

Welcome and Call to Order by Mayor O. Stanhope Anthony III

~ Invocation ~

~ Pledge of Allegiance ~

A. Approval of agenda:

Discussion and revision of the proposed agenda, including consent agenda; adoption of an agenda

- 1) Motion to adopt the agenda as proposed or amended

B. Public Comment:

1

In accordance with City Council's policy, public comment is only taken at the second regular meeting each month. Any citizen who wishes to address Council must register with the City Clerk prior to 6:00 p.m. on the meeting night. The Mayor will call upon each individual during this portion of the meeting and will allow three (3) minutes to speak.

C. Public Hearings:

- 1) Consideration of a resolution approving a Downtown Development Agreement between the City of Shelby and Thompson-Gordon-Shook (TGS) Engineers Incorporated: Resolution No. 44-2018 2
- 2) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 49-2018 15

D. Consent Agenda:

Prior to approval and adoption of the agenda, a Council Member may move an item from the Consent Agenda to the regular agenda. Items remaining on the Consent Agenda will be considered collectively through a single motion and vote.

- 1) Approval of the Minutes of the Regular Meeting of August 6, 2018 28

***NOTE: All items appearing on the agenda are for Discussion and Possible Action unless otherwise denoted.**

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**NOTE: All items appearing on the agenda are for Discussion and Possible Action unless otherwise denoted.*

9) Adoption of Fiscal Year (FY) 2018-2019 Budget Ordinance Amendment No. 2: Ordinance No. 53-2018	125
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1) Consideration of a resolution of the City Council of the City of Shelby, North Carolina, authorizing the purchase of natural gas from the Black Belt Energy Gas District; approving the execution and delivery of a gas supply agreement and other documents relating to said purchase; consenting to the assignment of certain obligations under the gas supply agreement in connection with the issuance of bonds by the Black Belt Energy Gas District; and addressing related matters: Resolution No. 50-2018	141
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2) To approve the Minutes and General Account of the Closed Session of July 19, 2018	

**NOTE: All items appearing on the agenda are for Discussion and Possible Action unless otherwise denoted.*

- 3) To establish or instruct staff in negotiating the terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease pursuant to North Carolina General Statute 143-318.11 (a) (5)

J. Adjournment:

To adjourn a meeting of City Council, a majority of the Council members must vote for a motion to adjourn.

- 1) Motion to adjourn

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City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

B. Public Comment:

In accordance with City Council's policy, public comment is only taken at the second regular meeting each month. Any citizen who wishes to address Council must register with the City Clerk prior to 6:00 p.m. on the meeting night. The Mayor will call upon each individual during this portion of the meeting and will allow three (3) minutes to speak.

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

C. Public Hearings

Agenda Item: C-1

- 1) Consideration of a resolution confirming the City of Shelby's intent to offer an economic development incentive grant: Resolution No. 44-2018

(Presenting: Walter Scharer, Planning Director)

Summary of Available Information:

- Notice of Public Hearing
- Incentive Agreement between City of Shelby and TGS Engineers, Inc.
- Copy of Warranty Deed
- Photo and Proposed Easement Exhibit
- Resolution No. 44-2018

City Manager's Recommendation / Comments

This time is scheduled on the agenda for City Council to conduct the required public hearing in accordance with the NC General Statutes. Following the conclusion of the hearing the Council may act on the item under consideration. This hearing has been duly advertised as required by law. If approved Resolution No. 44-2018 would authorize and approve an agreement between the City of Shelby and TGS Engineers, Incorporated providing for the following. A copy of the full agreement is included in your agenda packet.

1. The City agrees to sell the property located at 201 West Marion Street (formerly the Marion Mall) to TGS Engineers by private sale for the amount of \$300,000 to be paid in full at closing.
2. The Developer agrees to redevelop the existing building in two phases with the first phase being completed within 24 months of closing and the second phase to be completed as the developer secures tenants for the space. The City shall have the right to repurchase the property should the developer fail to meet this deadline.
3. The City agrees to make sidewalk and streetscape improvements as shown on the attached rendering from the intersection of Pere Street to the existing Norfolk Southern Railroad tracks.
4. The parties agree that the City will retain the right to retain by long term lease at no cost twenty (20) parking spaces for use by the City.
5. The City agrees to grant the developer an easement/encroachment permit within the existing Norfolk Southern right of way should it obtain the legal right to do so in the future.

After the conclusion of the public hearing City Council may act upon Resolution No. 44-2018

STATE OF NORTH CAROLINA
COUNTY OF CLEVELAND

DEVELOPMENT & ECONOMIC INCENTIVE AGREEMENT
BY AND BETWEEN
THE CITY OF SHELBY, NORTH CAROLINA
&
THOMPSON-GORDON-SHOOK ENGINEERS, INCORPORATED

THIS AGREEMENT ("Agreement"), made and entered into this ____ day of September, 2018, by and between **THE CITY OF SHELBY, NORTH CAROLINA**, a North Carolina Municipal corporation, hereafter referred to as the "City" and **THOMPSON-GORDON-SHOOK ENGINEERS, INCORPORATED**, a North Carolina professional corporation, hereinafter referred to as the "Developer".

WITNESSETH:

WHEREAS, the City is the owner of certain property located in Cleveland County, North Carolina, and within the central business district of the City, and being commonly referred to as Marion Mall (the "Property") located at 201 West Marion Street and being more fully described in a deed dated the 20th day of October, 2017, from Cleveland Investments, Inc., to the City of Shelby, and being of record in Book 1753 at Page 774 of the Cleveland County Registry, a copy of which is attached hereto as Exhibit "A" and by reference made a part hereof; and,

WHEREAS, the Developer wishes to purchase the Property for the sum of Three Hundred Thousand Dollars (\$300,000.00) to be paid in full at closing; and,

WHEREAS, the Developer plans to restore the building in two phases with Phase 1 being the restoration of the exterior and outfitting of the second floor for office space to be fully occupied by the Developer, and with Phase 2 being comprised of potential retail and/or restaurant space on the first floor; and,

WHEREAS, the City has agreed to complete the streetscape along West Marion Street and aid the Developer in obtaining possible grants; and,

WHEREAS, the Developer has agreed to enter into a long term lease agreement with the City for twenty (20) parking spaces located on the property, said parking spaces shown on attached Exhibit "B", said Exhibit B being incorporated by reference; and,

WHEREAS, the City will use the twenty (20) parking places for parking by the City's Police Department; and,

WHEREAS, the City, should it obtain the current Norfolk Southern Railway right of way located to the east of the Property, shall grant to the Developer an easement/encroachment into that right of way as shown by the shaded area on attached Exhibit "C", said Exhibit "C" being incorporated by reference; and,

WHEREAS, the Developer intends to complete Phase 1 within eighteen (18) months of the purchase of the Property which shall occur within 30 days of the signing of this Agreement by both parties; and,

WHEREAS, the Developer estimates the total cost for Phase 1 to be 1.8 million dollars and Phase 2 costs to be approximately the same, depending on the tenants needs; and,

WHEREAS, the City is authorized to enter into this agreement pursuant to N.C.G. S. 160A-16 and may contract with the Developer to carry out the public purposes set forth herein pursuant to N.C.G.S. 160A-20.1 and the City Council of the City has determined that it is in the best interest of its citizens to do so; and,

WHEREAS, the City Council hereby finds that the Project is located in the City's central business district and that the Project fits the meaning of the "Downtown Development Project" as that term is defined in N.C.G.S. 160A-458.3 and that the leasing of the parking spaces by the City is a purely public purpose, and that the Project is private, however, the Project should bring needed tax base, jobs, and economic opportunities to the central business district and to the city generally;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the City and the Developer agree as follows:

1. Subject to the conditions expressly set forth herein, all the terms of this Agreement shall become enforceable upon signing of this Agreement by the Developer and ratification by the City Council.
2. The City shall sell and the Developer shall purchase, the property located at 201 West Marion Street as more fully described in Exhibit "A" attached hereto and incorporated herein by reference. The sale price of the property shall be Three Hundred Thousand Dollars (\$300,000.00) to be paid in full at closing, said closing to take place within thirty (30) days of the execution of this Agreement by both parties.
3. The Developer shall complete Phase 1 of the Project within twenty four (24) months of the closing. The Developer shall complete Phase 2 of the Project as tenants are located for the first floor of the building.
4. If for whatever reason, the Developer fails to complete Phase 1 of the Project within twenty four (24) months of the closing, then, and in that event, the City shall have the option to re-purchase the property for the sum of Three Hundred Thousand Dollars (\$300,000.00).
5. The City shall complete the improvements to the streetscape of West Marion Street as shown on the attached rendering marked Exhibit "D" and incorporated herein by reference. The Developer and the City will coordinate the construction of the streetscape with Phase 1 improvements. The Developer will give the City three (3) months' notice to start the streetscape improvements, and once started, the City shall have six (6) months to complete the streetscape improvements.
6. The parties hereto shall enter into a Lease Agreement for the twenty (20) parking spaces shown on Exhibit "B" said Lease to have an original term of ten (10) years, and shall be executed by the parties in renewable ten (10) year terms.
7. Other than the construction of the streetscape, the Developer will require no financial assistance from the City.
8. Should the City obtain the Norfolk Southern Railway right of way located to the east of the Property, the City shall grant to the Developer an easement/encroachment to the shaded area as shown on Exhibit "C".
9. All notices, reports, and other communications given as a result of this Agreement shall be in writing and shall either be mailed by first class mail, postage prepaid, certified or registered with a return receipt requested, or delivered in person to the intended addressee. Notice sent by certified or registered mail shall be effective upon the date of delivery indicated on the return receipt. Notice given in any other manner shall be effective upon actual receipt by the addressee.

10. Notices under this Agreement shall be to the following:

FOR THE CITY:

Rick Howell, City Manager
City of Shelby, North Carolina
P.O. Box 207
Shelby NC 28151-0207

FOR THE DEVELOPER:

Leonard G. Fletcher, President
Thompson-gordon-shook Engineers, Incorporated
804-C North Lafayette Street
Shelby, NC 28150

Said addresses may be changed by either party by giving appropriate notice to the other party.

- 11. This Agreement shall be governed and construed in accordance with the laws of the State of North Carolina, with original jurisdiction being in the Courts of General Justice sitting in Cleveland County, North Carolina.
- 12. This Agreement may not be assigned without the written consent of the City.
- 13. A ruling by any Court that one or more of the provisions contained in this Agreement is invalid, illegal, or unenforceable in any respect shall not affect any other provision of this Agreement so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Thereafter, this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had been amended to the extent necessary to be enforceable within the jurisdiction of the Court making the ruling and to preserve the transactions contemplated by this Agreement to the greatest extent possible.
- 14. This Agreement constitutes the entire Agreement between the parties with respect to the subject matter hereof, and there are no representations regarding, warranties, covenants or obligations except as set forth in this Agreement. This Agreement supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions relating to the subject matter hereof, written or oral, of the parties.

IN WITNESS WHEREOF, the parties have executed the day and year first above written.

City of Shelby, North Carolina

Thompson-gordon-shook Engineers, Incorporated

by: _____
Rick Howell, City Manager

by: _____
Leonard G. Fletcher, President

NORTH CAROLINA

CLEVELAND COUNTY

I, a Notary Public for the said County and State, do certify that before me personally appeared Rick Howell, City Manager of The City of Shelby, who, being by me duly sworn, says that he is the City Manager of The City of Shelby, the municipal corporation of The State of North Carolina described in and which executed the foregoing instrument, and that the said instrument is the act and deed of said municipal corporation.

WITNESS my hand and Notarial Seal, this the _____ day of _____, 2018.

Signature of Notary Public

Printed Name of Notary Public

NORTH CAROLINA

CLEVELAND COUNTY

I, a Notary Public for the said County and State, do certify that before me personally appeared Leonard G. Fletcher, President of Thompson-gordon-shook Engineers, Incorporated, who, being by me duly sworn, says that he is the President of Thompson-gordon-shook Engineers, Incorporated, the Corporation described in and which executed the foregoing instrument, and that the said instrument is the act and deed of said Corporation.

WITNESS my hand and Notarial Seal this the _____ day of _____, 2018.

Signature of Notary Public

Printed Name of Notary Public

My Commission Expires:

" A "

EXHIBIT

3 RECORDING FEE \$ 26.00 REVENUES 650
~~att~~ atty box
* John Bridges

Doc No: 200006090
Recorded: 10/20/2017 10:54:32 AM
Fee Amt: \$26.00 Page 1 of 3
Transfer Tax: \$650.00
Cleveland County North Carolina
Betsy S. Harnage, Register of Deeds
BK 1753 PG 774 - 776 (3)

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax:

Parcel Identifier No.: _____ Verified by _____ County on the ____ day of _____, 20__
By _____

Mail/Box to: YELTON, FARFOUR BRIDGES & BEAM, PA, BOX 1329, SHELBY, NC, 28151

This instrument prepared by: Robert W. Yelton, Attorney at Law, Shelby, NC

Brief Description for index: **201 West Marion Street, Shelby, NC**

THIS DEED made this 20th day of October, 2017, by and between

GRANTOR	GRANTEE
CLEVELAND INVESTMENTS, INC. P. O. Box 74 Shelby, NC 28151-0074	CITY OF SHELBY P. O. Box 207 Shelby, NC 28151-0207

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the **City of Shelby, Cleveland County, North Carolina**, and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO FOR DESCRIPTION OF PROPERTY.

The property hereinabove described was acquired by Grantor by instrument recorded in Book _____, Page _____.

A map showing the above described property is recorded in PLAT Book _____, Page _____.

All or a portion of the property herein conveyed _____ includes or does not include the primary residence of a Grantor.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances,

and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

(Entity Name)	CLEVELAND INVESTMENTS, INC.
By: _____	<u>Edward V Beam</u> (Seal)
Title: _____	By: <u>Edward V Beam</u>
By: _____	Title: <u>President</u>
Title: _____	

STATE OF NORTH CAROLINA
COUNTY OF CLEVELAND

I, the undersigned Notary Public for the County and State aforesaid, do certify that before me personally appeared Edward V. Beam, President of CLEVELAND INVESTMENTS, INC., and that by authority duly given and as the act of such entity, (s)he signed the foregoing instrument in its name on its behalf as its act and deed.

WITNESS my hand and Notarial stamp or seal, this the 20th day of October, 2017.

Darleen Ruff
Signature of Notary Public

Darleen Ruff
Printed Name of Notary Public

My Commission expires: 9-18-2020

North Carolina - Cleveland County
DARLEEN RUFF
NOTARY PUBLIC

EXHIBIT A

TRACT 1

Being located on the south side of West Marion Street, the west side of the Southern Railway, the north side of West Dale Street and the east side of Pere Street, being described by metes and bounds according to a current survey by Bankhead Surveying, PA, dated October 16, 2017:

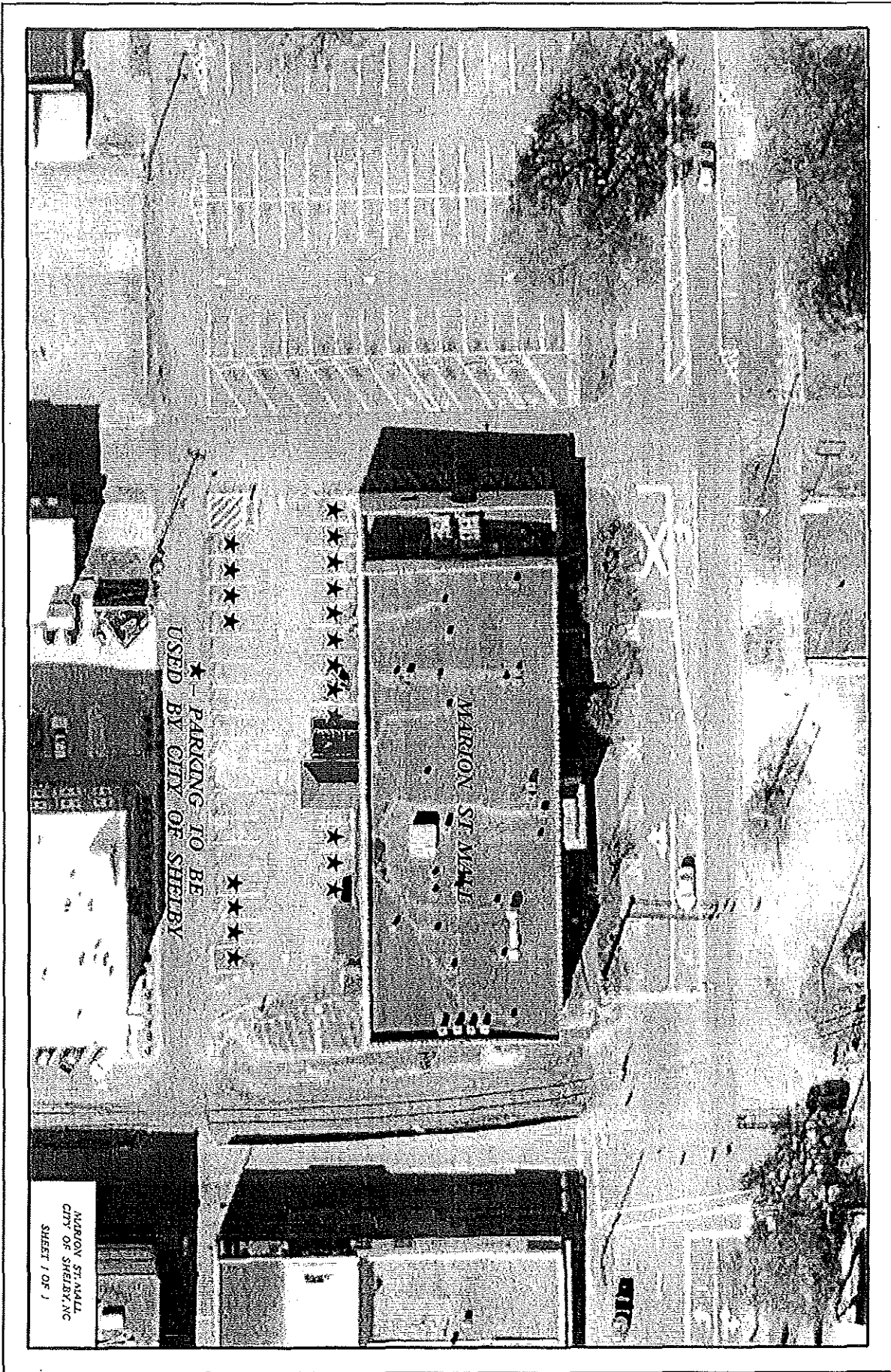
BEGINNING at a p/k nail in the west edge of the Southern Railway right-of-way, said p/k nail being located South 80-34-31 West 612.48 feet from NCGS monument "COURT" and also being located North 67-09-09 West 41.57 feet from a magnetic nail in the center of the railroad tracks and Dale Street, and runs thence with the north edge of Dale Street, North 86-00-47 West 200.07 feet to a p/k nail in the east edge of Pere Street; thence with the east edge of Pere Street, North 04-19-03 East 135.00 feet to a magnetic nail in the south edge of the right-of-way of West Marion Street; thence with the South edge of the right-of-way of West Marion Street, South 86-00-47 East 200.00 feet to a magnetic nail; thence with the west edge of the right-of-way of Southern Railway, South 04-17-13 West 135.00 feet to the point and place of BEGINNING and containing 0.62 acres, more or less, and being according to the above referenced survey.

TRACT 2

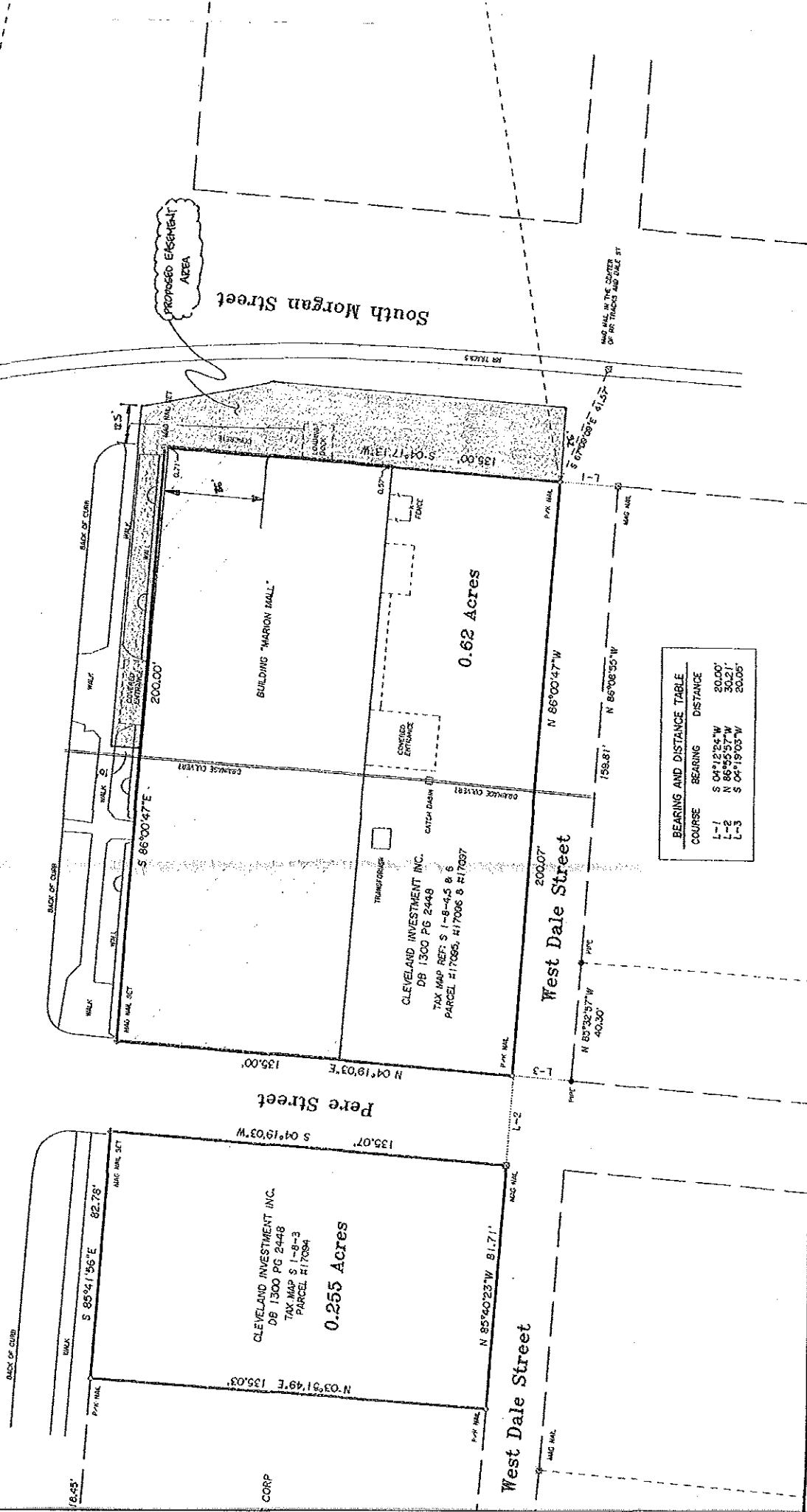
Being located on the south side of West Marion Street, the west side of Pere Street, the north side of West Dale Street and being bounded on the west by property of Shelby Loan & Mortgage Corp., and being described by metes and bounds according to a current survey by Bankhead Surveying, PA, dated October 16, 2017:

BEGINNING at a magnetic nail in the north edge of West Dale Street and the west edge of Pere Street, said magnetic nail being located North 86-55-57 West 30.21 feet from the southwest corner of Tract 1, and runs thence with the north edge of West Dale Street, North 85-40-23 West 81.71 feet to a p/k nail, the southeast corner of the Shelby Loan and Mortgage Corp. property; thence with the east line of the Shelby Loan and Mortgage Corp. property, North 03-51-49 East 135.03 feet to a p/k nail, the northeast corner of the Shelby Loan and Mortgage Corp. property; thence with the south edge of the right-of-way of West Marion Street, South 85-41-56 East 82.78 feet to a magnetic nail in the west edge of Pere Street; thence with the west edge of Pere Street, South 04-19-03 West 135.07 feet to the point and place of BEGINNING, and containing 0.255 acres, more or less, and being according to the above referenced survey.

For back reference see Deed of Record in Deed Book 1300 at Page 2448 of the Cleveland County Registry.



West Marion Street



PROPOSED EASEMENT AREA

South Morgan Street

MAG. W.L. IN THE CENTER OF RR TRACKS AND PALE ST.

