
- The Municipality shall be responsible for designing an erosion control plan if required by the North Carolina Sedimentation Pollution Control Act of 1973, NCGS 113A, Article 4, incorporated in this Agreement by reference at [www.ncleg.net/gascripts/Statues/Statutes.asp](http://www.ncleg.net/gascripts/Statues/Statutes.asp) and obtaining those permits required thereby in order to construct the Project. During the construction of the improvements, the Municipality, and its contractors and agents, shall be solely responsible for compliance with the provisions of said Act and the plan adopted in compliance therewith.

## 8. DESIGN

### CONTENT OF PLAN PACKAGE

The Municipality, and/or its agent, shall prepare the Project's plans, specifications, and a professional estimate of costs (PS&E package), in accordance with the Department's guidelines and procedures, and applicable Federal and State standards. All work shall be submitted to the Department for review and approval. The plans shall be completed to show the design, site plans, landscaping, drainage, easements, and utility conflicts.

## **9. RIGHT OF WAY / UTILITY AUTHORIZATION**

If the costs of right of way acquisition or utility relocation are an eligible expense, the Municipality shall submit a letter of request to the Department to authorize and set up right of way and/or utility funding. The acquisition for right of way, construction easements, and/or utility relocation may be undertaken only after the Municipality receives written authorization from the Department to proceed.

## **10. PROJECT LIMITS AND RIGHT OF WAY (ROW)**

The Municipality shall comply with the policies and procedures of this provision regardless of whether the Municipality is requesting reimbursement for the Right of Way phase of the Project.

### **SPONSOR PROVIDES ROW**

The Municipality, at no liability whatsoever to the Department, shall be responsible for providing and/or acquiring any required ROW and/or easements for the Project.

### **ROW GUIDANCE**

The Municipality shall accomplish all ROW activities, including acquisition and relocation, in accordance with the following: Title 23 of the Code of Federal Regulations, Part 710, Subpart B and Title 49 of the Code of Federal Regulations, Part 24, [Uniform Act] incorporated by reference at [www.fhwa.dot.gov/legregs/directives/fapgtoc.htm](http://www.fhwa.dot.gov/legregs/directives/fapgtoc.htm); NCGS, Chapter 133, Article 2, Sections 133-5 through 133-18, Relocation Assistance, incorporated by reference at [www.ncleg.net/gascripts/Statutes/Statutes.asp](http://www.ncleg.net/gascripts/Statutes/Statutes.asp); and the North Carolina Department of Transportation Right of Way Manual.

### **APPRAISAL**

The Municipality shall submit the appraisal to the Department for review and approval in accordance with Departmental policies and procedures.

### **CLEARANCE OF PROJECT LIMITS / ROW**

The Municipality shall remove and dispose of all obstructions and encroachments of any kind or character (including hazardous and contaminated materials) from said ROW, with the exception that the Municipality shall secure an encroachment agreement for any utilities (which shall remain

or are) to be installed within the Department's ROW, or follow other applicable approval process, for utilities within the Municipality's ROW. The Municipality shall indemnify and save harmless the Department, Federal Highway Administration, and the State of North Carolina, from any and all damages and claims for damages that might arise on account of said right of way acquisition, drainage, and construction easements for the construction of said Project. The Municipality shall be solely responsible for any damages caused by the existence of said material now and at any time in the future and will save the Department harmless from any legal actions arising as a result of this contaminated and/or hazardous material and shall provide the Department with documentation proving the proper disposal of said material.

#### **RELOCATION ASSISTANCE**

The Municipality shall provide relocation assistance services and payments for families, businesses, and non-profit organizations being displaced by the Project in full accordance with the Federal relocation requirements of Title 49 Code of Federal Regulations, Part 24 [Uniform Act], as amended. Relocation assistance services and payments may be accomplished by contract with any other municipal corporation, or State or Federal agency, rendering such services upon approval by the Department and Federal Highway Administration.

### **11. UTILITIES**

The Municipality, and/or its agent, at no liability to the Department, shall relocate, adjust, relay, change or repair all utilities in conflict with the Project, regardless of ownership. All utility work shall be performed in a manner satisfactory to and in conformance with State and Federal rules and regulations, prior to Municipality beginning construction of the project. This Agreement does not modify or supersede any existing Utility Encroachment Agreements that may be in place.

### **12. RIGHT OF WAY CERTIFICATION**

The Municipality, upon acquisition of all right of way/property necessary for the Project, shall provide the Department all required documentation (deeds/leases/easement/plans) to secure right of way certification. Certification is only issued after all ROW is in public ownership or property is publicly accessible by a legal document and utilities in conflict with the project are relocated, or a plan for their relocation during construction has been approved.