BEARING AND DISTANCE TABLE	
COURSE	DISTANCE
L-1	S 04°12'24"W 20.00'
L-2	N 86°55'57"W 30.21'
L-3	S 04°19'03"W 20.05'

Proposed Easement Exhibit

EXHIBIT

NOTICE OF PUBLIC HEARING

The Mayor and Shelby City Council will conduct a public hearing, in accordance with G.S. 160A-457 to solicit comments regarding the sale of real property for redevelopment in the uptown Shelby municipal service district.

The City Council, subject to public comment at the public hearing, proposes to enter into an economic development agreement with TGS Engineers. TGS Engineers plans a capital investment of approximately \$1.8 million over the next 24 months. As part of the City's incentive package it will sell property located at 201 West Marion Street formerly known as the Marion Mall for no less than the appraised value. The City has also agreed to make sidewalk and streetscape improvements immediately adjacent to the property along Marion Street. The City will also retain the right to lease 20 parking spaces on the site for a minimum of 10 years.

The City Council believes that this project will stimulate and provide stability to the local economy. It further believes that this project will provide local economic benefits for the citizens of Shelby through an increase in sales tax revenues and the increased purchases of local goods and services. It also believes that the investment in the project will encourage additional investment that will lead to redevelopment of other vacant properties within the City's uptown Shelby municipal service district.

The public hearing, on the City's proposed official offering of the aforementioned industrial incentives to TGS Engineers, Inc. will be held at the **City Hall, 300 South Washington Street, Shelby North Carolina on Monday, September 17, 2018 at 6:00 p.m.** At this time the general public will have the opportunity to make comments regarding the proposed economic development agreement.

The City of Shelby holds all public meetings in accessible rooms. Any individual with a disability who needs an interpreter or other auxiliary aids or services for this meeting should call 336-992-0404 (voice) or 336-993-0196 (TDD) at least 48 hours before the scheduled meeting.

Bernadette A. Parduski
City Clerk

RESOLUTION NO. 44-2018

A RESOLUTION APPROVING A DOWNTOWN DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF SHELBY AND TGS ENGINEER, INC.

WHEREAS, the City of Shelby is authorized by NCGS 160-458.3 to enter into an agreement with a private entity for the construction of a downtown development project likely to have a significant effect on the revitalization of the City's central business district, and,

WHEREAS, the City Manager has presented a qualifying downtown development project in conjunction with a private entity, TGS Engineers, Inc. with an expected minimum investment valued at approximately \$1.8 Million of net new investment; and,

WHEREAS, the City Council believes that this project will stimulate and provide stability for the local economy, will provide local economic benefits for the citizens of the City of Shelby through an increase in sales tax revenues, increased personal property tax revenues, increased purchases of local goods and services, increased revenues from having the project as a customer of the City for water, sewer, electric and natural gas services; and

WHEREAS, the City Manager meets the goals set forth by City Council to attract new investment within the city limits.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA:

Section 1. In accordance with the City goals and objectives, the City Council approves by agreement with TGS Engineers, Inc the downtown development project and the provisions formally set forth and enumerated therein.

Section 2. The Mayor and City Clerk of the City of Shelby are hereby authorized and directed to execute the agreement specified in Section 1 of this resolution on behalf of the City.

Section 3. This resolution shall become effective upon its adoption and approval.

Adopted and approved this the 17th day of September 2018.

O. Stanhope Anthony III
Mayor

ATTEST:

Bernadette A. Parduski, NC-CMC, IIMC-MMC
City Clerk

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

Agenda Item: C-2

- 2) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 49-2018

(Presenting: Walter Scharer, Planning Director)

Summary of Available Information:

- Memorandum dated September 7, 2018 from Walter Scharer, Planning Director to Rick Howell, City Manager
- General Application
- Staff Report
- Location Map
- Zoning Map
- Planning and Zoning Board Minutes
- Certified Recommendation
- Notice of Public Hearing
- Ordinance No. 49-2018

City Manager's Recommendation / Comments

This time is scheduled on the agenda for City Council to conduct the required public hearing in accordance with the NC General Statutes. Following the conclusion of the hearing the Council may act on the item under consideration. After a careful review of the proposed rezoning application it appears to be prudent and reasonable for Council to approve the recommendations from staff and the Planning and Zoning Board. I would call attention to Mr. Scharer's memorandum noting that the zoning map amendment is not in conformance with the City's current land use plan.

The following excerpt from the NC General Statutes is provided as a reminder as to the statutory guidance provided to Council when considering changes in zoning and development regulations.

§ 160A-383. *Purposes in view.*

Zoning regulations shall be made in accordance with a comprehensive plan. *When adopting or rejecting any zoning amendment, the governing board shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable, and briefly explaining why the board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.*

After the conclusion of the public hearing City Council may act upon Ordinance No. 49-2018



Memorandum

To: Rick Howell - City Manager
From: Walter Scharer – Planning Director
Date: September 7, 2018
Subject: Requested zoning map amendment from RO to NB at 941 Wyke Road

Executive Summary of Issue – Background

This parcel has a commercial structure. Land uses in the area include multi-family, single family, and business.

Review and Comments

The Comprehensive Land Use Plan (2009) designates this area as Low Density Residential. Staff feels this was done in error.

Recommendation

This proposed zoning map amendment is inconsistent with the Comprehensive Land Use Plan. The Planning and Zoning Board recommends this proposed zoning amendment.

Please schedule a public hearing for this proposed zoning amendment at the next City Council meeting on September 17, 2018.

Attachments: Application, Staff Report, Zoning Map, Notice of Public Hearing, Planning and Zoning Board August 16, 2018 minutes, Certified P&Z Recommendation, and Ordinance



City of Shelby
Planning and Development Services Department

General Application

Address of Subject Property:

941 Wyke Road

Applicant(s) Name: Yves Boudreau
Address: 102 Donlynn Drive
Shelby, NC 28150
Email: ylboudreau@gmail.com
Phone: 704-472-0944

Owner(s) Name: Gencent LLC
Email: ylboudreau@gmail.com
Phone: 704-472-0944

Relationship to Property: [X] Owner [] Developer, Contractor, etc. [] Other:

Request for (Check all that apply):

- [] Annexation (Contiguous & Satellite)
[] Change in Tenant/Building Use
[] Site Plan Review & Zoning Permit
[] Street Name Change
[] Street/ROW Closing
[] Conditional Use Permit or Special Use Permit
[] UDO Text Amendment
[X] Zoning Map Amendment
[] Conditional Use Map Amendment
[] Zoning Permit or Home Occupation Permit

Project Information (Fill in applicable information):

Parcel Number: 51985
Proposed Zoning: NB
Proposed Land Use: Residential
Approx. Building Sq. Ft.: Existing
Approx. Project Acreage: 5.3 acres
Business Name: Multi-tenant

Provide a detailed description of the proposed project. Attach additional pages or documentation if necessary.
We have a boutique scrubs store that would like to lease space in this existing multi-tenant building.
This location is attractive due to the proximity of medical offices in the area.

Oath: By signing, I hereby certify that all information that I have provided in this application is correct and complete to the best of my knowledge. I understand that providing false or incomplete information may be grounds for denial of my request or may result in future action by the City Council to revoke the permit.

Signature of Applicant

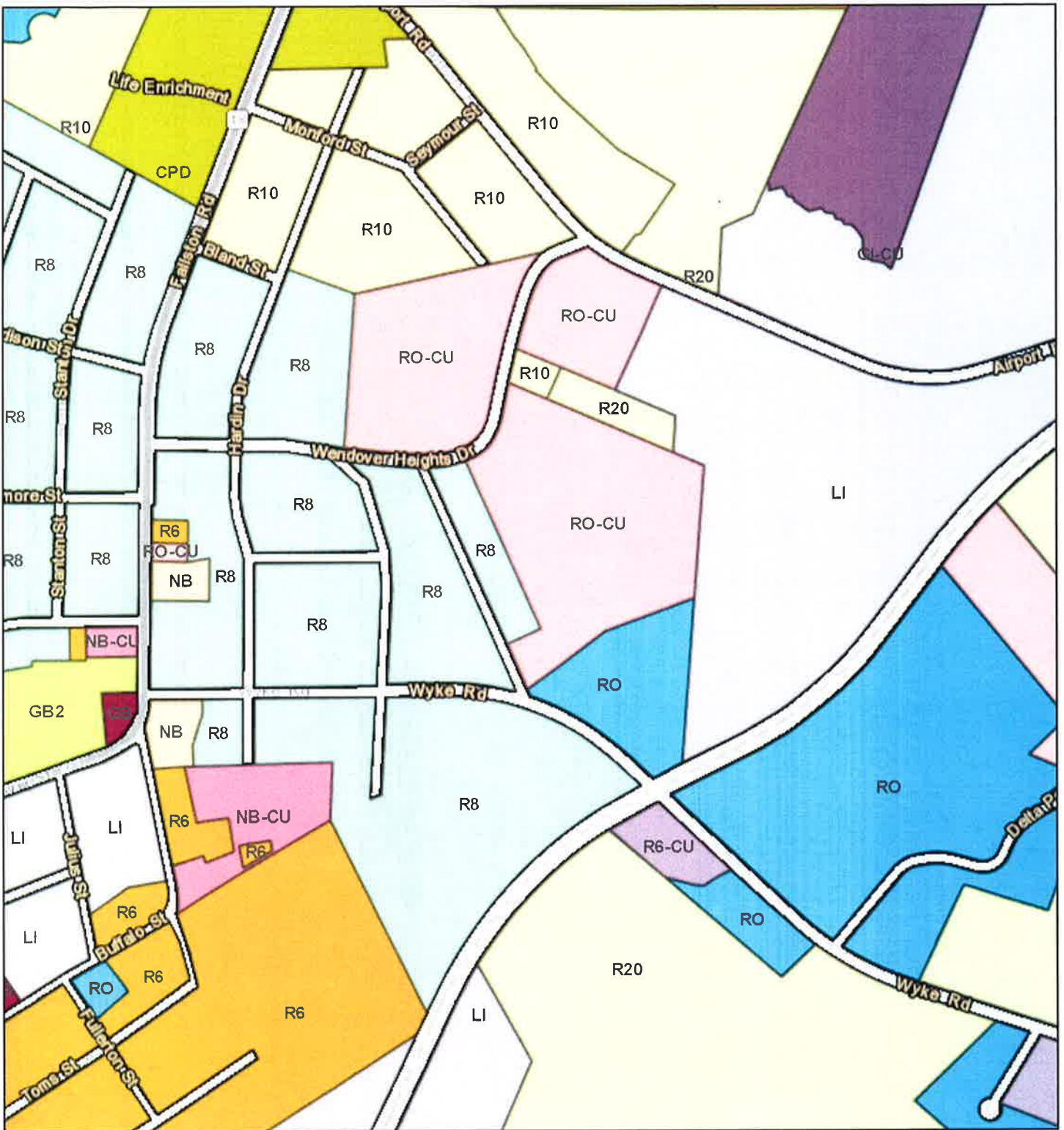
[Handwritten signature]

Date

Received by:

Date

Gencent LLC



September 26, 2017

1:9,028

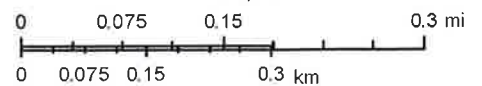
Zoning Outline

Zoning Outline

Zoning

- CB
- CPD
- GB

- | | | |
|--------|--------|-------|
| GB-CU | LI-CU | R6 |
| GB2 | NB | R6-CU |
| GB2-CU | NB-CU | R8 |
| GI | R10 | RO |
| GI-CU | R20 | RO-CU |
| LI | R20-CU | |



Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

Staff Report



To: Shelby Planning & Zoning Board
From: Walter Scharer
Planning Director

Date: August 6, 2018
Meeting: August 16, 2018
File: #1091

OWNER/APPLICANT: GENCENT LLC/Yves Boudreau **LOCATION:** 941 Wyke Road **PARCEL ID #:** 51985

PRESENT ZONING: Residence Office (RO) **REQUESTED ZONING:** Neighborhood Business (NB)

SURROUNDING ZONING: **North:** LI **South:** R20 **East:** RO **West:** RO

UTILITIES: **Water:** Yes **Sewer:** Yes **Floodplain:** No **Watershed:** No

ANALYSIS: This 5.26 acre property is located at 941 Wyke Road. Currently, a commercial structure is located on the property. Land uses in the area include single family dwellings, multi-family dwellings, institutional uses and neighborhood business uses.

The RO Residential-Office District is primarily intended to accommodate high density multifamily residences; offices; public and institutional; business, professional, and personal services; and limited support retail businesses. Permitted residential uses include single-family detached dwellings, modular homes, apartments, townhomes, and condominiums. Public water and sewer service is generally available in areas zoned as RO. One of the objectives of this district is to encourage land uses that serve as an adequate buffer between intensive nonresidential uses and residential uses.

The NB Neighborhood Business District is established as a district in which to allow small, limited retail service land uses that provide goods and services primarily to surrounding residential neighborhoods. Permitted residential uses include single-family detached dwellings, modular homes, apartments, townhomes, and condominiums. Residential uses are permitted at the same density and according to the same dimensional requirements as the R6 Residential District. The major objectives of this district are to encourage the location of convenience retail establishments, professional services, and professional offices so as to be as compatible as possible with surrounding residential uses; discourage intensive land uses which require large amounts of land area; and limit the location of large vehicular traffic-generating uses to major streets.

STAFF COMMENTS: The Comprehensive Land Use Plan for this area designates the site as a Low Density Residential Area. A low-density residential area is intended for single family residential land uses at a density of 2 units per acre. Normally, this type of land use typology associates with areas that are not served by sewer. This area is served by sewer with the Hickory Creek outfall and I believe it to be an error in the Comprehensive Land Use Plan. The Plan calls for much higher densities nearby that are also served by the Hickory Creek outfall.

When making a zoning recommendation an important factor is to consider the time in which a property has been vacant and actively marketed as currently zoned. This building has remained mostly vacant over the last 12 years as currently zoned.

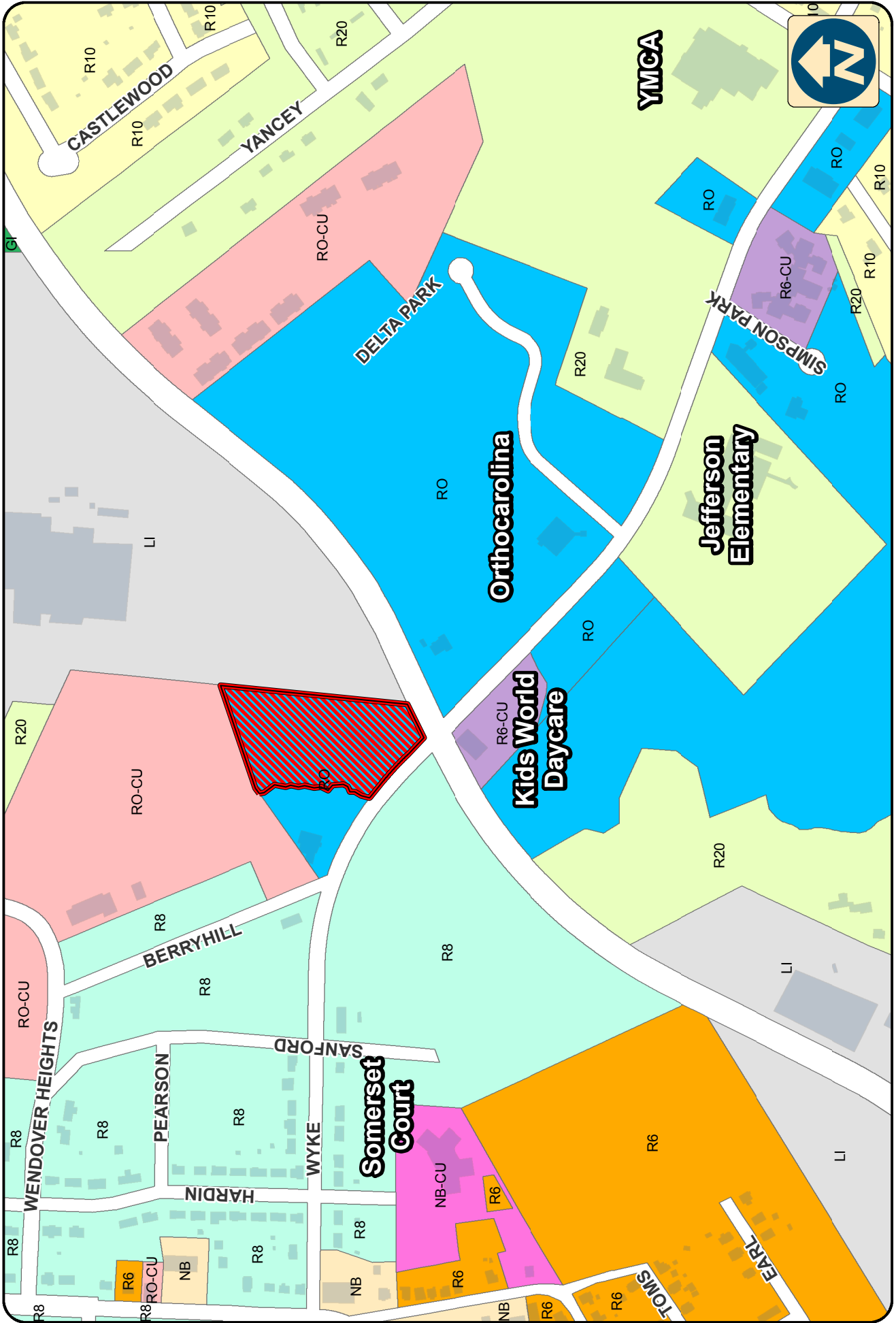
Wyke Road has an average daily traffic count of 8,300 vehicles per day, according to NCDOT.

The proposed zoning map amendment is inconsistent with the Comprehensive Land Use Plan.



Zoning Map 941 Wyke Road

Map Information:
Datum: NAD 1983
Coordinate: State Plane
North Carolina (Meier)
Projection: Lambert Conformal Conic
US National Grid
Grid Zone Designation (GZD): 17S
100,000m Square ID: MV/MU



Scale 1:6,000 1 inch = 500 feet 0 250 500 1,000 Feet

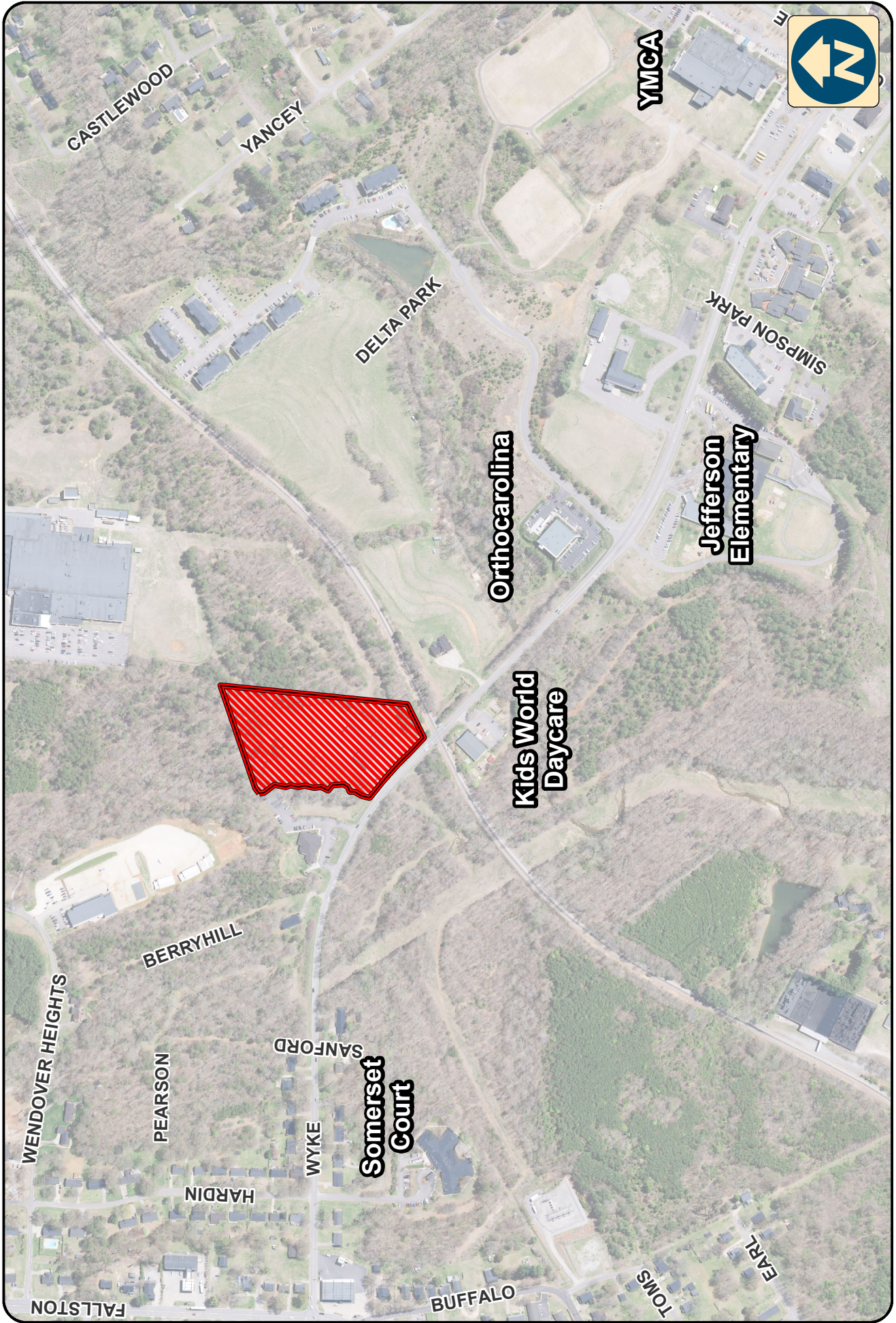
Date: 8/6/2018



Location Map

941 Wyke Road

Map Information:
Datum: NAD 1983
Coordinate: State Plane
North Carolina (Meier)
Projection: Lambert Conformal Conic
US National Grid
Grid Zone Designation (GZD): 17S
100,000m Square ID: MV/MU



Scale 1:6,000 1 inch = 500 feet 0 250 500 1,000 Feet

Date: 8/6/2018



CITY OF SHELBY PLANNING AND ZONING BOARD MINUTES
August 16, 2018
City of Shelby Utilities Operations Center
Utilities Operations Break Room 824 W. Grover St., Shelby, NC

Item 1. Call to Order/Roll Call

Chairman Peeler called the meeting to order at 12:15 PM and noted that a quorum was present.

Board Present: Rick Washburn, Charles Hamrick, Marlene Peeler, Emanuel Hunt, Jim Martin, Jeff Aderholt, Mark Carter, Bob Cabiness and Scott Bankhead.

Staff Present: Walt Scharer (Planning Director) and Darin Hallman (Planner)

Citizens Present: Burney Drake and Bill McCarter

Item 2. Approval of the Minutes for the June 21, 2018 meeting

Chairman Peeler asked if there were any questions or comments about the June 21, 2018 minutes. The minutes were approved as submitted.

Item 3. Proposed Major Subdivision – Vermont Place for Habitat for Humanity

Mr. Scharer presented this proposed Major Subdivision. This subdivision preliminary plat has an area of approximately 1.18 acres with five (5) lots. The average lot size is greater than 10,000 Square Feet.

A subdivision of only 5 lots is normally a minor subdivision which does not require review by the Planning and Zoning Board. However, in this case, public sewer is required to be extended to serve lots of this size. Therefore, this is a major subdivision. City staff is currently reviewing the sewer plans submitted. Water, Gas, Electricity already serve these proposed lots.

This proposed subdivision is consistent with the Comprehensive Land Use Plan (2009).

Discussion followed concerning potential street improvements to Gidney Street and Vermont Street. Mr. Washburn urged the City to look into improvements to Gidney Street. Staff recommended approval of this subdivision.

Motion: Mr. Martin made the motion to approve the preliminary plat for the Vermont Place Subdivision.

Second: Mr. Bankhead.

Action: This motion passed unanimously.

Item 4. Proposed Zoning Map Amendment 941 Wyke Road

Mr. Scharer presented this proposed zoning map amendment. This 5.26 acre property is located at 941 Wyke Road. Currently, a commercial structure is located on the property. Land uses in the area include single family dwellings, multi-family dwellings, institutional uses and neighborhood business uses.

The RO Residential-Office District is primarily intended to accommodate high density multifamily residences; offices; public and institutional; business, professional, and personal services; and limited support retail businesses. Permitted residential uses include single-family detached dwellings, modular homes, apartments, townhomes, and condominiums. Public water and sewer service is generally available in areas zoned as RO. One of the objectives of this district is to encourage land uses that serve as an adequate buffer between intensive nonresidential uses and residential uses.