## **13. CONTRACT PROPOSAL AND ENGINEER'S ESTIMATE**

### **CONTRACT PROPOSAL**

The Municipality shall develop a contract proposal that will be advertised for bids. The proposal shall comply with NCDOT Specifications and Standard Drawings as applicable to the Project. The proposal shall also contain provisions, as applicable, per Title 23 Code of Federal Regulations 633 and 635 to include, but not be limited to: FHWA 1273, Buy America, Davis-Bacon Wage Rates, Non-discrimination, DBE Assurances, Contractor Certification regarding suspension and debarment, and other provisions as required by the Department.

### **ENGINEER'S ESTIMATE**

The Municipality shall develop an itemized engineer's estimate to show items referenced to the NCDOT Standard Specifications, if applicable, along with units and unit price. The engineer's estimate will be used as the basis for comparing bids received.

## **14. CONSTRUCTION AUTHORIZATION**

The Municipality shall submit the required environmental and/or planning document, ROW certification, final construction plans, total contract proposal, and an estimate of Project costs (final PS&E package) to the Department for review and approval.

- After approval of all documentation, the Department will request construction authorization from the Federal Highway Administration.
- The Municipality shall not advertise for bids prior to receiving written construction authorization from the Department.

## **15. CONTRACTOR PROCUREMENT**

### **ADVERTISE FOR BIDS**

Upon receipt of written construction authorization from the Department, the Municipality may advertise the Project. The Municipality shall follow applicable Federal and/or State procedures pertaining to the advertisement of the Project, bid opening, and award of the contract, according to Title 2 of the Code of Federal Regulations, Part 200 and Title 23 of the Code of Federal Regulations, Part 633 and Part 635, incorporated by reference at

[www.fhwa.dot.gov/legregs/directives/fapgtoc.htm](http://www.fhwa.dot.gov/legregs/directives/fapgtoc.htm); and NCGS, Chapter 143, Article 8 (Public Contracts), incorporated by reference at [www.ncleg.net/gascripts/Statutes/Statutes.asp](http://www.ncleg.net/gascripts/Statutes/Statutes.asp).

### **CONSTRUCTION CONTRACTOR REQUIREMENTS**

All Contractors submitting bids on the project shall be pre-qualified by the Department. All proposed subcontractors must be pre-qualified before construction work begins. Any subcontractors who are proposed to meet the Disadvantaged Business Enterprise goal must be certified by the Department.

### **CONSTRUCTION SUBCONTRACTOR 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 Disadvantaged Business Enterprises (DBEs), or as required and defined in Title 49 of the Code of Federal Regulations, Part 26 and the North Carolina Administrative Code. These provisions are incorporated into this Agreement by reference

<https://connect.ncdot.gov/projects/Contracts/Pages/LGA-Projects.aspx>.

- 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.

### **AWARDING CONTRACT**

After the advertisement of the Project for construction bids, the Municipality shall request concurrence from the Department to award the construction contract by submitting a letter along with tabulated bids received depicting Disadvantaged Business Enterprises (DBE) goals, and a resolution recommending award of the Project to the lowest responsible, responsive bidder. The Department will review the submitted information and provide written approval to the Municipality prior to the contract being awarded by the Municipality.

### **DELAY IN PROCUREMENT**

In the event the Project has not been let to contract within six (6) months after receiving construction authorization 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.

### **FORCE ACCOUNT**

Force account work is only allowed when there is a finding of cost effectiveness for the work to be performed by some method other than a contract awarded by a competitive bidding process, or there is an emergency. Written approval from the Department is required prior to the use of force account by the Municipality. Federal Highway Administration regulations governing Force Account are contained in Title 23 Code of Federal Regulations, Part 635.201, Subpart B; said policy being incorporated in this Agreement by reference [www.fhwa.dot.gov/legregs/directives/cfr23toc.htm](http://www.fhwa.dot.gov/legregs/directives/cfr23toc.htm). North Carolina General Statutes governing the use of Force Account, Chapter 143, Article 8 (Public Contracts) can be found at [www.ncleg.net/gascripts/Statutes/Statutes.asp](http://www.ncleg.net/gascripts/Statutes/Statutes.asp).

## **16. CONSTRUCTION**

The Municipality, and/or its agents shall construct the Project in accordance with the plans and specifications of the Project as filed with, and approved by, the Department. During the construction of the Project, the procedures set out below shall be followed:

### **CONSTRUCTION CONTRACT ADMINISTRATION**

The Municipality shall comply with the NCDOT Construction Manual as referenced at <http://www.ncdot.org/doh/operations/dp%5Fchief%5Feng/constructionunit/formsmanuals/construction/>, which outlines the procedures for records and reports that must be adhered to in order to obtain uniformity of contract administration and documentation. This includes, but is not limited to, inspection reports, material test reports, materials certification, documentation of quantities, project diaries, and pay records. The Municipality, and/or its agent, shall perform the construction engineering, sampling and testing required during construction of the Project, in accordance with Departmental procedures, including the Department's Guide for Process Control and Acceptance Sampling and Testing. The Municipality shall document that said compliance was accomplished in accordance with State and Federal procedures, guidelines, standards and specifications.

### **RETAINAGE**

The Municipality shall not retain any portion of a payment due the contractor.

**SIGNAGE**

The Municipality shall provide and maintain adequate signage and other warning devices for the protection of the public in accordance with the approved traffic control plans for the Project and the current edition of the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways, or any subsequent revision of the same, published by the Federal Highway Administration and effective at the time of award of the contract.

**SITE LAYOUT**

The Municipality shall be responsible for ensuring that all site layout, construction work, and Project documentation are in compliance with applicable city, state and federal permits, guidelines, and regulations, including American Association of State Highway and Transportation Officials (AASHTO) guidelines and Americans with Disabilities Act (ADA) Standards for Accessible Design ([www.usdoj.gov/crt/ada/stdspdf.htm](http://www.usdoj.gov/crt/ada/stdspdf.htm)).

**RIGHT TO INSPECT**

The Department and representatives of the Federal Highway Administration shall have the right to inspect, sample or test, and approve or reject, any portion of the work being performed by the Municipality or the Municipality's contractor to ensure compliance with the provisions of this Agreement. Prior to any payment by the Department, any deficiencies inconsistent with approved plans and specifications found during an inspection must be corrected.

**CONTRACTOR COMPLIANCE**

The Municipality will be responsible for ensuring that the contractor complies with all of the terms of the contract and any instructions issued by the Department or FHWA as a result of any review or inspection made by said representatives.

**CHANGE ORDERS**

If any changes in the Project plans are necessary, the Department must approve such changes prior to the work being performed.

**SHOP DRAWINGS**

Shop Drawings shall be submitted in accordance with the approved plans and specifications and may require review by the Designer.

## **17. CLOSE-OUT**

Upon completion of the Project, the Municipality shall be responsible for the following:

### **FINAL INSPECTION**

The Municipality shall arrange for a final inspection by the Department. Any deficiencies determined during the final field inspection must be corrected prior to final payment being made by the Department to the Municipality. Additional inspection by other entities may be necessary in accordance with the Department's guidelines and procedures. The Municipality shall provide the Department with written evidence of approval of completed project prior to requesting final reimbursement.

### **FINAL PROJECT CERTIFICATION**

The Municipality will provide a certification to the Department that all work performed for this Project is in accordance with all applicable standards, guidelines, and regulations.

## **18. MAINTENANCE**

The Municipality, at no expense or liability to the Department, shall assume all maintenance responsibilities for the Hospital Avenue Sidewalk, or as required by an executed encroachment agreement.

## **19. REIMBURSEMENT**

### **SCOPE OF REIMBURSEMENT**

Activities eligible for funding reimbursement for this Project shall include:

- Design
- Environmental Documentation
- ROW Acquisition
- Utility Relocation
- Construction

## REIMBURSEMENT GUIDANCE

The Municipality shall adhere to applicable administrative requirements of Title 2 Code of Federal Regulations, Part 200 ([www.fhwa.dot.gov/legregs/directives/fapgtoc.htm](http://www.fhwa.dot.gov/legregs/directives/fapgtoc.htm)) "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards." Reimbursement to the Municipality shall be subject to the policies and procedures contained in Title 23 Code of Federal Regulations, Part 140 and Part 172, which is being incorporated into this Agreement by reference at [www.fhwa.dot.gov/legregs/directives/fapgtoc.htm](http://www.fhwa.dot.gov/legregs/directives/fapgtoc.htm). Reimbursement to the Municipality shall be subject to the guidance contained in Title 2 Code of Federal Regulations, Part 170 (<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>) and Office of Management and Budget (OMB) "Federal Funding Accountability and Transparency Act" (FFATA). Said reimbursement shall also be subject to the Department being reimbursed by the Federal Highway Administration and subject to compliance by the Municipality with all applicable federal policy and procedures.