The NB Neighborhood Business District is established as a district in which to allow small, limited retail service land uses that provide goods and services primarily to surrounding residential neighborhoods. Permitted residential uses include single-family detached dwellings, modular homes, apartments, townhomes, and condominiums. Residential uses are permitted at the same

density and according to the same dimensional requirements as the R6 Residential District. The major objectives of this district are to encourage the location of convenience retail establishments, professional services, and professional offices so as to be as compatible as possible with surrounding residential uses; discourage intensive land uses which require large amounts of land area; and limit the location of large vehicular traffic-generating uses to major streets.

The Comprehensive Land Use Plan for this area designates the site as a Low Density Residential Area. A low-density residential area is intended for single family residential land uses at a density of 2 units per acre. Normally, this type of land use typology associates with areas that are not served by sewer. This area is served by sewer with the Hickory Creek outfall and I believe it to be an error in the Comprehensive Land Use Plan. The Plan calls for much higher densities nearby that are also served by the Hickory Creek outfall.

When making a zoning recommendation an important factor is to consider the time in which a property has been vacant and actively marketed as currently zoned. This building has remained mostly vacant over the last 12 years as currently zoned.

Wyke Road has an average daily traffic count of 8,300 vehicles per day, according to NCDOT.

The proposed zoning map amendment is inconsistent with the Comprehensive Land Use Plan.

Motion: Mr. Carter made the motion to recommend to City Council approval of this proposed zoning map amendment from LI to R6.

Second: Mr. Hamrick.

Action: This motion passed unanimously.

Item 5. Open Storage of Merchandise and Materials – Text Amendment.

Mr. Scharer presented a proposed Text Amendment that would address open storage of materials and merchandise at commercial uses. Discussion followed. The proposal is concentrated on setbacks and screening of outdoor storage of materials. Staff asked the board to take the next month to recognize these issues throughout town.

Item 6. Motion to adjourn.

Being no other business, Chairman Peeler adjourned the meeting at 12:37 pm.



Certified Recommendation

City of Shelby Planning & Zoning Board

Case File: 1091

Amendment: A Zoning Map Amendment for property located at 941 Wyke Road with PIN #: 51985 from Residential Office (RO) zoning district to Neighborhood Business (NB) zoning district.

Recommendation: **The Planning and Zoning Board recommends approval of the proposed zoning map amendment for property located at 941 Wyke Road with PIN #: 51985 from Residential Office (RO) zoning district to Neighborhood Business (NB) zoning district.**

Findings &

Reasons: 1. The proposed zoning map amendment is inconsistent with the Comprehensive Land Use Plan.

Motion: Mr. Carter made the motion to recommend to City Council approval of this proposed zoning map amendment from Residential Office (RO) zoning district to Neighborhood Business (NB).

Second: Mr. Hamrick.

Action: This motion passed unanimously.

Signatures: Walter Scharer
Planning and Development Director

Marlene Peeler
Planning and Zoning Board Chair

Date: 8/22/2018

Date: 8/22/2018

**NOTICE OF PUBLIC HEARING
APPLICATION #: 1091-2018
ZONING MAP AMENDMENT**

The City Council of Shelby, North Carolina will conduct a public hearing during its regular meeting at 6:00 p.m., Monday, September 17, 2018 in the City Council Chambers, City Hall located at 300 South Washington Street, Shelby, North Carolina. City Council will consider a proposed zoning map amendment from Residential Office (RO) Zoning District to Neighborhood Business (NB) Zoning District for property located at 941 Wyke Road with the Cleveland County Parcel Number 51985.

A more detailed description and map of this property are available for public inspection in the Planning and Development Services Department located at 315 South Lafayette Street, Shelby, North Carolina, during regular business hours, 8:00 AM until 5:00 PM. Also, you can call (704) 484-6829 for more information.

The City Council may change the existing zoning classification of the entire area covered by the petition or any part thereof, without the withdrawal or modification of the petition or further publication of notice.

Persons interested in being heard on this matter are invited to comment on the proposed rezoning at the hearing, whether for or against. Comments may be presented orally at the hearing, in writing prior to the hearing, or both.

Members of the public with special needs wishing to attend this meeting should call the City Clerk (704 484-6800) at least 24 hours prior to the meeting to request assistance.

Bernadette A. Parduski, NC-CMC, IMC-MMC
City Clerk

The Shelby Star:

Please publish this notice as a legal line ad on TUESDAY, September 4, 2018 and again on Tuesday, September 11, 2018.

Mail invoices with affidavits to Walter Scharer, City of Shelby, PO Box 207, Shelby, NC 28151. Thank you.

ORDINANCE NO. 49-2018

**A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF
THE CITY OF SHELBY, NORTH CAROLINA**

WHEREAS, the City of Shelby has received an application requesting the rezoning of property located within the City or its Area of Extraterritorial Jurisdiction; and,

WHEREAS, the Shelby Planning and Zoning Board has reviewed said application for a zoning change and has made its findings and recommendations to City Council; and,

WHEREAS, the Shelby Planning and Zoning Board found that the zoning change is inconsistent with the Comprehensive Land Use Plan; and,

WHEREAS, in accordance with GS 160A-364, a public hearing on this proposed rezoning was held by City Council on September 17, 2018 after due publication of said hearing as required by law; and,

WHEREAS, after hearing all who wished to be heard on this matter and upon review of the findings and recommendations of the Planning and Zoning Board, City Council now desires to act on this matter.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA:

Section 1. This zoning change is inconsistent with the City of Shelby Comprehensive Land Use Plan.

Section 2. In accordance with Chapter 160A, Article 19 of the North Carolina General Statutes, as amended, the Shelby Unified Development Ordinance and Shelby Zoning Map (Appendix A of the Shelby City Code), 941 Wyke Road is hereby amended from Residential Office Zoning District to Neighborhood Business Zoning District. Said area of zoning is more fully described as the parcels listed by the Cleveland County Tax Office as Parcel Identification Number 51985.

Section 3. The City Clerk of the City of Shelby is hereby authorized and directed to cause the provisions of Section 2 of this ordinance to be properly codified, and the City Clerk is further authorized and directed to cause her official records and the Official Zoning Map of the City of Shelby to be properly amended to reflect the approved zoning changes.

Section 4. This ordinance shall become effective upon its adoption and approval.

ADOPTED AND APPROVED this the 17th day of September 2018.

O. Stanhope Anthony III
Mayor

ATTEST:

Bernadette A. Parduski, NC-CMC, IIMC-MMC
City Clerk

APPROVED AS TO FORM:

Robert W. Yelton
City Attorney

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

D. Consent Agenda:

Prior to approval and adoption of the agenda, a Council Member may move an item from the Consent Agenda to the regular agenda. Items remaining on the Consent Agenda will be considered collectively through a single motion, second, and vote.

Agenda Item: D-1

- 1) Approval of the Minutes of the Special Meeting of August 6, 2018

Consent Agenda Item: (Bernadette Parduski, City Clerk)

Summary of Available Information:

Please read and offer changes as you deem necessary.

- Minutes of the Special Meeting of August 6, 2018.

City Manager's Recommendation / Comments

Approve the minutes as presented or as amended by the Mayor and City Council via the Consent Agenda.

MINUTES

Regular Meeting
City Hall Council Chamber

August 6, 2018
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members David W. White, David Causby, Violet Arth Dukes, Dicky Amaya; City Manager Rick Howell, ICMA-CM, City Attorney Robert W. (Bob) Yelton, City Clerk Bernadette A. Parduski, Director of Finance Justin S. Merritt, MPA, Director of Human Resources Deborah C. (Deb) Jolly, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, MPA, EFO, Director of Parks and Recreation Charlie Holtzclaw, and Director of Planning and Development Services Department Walter (Walt) Scharer, AICP

Absent: Council Member Eric B. Hendrick

Clerk's note: There is a vacancy for the unexpired term of the Ward 5 seat on City Council, which exists due to the resignation of Mr. Kittrell on July 30, 2018.

Mayor Anthony called the meeting to order at 6:00 p.m. and welcomed all who were in attendance. The Mayor gave the invocation and Mr. Causby led the *Pledge of Allegiance*.

A. Approval of agenda:

1) Motion to adopt the proposed agenda

Mayor Anthony requested the addition of a public comment period after the approval of the agenda, allowing David Royster to make a statement regarding the Royster Memorial Golf Course.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to approve the agenda as amended.

2) Public Comment:

David Royster who resides at 212 Fairway Drive in Shelby, North Carolina read a prepared statement on behalf of the Royster, Taylor, and Wilkins families:

“The land given by Dr. S.S. Royster and family to the Shelby City Parks was intended for a community center, ball fields, swimming pool and a golf course. The deeds stipulate that parts of the gifted land could be used for

various recreational purposes but that a specific part was restricted to use only as a golf course. We believe that restriction was put in place for a purpose.

In reviewing newspapers from the time of the gift it was stated that the golf course would be something enjoyed by both men and women. That is still true today and now it is enjoyed by seniors, adults, men, women, and children of diverse backgrounds. It is and has always been a feeder program for young golfers in the area. During the last few weeks we have heard countless stories from people of all ages that learned to play golf there and had it not been there they wouldn't have learned golf at all.

The city council has focused on the number of rounds played but consider other golf course benefits:

- It is a City Employee benefit to play - all city employees pay no green fees, only cart fees if they choose
- It is the Shelby Middle School Home course
- There were four 2 week sessions for junior golfers this summer which averaged 25 kids per session
- The Boys and Girls Club brings youth to learn to play each year
- Holly Oak Park brings youth to learn to play each year
- Children's Home has brought kids to learn play
- There is a growing year round Jr Golf Program
- Additional new programming includes popular night golf and more tournaments such as the father-son tournament which was sold out and the family tournament held yesterday
- The course has been the fundraising mechanism for Friends of the Parks for the last 7 years. Friends have been supported by many people in the area including our family.
- Funds raised include \$30,000 with a city match for renovated tennis courts, \$10,000 with a \$40,000 match for the new All Aboard playground. Friends of the Parks funds the 4th Graders Christmas party and a host of other needs that the city doesn't have in the budget. In recent years this has included football helmets, t shirts, baseball mounds, Holly Oak improvements and improvements to the golf course. Just this afternoon Friends voted to donate \$10,000 toward a new playground at Holly Oak Park.
- It is a part of a typical tour of the city for economic development, prospective residents, and more
- Every alternative use suggested for the current golf course can be done, in many cases much better, on other existing parks properties which would improve and connect those neighborhoods within the city.

The Royster family firmly believes the golf course is as important and relevant today as ever and we support the deed restriction as it was originally intended.”

Mr. Royster’s letter dated August 6, 2018 is hereby incorporated herein and made a part of these Minutes.

B. Consent Agenda:

ACTION TAKEN: Mayor Anthony presented the consent agenda. Mr. White made a motion to approve the consent agenda. The consent agenda and following items were unanimously approved:

- 1) Approval of the Minutes of the Regular Meeting of July 16, 2018
- 2) Approval of a resolution naming a section of the Carolina Thread Trail in honor of Carl Spangler: Resolution No. 37-2018
- 3) Approval of a resolution authorizing selection of WHN Architects PA based on qualifications for the Job Ready Shell Building No. 3 Project: Resolution No. 38-2018
- 4) Approval of a resolution to modify Natural Gas Rebate Program: Resolution No. 39-2018
- 5) Approval of a resolution revising and amending the personnel policies of the City of Shelby to provide for an updated Personnel Policy and Procedure Manual: Resolution No. 40-2018
- 6) Approval of a resolution approving an application by the City of Shelby Police Department to the US Department of Justice for an Edward Byrne Memorial Justice Assistance Grant and accepting the funds of same: Resolution No. 41-2018
- 7) Adoption of an ordinance authorizing demolition of a dwelling (112 Palmer Street): Ordinance No. 44-2018
- 8) Adoption of an ordinance authorizing demolition of a dwelling (412 Orange Street): Ordinance No. 45-2018
- 9) Adoption of an ordinance authorizing demolition of a dwelling (419 Orange Street): Ordinance No. 46-2018

- 10) Adoption of an ordinance authorizing demolition of a dwelling (424 Orange Street): Ordinance No. 47-2018
- 11) Adoption of a budget ordinance amendment for the City of Shelby's Fallen Hero Memorial Park Project: Ordinance No. 48-2018
- 12) Approval of a Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council

END CONSENT AGENDA

C. Unfinished Business:

1) Consideration of appointments to City advisory boards and commissions:

a. Parks and Recreation Advisory Board

Mrs. Parduski reported the terms of four incumbents, Wesley "Ty" Gantt, Bill Young, Michael Shawn Collins, and Shanda Hoskins, concluded July 2018. Mr. Young, Mr. Collins, and Mrs. Hoskins are seeking reappointment to this board. Mr. Gantt does not wish to continue his service.

There are three applications on file in the Clerk's Office as follows:

- Richard Baker, Jr.
- Juan Cherry
- Darrell Gerald

Mr. White nominated incumbents, Bill Young, Michael Shawn Collins, and Shanda Hoskins, for reappointment and Juan Cherry for appointment to a new term, all concluding July 2021.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to close the nominations and accept the nominees by acclamation.

2) Discussion regarding Royster Memorial Golf Course

Because the issue has generated passionate arguments on both sides, Mr. Howell suggested further discussion on the topic. He recommended Council take the opportunity to schedule a subject-specific workshop as a special meeting for vetting the issues, ultimately leading to an agreeable consensus regarding Council's next steps for Royster Memorial Golf Course.

It was noted Mr. Yelton is conducting research and is expected to provide a full legal review at the proposed special meeting.

ACTION TAKEN: Upon a motion by Mr. Amaya, City Council voted unanimously to schedule a Special Meeting on September 10, 2018 at 6:00 p.m. in City Hall Council Chamber for the express purpose of discussing the Royster Memorial Golf Course.

D. New Business:

1) Discussion regarding City Council Ward 5 vacancy

Mayor Anthony acknowledged the resignation of Council Member Ben Kittrell, Jr. effective July 30, 2018. The Mayor explained North Carolina General Statute 160A-63 authorizes a vacancy that occurs in an elective office of a city to be filled by appointment of the City Council. However, it does not prescribe the actual process to be followed by City Council. As such and for discussion purposes, the Mayor proposed a public notice and timeline similar to the process used for the Ward 2 vacancy which was filled in August 2009, the Ward 4 vacancy which was filled in April 2010, and the Ward 1 vacancy which was filled in February 2014.

After discussion, Mayor Anthony reviewed the proposed timeline as follows:

September 6, 2018 at 5:00 p.m. – All letters of interest and applications for the Ward 5 vacancy are due in the Office of the City Clerk. Letters and applications will be accepted in person, by mail, or electronically. Letters and applications received after 5:00 p.m. will not be considered by City Council.

September 10, 2018 – City Clerk copies and distributes letters of interest and related documents to City Council. The information of the applicants will be released to the media and public at this time as well.

September 17, 2018 Regular City Council Meeting – Consideration of applicants' qualifications and possible appointive action by Council.

October 1, 2018 or October 15, 2018 Regular City Council Meeting – Oath of Office administered to newly appointed member of City Council.

ACTION TAKEN: Upon a motion made by Mr. Amaya, City Council voted unanimously to establish an application period for the Ward 5 City Council vacancy beginning August 6, 2018 through September 6, 2018 at 5:00 p.m. to

allow qualified applicants to submit letters of interest and applications to the City Clerk for Council's consideration.

For clarification purposes, it was noted each candidate must be a registered voter and must reside within the boundaries of Ward 5. The appointee will serve until Shelby's next municipal election and the unexpired term will conclude December 2019.

E. City Manager's Report:

- 1) Mr. Howell reported the Shelby Cleveland County Regional Airport Runway Overlay Project is ongoing with an anticipated completion date and runway reopening of August 13, 2018.
- 2) With regard to the Uptown Water and Sewer Infrastructure Project, Mr. Howell stated starting today, August 6, 2018, North Lafayette Street will be closed to one lane of traffic in each direction from Marion Street to Sumter Street, weather permitting. On August 8, 2018 construction crews will close all lanes in this block to install a new water line. Once the construction equipment is moved to this section, East Marion Street will reopen to traffic.
- 3) Mr. Howell anticipated the opening and dedication event for the new Hanna Park will be scheduled in November 2018 due to construction delays caused by weather conditions.
- 4) Mr. Howell mentioned the newly approved Resolution No. 37-2018 naming a trail section for the late Carl Spangler. Mr. Spangler was one of the original board members of the Carolina Thread Trail, who tirelessly advocated for the development of trails and recognized their impact on community health and quality of life, including the First Broad River Trail.
- 5) Mr. Howell announced the initial ribbon cutting for the Clearwater Paper Company expansion project will be held on August 23, 2018 at 2:00 p.m.

F. Council Announcements and Remarks:

- 1) Mayor Anthony commemorated the passing of Boyce Hanna on August 5, 2018. Mr. Hanna's funeral will be held on August 7, 2018 at 5:00 p.m. at Aldersgate United Methodist Church.
- 2) Mayor Anthony invited all to attend National Night Out sponsored by the Shelby Police Department on August 7, 2018 between the hours of 6:30 p.m. and 8:30 p.m. at City Pavilion, 126 West Marion Street.

- 3) Mayor Anthony announced the American Legion Post 82 will hold its third Walk for Veterans on August 15, 2018 in connection with the American Legion World Series. The walk will begin at 9:00 a.m. and will start from the south side of the Earl Scruggs Center to the Don Gibson Theatre and back.

G. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to adjourn the meeting at 6:30 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC
City Clerk

O. Stanhope Anthony III
Mayor

Minutes of August 6, 2018

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

Agenda Item: D-2

2) Approval of Special Event Permit Applications:

- a. Don Gibson Theatre 4th Annual Fundraiser, requested date: November 2, 2018
- b. Cleveland County Veterans Day Parade, requested date: November 10, 2018

Consent Agenda Item: (Bernadette Parduski, City Clerk)

Summary of Available Information:

Please read and offer changes as you deem necessary.

- Memorandum dated September 10, 2018 from Bernadette A. Parduski, City Clerk to Rick Howell, City Manager
- Memorandums from Bernadette A. Parduski, City Clerk to Police Chief Jeff Ledford, Fire Chief William Hunt, Assistant Fire Chief Todd McMurry, Parks and Recreation Director Charlie Holtzclaw, Public Works Director Danny Darst, Assistant Director Public Works Scott Black, Director of Water Resources David Hux, Planning and Development Services Director Walt Scharer, and Director of Engineering Services Ben Yarboro
- Special Event Permit Applications

City Manager's Recommendation / Comments

These events are in keeping with special event practices of the City. It is my recommendation that this item be approved by City Council at this time via the Consent Agenda.

Memo

To: Rick Howell, City Manager
From: Bernadette A. Parduski, City Clerk
Date: September 10, 2018
Re: Special Event Permit Applications

BACKGROUND:

Special Event Permit Applications have been submitted for the following:

- ✓ Don Gibson Theatre 4th Annual Fundraiser, requested date: November 2, 2018
- ✓ Cleveland County Veterans Day Parade, requested date: November 10, 2018

REVIEW:

All responding City departments have received, reviewed, and approved the referenced applications.

RECOMMENDATION:

Please place the attached Special Event Permit Applications on the Consent Agenda of September 17, 2018 for Council's review and approval.

ATTACHMENTS:

- A. Special Event Permit Application packet received August 24, 2018
- B. Special Event Permit Application packet received August 21, 2018

Memo

To: Police Chief Jeff Ledford, Fire Chief William Hunt, Parks & Recreation Director Charlie Holtzclaw, Public Works Director Danny Darst, Assistant Director of Public Works Scott Black, Director of Engineering Services Ben Yarboro, Director of Water Resources David Hux, and Planning and Development Services Director Walt Scharer

From: Bernadette A. Parduski, City Clerk

CC: Rick Howell, City Manager

Date: August 24, 2018

Re: Special Event Permit Application

All:

Attached you will find a Special Event Permit Application submitted by Stan Lowery of the Don Gibson Theatre as follows:

- ✓ Don Gibson Theatre 4th Annual Fundraiser, requested date: November 2, 2018

Please carefully review the details of this application as it pertains to your department, and let me know of any anticipated problems/objections that you would like to bring to the attention of the City Council. If there are none, please let me know that as well. The event will be considered by City Council at the September 17, 2018 meeting and recommended for approval unless you advise otherwise. If I do not hear from you by September 7, 2018, it will be assumed that you are in agreement with the application as presented.

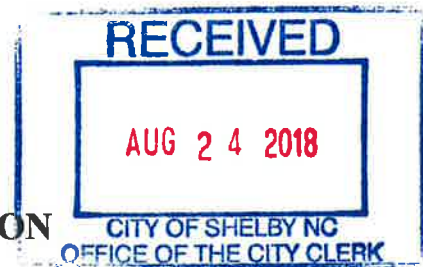
As always, thanks for your attention and consideration.

Attachment

shall be guilty of a misdemeanor, and upon conviction shall be fined and/or imprisoned subject to the general penalty provisions in section 1-4.

- a. Whenever in this Code or in any ordinance of the city any act is prohibited or is declared to be unlawful or a civil offense or the doing of any act is required, or the failure to do any act is declared to be unlawful or a civil offense, and no specific civil penalty is provided, the violation of any such provision of this Code or ordinance shall be punished by assessment of an initial civil fine of \$50.00. Upon the levy of the initial fine, a subsequent period of 20 days will be granted within which to comply with the Code. Should the offense not be resolved before the expiration of such period, additional and daily penalties of \$25.00 for each day that the offense continues shall be levied for a maximum of ten additional days, for a possible cumulative total penalty of \$300.00. Should the offense continue at the end of the penalty period, the city may then employ civil suit in a court of competent jurisdiction to compel compliance and payment of accrued civil penalties. The city may cite and pursue any continuing or repeated offense of separate charges. Each such charge shall be subject to the penalty provisions of this section without limitation as to number.
- b. This section shall have no application to any ordinance, which may allow criminal sanctions for its violation. All violations of this Code, which are criminal in nature, shall be subject to the maximum penalty authorized by G.S. 14-4, as amended.

**CITY OF SHELBY
SPECIAL EVENT PERMIT APPLICATION**



Each question must be legible and answered clearly and completely. Applications must be filed with the City Clerk not less than thirty (30) days before the date on which the event is to take place. A fee of \$20.00 will be due upon submission of the application form.

1. **EVENT NAME:** Don Gibson Theatre 4th Annual Fundraiser
2. **PURPOSE AND BRIEF DESCRIPTION OF EVENT:**
This is a fundraiser for the upcoming year to help offset expenses of the Don Gibson Theatre. Tent in the street in front of The Don Gibson Theatre for our silent auction items to be shown.

3. **LOCATION OF EVENT (ATTACH MAP):**



318 South Washington St. _____

4. **PLEASE INDICATE:**

Approximately how many people will attend the event: 200 _____

Approximately how many vehicles will be present: 50 _____

Approximately how many animals will be present: 0 _____

If the event is a parade, please indicate the amount of street that will be needed:

Single lane _____

All lanes in travel direction _____

Whole street _____

5. **PLEASE LIST THE FOLLOWING PARTY (IES) RESPONSIBLE FOR THE EVENT:**

Name: _____ Stan Lowery _____

Address: _____

Phone: 704-487-8114 _____

(Daytime) _____ (Evening)

gibsontheatreexec@yahoo.com

(e-mail address)

Name: _____

Address: _____

Phones: _____

(Daytime) _____ (Evening)

(e-mail address)

6. **PLEASE LIST THE FOLLOWING:**

Requested day(s) and date(s) __ November 2, 10am – 4, 10am , 2018 _____

Alternate day(s) and date(s) none

Requested hours of operation, from

7. **SANITATION:** Please attach your "Plan for Clean-Up." Please check Application Instruction sheet for details. Additional trash receptacles will be placed around the area and a cleanup crew will pick up any discarded refuse on street and sidewalk area

8. **AVAILABILITY OF FOOD, BEVERAGES, AND/OR ENTERTAINMENT;**

If there will be music, sound amplification, or any other noise impact, please describe on attached sheet, including the intended hours of the music, sound, or noise. Inside DGT

Will alcoholic beverages be served? Yes

If yes, attach to the application a copy of your permit from the Cleveland County Alcoholic beverage Control Board. Alcohol may not be served without a permit.

Will food and/or no-alcoholic beverages be served? NO

If yes, attach to the application a copy of your permit from the Cleveland County Department of Health Services.