## REIMBURSEMENT LIMITS

### ▪ WORK PERFORMED BEFORE NOTIFICATION

Any costs incurred by the Municipality prior to written notification by the Department to proceed with the work shall not be eligible for reimbursement.

### ▪ NO REIMBURSEMENT IN EXCESS OF APPROVED FUNDING

At no time shall the Department reimburse the Municipality costs that exceed the total funding per this Agreement and any Supplemental Agreements.

### ▪ UNSUBSTANTIATED COSTS

The Municipality agrees that it shall bear all costs for which it is unable to substantiate actual costs or any costs that have been deemed unallowable by the Federal Highway Administration and/or the Department's Financial Management Division.

### ▪ WORK PERFORMED BY NCDOT

All work performed by the Department on this Project, including, but not limited to, reviews, inspections, and Project oversight, shall reduce the maximum award amount of \$800,000 available to the Municipality under this Agreement. The Department will bill the Municipality for the non-federal match of any costs that the Department incurs on the Project and for any costs that exceed the Total Estimated Cost.

- **CONSTRUCTION ADMINISTRATION**

Reimbursement for construction contract administration will be made as governed by Departmental policy that limits reimbursement for construction contract administration to no more than fifteen (15%) percent of the actual construction contract of the Project. These costs will also include any cost overruns and charges to the Project by the Department during the Construction Phase.

- **CONSTRUCTION CONTRACT UNIT PRICES**

Reimbursement for construction contract work will be made on the basis of contract unit prices in the construction contract and any approved change orders.

- **RIGHT OF WAY**

Reimbursement will be limited to the value as approved by the Department. Eligible costs for reimbursement of Right of Way Acquisition include: realty appraisals, surveys, closing costs, and the agreed upon just compensation for the property, at the reimbursement rate as shown in the FUNDING TABLE.

- **FORCE ACCOUNT**

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 2 CFR 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards." Reimbursement shall be based on actual eligible costs 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.

## **BILLING THE DEPARTMENT**

- **PROCEDURE**

The Municipality may bill the Department for eligible Project costs in accordance with the Department's guidelines and procedures. Proper supporting documentation shall accompany each invoice as may be required by the Department. By submittal of each invoice, the Municipality certifies that it has adhered to all applicable state and federal laws and regulations as set forth in this Agreement.

Along with each invoice, the Municipality is responsible for submitting the FFATA Subrecipient Information Form, which is available at <https://connect.ncdot.gov/municipalities/Funding/Pages/default.aspx>.

- **INTERNAL APPROVALS**

Reimbursement to the Municipality shall be made upon approval of the invoice by the Department's Financial Management Division.

- **TIMELY SUBMITTAL OF INVOICES**

The Municipality may invoice the Department monthly for work accomplished, but no less than once every six (6) months to keep the Project funds active and available. If the Municipality is unable to invoice the Department, then they must provide an explanation. Failure to submit invoices or explanation may result in de-obligation of funds.

- **FINAL INVOICE**

All invoices associated with the Project must be submitted within six (6) months of the completion of construction and acceptance of the Project to be eligible for reimbursement by the Department. Any invoices submitted after this time will not be eligible for reimbursement.

## **20. REPORTING REQUIREMENTS AND RECORDS RETENTION**

### **PROJECT EVALUATION REPORTS**

The Municipality is responsible for submitting quarterly Project evaluation reports, in accordance with the Department's guidelines and procedures, that detail the progress achieved to date for the Project.

### **PROJECT RECORDS**

The Municipality and its agents shall maintain all books, documents, papers, accounting records, Project 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 and shall require its agent to make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of payment of the final voucher by the Federal Highway Administration, for inspection and audit by the Department's Financial

Management Section, the Federal Highway Administration, or any authorized representatives of the Federal Government.

## **21. OTHER PROVISIONS**

### **REFERENCES**

It will be the responsibility of the Municipality to follow the current and/or most recent edition of references, websites, specifications, standards, guidelines, recommendations, regulations and/or general statutes, as stated in this Agreement.

### **INDEMNIFICATION OF DEPARTMENT**

The Municipality agrees to indemnify and hold harmless the Department, FHWA and the State of North Carolina, to the extent allowed by law, for any and all claim for payment, damages and/or liabilities of any nature, asserted against the Department in connection with this Project. The Department shall not be responsible for any damages or claims, which may be initiated by third parties.