9. **SECURITY AND SAFETY PROCEDURES:**

Attach to this application a copy of your building permit(s) if you are installing any electrical wiring on a temporary or permanent basis and/or if you are building any temporary or permanent structures such as bleachers, scaffolding, a grandstand, viewing stands, stages, or platforms.

Attach a copy of your Shelby Fire & Rescue Department Permit or permits to this application if you will use parade floats; an open flame; fireworks; or pyrotechnics; vehicle fuel; cooking facilities; enclosures (and tables within those enclosures); tents; air-supported structures; and/or any fabric shelter.

Give name, address, and phone numbers of the agency or agencies, which will provide first aid staff and equipment. Attach additional sheets if necessary.

Name: _____

Address: _____

Phones: _____

Indicate medical services that will be provided for the event.

AMBULANCE: _____

DOCTOR (S): _____

PARAMEDICS: _____

10. **CITY SERVICES/EQUIPMENT REQUESTED FOR THIS EVENT:** _____ NONE _____

11. **ANY ADDITIONAL COMMENTS:**

We need the street closure in front of the Don Gibson Theatre, starting at 10am on starting date, and ending at 10am on ending date. Barricade on Washington St. starting at the corner of Holland and Washington leaving Holland open. Barricade on Washington just south of the Don Gibson Theatre starting at the entrance of the Fidelity Bank parking lot. No PD needed.



THE CITY OF SHELBY IS NOT A CO-SPONSOR OF THE EVENT.

It is understood and agreed that any permit issued pursuant to this application is issued on the condition that the answers herein given are true and correct to the best of the knowledge, information, and belief of the applicant.

Stan Lowery

(SIGNATURE)

Don Gibson Theatre

(APPLICANT)

704-487-8114

(PHONE)

318 South Washington St. Shelby NC 28150

(ADDRESS)

8/22/18

(DATE)

Memo

To: Police Chief Jeff Ledford, Fire Chief William Hunt, Parks & Recreation Director Charlie Holtzclaw, Public Works Director Danny Darst, Assistant Director of Public Works Scott Black, Director of Engineering Services Ben Yarboro, Director of Water Resources David Hux, and Planning and Development Services Director Walt Scharer

From: Bernadette A. Parduski, City Clerk

CC: Rick Howell, City Manager

Date: August 21, 2018

Re: Special Event Permit Application

All:

Attached you will find a Special Event Permit Application submitted by Marty Pendergraft as follows:

- ✓ Cleveland County Veterans Day Parade, requested date: November 10, 2018

Please carefully review the details of this application as it pertains to your department, and let me know of any anticipated problems/objections that you would like to bring to the attention of the City Council. If there are none, please let me know that as well. The event will be considered by City Council at the September 17, 2018 meeting and recommended for approval unless you advise otherwise. If I do not hear from you by September 7, 2018, it will be assumed that you are in agreement with the application as presented.

As always, thanks for your attention and consideration.

Attachment

- b. This section shall have no application to any ordinance, which may allow criminal sanctions for its violation. All violations of this Code, which are criminal in nature, shall be subject to the maximum penalty authorized by G.S. 14-4, as amended.



**CITY OF SHELBY
SPECIAL EVENT PERMIT APPLICATION**

Each question must be legible and answered clearly and completely. Applications must be filed with the City Clerk not less than three (3) weeks before the date on which the event is to take place. A fee of \$20.00 will be due upon submission of the application form.

1. **EVENT NAME:** Cleveland County
Veterans Day Parade
2. **PURPOSE AND BRIEF DESCRIPTION OF EVENT:**
Parade
3. **LOCATION OF EVENT (ATTACH MAP):** Market St.
West Graham St., South Lafayette St.
West Marion St., Pavilion Market
4. **PLEASE INDICATE:**
Approximately how many people will attend the event: 150
Approximately how many vehicles will be present: 75
Approximately how many animals will be present: 0

If the event is a parade, please indicate the amount of street that will be needed: Single lane _____

All lanes in travel direction _____

Whole street yes

5. **PLEASE LIST THE FOLLOWING PARTY (IES) RESPONSIBLE FOR THE EVENT:**

Name: Marty Pendergraft
Address: PO Box 1507, BS, NC 28017
Phones: 704 287 8312
(Daytime) (Evening)
Marty.Pendergraft@gmail.com
(e-mail address)

Name: _____
Address: _____
Phones: _____
(Daytime) (Evening)

(e-mail address)

6. **PLEASE LIST THE FOLLOWING:**

Requested day(s) and date(s) Saturday, 10 Nov. 2018
Alternate day(s) and date(s) _____
Requested hours of operation, from 900 AM/PM to 1100 AM/PM

7. **SANITATION:** Please attach your "Plan for Clean-Up." Please check Application Instruction sheet for details.

8. **AVAILABILITY OF FOOD, BEVERAGES, AND/OR ENTERTAINMENT;**

If there will be music, sound amplification, or any other noise impact, please describe on attached sheet, including the intended hours of the music, sound, or noise.

Will alcoholic beverages be served? NO
If yes, attach to the application a copy of your permit from the Cleveland County Alcoholic beverage Control Board. Alcohol may not be served without a permit!!!

Will food and/or no-alcoholic beverages be served? NO
If yes, attach to the application a copy of your permit from the Cleveland County Department of Health Services.

9. **SECURITY AND SAFETY PROCEDURES:**

Attach to this application a copy of your building permit(s) if you are installing any electrical wiring on a temporary or permanent basis and/or if you are building any temporary or permanent structures such as bleachers, scaffolding, a grandstand, viewing stands, stages, or platforms.

Attach a copy of your Shelby Fire Department Permit or permits to this application if you will use parade floats; an open flame; fireworks; or pyrotechnics; vehicle fuel; cooking facilities; enclosures (and tables within those enclosures); tents; air-supported structures; and/or any fabric shelter.

Give name, address, and phone numbers of the agency or agencies, which will provide first aid staff and equipment. Attach additional sheets if necessary.

Name: _____

Address: _____

Phones: _____

Indicate medical services that will be provided for the event.

AMBULANCE: _____

DOCTOR (S): _____

PARAMEDICS: _____

10. **CITY SERVICES/EQUIPMENT REQUESTED FOR THIS EVENT:**

public works - Road Barricades

City police - traffic control

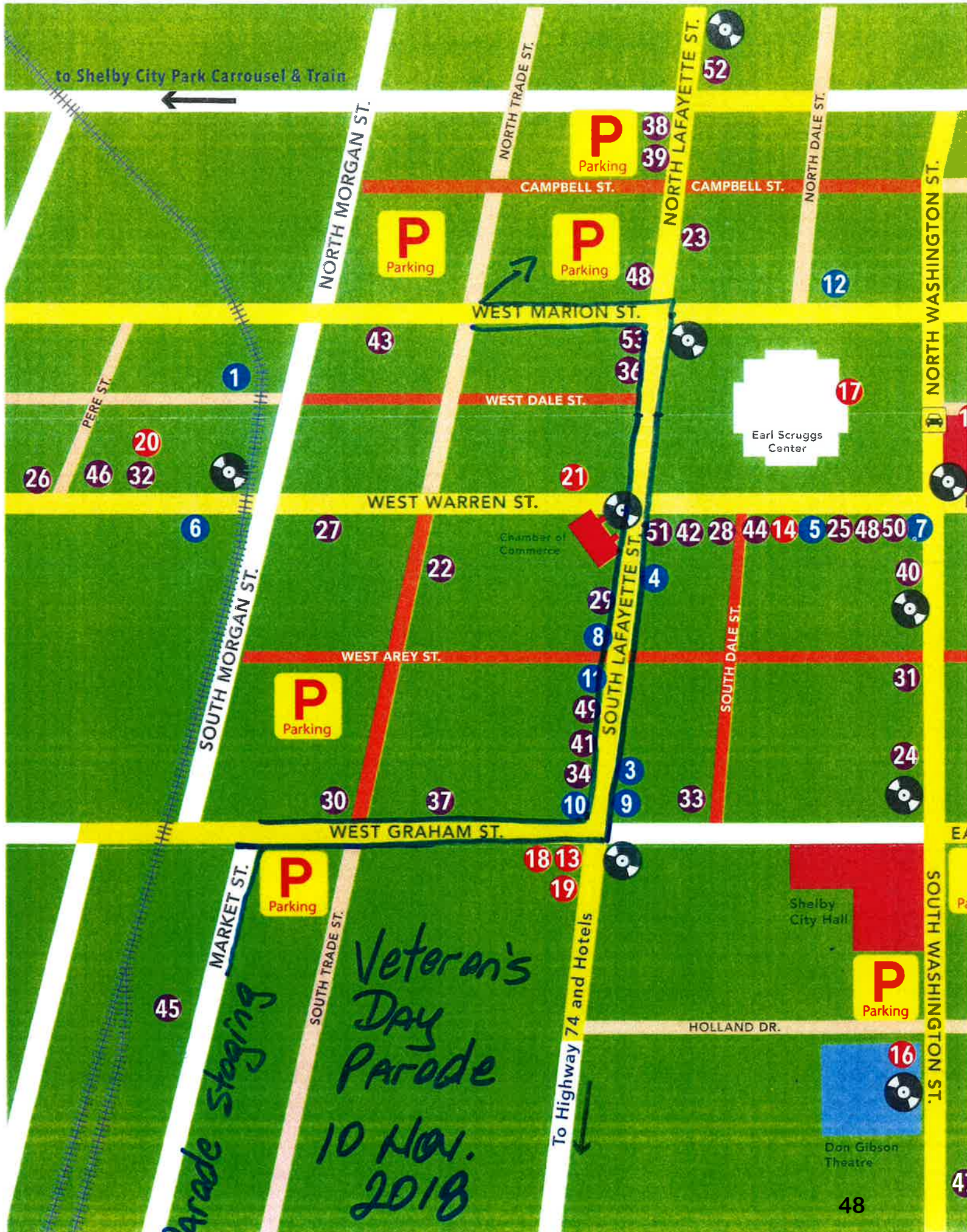
11. **ANY ADDITIONAL COMMENTS:** _____

to Shelby City Park Carrousel & Train

Parade staging

*Veteran's Day Parade
10 Nov. 2018*

To Highway 74 and Hotels



NORTH MORGAN ST.

NORTH TRADE ST.

NORTH LAFAYETTE ST.

NORTH DALE ST.

NORTH WASHINGTON ST.

SOUTH MORGAN ST.

SOUTH LAFAYETTE ST.

SOUTH DALE ST.

SOUTH WASHINGTON ST.

MARKET ST.

SOUTH TRADE ST.

HOLLAND DR.

P
Parking

P
Parking

P
Parking

P
Parking

P
Parking

P
Parking

Earl Scruggs Center

Chamber of Commerce

Shelby City Hall

Don Gibson Theatre

26 46 32 20

1

43

48

12

WEST MARION ST.

WEST DALE ST.

WEST WARREN ST.

21

27

22

WEST AREY ST.

WEST AREY ST.

29

8

WEST AREY ST.

1

49

41

34

10

30

37

WEST GRAHAM ST.

18 13

19

45

5

51 42 28 44 14 5 25 48 50 7

4

40

31

24

3

9

33

3

9

33

16

48

47



THE CITY OF SHELBY IS NOT A CO-SONSOR OF THE EVENT.

It is understood and agreed that any permit issued pursuant to this application is issued on the condition that the answers herein given are true and correct to the best of the knowledge, information, and belief of the applicant.

Marty Pendergraft
(SIGNATURE)

Marty Pendergraft 704 287 8912
(APPLICANT) (PHONE)

PO Box 1507, Bowling Springs, NC 28017
(ADDRESS)

21 August 2018
(DATE)

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

Agenda Item: D-3

- 3) Approval of a resolution approving the local Alcohol Beverage Control (ABC) Board's use of the Appointing Authority's Travel Policy: Resolution No. 45-2018

Consent Agenda Item: (Staff Resource, Bernadette A. Parduski, City Clerk)

Summary of Available Information:

- Memorandum dated September 10, 2018 from Bernadette A. Parduski, City Clerk to Rick Howell, City Manager
- Minutes of a Meeting of the Shelby Board of Alcoholic Control
- Travel Policy and Travel Authorization Form and Expense Report
- Resolution No. 45-2018

City Manager's Recommendation / Comments

Resolution No. 45-2018 is presented for City Council consideration via the Consent Agenda. If approved this resolution would simply authorize the local ABC Commission to use the City's established travel policy. This is required by NCGS 18B-700(g)(2) to be approved annually by the governing board of the appointing authority. In this case City Council. Some background regarding this statute. Several years ago after a number of questionable policies and practices surrounding compensation and travel expenses at other local ABC Commissions the NC General Assembly enacted provisions that provided for more accountability and some minimal oversight by local appointing authorities. While this has never been a concern at the City of Shelby ABC Commission they nonetheless must comply.

It is my recommendation Resolution No. 45-2018 be adopted and approved by City Council at this time via the Consent Agenda.

Memo

To: Rick Howell, City Manager

From: Bernadette A. Parduski, City Clerk

Date: September 10, 2018

Re: Shelby Alcohol Beverage Control (ABC) Board Travel Policy Approvals

BACKGROUND:

For several years the local ABC Board requested a certified copy of the City of Shelby's travel policy for its use on an annual basis.

REVIEW:

ABC Boards that have elected to adopt the appointing authority's travel policy must have an approval annually from the appointing authority. The annual approval must be in written form and apply to the upcoming year. Prior year approvals do not meet this requirement.

North Carolina General Statute 18B-700 (g2) states, "...the local board shall annually provide the appointing authority's written confirmation of such approval to the Commission and a copy of the travel policy authorized by the appointing authority."

RECOMMENDATION:

Please place the attached resolution on the Consent Agenda of September 17, 2018 for Council's review and approval.

ATTACHMENTS:

- A. Minutes of Shelby ABC Board dated August 27, 2018
- B. City of Shelby's Travel Policy

THE MINUTES
OF
A MEETING OF THE
SHELBY BOARD OF ALCOHOLIC CONTROL

After notice duly given, the regular meeting of the Shelby Board of Alcoholic Control was held on Monday, August 27th, at 9:04 a.m. in the Shelby Board of Alcoholic Control Office, Shelby, North Carolina.

Present were:

Carl J. Dockery Jr., Board Chairman,
Board Members: Gerald Weathers, Page Morgan and Sallie Craig, David Schweppe
Roland Webber, General Manager
Kelly Carpenter, Financial Officer
Scott Hamrick, ALE officer

The meeting of the Shelby Board of Alcoholic Control was called to order by Chairman Dockery. The current agenda was call to order, roll call, conflict of interest, minutes of the previous meeting, law enforcement officer's report, and the general manager's report.

On a motion made by Gerald Weathers, and seconded by Page Morgan minutes held on July 23rd, 2018 were approved as printed. The motion carried unanimously after a brief discussion.

ALE Officer, Scott Hamrick presented the law enforcement officers report. On a motion made by David Schweppe and seconded by Sallie Craig, the report was approved as written. After a brief discussion the motion carried unanimously.

Roland Webber presented the monthly report, year to date report, and the report stating the amount of profits and revenues paid to County, City, State and Governmental Agencies. Page Morgan made a motion for the report to be approved as printed and presented. Gerald Weathers made a second motion. The motion carried unanimously, after a short discussion.

THE MINUTES
OF
A MEETING OF THE
SHELBY BOARD OF ALCOHOLIC CONTROL

At this time the board heard from Roland Webber, General Manager, about a customer who was distressed at the fact we charge ten cents for boxes. After a brief discussion Page Morgan made a motion to continue to charge for the boxes and David Schweppe seconded the motion. The motion carried unanimously.

The morning of the Board Meeting Kelly received an email from the State ABC Commission requiring the travel policy to be approved on a yearly basis by the local ABC Board and for the local Appointed Authority (The City of Shelby) to also approve the use of the travel policy on a yearly basis. To have time to properly review the information and submit an approval to the City Clerk's office in time for City Council meeting, Kelly forwarded the travel policy information to all board members for review. After all members had time to review the Travel Policy information or ask questions, all board members voted to approve using the City of Shelby's travel policy as it has been for many years. All Board members emailed an approval and gave verbal approval via the telephone. Using the City of Shelby's Travel Policy as The Shelby Board of Alcoholic Control's travel policy, as it has been for many years, has been adopted for the year, July 1, 2018 through June 30th, 2019. The Travel Policy will be re-examined at the end of the year and any changes deemed necessary will be made at that time.

With no further business was discussed, the meeting adjourned at 9:37 a.m.

Sincerely,

Carl J. Dockery Jr.,
Shelby ABC Board Chairman



Effective Date:

Revision Date:

Personnel Policy and Procedure Manual

Travel Policy

I. POLICY

The intent of this policy is to provide city employees with a comprehensive reference pertaining to business travel.

II. DEFINITIONS

Duty Station – The job location at which the employee spends the majority of his/her working hours. For an employee in travel status, the duty station should be the point where traveling begins.

III. TRAVEL

An employee traveling on business representing the city is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business and expending personal funds. Excess cost, indirect travel routes, luxury accommodations, preferred parking and services unnecessary or unjustified to perform business are not acceptable. Travel expenses will be reimbursed per Finance Department guidelines.

When two (2) or more employees are traveling to the same destination, maximum use shall be made of special group travel discounts and joint use of transportation including taxicabs, city-owned, leased or privately owned vehicles. Travel with representatives of other government units is encouraged whenever possible.

All travel requests must be approved by an authorized signer in their department. Department director's travel must be approved by the City Manager. Travel that includes air line tickets will require City Manager approval in addition to other required approval. In most cases, registrations/reservations should be made before travel has been approved.

Air travel, and related parking and ground transportation expenses, will be reimbursed for out of state travel, which has been authorized by Department Head, City Manager or Finance Director. Air travel should be coach class.

IV. TRAVEL ADVANCES

The City of Shelby will assist employees who are required to travel on business by advancing funds, if estimated expense exceeds one hundred dollars (\$100.00). Petty cash will not be used to support travel or travel reimbursements, without prior approval by the Finance Director. No travel advance will be issued if the employee has an outstanding advance that has not been reconciled and cleared by a submission of a corresponding Travel Reimbursement Request and Expense Report.

V. LODGING

Employees are expected to stay overnight in moderate, average price accommodations. Employees will pay for any additional expenses that are incurred due to spouses and/or other guests accompanying them on business travel. There must be a travel destination located at least 50 miles from the employee's regularly assigned duty station or be more cost effective to stay overnight for lodging expenses to be reimbursed.

VI. MEALS

The cost of meals are reimbursed on a per diem bases per Finance Department guidelines.

Reimbursement will be made for banquets and meal functions at a conference/meeting at their actual cost. Banquets and meals provided with a registration or included with lodging cost will not be included in the meals per diem reimbursement.

VII. AUTHORIZATION AND REIMBURSEMENT

Travel and food shall be reimbursed if done after prior approval of the City Manager, Department Head, or Finance Director. Submission of Travel Authorization form is required prior to travel.

**City of Shelby
Travel Authorization Form**

Employee Name:

Department:

Date Funds Needed:

Today's Date:

Purpose of Travel/Destination:

Date(s) Travel Occurs:

Is travel grant funded? Yes No (If yes cite grant source: _____)

Is travel mandated by local/state/federal requirements for licensing or certification? Yes No
(If yes cite requirement: _____)

Budget Account Number (s) to be Charged:

Travel Funds Requested (insert amounts and answer questions below):

	Estimated Cost	Funds Needed In Advance
1) Registration Fees	\$	
2) Lodging Expenses		
3) Meals and Incidentals		
4) Transportation Costs		

Total Estimated Costs of Travel \$

Funds Needed In Advance \$

1) IF REGISTRATION FEES are needed, make payable to
Are registration fees to be paid in advance? YES NO

2) Name of lodging facility:

3) Number of meals anticipated while of travel:

4a) Will city vehicle be used for transportation? YES NO
Anticipated number of miles to be traveled

4b) If air fare is incurred, name of airline:

I HEREBY CERTIFY THAT ALL FUNDS REQUESTED ON THIS FORM ARE TO BE USED IN THE CONDUCT OF CITY BUSINESS. ANY FUNDS RECEIVED BUT NOT SPENT BY ME ARE TO BE RETURNED TO THE CITY WITHIN SEVEN WORKING DAYS AFTER MY RETURN FROM THIS TRAVEL. FUNDS NOT RETURNED TO THE CITY WITHIN THE SPECIFIED PERIOD MAY BE COLLECTED BY PAYROLL DEDUCTION.

Employee Signature: _____ Date: _____

APPROVALS:

Authorized Signer/ Date: _____ City Manager/Date: _____

THIS FORM MUST BE COMPLETED AND SUBMITTED TO THE FINANCE DEPARTMENT AT LEAST TEN WORKING DAYS PRIOR TO TRAVEL. THE EMPLOYEE SHOULD KEEP A COPY OF THIS FORM; ATTACH COPY OF THIS APPROVED FORM TO EXPENSE REPORT ONCE TRAVEL IS COMPLETED.

CITY OF SHELBY TRAVEL EXPENSE REPORT

Date of Report: _____

Name of Employee: _____

Department: _____

Object of Trip: _____

Itemized Expenses:	Date Day	Sun	Mon	Tues	Wed	Thurs	Fri	Sat	Totals
A. Personal Auto Mileage(Detail Below)									-
B. Commercial Fare for Travel ***									-
C. Meals: ***									-
Breakfast - depart before 6AM \$6.00									-
Lunch - away 9AM- 3PM \$7.50									-
Dinner - arrive after 8PM \$16.50									-
D. Tips(other than included above)									-
E. Lodging Expenses ***									-
F. Registration Fees ***									-
G. Telephone (Detail Below) ***									-
H. Parking/Tolls ***									-
I. Other Expenses: (itemize below) ***									-
									-
									-
									-
J. Total(vertical and horizontal)		-	-	-	-	-	-	-	-

*** RECEIPTS AND/OR INVOICES REQUIRED

Explanation of travel expenses for personal auto

Date	From	To	Odometer Reading		Mileage Claimed	Rate	Amount
			Begin	End			
						0.540	-
						0.540	-

Explanation of telephone calls

Date	Call Destination	Name of Party Called	Number Called	Explanation	Amount

TALLY: Total expenses of trip including all Fares (should agree with item J above) \$ _____

Less: Fares and other expenses prepaid by the City _____

Less: Cash Advanced _____

Balance Due to Employee \$ _____

I certify that the travel indicated hereon was accomplished according to travel authorization, that the information shown hereon is correct and that all expenses were of a business nature.

Signed: _____ Title: _____
(Employee)

Approved: _____ Approved: _____
(Department Head) (Finance Director)

Code: _____

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

revised 1/4/10

RESOLUTION NO. 45-2018

A RESOLUTION APPROVING THE LOCAL ALCOHOL BEVERAGE CONTROL (ABC) BOARD'S USE OF THE APPOINTING AUTHORITY'S TRAVEL POLICY

WHEREAS, the mission of the local ABC Board and its employees shall be to serve their locality responsibly by controlling the sale of spirituous liquor and promoting customer-friendly, modern, and efficient stores; and,

WHEREAS, the Shelby ABC board members are appointed by Shelby City Council; and,

WHEREAS, the Shelby ABC Board finds it to be in the best interest of the Board to adopt the City of Shelby's Travel Policy attached hereto as EXHIBIT A; and,

WHEREAS, the Shelby ABC Board shall provide the appointing authority, CITY OF SHELBY'S written confirmation of its approval to the North Carolina Alcoholic Beverage Control Commission along with a copy of the Travel Policy authorized by the appointing authority.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA:

Section 1. The appointing authority's written confirmation of its approval herein and a copy of the Travel Policy authorized by the appointing authority is compliant with North Carolina General Statutes 18B-700 (g2).

Section 2. This resolution shall become effective upon its adoption and approval.

Adopted and approved this the 17th day of September 2018.

O. Stanhope Anthony III
Mayor

ATTEST:

Bernadette A. Parduski, NC-CMC, IIMC-MMC
City Clerk

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

Agenda Item: D-4

- 4) Approval of a resolution honoring Timothy Milson Walker on the occasion of his retirement from employment with the City of Shelby: Resolution No. 46-2018

Consent Agenda Item: (Jeff Ledford, Police Chief)

Summary of Available Information:

- Memorandum dated September 4, 2018 from Jeffrey H. Ledford, Chief of Police to Rick Howell, City Manager
- Resolution No. 46-2018

City Manager's Recommendation / Comments

This time is scheduled on your agenda to consider a resolution recognizing Lieutenant Timothy Milson Walker on the occasion of his retirement from employment. In keeping with policy Resolution No. 46-2018 will recognize him for having served the City faithfully for the past 30 years with the Shelby Police Department. He is to be congratulated!