### **DEBARMENT POLICY**

It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). 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 any Federal or State Agency or Department and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

### **TITLE VI - CIVIL RIGHTS ACT OF 1964**

The Municipality shall comply with Title VI of the Civil Rights Act of 1964, (Title 49 CFR, Subtitle A, Part 21). Title VI prohibits discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

**OTHER AGREEMENTS**

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 for Transportation Alternatives Program funds and obligations as approved by the Department under the terms of this Agreement.

**AVAILABILITY OF FUNDS**

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.

**IMPROPER USE OF FUNDS**

Where either the Department or the FHWA determines that the funds paid to the Municipality for this Project are not used in accordance with the terms of this Agreement, the Department will bill the Municipality.

**TERMINATION OF PROJECT**

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.

**AUDITS**

In accordance with 2 CFR 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," Subpart F – Audit Requirements, and the Federal Single Audit Act Amendments of 1996, 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.

**REIMBURSEMENT BY MUNICIPALITY**

For all monies due the Department as referenced in this Agreement, reimbursement shall be made by the Municipality to the Department within sixty (60) days of receiving an invoice. A late

payment penalty and interest shall be charged on any unpaid balance due in accordance with NCGS 147-86.23.

#### **USE OF POWELL BILL FUNDS**

If the other party to this agreement is a Municipality and fails for any reason to reimburse the Department in accordance with the provisions for payment hereinabove provided, NCGS 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to Municipality by NCGS 136-41.1, until such time as the Department has received payment in full.

#### **ENTIRE AGREEMENT**

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.

#### **AUTHORIZATION TO EXECUTE**

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.

#### **FACSIMILE SIGNATURES**

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.

#### **GIFT BAN**

By Executive Order 24, issued by Governor Perdue, and NCGS 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, Correction, Crime Control and Public Safety, Cultural Resources, Environment and

Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

### **IRAN DIVESTMENT ACT**

Pursuant to G.S. 147-86.59, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, is ineligible to contract with the State of North Carolina or any political subdivision of the State. The Iran Divestment Act of 2015, G.S. 147-86.55 et seq. requires that each vendor, prior to contracting with the State, certify that the contracting party meets the requirements of the Iran Disinvestment Act. The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address [www.nctreasurer.com/Iran](http://www.nctreasurer.com/Iran) and will be updated every 180 days.

By execution of this Agreement each Party certifies that neither it nor its Agents or Contactors/Subcontractors 1) are on the Final Divestment List of entities that the State Treasurer has determined engages in investment activities in Iran; 2) shall not utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List; and 3) that the undersigned are authorized by the Parties to make this Certification.

During the term of this Agreement, should the Parties receive information that a person is in violation of the Act as stated above, the Department will offer the person an opportunity to respond and the Department will take action as appropriate and provided for by law, rule, or contract. Should this Act be voided by NC General Statute, this Agreement will remain valid; however this certification will no longer be required.

## **22. SUNSET PROVISION**

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.

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 expenditures 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 Municipality by authority duly given.

L.S. ATTEST:

CITY OF LENOIR

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

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

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

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

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

NCGS 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 City of Lenoir as attested to by the signature of \_\_\_\_\_ Clerk of the \_\_\_\_\_ on \_\_\_\_\_ (Date)

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

\_\_\_\_\_  
City of Lenoir

Remittance Address:

\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF TRANSPORTATION

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

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

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

**Cannon, Shirley**

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**From:** Karen Waddell <kwaddell@NCLM.ORG>  
**Sent:** Friday, September 09, 2016 1:47 PM  
**To:** Cannon, Shirley  
**Subject:** Voting Delegates - Annual Conference & Advocacy Goals Conference

Shirley Cannon

City Clerk

Lenoir, NC

Sent via email

Dear Shirley Cannon,

We are thrilled that Lenoir will be participating in 2016 CityVision Annual Conference and the Advocacy Goals Conference in Raleigh, October 23 -25. Each member municipality who has registered for the Annual Conference and the Advocacy Goals Conference shall designate one voting delegate and may designate one alternate voting delegate. Please keep in mind these are two separate events and a voting and/or alternate voting delegate **MUST** be designated by completing **BOTH** of the links.

Please designate your voting and/or alternate delegate for ANNUAL CONFERENCE – Annual Business Meeting here.

Please designate your voting and/or alternate delegate for ADVOCACY GOALS CONFERENCE here.

If you have any questions or need assistance, please feel free to me at 919.715.0950 or [kwaddell@nclm.org](mailto:kwaddell@nclm.org).

*Karen E. Waddell*

Public & Government Affairs Coordinator

NC League of Municipalities

215 N. Dawson Street

Raleigh, NC 27603

(919) 715-0950

[kwaddell@nclm.org](mailto:kwaddell@nclm.org)