As is in keeping with current policy Lt. Walker will be presented with a framed resolution, a city lapel pin and a key to the City. Due to his long tenure with the Police Department his service has been submitted to the NC Governor's Office for The Order of the Long Leaf Pine Award. It is customary and appropriate to recognize Tim Walker for his many years of service to the City. Lt. Walker's dedication to our Police Department is to be admired. Please join me in wishing him a healthy and happy retirement. He is scheduled to attend a future meeting of City Council for a formal presentation.

It is recommended that Resolution No. 46-2018 be adopted and approved via the Consent Agenda.

Retiring or Separating Employee Recognition - Employees leaving City employment in good standing will receive a plaque from the City Manager after they have attained at least their 20th anniversary of service with the City or have attained their 10th anniversary and are at least 60 years of age or over. Employees with 25 or more years of service will receive a key to the City, a framed Council resolution and City lapel pin upon retirement from the City. Separating employees who have attained at least five years of service and are leaving in good standing can be recognized on a Department level with a gift or some other form of recognition.

Shelby Police Department

Memorandum

To: Rick Howell, City Manager
Bernadette Parduski, City Clerk

From: Jeffrey H. Ledford, Chief of Police

Re: Lieutenant Timothy Milson Walker
Order of The Long Leaf Pine Award and City Council Resolution

Date: September 4, 2018



SHELBY POLICE DEPARTMENT

JEFFREY H. LEDFORD
CHIEF OF POLICE



CALEA Accredited
2001



CALEA Accredited
2014



Lieutenant Timothy M. Walker has served the City of Shelby, the citizens of Shelby and the Shelby Police Department for 30 years. He was hired as a Police Officer initially with the Town of Boiling Springs Police Department September 1987, then with the Shelby Police Department (SPD) May 1, 1989.

Walker was promoted to the rank of Sergeant with the Shelby Police Department July 3, 1995, then to the rank of Lieutenant December 21, 2001, of which he held until his retirement August 1, 2018. Walker worked in and led various divisions throughout his career here at the SPD (K-9 Officer, Sergeant over Patrol Squads, Watch Commander over Patrol Rotations, Element Leader over SPD's Hostage Negotiator Team, Lieutenant over the Community Oriented Policing Unit, and the Vice/Narcotics Unit). In addition, he was a Law Enforcement General Instructor and a Specialized Subject Control and Arrest Technique Instructor.

Lieutenant Walker is being honored for his leadership, his loyalty, his commitment to protect and serve, and his dedication to the civilian community, the law enforcement community, the City of Shelby, and the State of North Carolina, therefore his service has been submitted to the NC Governor's Office for The Order of the Long Leaf Pine Award for these qualities.

Lieutenant Walker is well-known, and very much respected by the community, and assisted them in any way possible. He has had a long, successful career with the Shelby Police Department and has demonstrated his dedication, his commitment to public service through his Law Enforcement career over the past 30+ years, deserving to be honored with the Governor's Order of the Long Leaf Pine Award and a Shelby City Council Resolution.

Thank you.

RESOLUTION NO. 46-2018

**A RESOLUTION HONORING TIMOTHY MILSON WALKER
ON THE OCCASION OF HIS RETIREMENT
FROM EMPLOYMENT WITH THE CITY OF SHELBY**

WHEREAS, on the occasion of his retirement from employment on August 1, 2018, it is fitting and proper for the City Council to express its sincere appreciation to Timothy Milson Walker for his loyal, dedicated, and committed service to the City of Shelby from May 1, 1989 to August 1, 2018; and,

WHEREAS, Mr. Walker has been a loyal team member in the continuing development of the Shelby Police Department, especially for his strength, courage, and bravery exhibited in providing protection and service to the City of Shelby and to all of its citizens; and,

WHEREAS, during his tenure of service, Mr. Walker has been a loyal employee for the City of Shelby, beginning as a Patrol Officer in May 1989, receiving a promotion to Police Sergeant in July 1995, receiving a promotion to Police Lieutenant in December 2001, and finishing his career as a Vice/Narcotics Lieutenant, and has been an outstanding example of the quality of employee necessary to the development of the good of the City; and Mr. Walker previously served as a K-9 Police Officer, an Element Leader over Shelby Police Department's Hostage Negotiator Team, a Patrol Watch Commander, a Community Oriented Policing Unit Commander, a Law Enforcement General Instructor as well as a Specialized Subject Control and Arrest Technique Instructor; and,

WHEREAS, Mr. Walker completed over 2,000 hours of advanced law enforcement training, having received his Law Enforcement Advanced Certificate May 1997, which is the highest certification that a Law Enforcement Officer can receive from the State of North Carolina; and is a successful graduate of the North Carolina Law Enforcement Executive Program, March 1998; and, provided security for the 2012 Democratic National Convention for the 44th President of the United States, Barak Hussein Obama, II, held in Charlotte, North Carolina; and, received several Region C Citations for outstanding dedication, leadership, and achievement in advancing professional law enforcement and reducing crime in the community as recent as June 2018 for successfully negotiating a suspect's surrender after the subject had shot a family member and threatened to end his own life; and,

WHEREAS, Mr. Walker's commitment, leadership, laudatory work effort, and devotion to duty has helped create a winning attitude within the Shelby Police Department of the City of Shelby; and,

WHEREAS, the City of Shelby is most grateful for the devoted, community, and personal contributions Mr. Walker has given to all the citizens, organizations, and businesses within the greater Shelby community; and,

WHEREAS, the City Council of the City of Shelby wishes to acknowledge and express its appreciation to Mr. Walker for his dedicated and devoted duty to law enforcement service to its citizens, noting that Mr. Walker will be missed both professionally and as a fellow co-worker.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council publicly express their sincere appreciation to Timothy Milson Walker for his performance of duty to the City of Shelby, and extend the very best wishes for a successful retirement.

BE IT FURTHER RESOLVED that this Resolution be entered upon the permanent Minutes of the City Council.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Shelby to be affixed this the 17th day of September 2018.

O. Stanhope Anthony III
Mayor

ATTEST:

Bernadette A. Parduski, NC-CMC, IIMC-MMC
City Clerk

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

Agenda Item: D-5

- 5) Adoption of Fiscal Year (FY) 2018-2019 Budget Ordinance Amendment No. 1:
Ordinance No. 50-2018

Consent Agenda Item: (Chief Jeff Ledford, Justin Merritt, Finance Director)

Summary of Available Information:

- Memorandum dated August 1, 2018 from Chief Jeff Ledford to Rick Howell, City Manager
- Letters and Award documents from U.S. Department of Justice to Chief Jeff Ledford
- Ordinance No. 50-2018

City Manager's Recommendation / Comments

Ordinance No. 50-2018 is presented for City Council approval via the Consent Agenda. If approved this ordinance would amend the current General Fund budget to recognize a \$14,101 grant from the Edward Byrne Memorial Justice Assistance Grant program and appropriate this funding for purchase of a computer server for storage of body camera video recordings, software upgrades and wireless upload. This grant helps the City to accelerate these upgrades coupled with funding already approved in the operating budget. This is federal funding and requires no local match from the City.

Currently officers must manually upload body cam and dash cam footage. The proposed purchase of the server and other equipment will allow the automatic upload of video recordings using wireless communications when officers pull into the Police Department parking lot at the end of a shift.

It is my recommendation Ordinance No. 50-2018 be adopted and approved by City Council at this time via the Consent Agenda.



Intradepartmental Communication

To: Mr. Rick Howell, City Manager
From: Chief Jeff Ledford
Date: August 1, 2018
Subject: Budget Amendment Request

Background

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program is the primary provider of federal criminal justice funding to state and local jurisdictions. The JAG Program provides states and units of local governments with critical funding necessary to support a range of program areas including law enforcement, prosecution and court programs including indigent defense, prevention and education programs, corrections and community corrections, drug treatment and enforcement, crime victim and witness initiatives, and planning, evaluation, and technology improvement programs. In July 2018, the Bureau of Justice Assistance approved \$14,101 in expenditures in Federal grant 2017-DJ-BX-0675 for the City of Shelby. This grant is funded at 100%, with no local match requirement.

Recommendation

The Shelby Police Department has identified several equipment needs that the Bureau of Justice Assistance has approved grant funding to cover. We are requesting a budget amendment to cover the funds allocated in the grant to purchase this equipment. These funds will be fully reimbursed by the Bureau of Justice Assistance once the equipment has been purchased and deployed.

Thanks for your consideration and please let us know if you need any further.



U.S. Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

June 26, 2018

Chief Jeffrey H. Ledford
City of Shelby
Box 207
Shelby, NC 28150-0207

Dear Chief Ledford:

On behalf of Attorney General Jefferson Sessions III, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 17 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation in the amount of \$14,101 for City of Shelby.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Shaketta Cunningham, Program Manager at (202) 514-4493; and
- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at ask.ocfo@usdoj.gov.

Congratulations, and we look forward to working with you.

Sincerely,

A handwritten signature in black ink that reads "Alan R. Hanson". The signature is written in a cursive, slightly slanted style.

Alan R. Hanson
Principal Deputy Assistant Attorney General

Enclosures



OFFICE FOR CIVIL RIGHTS

Office of Justice Programs
U.S. Department of Justice
810 7th Street, NW
Washington, DC 20531

Tel: (202) 307-0690
TTY: (202) 307-2027
E-mail: askOCR@usdoj.gov
Website: www.ojp.usdoj.gov/ocr

June 26, 2018

Chief Jeffrey H. Ledford
City of Shelby
Box 207
Shelby, NC 28150-0207

Dear Chief Ledford:

Congratulations on your recent award. In establishing financial assistance programs, Congress linked the receipt of federal funding to compliance with federal civil rights laws. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) is responsible for ensuring that recipients of financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) comply with the applicable federal civil rights laws. We at the OCR are available to help you and your organization meet the civil rights requirements that come with DOJ funding.

Ensuring Access to Federally Assisted Programs

Federal laws that apply to recipients of financial assistance from the DOJ prohibit discrimination on the basis of race, color, national origin, religion, sex, or disability in funded programs or activities, not only in employment but also in the delivery of services or benefits. A federal law also prohibits recipients from discriminating on the basis of age in the delivery of services or benefits.

In March of 2013, President Obama signed the Violence Against Women Reauthorization Act of 2013. The statute amends the Violence Against Women Act of 1994 (VAWA) by including a nondiscrimination grant condition that prohibits discrimination based on actual or perceived race, color, national origin, religion, sex, disability, sexual orientation, or gender identity. The new nondiscrimination grant condition applies to certain programs funded after October 1, 2013. The OCR and the OVW have developed answers to some frequently asked questions about this provision to assist recipients of VAWA funds to understand their obligations. The Frequently Asked Questions are available at <http://ojp.gov/about/ocr/vawafaqs.htm>.

Enforcing Civil Rights Laws

All recipients of federal financial assistance, regardless of the particular funding source, the amount of the grant award, or the number of employees in the workforce, are subject to prohibitions against unlawful discrimination. Accordingly, the OCR investigates recipients that are the subject of discrimination complaints from both individuals and groups. In addition, based on regulatory criteria, the OCR selects a number of recipients each year for compliance reviews, audits that require recipients to submit data showing that they are providing services equitably to all segments of their service population and that their employment practices meet equal opportunity standards.

Providing Services to Limited English Proficiency (LEP) Individuals

In accordance with DOJ guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). See U.S. Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (2002). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website <http://www.lep.gov>.

Ensuring Equal Treatment for Faith-Based Organizations

The DOJ regulation, Equal Treatment for Faith-Based Organizations, 28 C.F.R. pt. 38, requires State Administering Agencies (SAAs) to treat faith-based organizations the same as any other applicant or recipient. The regulation prohibits SAAs from making awards or grant administration decisions on the basis of an organization's religious character or affiliation, religious name, or the religious composition of its board of directors.

The regulation also prohibits faith-based organizations from using financial assistance from the DOJ to fund inherently (or explicitly) religious activities. While faith-based organizations can engage in non-funded inherently religious activities, they must hold them separately from the program funded by the DOJ, and recipients cannot compel beneficiaries to participate in them. The Equal Treatment Regulation also makes clear that organizations participating in programs funded by the DOJ are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. For more information on the regulation, please see the OCR's website at http://www.ojp.usdoj.gov/about/ocr/equal_fbo.htm.

SAAs and faith-based organizations should also note that the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, as amended, 42 U.S.C. § 3789d(c); the Victims of Crime Act of 1984, as amended, 42 U.S.C. § 10604(e); the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. § 5672(b); and VAWA, Pub. L. No. 113-4, sec. 3(b)(4), 127 Stat. 54, 61-62 (to be codified at 42 U.S.C. § 13925(b)(13)) contain prohibitions against discrimination on the basis of religion in employment. Despite these nondiscrimination provisions, the DOJ has concluded that it may construe the Religious Freedom Restoration Act (RFRA) on a case-by-case basis to permit some faith-based organizations to receive DOJ funds while taking into account religion when hiring staff, even if the statute that authorizes the funding program generally forbids recipients from considering religion in employment decisions. Please consult with the OCR if you have any questions about the regulation or the application of RFRA to the statutes that prohibit discrimination in employment.

Using Arrest and Conviction Records in Making Employment Decisions

The OCR issued an advisory document for recipients on the proper use of arrest and conviction records in making hiring decisions. See Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on the U.S. Equal Employment Opportunity Commission's Enforcement Guidance: Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964 (June 2013), available at http://www.ojp.usdoj.gov/about/ocr/pdfs/UseofConviction_Advisory.pdf. Recipients should be mindful that the misuse of arrest or conviction records to screen either applicants for employment or employees for retention or promotion may have a disparate impact based on race or national origin, resulting in unlawful employment discrimination. In light of the Advisory, recipients should consult local counsel in reviewing their employment practices. If warranted, recipients should also incorporate an analysis of the use of arrest and conviction records in their Equal Employment Opportunity Plans (EEOs) (see below).

Complying with the Safe Streets Act

An organization that is a recipient of financial assistance subject to the nondiscrimination provisions of the Safe Streets Act, must meet two obligations: (1) complying with the federal regulation pertaining to the development of an EEO (see 28 C.F.R. pt. 42, subpt. E) and (2) submitting to the OCR findings of discrimination (see 28 C.F.R. §§ 42.204(c), .205(c)(5)).

Meeting the EEOP Requirement

If your organization has less than fifty employees or receives an award of less than \$25,000 or is a nonprofit organization, a medical institution, an educational institution, or an Indian tribe, then it is exempt from the EEOP requirement. To claim the exemption, your organization must complete and submit Section A of the Certification Form, which is available online at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>.

If your organization is a government agency or private business and receives an award of \$25,000 or more, but less than \$500,000, and has fifty or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare a Utilization Report (formerly called an EEOP Short Form), but it does not have to submit the report to the OCR for review. Instead, your organization has to maintain the Utilization Report on file and make it available for review on request. In addition, your organization has to complete Section B of the Certification Form and return it to the OCR. The Certification Form is available at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>.

If your organization is a government agency or private business and has received an award for \$500,000 or more and has fifty or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare a Utilization Report (formerly called an EEOP Short Form) and submit it to the OCR for review within sixty days from the date of this letter. For assistance in developing a Utilization Report, please consult the OCR's website at <http://www.ojp.usdoj.gov/about/ocr/eeop.htm>. In addition, your organization has to complete Section C of the Certification Form and return it to the OCR. The Certification Form is available at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>.

To comply with the EEOP requirements, you may request technical assistance from an EEOP specialist at the OCR by telephone at (202) 307-0690, by TTY at (202) 307-2027, or by e-mail at EEOSubmission@usdoj.gov.

Meeting the Requirement to Submit Findings of Discrimination


If in the three years prior to the date of the grant award, your organization has received an adverse finding of discrimination based on race, color, national origin, religion, or sex, after a due-process hearing, from a state or federal court or from a state or federal administrative agency, your organization must send a copy of the finding to the OCR.

Ensuring the Compliance of Subrecipients

SAs must have standard assurances to notify subrecipients of their civil rights obligations, written procedures to address discrimination complaints filed against subrecipients, methods to monitor subrecipients' compliance with civil rights requirements, and a program to train subrecipients on applicable civil rights laws. In addition, SAs must submit to the OCR every three years written Methods of Administration (MOA) that summarize the policies and procedures that they have implemented to ensure the civil rights compliance of subrecipients. For more information on the MOA requirement, see http://www.ojp.usdoj.gov/funding/other_requirements.htm.

If the OCR can assist you in any way in fulfilling your organization's civil rights responsibilities as a recipient of federal financial assistance, please contact us.

Sincerely,



Michael L. Alston
Director

cc: Grant Manager
Financial Analyst



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

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1. RECIPIENT NAME AND ADDRESS (Including Zip Code) City of Shelby Box 207 Shelby, NC 28150-0207		4. AWARD NUMBER: 2017-DJ-BX-0675	
		5. PROJECT PERIOD: FROM 10/01/2016 TO 09/30/2020 BUDGET PERIOD: FROM 10/01/2016 TO 09/30/2020	
2a. GRANTEE IRS/VENDOR NO. 566001342		6. AWARD DATE 06/26/2018	7. ACTION Initial
2b. GRANTEE DUNS NO. 079053468		8. SUPPLEMENT NUMBER 00	
3. PROJECT TITLE 2017 Edward Byrne JAG Project		9. PREVIOUS AWARD AMOUNT \$ 0	
		10. AMOUNT OF THIS AWARD \$ 14,101	
		11. TOTAL AWARD \$ 14,101	
12. SPECIAL CONDITIONS THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).			
13. STATUTORY AUTHORITY FOR GRANT This project is supported under FY17(BJA - JAG State and JAG Local) Title I of Pub. L. No. 90-351 (generally codified at 42 U.S.C. 3711 - 3797ff-5), including subpart 1 of part E (codified at 42 U.S.C. 3750 - 3758); see also 28 U.S.C. 530C(a).			
14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number) 16.738 - Edward Byrne Memorial Justice Assistance Grant Program			
15. METHOD OF PAYMENT GPRS			
[REDACTED] AGENCY APPROVAL [REDACTED]		[REDACTED] GRANTEE ACCEPTANCE [REDACTED]	
16. TYPED NAME AND TITLE OF APPROVING OFFICIAL Alan R. Hanson Principal Deputy Assistant Attorney General		18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Jeffrey H. Ledford Chief	
17. SIGNATURE OF APPROVING OFFICIAL 		19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL	19A. DATE
[REDACTED] AGENCY USE ONLY [REDACTED]			
20. ACCOUNTING CLASSIFICATION CODES FISCAL YEAR FUND CODE BUD. ACT. DIV. OFC. REG. SUB. POMS AMOUNT X B DJ 80 00 00 14101		21. SDJUGT0824	



U.S. Department of Justice
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**AWARD CONTINUATION
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PROJECT NUMBER 2017-DJ-BX-0675

AWARD DATE 06/26/2018

SPECIAL CONDITIONS

1. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any certifications or assurances submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Failure to comply with any one or more of these award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or a certification or assurance related to conduct during the award period -- may result in the Office of Justice Programs ("OJP") taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. The Department of Justice ("DOJ"), including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 42 U.S.C. 3795a), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2017 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2017 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2017 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

3. Compliance with DOJ Grants Financial Guide

The recipient agrees to comply with the DOJ Grants Financial Guide as posted on the OJP website (currently, the "2015 DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance.



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SPECIAL CONDITIONS

4. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2015, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after-- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2015, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

5. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

6. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.



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SPECIAL CONDITIONS

7. Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

8. All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

9. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$150,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$150,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$150,000)), and are incorporated by reference here.



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PROJECT NUMBER 2017-DJ-BX-0675

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SPECIAL CONDITIONS

10. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

11. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "2015 DOJ Grants Financial Guide").

12. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

13. OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/ojptrainingguidingprinciples.htm>.

14. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

15. Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.



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SPECIAL CONDITIONS

16. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

17. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

18. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38, specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries. Part 38 of 28 C.F.R., a DOJ regulation, was amended effective May 4, 2016.

Among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of the regulation, now entitled "Partnerships with Faith-Based and Other Neighborhood Organizations," is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

19. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.



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20. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2017)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2017, are set out at <https://ojp.gov/funding/Explore/FY17AppropriationsRestrictions.htm>, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

21. Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient, and any subrecipients ("subgrantees") at any tier, must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award-- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by-- (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 950 Pennsylvania Avenue, N.W. Room 4706, Washington, DC 20530; (2) e-mail to: oig.hotline@usdoj.gov; and/or (3) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://www.usdoj.gov/oig>.



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22. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.



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23. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

24. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

25. Cooperating with OJP Monitoring

The recipient agrees to cooperate with OJP monitoring of this award pursuant to OJP's guidelines, protocols, and procedures, and to cooperate with OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The recipient agrees to provide to OJP all documentation necessary for OJP to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by OJP for providing the requested documents. Failure to cooperate with OJP's monitoring activities may result in actions that affect the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to award funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

26. FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).



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27. Use of program income

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

28. Justice Information Sharing

In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, the recipient (and any subrecipient at any tier) must comply with DOJ's Global Justice Information Sharing Initiative (DOJ's Global) guidelines and recommendations for this particular award. The recipient shall conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: https://it.ojp.gov/gsp_grantcondition. The recipient shall document planned approaches to information sharing and describe compliance to the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

29. Avoidance of duplication of networks

To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the recipient can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

30. Compliance with 28 C.F.R. Part 23

With respect to any information technology system funded or supported by funds under this award, the recipient (and any subrecipient at any tier) must comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 42 U.S.C. 3789g(c)-(d). The recipient may not satisfy such a fine with federal funds.

31. Protection of human research subjects

The recipient (and any subrecipient at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

32. Confidentiality of data

The recipient (and any subrecipient at any tier) must comply with all confidentiality requirements of 42 U.S.C. 3789g and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The recipient further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.



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33. Verification and updating of recipient contact information

The recipient must verify its Point of Contact(POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.

34. Law enforcement task forces - required training

Within 120 days of award acceptance, each current member of a law enforcement task force funded with award funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, must complete required online (internet-based) task force training. Additionally, all future task force members must complete this training once during the period of performance for this award, or once every four years if multiple OJP awards include this requirement.

The required training is available free of charge online through the BJA-funded Center for Task Force Integrity and Leadership (www.ctfli.org). The training addresses task force effectiveness, as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. If award funds are used to support a task force, the recipient must compile and maintain a task force personnel roster, along with course completion certificates.

Additional information regarding the training is available through BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).

35. Required attendance at BJA-sponsored events

The recipient (and its subrecipients at any tier) must participate in BJA-sponsored training events, technical assistance events, or conferences held by BJA or its designees, upon BJA's request.

36. Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.



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37. Compliance with National Environmental Policy Act and related statutes

Upon request, the recipient (and any subrecipient at any tier) must assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the recipient or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the recipient agrees to contact BJA.

The recipient understands that this condition applies to new activities as set out below, whether or not they are being specifically funded with these award funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are:

a. New construction;

b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;

c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;

d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and

e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The recipient understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <https://bja.gov/Funding/nepa.html>, for programs relating to methamphetamine laboratory operations.

Application of This Condition to Recipient's Existing Programs or Activities: For any of the recipient's or its subrecipients' existing programs or activities that will be funded by these award funds, the recipient, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

38. Establishment of trust fund

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish a trust fund account. (The trust fund may or may not be an interest-bearing account.) The fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate the award funds in the trust fund (including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.



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39. Prohibition on use of award funds for match under BVP program

JAG funds may be used to purchase vests for an agency, but they may not be used as the 50% match for purposes of the DOJ Bulletproof Vest Partnership (BVP) program.

40. Certification of body armor "mandatory wear" policies

The recipient agrees to submit a signed certification that all law enforcement agencies receiving body armor purchased with funds from this award have a written "mandatory wear" policy in effect. The recipient must keep signed certifications on file for any subrecipients planning to utilize funds from this award for ballistic-resistant and stab-resistant body armor purchases. This policy must be in place for at least all uniformed officers before any funds from this award may be used by an agency for body armor. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.

41. Body armor - compliance with NIJ standards

Ballistic-resistant and stab-resistant body armor purchased with JAG award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and is listed on the NIJ Compliant Body Armor Model List (<https://nij.gov/>). In addition, ballistic-resistant and stab-resistant body armor purchased must be American-made. The latest NIJ standard information can be found here: <https://nij.gov/topics/technology/body-armor/pages/safety-initiative.aspx>.

42. Required monitoring of subawards

The recipient must monitor subawards under this JAG award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

43. Reporting requirements

The recipient must submit quarterly Federal Financial Reports (SF-425) and semi-annual performance reports through OJP's GMS (<https://grants.ojp.usdoj.gov>). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, the recipient must provide data that measure the results of its work. The recipient must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website (www.bjaperformancetools.org). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

44. Required data on law enforcement agency training

Any law enforcement agency receiving direct or sub-awarded funding from this JAG award must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.



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45. Prohibited Expenditures List

Award funds may not be used for items that are listed on the Prohibited Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time. The Prohibited Expenditure List may be accessed here: <https://www.bja.gov/funding/JAGControlledPurchaseList.pdf>

46. Controlled expenditures - prior written approval required

Award funds may not be used for items that are listed on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, without explicit written prior approval from BJA. The Controlled Expenditure List, and instructions on how to request approval for purchase or acquisitions are set out at <https://www.bja.gov/funding/JAGControlledPurchaseList.pdf>

47. Controlled expenditures - incident reporting

If an agency uses award funds to purchase or acquire any item on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, the agency must collect and retain (for at least 3 years) certain information about the use of-- (1) any federally-acquired Controlled Equipment in the agency's inventory, and (2) any other controlled equipment in the same category as the federally-acquired controlled equipment in the agency's inventory, regardless of source; and the agency must make that information available to BJA upon request. Details about what information must be collected and retained are set out at <https://ojp.gov/docs/LE-Equipment-WG-Final-Report.pdf>.

48. Sale of items on Controlled Expenditure List

Notwithstanding the provision of the Part 200 Uniform Requirements set out at 2 C.F.R. 200.313, no equipment listed on the Controlled Expenditure List that is purchased with award funds may be transferred or sold to a third party, except as described below:

a. Agencies may transfer or sell any controlled equipment, except riot helmets and riot shields, to a Law Enforcement Agency (LEA) after obtaining prior written approval from BJA. As a condition of that approval, the acquiring LEA will be required to submit information and certifications to BJA as if it were requesting approval to use award funds for the initial purchase of items on the Controlled Expenditure List.

b. Agencies may not transfer or sell any riot helmets or riot shields purchased under this award.

c. Agencies may not transfer or sell any Controlled Equipment purchased under this award to non-LEAs, with the exception of fixed wing aircraft, rotary wing aircraft, and command and control vehicles. Before any such transfer or sale is finalized, the agency must obtain prior written approval from BJA. All law enforcement-related and other sensitive or potentially dangerous components, and all law enforcement insignias and identifying markings must be removed prior to transfer or sale.

The recipient must notify BJA prior to the disposal of any items on the Controlled Expenditure List purchased with award funds, and must abide by any applicable laws (including regulations) in such disposal.

49. Prohibited or controlled expenditures - Effect of failure to comply

Failure to comply with an award condition related to prohibited or controlled expenditures may result in denial of any further approvals of controlled expenditures under this or other federal awards.



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50. Controlled expenditures - Standards

Consistent with recommendation 2.1 of Executive Order 13688, a law enforcement agency that acquires controlled equipment with award funds must adopt robust and specific written policies and protocols governing General Policing Standards and Specific Controlled Equipment Standards. General Policing Standards includes policies on (a) Community Policing; (b) Constitutional Policing; and (c) Community Input and Impact Considerations. Specific Controlled Equipment Standards includes policies specifically related to (a) Appropriate Use of Controlled Equipment; (b) Supervision of Use; (c) Effectiveness Evaluation; (d) Auditing and Accountability; and (e) Transparency and Notice Considerations. Upon OJP's request, the recipient must provide a copy of the General Policing Standards and Specific Controlled Equipment Standards, and any related policies and protocols.

51. Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2016

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1, 2016), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via a Grant Adjustment Notice). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

Except to the extent (if any) that an award condition expressly precludes reimbursement of project costs incurred "at-risk," if and when the recipient makes a valid acceptance of this award and OJP removes each applicable withholding condition through a Grant Adjustment Notice, the recipient is authorized to obligate (federal) award funds to reimburse itself for project costs incurred "at-risk" earlier during the period of performance (such as project costs incurred prior to award acceptance or prior to removal of an applicable withholding condition), provided that those project costs otherwise are allowable costs under the award.

Nothing in this condition shall be understood to authorize the recipient (or any subrecipient at any tier) to use award funds to "supplant" State or local funds in violation of the recipient's certification (executed by the chief executive of the State or local government) that federal funds will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.

52. "Certification of Compliance with 8 U.S.C. 1373" required for valid award acceptance by a unit of local government

In order validly to accept this award, the applicant local government must submit the required "Certification of Compliance with 8 U.S.C. 1373" (executed by the chief legal officer of the local government). Unless that executed certification either-- (1) is submitted to OJP together with the fully-executed award document, or (2) is uploaded in OJP's GMS no later than the day the signed award document is submitted to OJP, any submission by a unit of local government that purports to accept the award is invalid.

If an initial award-acceptance submission by the recipient is invalid, once the unit of local government does submit the necessary certification regarding 8 U.S.C. 1373, it may submit a fully-executed award document executed by the unit of local government on or after the date of that certification.

For purposes of this condition, "local government" does not include any Indian tribes.



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53. Ongoing compliance with 8 U.S.C. 1373 is required

1. With respect to the "program or activity" funded in whole or part under this award (including any such "program or activity" of any subrecipient at any tier), throughout the period of performance for the award, no State or local government entity, -agency, or -official may prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. 1373(a); or (2) a government entity or -agency from sending, requesting or receiving, maintaining, or exchanging information regarding immigration status as described in 8 U.S.C. 1373(b). For purposes of this award, any prohibition (or restriction) that violates this condition is an "information-communication restriction."

2. Certifications from subrecipients. The recipient may not make a subaward to a State or local government or a "public" institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373, properly executed by the chief legal officer of the jurisdiction or institution that would receive the subaward, using the appropriate form available at <https://ojp.gov/funding/Explore/SampleCertifications-8USC1373.htm>. Similarly, the recipient must require that no subrecipient (at any tier) may make a further subaward to a State or local government or a "public" institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373, properly executed by the chief legal officer of the jurisdiction or institution that would receive the further subaward, using the appropriate OJP form.

3. The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

4. Allowable costs. Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated (including for authorized reimbursements) for the reasonable, necessary, and allocable costs (if any) that the recipient, or any subrecipient at any tier that is a State or local government or a "public" institution of higher education, incurs to implement this condition.

5. Rules of Construction

A. For purposes of this condition:

(1) "State" and "local government" include any agency or other entity thereof, but not any institution of higher education or any Indian tribe.

(2) A "public" institution of higher education is one that is owned, controlled, or directly funded by a State or local government.

(3) "Program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. 2000d-4a).

(4) "Immigration status" means what it means for purposes of 8 U.S.C. 1373 (Illegal Immigration Reform and Immigrant Responsibility Act of 1996); and terms that are defined in 8 U.S.C. 1101 (Immigration and Nationality Act) mean what they mean under that section 1101, except that the term "State" also shall include American Samoa (cf. 42 U.S.C. 901(a)(2)).

(5) Pursuant to the provisions set out at (or referenced in) 8 U.S.C. 1551 note ("Abolition ... and Transfer of Functions"), references to the "Immigration and Naturalization Service" in 8 U.S.C. 1373 are to be read as references to particular components of the Department of Homeland Security (DHS).

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, any "public" institution of higher education, or any other entity (or individual) to violate any federal law, including any applicable civil rights or nondiscrimination law.



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IMPORTANT NOTE: Any questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

54. Authority to obligate award funds contingent on compliance with 8 U.S.C. 1373; unallowable costs; obligation to notify

1. If the recipient is a State or local government--

A. The recipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the recipient (or of any subrecipient at any tier that is either a State or unit of local government or a "public" institution of higher education) that is funded in whole or in part with award funds is subject to any "information-communication restriction."

B. In addition, with respect to any project costs it incurs "at risk," the recipient may not obligate award funds to reimburse itself if -- at the time it incurs such costs -- the "program or activity" of the recipient (or of any subrecipient at any tier that is either a State or unit of local government or a "public" institution of higher education) that would be reimbursed in whole or in part with award funds was subject to any "information-communication restriction."

C. Any drawdown of award funds by the recipient shall be considered, for all purposes, to be a material representation by the recipient to OJP that, as of the date the recipient requests the drawdown, the recipient and all subrecipients (regardless of tier) are in compliance with 8 U.S.C. 1373.

D. The recipient must promptly notify OJP (in writing) if the recipient, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded "program or activity" of the recipient, or of any subrecipient at any tier that is either a State or a local government or a "public" institution of higher education, may be subject to any "information-communication restriction." In addition, any subaward (at any tier) to a subrecipient that is either a State or a local government or a "public" institution of higher education must require prompt notification to the entity that made the subaward, should the subrecipient such credible evidence regarding an "information-communication restriction."

2. Any subaward (at any tier) to a subrecipient that is either a State or a local government or a "public" institution of higher education must provide that the subrecipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the subrecipient (or of any further such subrecipient at any tier) that is funded in whole or in part with award funds is subject to any "information-communication restriction."

3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the recipient at the time of a subrecipient's minor and transitory non-compliance, which was unknown to the recipient despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the recipient that demonstrates diligent monitoring of subrecipient compliance with the requirements set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required."

4. Rules of Construction

A. For purposes of this condition "information-communication restriction" has the meaning set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required."

B. Both the "Rules of Construction" and the "Important Note" set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required" are incorporated by reference as though set forth here in full.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 18 OF 21

PROJECT NUMBER 2017-DJ-BX-0675

AWARD DATE 06/26/2018

SPECIAL CONDITIONS

55. Required State-level rules or practices related to aliens; allowable costs

The following provisions apply to the recipient of this award, if the recipient is a State government, and also apply to any State-government subrecipient at any tier (whether or not the recipient is a State government).

1. Requirements

With respect to the "program or activity" that is funded (in whole or in part) by this award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award--

A. A State statute, or a State rule, -regulation, -policy, or -practice, must be in place that is designed to ensure that agents of the United States acting under color of federal law in fact are given to access any State (or State-contracted) correctional facility for the purpose of permitting such agents to meet with individuals who are (or are believed by such agents to be) aliens and to inquire as to such individuals' right to be or remain in the United States.

B. A State statute, or a State rule, -regulation, -policy, or -practice, must be in place that is designed to ensure that, when a State (or State-contracted) correctional facility receives from DHS a formal written request authorized by the Immigration and Nationality Act that seeks advance notice of the scheduled release date and time for a particular alien in such facility, then such facility will honor such request and -- as early as practicable (see para. 4.B. of this condition) -- provide the requested notice to DHS.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

3. Allowable costs

Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated (including for authorized reimbursements) for the reasonable, necessary, and allocable costs (if any) of-- (1) developing and putting into place statutes, rules, regulations, policies, and practices to satisfy this condition, and (2) permitting access as described in para. 1.A. above, and (3) honoring any request from DHS that is encompassed by para. 1.B. above.

4. Rules of construction

A. For purposes of this condition--

(1) the term "alien" means what it means under section 101 of the Immigration and Nationality Act (see 8 U.S.C. 1101(a)(3)).

(2) the term "correctional facility" means what it means under the Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (see 42 U.S.C. 3791(a)(7)).

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, or any other entity or individual to maintain (or detain) any individual in custody beyond the date and time the individual would have been released in the absence of this condition.

Current DHS practice is ordinarily to request advance notice of scheduled release "as early as practicable (at least 48 hours, if possible)." (See DHS Form I-247A (3/17)). In the event that (e.g., in light of the date DHS made such request) the scheduled release date and time for an alien are such as not to permit the advance notice that DHS has requested, it shall not be a violation of this condition to provide only as much advance notice as practicable.



U.S. Department of Justice
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**AWARD CONTINUATION
SHEET
Grant**

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PROJECT NUMBER 2017-DJ-BX-0675

AWARD DATE 06/26/2018

SPECIAL CONDITIONS

NOTE: Current DHS practice is to use one form (DHS Form I-247A (3/17)) for two distinct purposes -- to request advance notice of scheduled release, and to request that an individual be detained for up to 48 hours AFTER the scheduled release. This condition imposes NO requirements as to such DHS requests for detention.

C. Both the "Rules of Construction" and the "Important Note" set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required" are incorporated by reference as though set forth here in full.

56. Required local-government-level rules or practices related to aliens; allowable costs

The following provisions apply to the recipient of this award, if the recipient is a unit of local government, and also apply to any local-government subrecipient of this award at any tier (whether or not the recipient itself is a unit of local government).

1. Requirements

With respect to the "program or activity" that is funded (in whole or in part) by this award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award--

A. A local ordinance, -rule, -regulation, -policy, or -practice (or an applicable State statute, -rule, -regulation, -policy, or -practice) must be in place that is designed to ensure that agents of the United States acting under color of federal law in fact are given access a local-government (or local-government-contracted) correctional facility for the purpose of permitting such agents to meet with individuals who are (or are believed by such agents to be) aliens and to inquire as to such individuals' right to be or remain in the United States.

B. A local ordinance, -rule, -regulation, -policy, or -practice (or an applicable State statute, -rule, -regulation, -policy, or -practice) must be in place that is designed to ensure that, when a local-government (or local-government-contracted) correctional facility receives from DHS a formal written request authorized by the Immigration and Nationality Act that seeks advance notice of the scheduled release date and time for a particular alien in such facility, then such facility will honor such request and -- as early as practicable (see "Rules of Construction" incorporated by para. 4.B. of this condition) -- provide the requested notice to DHS.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

3. Allowable costs

Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated (including for authorized reimbursements) for the reasonable, necessary, and allocable costs (if any) of-- (1) developing and putting into place statutes, ordinances, rules, regulations, policies, and practices to satisfy this condition, (2) permitting access as described in para. 1.A. above, and (3) honoring any request from DHS that is encompassed by para. 1.B. above.

4. Rules of construction

A. The "Rules of Construction" and the "Important Note" set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required" are incorporated by reference as though set forth here in full.

B. The "Rules of Construction" set out in the award condition entitled "Required State-level rules or practices related to aliens; allowable costs" are incorporated by reference as though set forth here in full.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 20 OF 21

PROJECT NUMBER 2017-DJ-BX-0675

AWARD DATE 06/26/2018

SPECIAL CONDITIONS

57. Use of funds for DNA testing; upload of DNA profiles

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS.

No profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA.

Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS.

58. Encouragement of submission of "success stories"

BJA strongly encourages the recipient to submit annual (or more frequent) JAG success stories. To submit a success story, sign in to a My BJA account at <https://www.bja.gov/Login.aspx> to access the Success Story Submission form. If the recipient does not yet have a My BJA account, please register at <https://www.bja.gov/profile.aspx>. Once registered, one of the available areas on the My BJA page will be "My Success Stories." Within this box, there is an option to add a Success Story. Once reviewed and approved by BJA, all success stories will appear on the BJA Success Story web page at <https://www.bja.gov/SuccessStoryList.aspx>.

59. Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

60. Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

61. Withholding of funds: Required certification from the chief executive of the applicant government

The recipient may not obligate, expend, or draw down any award funds until the recipient submits the required "Certifications and Assurances by the Chief Executive of the Applicant Government," properly-executed (as determined by OJP), and a Grant Adjustment Notice (GAN) has been issued to remove this condition.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 21 OF 21

PROJECT NUMBER 2017-DJ-BX-0675

AWARD DATE 06/26/2018

SPECIAL CONDITIONS

62. Withholding of funds: Memorandum of Understanding

The recipient may not obligate, expend, or draw down any award funds until OJP has reviewed and approved the Memorandum of Understanding (MOU), and a Grant Adjustment Notice (GAN) has been issued to remove this condition.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

Washington, D.C. 20531

Memorandum To: Official Grant File
From: Orbin Terry, NEPA Coordinator
Subject: Incorporates NEPA Compliance in Further Developmental Stages for City of Shelby

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party. Accordingly, prior to obligating funds for any of the specified activities, the grantee must first determine if any of the specified activities will be funded by the grant.

The specified activities requiring environmental analysis are:

- a. New construction;
- b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements, please see <https://www.bja.gov/Funding/nepa.html>.

Please be sure to carefully review the grant conditions on your award document, as it may contain more specific information about environmental compliance.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**GRANT MANAGER'S MEMORANDUM, PT. I:
PROJECT SUMMARY**

Grant

PROJECT NUMBER

2017-DJ-BX-0675

PAGE 1 OF 1

This project is supported under FY17(BJA - JAG State and JAG Local) Title I of Pub. L. No. 90-351 (generally codified at 42 U.S.C. 3711 - 3797ff-5), including subpart 1 of part E (codified at 42 U.S.C. 3750 - 3758); see also 28 U.S.C. 530C(a).

1. STAFF CONTACT (Name & telephone number)

Shaketta Cunningham
(202) 514-4493

2. PROJECT DIRECTOR (Name, address & telephone number)

Bradley Fraser
Captain
311 South Lafayette Street
Post Office Box 207
Shelby, NC 28151-0207
(704) 692-6912

3a. TITLE OF THE PROGRAM

BJA FY 17 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation

3b. POMS CODE (SEE INSTRUCTIONS
ON REVERSE)

4. TITLE OF PROJECT

2017 Edward Byrne JAG Project

5. NAME & ADDRESS OF GRANTEE

City of Shelby
Box 207
Shelby, NC 28150-0207

6. NAME & ADDRESS OF SUBGRANTEE

7. PROGRAM PERIOD

FROM: 10/01/2016 TO: 09/30/2020

8. BUDGET PERIOD

FROM: 10/01/2016 TO: 09/30/2020

9. AMOUNT OF AWARD

\$ 14,101

10. DATE OF AWARD

06/26/2018

11. SECOND YEAR'S BUDGET

12. SECOND YEAR'S BUDGET AMOUNT

13. THIRD YEAR'S BUDGET PERIOD

14. THIRD YEAR'S BUDGET AMOUNT

15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and units of local government, including tribes, to support a broad range of criminal justice related activities based on their own state and local needs and conditions. Grant funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, including for any one or more of the following purpose areas: 1) law enforcement programs; 2) prosecution and court programs; 3) prevention and education programs; 4) corrections and community corrections programs; 5) drug treatment and enforcement programs; 6) planning, evaluation, and technology improvement programs; 7) crime victim and witness programs (other than compensation); and 8) mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams.

This Local JAG award will be shared by the County and one or more jurisdictions identified as disparate within the current Fiscal Year eligibility list (www.bja.gov/Jag). JAG funding will be used to support criminal justice initiatives that fall under one or more of the allowable program areas above. Any

equipment purchases or funded initiatives such as overtime, task forces, drug programs, information sharing, etc. will be aimed at reducing crime and/or enhancing public/officer safety.
CA/NCF

ORDINANCE NO. 50-2018

CITY OF SHELBY
FISCAL YEAR (FY) 2018-2019 BUDGET ORDINANCE AMENDMENT

WHEREAS, in accordance with applicable provisions of the North Carolina Budget and Fiscal Control Act, the City of Shelby finds it advisable and necessary to revise and amend its annual budget for FY 2018-2019; and,

WHEREAS, the City Manager (Budget Officer) has recommended certain amendments to the budget which the governing body finds acceptable; and,

WHEREAS, City Council now desires to act on the recommended budget amendments and approve same for implementation and compliance with the Fiscal Control Act;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA:

Section 1. Ordinance No. 31-2019, the City’s FY 2018-2019 Budget Ordinance, is hereby amended as follows to provide for Budget Amendment No. 1 for the year:

(A) The City of Shelby has been awarded a grant through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. The Shelby Police Department has identified several equipment needs that the Bureau of Justice Assistance has approved grant funding to cover. Accordingly, the following budget modifications are approved in accordance with the chart of accounts heretofore established for the City of Shelby.

(1) The following General Fund line items are amended:

- (a) Increase 11003000-34214-JAG17 Fund Balance Appropriated \$14,101
- (b) Increase 110431-41999-JAG17 Non-Capital Equipment \$14,101

Section 2. That the revenues, expenditures and amendments set forth in Section 1 of this ordinance are hereby summarized as follows:

	<u>Current Budget</u>	<u>Amendment No. 1</u>
General Fund	\$ 24,035,223	\$ 24,049,324
Emergency Telephone System Fund	107,000	107,000
Powell Bill Fund	735,600	735,600
Economic Dev. Fund	671,500	671,500
Housing Fund	1,483,418	1,483,418
Cemetery Fund	30,000	30,000
Utilities-Water Fund	5,429,800	5,429,800
Utilities-Sewer Fund	5,451,500	5,451,500
Utilities-Electric Fund	21,942,000	21,942,000
Utilities-Gas Fund	15,714,600	15,714,600
Utilities – Stormwater Fund	803,600	803,600
FY 2018-2019 Budget Total	<u>\$ 76,404,241</u>	<u>\$ 76,418,342</u>

Section 3. Copies of this Budget Ordinance Amendment shall be furnished to the City Manager as Budget Officer and to the Finance Director to be kept on file by them for their direction in the collection and disbursement of funds. Said officials are hereby authorized to receive and expend funds as herein set forth in accordance with the Shelby City Code, the General Statutes of North Carolina, and the provisions of the original budget ordinance; inclusive of GS 159-28 governing budgetary accounting of appropriations.

Section 4. This ordinance shall become effective upon its adoption and approval.

Adopted and approved this the 17th day of September 2018.

O. Stanhope Anthony, III
Mayor

ATTEST:

Bernadette A. Parduski, NC-CMC, IIMC-MMC
City Clerk

APPROVED AS TO FORM:

Robert W. Yelton
City Attorney

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

Agenda Item: D-6

- 6) Approval of a resolution approving supporting the City of Shelby's Application for North Carolina Department of Transportation State Planning and Research Program Funds: Resolution No. 47-2018

Consent Agenda Item: (Walter Scharer, Planning Director)

Summary of Available Information:

- Memorandum dated September 11, 2018 from Walter Scharer, Planning Director to Rick Howell, City Manager
- Resolution No. 47-2018

City Manager's Recommendation / Comments

Resolution No. 47-2018 is presented for City Council consideration at this time via the Consent Agenda. If approved this resolution would approve the funding agreement with the NCDOT for the SPR Funds to complete a City Wide Bicycle Plan and to update the 2007 Pedestrian Plan. The grant amount is \$72,000, with a match from City of Shelby of \$8,000.

It is my recommendation Resolution No. 47-2018 be adopted and approved by City Council at this time via the Consent Agenda.



Memorandum

To: Rick Howell - City Manager
From: Walter Scharer – Planning Director
Date: September 11, 2018
Subject: Funding Agreement for NCDOT State Planning and Research Funds

Executive Summary of issue – Background

As part of the Gaston Lincoln Cleveland MPO, Shelby is eligible for State Planning and Research Program (SPR) funds. SPR funds planning and research activities across North Carolina. These funds are used to establish a cooperative, continuous, and comprehensive framework for making transportation investment decisions. Staff submitted a request to be considered for the SPR program to fund a Bicycle and Pedestrian Plan to compliment the planning efforts surrounding the future rail trail. The City of Shelby has been awarded SPR funds to complete Bicycle and Pedestrian Plan for the entire city.

Review and Comments

Since 2007 the City of Shelby has established bicycle lanes on several of its streets and provided space for bicycle lanes on several NCDOT maintained streets. The potential of the rail trail on the current Norfolk-Southern rail ROW provides an even greater opportunity to incorporate bicycle and pedestrian facilities into the transportation thread of the community.

The Strategic Growth Plan (2005) supports bicycle facility planning through the policy and action below:

POLICY 1.7: Pedestrian and bikeway facilities shall be encouraged as energy-efficient, healthful, and environmentally sound alternatives to the automobile. Designs for all future road construction and expansion within the city shall consider opportunities for the inclusion of bikeways and pedestrian ways within the project.

Action 1.7.1: Prepare a pedestrian and bicycle transportation plan, which inventories existing facilities and sets forth priorities for future improvements.

Both a Bicycle Plan and a Pedestrian Plan is also consistent with the policies and recommendations found in the Parks and Recreation Master Plan, the Comprehensive Pedestrian Plan as well as the Comprehensive Land Use Plan.

The grant amount is \$72,000 with a match from the City of Shelby of \$8,000. Staff recommends approving the funding agreement with NCDOT for the SPR Funds to complete a City Wide Bicycle Plan and to update the 2007 Pedestrian Plan.

Please place this item on the consent agenda for the September 17, 2018 City Council meeting.

Attachment: Resolution

NORTH CAROLINA

**LOCALLY ADMINISTERED PROJECT -
FEDERAL**

CLEVELAND COUNTY

DATE: 8/27/2018

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

TIP #: M-0528CF

AND

WBS Element: 48232.3.6

CITY OF SHELBY

OTHER FUNDING: _____

FEDERAL-AID NUMBER:

CFDA #: 20.205

Total Funds [NCDOT Participation] \$72,000

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 Shelby, hereinafter referred to as the "Municipality".

WITNESSETH:

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

WHEREAS, the Gaston-Cleveland-Lincoln Metropolitan Planning Organization (MPO) has requested federal funding for the City of Shelby Bicycle/Pedestrian Plan, hereinafter referred to as the Project, in Cleveland 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 \$64,000 for the Project; and,

WHEREAS, the Department has allocated additional state funding, under State Bill 136-214, to provide a portion of the non-federal match, in the amount of \$8,000; 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 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 developing a comprehensive bicycle plan for the Municipality and updating the Municipality's 2007 Pedestrian Plan.

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

- Development of Bicycle Plan and Update of Pedestrian Plan

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 eighty percent (80%) of eligible expenses incurred by the Municipality up to a maximum amount of Sixty Four Thousand Dollars (\$64,000), and an additional ten percent (10%) of eligible expenses up to Eight Thousand Dollars (\$8,000), as detailed in the FUNDING TABLE below. The Municipality shall provide the remaining non-federal match and all costs that exceed the total available funding.

FUNDING TABLE

Fund Source	Federal Funds Amount	Reimbursement Rate	Non-Federal Match \$	Non-Federal Match Rate
SPR	\$64,000	80%	\$8,000	10 %
			\$8,000	10 %
Total Federal Funding		\$64,000	Total Non-Federal Match	\$16,000
Total Available Funding		\$80,000		

4. PERIOD OF PERFORMANCE

The Municipality has eighteen (18) months to complete all work outlined in the Agreement from the date of authorization of Federal funds. Completion for this Agreement is defined as completion of all activities related to the plan, acceptance of the project, and submission of a final reimbursement package to the Department.

If the Municipality fails to meet the milestone, then the Municipality must request additional time and the Department may, but is not required to, approve any extensions. A supplemental agreement must be executed to document any time extension. 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. FUNDING AUTHORIZATION

Upon receipt of an executed agreement, the Department will authorize Preliminary Engineering funds and shall issue a Notice to Proceed to 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. PROCUREMENT OF MATERIALS AND SERVICES

PROCUREMENT POLICY

When procuring professional services, the Municipality must adhere to the following, as applicable:

- Title 2 Code of Federal Regulations Part 200.318;
- 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;
- TPD's *Procurement of Consultant Services by MPO* procedure;
- The Department's *Small Professional Service Firm (SPSF) Program Guidelines*;
- The Department's *Policies and Procedures for Major Professional or Specialized Services Contracts* for contracts valued at or above \$50k; and,
- The Department's *Local Programs Management Handbook* for professional service contracts valued under \$50k.

Said policies and standards are incorporated in this Agreement by reference at www.fhwa.dot.gov/legsregs/legislat.html and 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. The Department will only reimburse up to the amounts approved by External Audit, regardless of the dollar amount agreed to by the Municipality in any executed contracts.

7. PROJECT DELIVERY

The Municipality shall be responsible for all phases of project delivery for the Project, including solicitation and administration of consultant contracts.

The Municipality shall include the Transportation Planning Division (TPD) staff in the following:

- All phases of project development
- All steering committee meetings
- All sub-committee meetings, if applicable
- All public input opportunities

The Municipality shall submit a draft version of the plan to TPD for review and comment. The Municipality and their consultant shall address TPD staff's comments prior to the Municipality's approval of the draft plan. The Municipality shall make the final product or plan available online via the MPO's website.

8. NOTICES AND CONTACT INFORMATION

Any notices or other communications required under this Agreement shall be addressed to the representatives for each party as set forth below and sent by overnight mail, hand delivery, US Mail, or via e-mail if receipt is acknowledged by recipient.

NCDOT

Brian Wert
Systems Planning and Unit Head
Transportation Planning Division
1554 Mail Service Center
Raleigh, NC 27699-1554
919-707-0974
bmwert@ncdot.gov

CITY OF SHELBY

Walter Scharer, Planning Director
PO Box 207
Shelby, NC 28150
704.669.6569
Walt.Scharer@cityofshelby.com

9. REIMBURSEMENT

SCOPE OF REIMBURSEMENT

Activities eligible for funding reimbursement for this Project shall include:

- Development of Bicycle Plan and Update of Pedestrian Plan

REIMBURSEMENT GUIDANCE

The Municipality shall adhere to applicable administrative requirements of Title 2 Code of Federal Regulations, Part 200 (www.fhwa.dot.gov/legsregs/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/legsregs/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.

BILLING THE DEPARTMENT

- **PROCEDURE**

All invoices must be submitted and processed for payment as specified in the TPD's *MPO Administration – Process MPO Invoices* procedure. Supporting documentation in the form of a progress report and description of work accomplished in time period stated in each invoice shall accompany each invoice. 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>.

- **TIME FRAME FOR INVOICE SUBMITTAL**

The Municipality shall initially fund one hundred percent (100%) of the Project's costs and see reimbursement, at least quarterly, at the agreed-upon reimbursement rate from the Department's federal funding and non-federal match.

- **TIMELY SUBMITTAL OF INVOICES**

Failure to submit quarterly invoices places federal funds at risk of deobligation. Should federal funds be deobligated due to the Municipality's lack of invoicing the Department, the Department and FHWA shall not be obligated to reimburse the Municipality for

expenses invoiced after the deobligation, even if those expenses occurred during a time period when the project was authorized.

- **INTERNAL APPROVALS**

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

10. REPORTING REQUIREMENTS AND RECORDS RETENTION

PROJECT EVALUATION REPORTS

The Municipality is responsible for submitting quarterly and final reports as specified in the TPD's *MPO Administration – Process MPO Invoices* procedure, currently located at https://connect.ncdot.gov/projects/planning/TransPlanManuals/Process%20MPO_invoices.pdf.

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.

11. TERMINATION OF AGREEMENT

If the Municipality decides to terminate the Agreement 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 Agreement.

The Agreement may be terminated by either party by giving 30 days written notice to the other party prior to the date of termination. If the Municipality and the Department mutually decide to terminate the Agreement, the costs expended to date by the Municipality will be reimbursed with the available funding.

If the Department terminates the Agreement for cause, then the Municipality may be liable for reimbursement of expended funds.

12. 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 Surface Transportation 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.

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, 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).

13. 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 SHELBY

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 Shelby 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 Shelby

Remittance Address:

DEPARTMENT OF TRANSPORTATION

BY: _____

(CHIEF ENGINEER)

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (Date)

RESOLUTION NO. 47-2018

A RESOLUTION APPROVING SUPPORTING THE CITY OF SHELBY'S APPLICATION FOR NCDOT STATE PLANNING AND RESEARCH PROGRAM FUNDS

WHEREAS, Policy 1.2 of The City of Shelby Strategic Growth Plan states: A system of local streets shall be designed and implemented that allows for convenient circulation within and between neighborhoods and encourages mobility by pedestrians and bicyclists; and,

WHEREAS, Action 1.2.1 of The City of Shelby Strategic Growth Plan states: Within transportation planning, local streets, sidewalks, bike paths, and walking trails should be considered in how they tie into neighborhoods; and,

WHEREAS, Policy 1.7 of The City of Shelby Strategic Growth Plan states: Pedestrian and bikeway facilities shall be encouraged as energy-efficient, healthful, and environmentally sound alternatives to the automobile. Designs for all future road construction and expansion within the city shall consider opportunities for the inclusion of bikeways and pedestrian ways within the project; and,

WHEREAS, Action 1.7.1 of The City of Shelby Strategic Growth Plan states: Prepare a pedestrian and bicycle transportation plan, which inventories existing facilities and sets forth priorities for future improvements; and,

WHEREAS, funding requests may be for up to \$64,000 with a recommended local match; and,

WHEREAS, the local match for the NCDOT State Planning and Research Program Fund is 20 percent; and,

WHEREAS, it is the desire of the Shelby City Council to make application for said program and to authorize same for submittal to the NCDOT.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA:

Section 1. The City's grant application to NCDOT for State Planning and Research Program funds is hereby approved and authorized for submittal.

Section 2. The City Manager of the City of Shelby is hereby authorized and directed to execute and submit all applicable documents and make assurances as required by said grant program.

Section 3. The City Manager of the City of Shelby is hereby authorized to match this State Planning and Research Program funds with up to 20 percent of the project cost.

Adopted and approved this the 17th day of September 2018.

O. Stanhope Anthony III
Mayor

ATTEST:

Bernadette A. Parduski, NC-CMC, IIMC-MMC
City Clerk

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

Agenda Item: D-7

- 7) Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Highway 74 Sections D and E Natural Gas Infrastructure Relocation Project: Ordinance No. 51-2018

Consent Agenda Item: (Julie McMurry, Energy Services Director)

Summary of Available Information:

- Memorandum dated September 7, 2018 from Julie McMurry, Energy Services Director to Rick Howell, City Manager
- Proposal letter dated September 4, 2018 from Heath and Associates, Inc.
- NCGS 136.27.1 and 27.2
- Ordinance No. 51-2018

City Manager's Recommendation / Comments

Ordinance No. 51-2017 is presented for City Council consideration at this time. If approved this ordinance establish a project budget for the engineering and design of the relocation of city owned natural gas lines on the D and E sections of the new US Hwy 74 bypass. This total cost is estimated at \$175,000. The initial estimated cost of the relocation of 15,000 linear feet of natural gas line required to be relocated is in excess of \$1 million.

Costs for this relocation project fall 100% on the City because "city owned" natural gas lines are not covered NCGS 136.27.1 which would require the city to pay only 25% for water and sewer relocations. It should be further noted that NCGS 136.27.2 requires NCDOT to pay for relocations of "county owned" natural gas lines.

It is my recommendation Ordinance No. 51-2018 be adopted and approved by City Council at this time via the Consent Agenda.

Memorandum

To: Rick Howell, City Manager
Justin Merritt, Finance Director

From: Julie McMurry, Energy Services Director *JM*

RE: Highway 74 Bypass Sections D & E

Date: September 7, 2018

Background:

The City of Shelby Energy Services Department received information from the NCDOT earlier this year of their timeline for proceeding with the Highway 74 Bypass. They have submitted plans for the D and E Sections of this project. This portion of the bypass project is east of Cherryville Road to where it will intersect with the current Highway 74 near Buffalo Creek.

The gas department utilized Heath & Associates, Inc. to review our lines and make recommendations on the previous sections of the Highway 74 Bypass project. They have provided the attached proposal for their services.

Review:

City staff has met with Heath & Associates, Inc. staff regarding this project. It involves relocation of our natural gas pipe in five areas, approximately 15,000 feet of pipe. The proposal includes design, project estimate, bid preparation and administration, and construction management services for the project.

Due to complexity of these sections of the project and the ongoing changes that are received from NCDOT it was hard to determine a cost estimate at this time for the design and project estimate portions of the project. It was recommended from Heath and Associates, Inc. that they bill us hourly for their services on this project with a budget of \$175,000 initially.

Recommendation:

We are requesting a Project Budget Ordinance in the amount of \$175,000 for the engineering services to relocate the natural gas lines in Sections D and E of the Highway 74 Bypass project.

Please let me know if you need additional information.

§ 136-27.1. Relocation of water and sewer lines of municipalities, nonprofit water or sewer corporations or associations, and local boards of education.

(a) The Department of Transportation shall pay the nonbetterment cost for the relocation of water and sewer lines, located within the existing State transportation project right-of-way, that are necessary to be relocated for a State transportation improvement project and that are owned by: (i) a municipality with a population of 10,000 or less according to the latest decennial census; (ii) a nonprofit water or sewer association or corporation; (iii) any water or sewer system organized pursuant to Chapter 162A of the General Statutes; (iv) a rural water system operated by a County as an enterprise system; (v) any sanitary district organized pursuant to Part 2 of Article 2 of Chapter 130A of the General Statutes; (vi) constructed by a water or sewer system organized pursuant to Chapter 162A of the General Statutes and then sold or transferred to a municipality with a population of greater than 10,000 according to the latest decennial census; or (vii) a local board of education.

(b) A municipality with a population of greater than 10,000 shall pay a percentage of the nonbetterment cost for relocation of water and sewer lines owned by the municipality and located within the existing State transportation project right-of-way that are necessary to be relocated for a State transportation improvement project. The percentage shall be based on the municipality's population, with the Department paying the remaining costs, as follows:

- (1) A municipality with a population of greater than 10,000, but less than 25,000, shall pay twenty-five percent (25%) of the cost.
- (2) A municipality with a population of 25,000 or greater, but less than 50,000, shall pay fifty percent (50%) of the cost.
- (3) A municipality with a population of 50,000 or greater shall pay one hundred percent (100%) of the cost. (1983 (Reg. Sess., 1984), c. 1090; 1985, c. 479, s. 186(a); 1985 (Reg. Sess., 1986), c. 1018, s. 11; 1993 (Reg. Sess., 1994), c. 736, s. 1; 1995, c. 33, s. 1; c. 266, s. 1.1; 2009-266, s. 11; 2015-111, s. 1; 2015-241, s. 29.20(a).)

§ 136-27.2. Relocation of county-owned natural gas lines located on Department of Transportation right-of-way.

The Department of Transportation shall pay the nonbetterment cost for the relocation of county-owned natural gas lines, located within the existing State transportation project right-of-way, that the Department needs to relocate due to a State transportation improvement project. (2002-126, s. 26.18(a); 2009-266, s. 12.)



September 4, 2018

Julie McMurry, Director of Utilities
City of Shelby
824 W. Grover Street
Shelby, NC 28150

**Re: Engineering Proposal Contract
Highway 74 Bypass Sections D & E
Heath and Associates, Inc., PN# 21722**

Dear Julie,

We are pleased to submit this proposal for engineering services in relation to the design and construction management of the natural gas pipeline relocations for the Highway 74 Bypass Sections D & E, in accordance with our previous conversations and our recent meetings.

PROPOSAL

Heath and Associates, Inc., offers the following services related to the design and construction management of the natural gas system facilities and pipeline. The proposal addresses replacement of natural gas pipelines into five areas along the highway project. The project areas will be combined for design and bidding/construction purposes and is approximately 15,000' of pipeline.

Specifications and plans will be prepared for the subject gas pipeline facilities in a similar format to natural gas pipeline projects that are customarily advertised and bid to contractors. Heath and Associates will advertise the project, and assist the City with the evaluation of bids and the execution of contract documents. We will also provide construction management services to oversee this phase of the project. This proposal does not include onsite inspection of the project; however, Heath and Associates can provide a proposal for these services upon your request.

Project Surveying

Any engineering design services that require the services of a Registered Land Surveyor, or GPS data acquisition, will be provided to the City by our surveying subcontractor, Bankhead Surveying. Depending on the project needs, right-of-way agreements or property surveys may be required. All services provided by Bankhead

Julie McMurry, Director of Utilities
September 4, 2018
Page Two

Surveying shall be billed to the City at their standard hourly rates, in addition to our hourly rates associated with the other design and construction management services.

SERVICES TO BE PROVIDED BY OTHERS

1. Consulting services concerning jurisdictional rights or legal proceedings.
2. Onsite daily inspection of contractor.
3. Specialized services such as laboratory testing, geotechnical testing, radiography, etc.
4. Environmental impact assessments, wetland delineation, or other specialized environmental assessments.

FEES AND TERMS OF PAYMENT

Heath and Associates will provide pipeline and facility design, project management services for the subject work using our Billing Rates shown in Attachment A. All direct travel and incidental expenses will be billed at cost to the City. Billing will be made monthly and will reflect the work done on the project. Terms are Net 60 days from billing date. Interest will be charged at 1% monthly beyond 60 days.

The plans, specifications, and contract documents prepared for this work are not to be reproduced or used for work outside the scope of this project without the consent of Heath and Associates, Inc.

We appreciate the opportunity to present this Proposal and we assure you of our assistance toward the successful completion of this project. Should this proposal meet with your approval, please sign both copies as indicated and return one copy to us.

Respectfully submitted,

HEATH AND ASSOCIATES, INC.



E. Scott Heath, PE
President

Julie McMurry, Director of Utilities
September 4, 2018
Page Three

PROPOSAL ACCEPTED BY THE CITY OF SHELBY, NORTH CAROLINA

Signature

Title

Date

ATTACHMENT A

HEATH AND ASSOCIATES, INC.

Standard Hourly Billing Rates

	<u>HOURLY</u>
Principal Engineer/Officer	\$ 165.00
Senior Registered Professional Engineer	\$ 130.00
Associate Engineer I	\$ 85.00
Engineering Technician/CADD Operator	\$ 75.00
Subcontract Services negotiable	Cost + 15%, except for Bankhead Surveying which will be at cost
Out-of-Pocket and Travel Expenses	cost
Mileage	IRS Rate

Heath and Associates Standard Billing Rates offered to the City of Shelby.

HEATH AND ASSOCIATES, INC.

ORDINANCE NO. 51-2018

AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY'S HIGHWAY 74 SECTIONS D AND E NATURAL GAS INFRASTRUCTURE RELOCATION PROJECT

WHEREAS, in accordance with applicable provisions of the North Carolina Budget and Fiscal Control Act, the City of Shelby finds it advisable and necessary to establish a capital project ordinance and budgets for the City of Shelby's Highway 74 Sections D and E Natural Gas Infrastructure Relocation Project; and

WHEREAS, it is necessary for the City to establish a budget for this capital project and appropriate applicable funds needed for the administration and construction of this project in order to comply with applicable provisions of the North Carolina Local Government Budget and Fiscal Control Act; and,

WHEREAS, G.S. 159-13.2 provides that a City may undertake the construction of a capital asset such as park, by way of a capital project ordinance providing the necessary balanced budget and funding for the life of the project;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA: The City of Shelby has identified a need to relocate natural gas infrastructure in conjunction with the construction of Highway 74 Bypass sections D and E. Accordingly, the following budget modifications are approved in accordance with the chart of accounts heretofore established for the City of Shelby.

Section 1. Appropriating Fund Balance:

Fund Balance Appropriated	64006000-39900	\$175,000
Transfer to Gas Capital Projects	640741-49641	\$175,000

Section 2. The following revenues are available and amounts are hereby appropriated:

Revenues:		
Transferred from Gas Fund	64106000-39640-64885	\$175,000
Appropriation:		
Construction	641746-42004-64885	\$175,000

Section 3. The provisions of this capital project ordinance shall be entered in the minutes of the Shelby City Council and copies filed with the City Manager as Budget Officer, the Finance Director, and the City Clerk for their direction and guidance in receiving revenues and expending the monies due thereunder.

Section 4. This ordinance shall become effective upon its adoption and approval.

Adopted and approved this the 17th day of September, 2018.

Ordinance No. 51-2018
September 17, 2018
Page 2

O. Stanhope Anthony, III
Mayor

ATTEST:

Bernadette A. Parduski, NC-CMC, IIMC-MMC
City Clerk

APPROVED AS TO FORM:

Robert W. Yelton
City Attorney

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

Agenda Item: D-8

- 8) City of Shelby's Foothills Commerce Center Job Ready Shell Building No. 3 Project
- a. Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Foothills Commerce Center Job Ready Shell Building No. 3 Project: Ordinance No. 52-2018
 - b. Approval of a reimbursement resolution with regard to Job Ready Shell Building No. 3: Resolution No. 48-2018

Consent Agenda Item: (Rick Howell, City Manager)

Summary of Available Information:

- Design Services Fee Proposal dated September 5, 2018 from Paul R. Garafola, WHN Architects to Justin Merritt, City of Shelby
- Ordinance No. 52-2018
- Resolution No. 48-2018

City Manager's Recommendation / Comments

Ordinance No. 52-2018 is presented for City Council consideration via the Consent Agenda. If approved this ordinance would appropriate funding in the amount of \$200,000 for the design of Job Ready Shell Building #3. This total project is estimated to cost approximately \$4.8 million and is to be shared equally between the City and Cleveland County. WHN Architects was selected to design the project.

Resolution No. 48-2018 is presented for City Council consideration via the Consent Agenda. If approved this resolution would allow the City to reimburse itself from financing proceeds obtained to construct the Job Ready Shell Building #3. This resolution gives the City the option to obtain financing should it so desire during the construction phase of the project and then, if approved by Council, to reimburse itself from debt proceeds. This option is being considered to allow flexibility in the City's decision to either pay for the shell building with cash or to finance it over a short term and preserve cash.

It is my recommendation Ordinance No. 52-2018 and Resolution No. 48-2018 be adopted and approved by City Council at this time via the Consent Agenda.

ORDINANCE NO. 52-2018

AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY'S FOOTHILLS COMMERCE CENTER JOB READY SHELL BUILDING NO. 3 PROJECT

WHEREAS, in accordance with applicable provisions of the North Carolina Budget and Fiscal Control Act the City of Shelby finds it advisable and necessary to establish a capital project ordinance and budgets for the City of Shelby's Foothills Commerce Center Job Ready Shell Building #3 Project; and

WHEREAS, it is necessary for the City to establish a budget for this capital project and appropriate applicable funds needed for the administration and construction of this project in order to comply with applicable provisions of the North Carolina Local Government Budget and Fiscal Control Act; and

WHEREAS, G.S. 159-13.2 provides that a City may undertake the construction of a capital asset such as a shell building purposed for economic development by way of a capital project ordinance providing the necessary balanced budget and funding for the life of the project;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA: The City of Shelby intends to construct an approximately 100,000 square foot job ready shell building, designed for light manufacturing, to be located in the Foothills Commerce Center. Accordingly, the following budget modifications are approved in accordance with the chart of accounts heretofore established for the City of Shelby:

Section 1. The following revenues are available and amounts are hereby appropriated:

Revenues:

Proceeds from Financing		
23109000-38001-SHL#3		\$ 100,000
Cleveland County Grant		
23109000-33500-SHL#3		\$ 100,000

Appropriation:

Engineering	231590-42004-SHL#3	\$ 200,000
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Section 3. The provisions of this capital project ordinance shall be entered in the minutes of the Shelby City Council and copies filed with the City Manager as Budget Officer, the Finance Director, and the City Clerk for their direction and guidance in receiving revenues and expending the monies due thereunder.

Section 4. This ordinance shall become effective upon its adoption and approval.

Adopted and approved this the 17th day of September 2018.

O. Stanhope Anthony III
Mayor

ATTEST:

Bernadette A. Parduski, NC-CMC, IIMC-MMC
City Clerk

APPROVED AS TO FORM:

Robert W. Yelton
City Attorney

RESOLUTION NO. 48-2018

CITY OF SHELBY
A REIMBURSEMENT RESOLUTION WITH REGARD TO
JOB READY SHELL BUILDING NO. 3

WHEREAS, the Internal Revenue Service and U.S. Treasury Department have published regulations that govern when a political subdivision such as the City of Shelby, North Carolina (the City), can issue or execute tax-exempt obligations to reimburse itself or any agency or division thereof for expenditures on purchases prior to the issuance of tax-exempt obligations for such projects; and

WHEREAS, the regulations require that the governing body of the political subdivision adopt a resolution reciting certain facts and intentions prior to the incurrence of the expenditures; and

WHEREAS, the City anticipates incurring certain expenditures related to the design and construction of Job Ready Shell Building No. 3, in an approximate amount not exceeding \$5,000,000, (the "Expenditures") prior to the issuance by the City of tax-exempt obligations in the form of an installment purchase contract for such purpose in an amount not to exceed \$5,000,000 in expenditures for Job Ready Shell Building No. 3.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Shelby as follows:

Section 1. The City Council hereby declares a reasonable "official intent" pursuant to Regulation 1.103-18 to the Internal Revenue Code of 1986, as amended, to reimburse the City from the proceeds of tax exempt obligations in the form of an installment purchase contract of the City executed under the authority of North Carolina General Statute 160A-20, as amended for such Expenditures. Such Expenditures must be incurred not later than two years from the date hereof in order to be eligible for reimbursement from the proceeds of the installment purchase contract or such other date as may be applicable in the regulations. The City anticipates incurring Expenditures in an approximate amount of not exceeding \$5,000,000 within 18 months of the execution of this document.

Section 2. To be eligible for reimbursement of the Expenditures, the installment purchase contract will be executed on or before the later of the date one year after the Expenditure was paid or the date one year after the structure was placed in service, or such later date as may be applicable in the regulations as amended.

Section 3. The Expenditures are incurred solely to acquire, construct or rehabilitate property having a reasonably expected economic life of at least one year.

Section 4. The source of funds for the Job Ready Shell Building No. 3 will be general funds derived primarily from ad valorem taxes of the City and other City general funds and charges for enterprise services.

Resolution No. 48-2018
September 17, 2018
Page 2

Adopted and Approved this the 17th day of September 2018.

O. Stanhope Anthony, III
Mayor

ATTEST:

Bernadette A. Parduski
City Clerk

APPROVED AS TO FORM:

Robert W. Yelton
City Attorney

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

Agenda Item: D-9

- 9) Adoption of Fiscal Year (FY) 2018-2019 Budget Ordinance Amendment No. 2:
Ordinance No. 53-2018

Consent Agenda Item: (Charlie Holtzclaw, Director Parks and Recreation)

Summary of Available Information:

- Memorandum dated September 4, 2018 from Charlie Holtzclaw, Director Parks and Recreation to Rick Howell, City Manager
- Ordinance No. 53-2018

City Manager's Recommendation / Comments

Ordinance No. 53-2018 is presented for City Council consideration via the Consent Agenda. If approved this ordinance would appropriate \$31,000 from general fund reserve for the purpose of replacing the roof on the Holly Oak Park Activity Center. During the process of some needed interior improvements it was discovered that the roof on this building needed replacement. This is an important facility that is used significantly by the community.

It is my recommendation Ordinance No. 53-2018 be adopted and approved by City Council at this time via the Consent Agenda.



Memorandum

To: Rick Howell, City Manager
Cc: Bernadette Parduski, City Clerk
From: Charlie Holtzclaw, Director Parks & Recreation
Date: September 4, 2018
Subject: Holly Oak Park Activity Center

Executive Summary of issue – Background

The Holly Oak Park Activity Center (Old Center) existed as a horse barn when the Arey Family sold the 45 acre property to the City in the 1950's. Located between the ball field and playground, the Center was converted to a useable facility for family gatherings, birthday parties and park programs and events for the last 60 years.

Review and comments

The Holly Oak Park Activity Center is the most frequently rented facility in the Park's entire system with nearly 100 rentals annually in spite of having no air conditioning and an outdated heating system. For the past few weeks this building has been undergoing interior renovations that includes all new HVAC with modern duct system, tile flooring, windows, paint, lighting, electrical upgrades and kitchen appliances. While these improvements will turn the interior of an old building in to a very nice modern facility, it would be very wise to "protect" this work with a new metal roof to ensure there is no weather related damage for decades to come. This will benefit both the citizens in the Holly Oak Park neighborhood, and patrons throughout the community.

Recommendation

Therefore, it is my recommendation and request to you that consideration be given to the approval of funding to have the contractor install metal roofing as part of the overall building renovation.

ORDINANCE NO. 53-2018

CITY OF SHELBY
FISCAL YEAR (FY) 2018-2019 BUDGET ORDINANCE AMENDMENT

WHEREAS, in accordance with applicable provisions of the North Carolina Budget and Fiscal Control Act, the City of Shelby finds it advisable and necessary to revise and amend its annual budget for FY 2018-2019; and,

WHEREAS, the City Manager (Budget Officer) has recommended certain amendments to the budget which the governing body finds acceptable; and,

WHEREAS, City Council now desires to act on the recommended budget amendments and approve same for implementation and compliance with the Fiscal Control Act;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA:

Section 1. Ordinance No. 31-2019, the City’s FY 2018-2019 Budget Ordinance, is hereby amended as follows to provide for Budget Amendment No. 2 for the year:

(A) The City of Shelby has identified a need to make repairs to the roof of the “Old Center” building at Holly Oak Park. Accordingly, the following budget modifications are approved in accordance with the chart of accounts heretofore established for the City of Shelby.

(1) The following General Fund line items are amended:

- | | |
|--|----------|
| (a) Increase 11001000-39900
Fund Balance Appropriated | \$31,000 |
| (b) Increase 110613-43403
Building Repairs | \$31,000 |

Section 2. That the revenues, expenditures and amendments set forth in Section 1 of this ordinance are hereby summarized as follows:

	<u>Current Budget</u>	<u>Amendment No. 2</u>
General Fund	\$ 24,049,324	\$ 24,080,324
Emergency Telephone System Fund	107,000	107,000
Powell Bill Fund	735,600	735,600
Economic Dev. Fund	671,500	671,500
Housing Fund	1,483,418	1,483,418
Cemetery Fund	30,000	30,000
Utilities-Water Fund	5,429,800	5,429,800
Utilities-Sewer Fund	5,451,500	5,451,500
Utilities-Electric Fund	21,942,000	21,942,000
Utilities-Gas Fund	15,714,600	15,714,600
Utilities – Stormwater Fund	803,600	803,600
FY 2018-2019 Budget Total	<u>\$ 76,418,342</u>	<u>\$ 76,449,342</u>

Section 3. Copies of this Budget Ordinance Amendment shall be furnished to the City Manager as Budget Officer and to the Finance Director to be kept on file by them for their direction in the collection and disbursement of funds. Said officials are hereby authorized to receive and expend funds as herein set forth in accordance with the Shelby City Code, the General Statutes of North Carolina, and the provisions of the original budget ordinance; inclusive of GS 159-28 governing budgetary accounting of appropriations.

Section 4. This ordinance shall become effective upon its adoption and approval.

Adopted and approved this the 17th day of September 2018.

O. Stanhope Anthony, III
Mayor

ATTEST:

Bernadette A. Parduski, NC-CMC, IIMC-MMC
City Clerk

APPROVED AS TO FORM:

Robert W. Yelton
City Attorney

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

Agenda Item: D-10

- 10) Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's Holly Oak Park Playground Project:
Ordinance No. 54-2018

Consent Agenda Item: (Staff Resource, Justin Merritt, Finance Director)

Summary of Available Information:

- Memorandum dated August 27, 2018 from Charlie Holtzclaw, Director Parks and Recreation to Rick Howell, City Manager
- Ordinance No. 54-2018

City Manager's Recommendation / Comments

Ordinance No. 54-2018 is presented for City Council consideration via the Consent Agenda. If approved this ordinance would appropriate \$18,500 from General Fund reserves, recognize a grant in the amount of \$80,000 from Cleveland County and a donation of \$10,000 from the Shelby Friends of the Park. The purpose of the funding is to install an inclusive and accessible playground at Holly Oak Park.

It is my recommendation Ordinance No. 54-2018 be adopted and approved by City Council at this time via the Consent Agenda.



Memorandum

To: Rick Howell, City Manager
Cc: Bernadette Parduski, City Clerk
From: Charlie Holtzclaw, Director Parks & Recreation
Date: August 27, 2018
Subject: Holly Oak Park Playground Improvements

Executive Summary of issue – Background

Early this year the City was made aware of a grant opportunity (\$80,000) from Cleveland County for the purpose of constructing ADA compliant playgrounds with emphasis on being accessible for those confined to a chair. Due to some of the equipment at the playground being old and outdated, and the frequent use of the existing playground, staff decided this opportunity would best serve Holly Oak Park.

Review and comments

In order to qualify for this grant, a committee comprised of City staff and the Parks & Recreation Advisory Board sought and received designs from playground companies that either met or exceeded the requirements of the grant. It was the committee's unanimous decision to choose a design submitted by Barrs Recreation for new 2-5 age play units. The design features a highly interactive piece built like a ship, a two-bay swing set for toddlers and those with handicaps, a spinner, and several pieces of interactive musical pieces. In addition, the project will have all new rubber surfacing that is very accessible, and shade components. In addition, after the original selection, the Friends of the Parks pledged an additional \$10,000 to further enhance the project.

Recommendation

Therefore, it is my recommendation and request to you that consideration be given to the approval of issuing Barrs Recreation a Notice to Proceed to build this exciting new playground that will benefit both the citizens in the Holly Oak Park neighborhood, and patrons throughout the community.

ORDINANCE NO. 54-2018

AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY'S HOLLY OAK PARK PLAYGROUND PROJECT

WHEREAS, in accordance with applicable provisions of the North Carolina Budget and Fiscal Control Act, the City of Shelby finds it advisable and necessary to establish a capital project ordinance and budgets for the City of Shelby's Holly Oak Park Playground Project; and

WHEREAS, it is necessary for the City to establish a budget for this capital project and appropriate applicable funds needed for the administration and construction of this project in order to comply with applicable provisions of the North Carolina Local Government Budget and Fiscal Control Act; and,

WHEREAS, G.S. 159-13.2 provides that a City may undertake the construction of a capital asset such as park, by way of a capital project ordinance providing the necessary balanced budget and funding for the life of the project;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA: The City of Shelby has identified an opportunity to utilize grant funding, along with City Funds, to improve the playground structures and accessibility opportunities at Holly Oak Park. Accordingly, the following budget modifications are approved in accordance with the chart of accounts heretofore established for the City of Shelby.

Section 1. Appropriating Fund Balance:

Fund Balance Appropriated	11001000-39900	\$18,500
Transfer to General Capital Projects	110495-49111	\$18,500

Section 2. The following revenues are available and amounts are hereby appropriated:

Revenues:		
Transferred from General Fund	11101000-39110-HOPPG	\$ 18,500
Community Grants	11101000-34503-HOPPG	\$ 10,000
Cleveland County Grants	11101000-33500-HOPPG	\$ 80,000
Appropriation:		
Construction	111612-53000-HOPPG	\$108,500

Section 3. The provisions of this capital project ordinance shall be entered in the minutes of the Shelby City Council and copies filed with the City Manager as Budget Officer, the Finance Director, and the City Clerk for their direction and guidance in receiving revenues and expending the monies due thereunder.

Section 4. This ordinance shall become effective upon its adoption and approval.

Adopted and approved this the 17th day of September 2018.

Ordinance No. 54-2018
September 17, 2018
Page 2

O. Stanhope Anthony, III
Mayor

ATTEST:

Bernadette A. Parduski, NC-CMC, IIMC-MMC
City Clerk

APPROVED AS TO FORM:

Robert W. Yelton
City Attorney

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

Agenda Item: E-1

Unfinished Business

- 1) Discussion of City Council action closing Royster Memorial Golf Course at City Park no later than November 1, 2018

Unfinished Business Item: (Staff Resource, Rick Howell, City Manager)

Summary of Available Information:

- No documentation provided

City Manager's Recommendation / Comments

Councilmember David Causby has requested that this item be placed on the agenda for discussion and possible action. Council will recall that it took action directing me to close the Royster Memorial Golf Course no later than November 1, 2018 at your June 4, 2018 regular meeting.

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

Agenda Item: E-2

Unfinished Business

- 2) Consideration of a resolution and order permanently closing a section of County Home Road: Resolution No. 49-2018

Unfinished Business Item: (Staff Resource, Rick Howell, City Manager)

Summary of Available Information:

- Copy of Resolution No. 31-2018
- Resolution No. 49-2018

City Manager's Recommendation / Comments

Resolution No. 49-2018 is presented for City Council consideration at this time. If approved this resolution would send a recommendation to the NC Department of Transportation Board that this section of County Home Road be permanently closed. The final decision on any closure rests with the NCDOT Board.

Council will remember that concern was expressed about traffic impacts on Main Street and the intersection with US Hwy 74 and Post Road. In addition I have spoken to representatives of the State Employee Credit Union regarding their plans to construct a new facility. They have indicated that they do in fact have intentions to build a new facility but that there is no definite schedule to do so. They are willing to work with the City to plan for a new connector road in the future through a portion of their property but cannot commit to that until they have firmer plans.

I would note that the impetus for this closure comes from the ownership group of the new Fairfield Inn. Closure would allow them enough land area to recruit a larger sit down restaurant. As you know if the road is closed the land would revert ownership to adjoining property owners.

I will review your options and make a recommendation on Monday evening.

RESOLUTION NO. 49-2018

**A RESOLUTION AND ORDER PERMANENTLY CLOSING
A SECTION OF COUNTY HOME ROAD**

WHEREAS, on June 18, 2018 the City Council of the City of Shelby directed the City Clerk to publish a Resolution of Intent of the City Council to consider closing a section of County Home Road; and,

WHEREAS, said Resolution of Intent was to be published in The Shelby Star once a week for four (4) successive weeks advising the public that a public hearing would be conducted in the Council Chambers of Shelby City Hall on July 16, 2018; and,

WHEREAS, the City Clerk was further instructed to notify all persons owning property abutting the affected portion of said street if the scheduled public hearing by copy of the Resolution of Intent, and that said notice of public hearing be posted in two places on the affected portion of County Home Road; and,

WHEREAS, the City Clerk has advised the City Council that on the date directed, she sent notice to each of said abutting property owners advising them of the date, time, and place of the public hearing by copy of the City Council's Resolution of Intent and advising said abutting property owners that the question as to the closing of said street would be acted upon, said notice having been mailed by certified mail with return receipt requester; and,

WHEREAS, after full and complete consideration of the matter and after having granted full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to the closing of said street; and,

WHEREAS, it now appears to the satisfaction of the City Council the closing of said right of way is not contrary to the public interest and that no individual owning property abutting the street, will as a result of said closing, be thereby deprived of a reasonable means of ingress and egress to their property; and,

WHEREAS, it appears to the satisfaction of the City Council that the closing of said road will not be in conflict with the public interest; and,

WHEREAS, the North Carolina Board of Transportation has the final decision making authority in closing said road.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA:

Section 1. That County Home Road, north of US 74 Bypass, as displayed on the plat titled plat of Right of Way Abandonment/Dedication County Home Road, as situated within the City of Shelby is hereby recommended to be permanently closed and all rights, title, and interest that may be vested in the public to said area for street purposes is hereby released to the abutting property owners in accordance with Chapter 160A-299, as amended, of the North Carolina General Statutes.

Section 2. A permanent waterline easement of twenty feet as shown on the attached easement document shall be maintained.

Section 3. The City Clerk is hereby authorized to submit this resolution to NCDOT for consideration by the North Carolina Board of Transportation.

Section 4. This Resolution shall become effective upon its adoption and approval.

Adopted and approved this the 17th day of September 2018.

O. Stanhope Anthony, III
Mayor

ATTEST:

Bernadette A. Parduski, NC-CMC, IIMC-MMC
City Clerk

APPROVED AS TO FORM:

Robert W. Yelton
City Attorney

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

Agenda Item: E-3

3) Consideration of appointment to City Council Ward 5 Seat

Unfinished Business Item: (Staff Resource, Bernadette A. Parduski, City Clerk)

Summary of Available Information:

- Memorandum dated September 6, 2018 from Bernadette A. Parduski, City Clerk to Rick Howell, City Manager

City Manager's Recommendation / Comments

The City Clerk has delivered letters of interest and applications for seven candidates to City Council for consideration. This time is scheduled to allow Council discussion and possible action to appoint a new member to replace Mr. Ben Kittrell. The successful candidate by state law will serve until the next organizational meeting of the Council on December 3, 2019.

OFFICE
OF THE
CITY CLERK



Memo

To: Mayor Anthony and Shelby City Council Members
From: Bernadette A. Parduski, City Clerk
Date: September 6, 2018
Re: Ward 5 City Council Vacancy Appointment

BACKGROUND:

On August 6, 2018 City Council set September 6, 2018 at 5:00 p.m. as the official deadline to submit applications for the Ward 5 City Council vacancy. Shelby residents who qualified were invited to apply for the vacant seat. As requested, the vacancy was highly publicized. In accordance with the approved vacancy appointment process, Council is being provided with copies of all application packets received in the Clerk's Office to begin their review process.

REVIEW:

Nominations for the Ward 5 vacancy are to be made only from applications received by the deadline established by Shelby City Council. Qualifications as to voter registration and the residency requirement have been verified. Applications have been received from the following individuals:

1. Robert Paul Queen
2. Travis Oliver Smart
3. Betty Zane Taylor
4. Gregory Scott Taylor
5. Tanzy Barrow Wallace
6. Charles Leon Webber
7. Gary Scott Leigh

Copies of all application packets are attached.

ACTION:

City Council is scheduled to consider the applicants and have further discussion on September 17, 2018, ultimately taking appointive action.

ATTACHMENTS:

1. Application packet of Robert Paul Queen
2. Application packet of Travis Oliver Smart
3. Application packet of Betty Zane Taylor
4. Application packet of Gregory Scott Taylor
5. Application packet of Tanzy Barrow Wallace
6. Application packet of Charles Leon Webber
7. Application packet of Gary Scott Leigh

§ 160A-63. Vacancies.

A vacancy that occurs in an elective office of a city shall be filled by appointment of the city council. If the term of the office expires immediately following the next regular city election, or if the next regular city election will be held within 90 days after the vacancy occurs, the person appointed to fill the vacancy shall serve the remainder of the unexpired term. Otherwise, a successor shall be elected at the next regularly scheduled city election that is held more than 90 days after the vacancy occurs, and the person appointed to fill the vacancy shall serve only until the elected successor takes office. The elected successor shall then serve the remainder of the unexpired term. If the number of vacancies on the council is such that a quorum of the council cannot be obtained, the mayor shall appoint enough members to make up a quorum, and the council shall then proceed to fill the remaining vacancies. If the number of vacancies on the council is such that a quorum of the council cannot be obtained and the office of mayor is vacant, the Governor may fill the vacancies upon the request of any remaining member of the council, or upon the petition of any five registered voters of the city. Vacancies in appointive offices shall be filled by the same authority that makes the initial appointment. This section shall not apply to vacancies in cities that have not held a city election, levied any taxes, or engaged in any municipal functions for a period of five years or more.

In cities whose elections are conducted on a partisan basis, a person appointed to fill a vacancy in an elective office shall be a member of the same political party as the person whom he replaces if that person was elected as the nominee of a political party. (R.C., c. 111, ss. 9, 10; Code, ss. 3793, 3794; Rev., ss. 2921, 2931; C.S., ss. 2629, 2631; 1971, c. 698, s. 1; 1973, c. 426, s. 11; c. 827, s. 1; 1983, c. 827, s. 1.)

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

Agenda Item: F-1

New Business

- 1) Approval of a resolution of the City Council of the City of Shelby, North Carolina, authorizing the purchase of natural gas from the Black Belt Energy Gas District; approving the execution and delivery of a gas supply agreement and other documents relating to said purchase; consenting to the assignment of certain obligations under the gas supply agreement in connection with the issuance of bonds by the Black Belt Energy Gas District; and addressing related matters: Resolution No. 50-2018

Consent Agenda Item: (Rick Howell, City Manager, Julie McMurry, Energy Services Director)

Summary of Available Information:

- Resolution No. 50-2018

City Manager's Recommendation / Comments

Resolution No. 50-2018 is presented for City Council consideration at this time. I will review this item on Monday evening and have asked Scott Heath of Heath and Associates to make a brief presentation explaining this natural gas prepay opportunity. It essentially would allow the City to participate with a group of other cities leveraging tax exempt financing to pre-purchase natural gas at a significant discount. There is more than one opportunity and it is important that the City be nimble in choosing a prepay deal. The current deal could provide annual savings in the vicinity of \$264,000 annually.

It is my recommendation Resolution No. 50-2018 be adopted and approved by City Council at this time via the Consent Agenda.

RESOLUTION NO. 50-2018

**A RESOLUTION
TO BE ENTITLED:**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA, AUTHORIZING THE PURCHASE OF NATURAL GAS FROM THE BLACK BELT ENERGY GAS DISTRICT; APPROVING THE EXECUTION AND DELIVERY OF A GAS SUPPLY AGREEMENT AND OTHER DOCUMENTS RELATING TO SAID PURCHASE; CONSENTING TO THE ASSIGNMENT OF CERTAIN OBLIGATIONS UNDER THE GAS SUPPLY AGREEMENT IN CONNECTION WITH THE ISSUANCE OF BONDS BY THE BLACK BELT ENERGY GAS DISTRICT; AND ADDRESSING RELATED MATTERS

WHEREAS, The Black Belt Energy Gas District (“Black Belt”) is organized as an Alabama gas district, a public corporation organized by actions of its member municipalities pursuant to the provisions of the Alabama Gas Districts Act, § 11-50-390, *et seq.*, Alabama Code (1975); and

WHEREAS, Black Belt was formed, among other reasons, for the purpose of acquiring, financing, and managing secure and economically priced supplies of natural gas for sale to the Clarke-Mobile Counties Gas District, which serves the geographic areas of its member municipalities, and other public gas distribution systems and joint action agencies inside and outside the State of Alabama pursuant to the Alabama Gas Districts Act, § 11-50-390, *et seq.*, Alabama Code (1975); and

WHEREAS, Black Belt has planned and developed a project to acquire long-term gas supplies from J. Aron & Company LLC, a New York limited liability company and an affiliate of The Goldman Sachs Group, Inc., pursuant to a Prepaid Natural Gas Sales Agreement, to meet a portion of the requirements of the City of Shelby (the “Gas Purchaser”) and other public gas and electric distribution systems and joint action agencies that elect to participate (each, a “Project Participant”) through a prepayment (the “Prepaid Project”); and

WHEREAS, Black Belt will issue its Gas Project Revenue Bonds, Series 2018D (the "Black Belt Bonds") to finance the acquisition of gas supplies under the Prepaid Project; and

WHEREAS, Gas Purchaser is a Municipal Corporation organized under the laws of the State of North Carolina; and

WHEREAS, Gas Purchaser has determined that it is in the best interest of its customers to be a Project Participant and thereby purchase a portion of Gas Purchaser's natural gas requirements from Black Belt pursuant to a natural gas sales contract to be entered into by Black Belt and Gas Purchaser (the "Gas Supply Agreement"); and

WHEREAS, under the Gas Supply Agreement, Gas Purchaser will agree to purchase from Black Belt the amounts of gas specified in the Gas Supply Agreement, at the prices specified in the Gas Supply Agreement, for a term specified in the Gas Supply Agreement; and

WHEREAS, the Black Belt Bonds will be issued pursuant to a Trust Indenture between Black Belt and a corporate trustee (the "Indenture") and purchased by the underwriters or original purchasers

of the Black Belt Bonds (the "Underwriters") pursuant to one or more bond purchase agreements or similar agreements; and

WHEREAS, Black Belt will pledge to the payment of the Black Belt Bonds certain assets of Black Belt, including the Gas Supply Agreement between Black Belt and Gas Purchaser; and

WHEREAS, Gas Purchaser shall have no financial liability with respect to the Black Belt Bonds, and Gas Purchaser's only obligations relating to the Prepaid Project shall be set forth in the Gas Supply Agreement; and

WHEREAS, in order to authorize the purchase of natural gas from Black Belt and the execution of the Gas Supply Agreement, to consent to the assignment of the Gas Supply Agreement to secure the Black Belt Bonds, to authorize the sale of the gas purchased from Black Belt, and to authorize and take such other necessary and appropriate action in furtherance of the Prepaid Project, the City Council of the City of Shelby, North Carolina, adopts this Resolution.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Shelby, North Carolina (the "Governing Body"), as follows:

SECTION 1: The City of Shelby, North Carolina ("Gas Purchaser") is authorized to enter into a Gas Supply Agreement with Black Belt, pursuant to which Gas Purchaser will purchase natural gas from Black Belt as provided in the Gas Supply Agreement. The Gas Supply Agreement shall (a) have a term of not greater than [366] months, (b) provide for the purchase by Gas Purchaser of not more than an annual average over the term of the Gas Supply Agreement of 3500 MMBtu per day, and (c) provide for a projected minimum savings (prior to payment of the project administration fee as set forth in the Gas Supply Agreement) through monthly and annual discounts of not less than \$0.35 per MMBtu to Gas Purchaser for the initial five year rate period, \$0.20 per MMBtu over the next five year rate period, and \$0.25 per MMBtu on a cumulative basis through the end of each successive reset period, unless the Gas Purchaser elects to purchase gas at a lesser discount during any reset period, as set forth in the Gas Supply Agreement.

SECTION 2: The Gas Supply Agreement shall be in substantially the form submitted and attached hereto as Exhibit A, which such form is hereby approved, to include such completions, deletions, insertions, revisions, and other changes as may be approved by the officers executing same with the advice of counsel, their execution to constitute conclusive evidence of their approval of any such changes.

SECTION 3: The sale of the gas purchased by Gas Purchaser from Black Belt shall be sold by Gas Purchaser to retail customers of Gas Purchaser pursuant to published tariffs or pursuant to qualified requirements contracts approved by tax counsel to Black Belt, under terms approved by tax counsel to Black Belt.

SECTION 4: The Mayor (the "Authorized Officer") is hereby authorized to execute and deliver the Gas Supply Agreement and the City Clerk (the "Attesting Officer") is hereby authorized to attest the Gas Supply Agreement.

SECTION 5: The officers, employees, and agents of Gas Purchaser are hereby authorized and directed to take such actions and do all things necessary to cause the purchase of said gas to take place, including the payment of all amounts required to be paid in order to purchase the gas in accordance with the Gas Supply Agreement.

SECTION 6: The Governing Body consents to the assignment and pledge of all of Black Belt's right, title and interest under the Gas Supply Agreement, including the right to receive performance by Gas Purchaser of its obligations thereunder, to secure the payment of principal of and interest on the Black Belt Bonds.

SECTION 7: The officers and employees of Gas Purchaser, as well as any other agent or representative of Gas Purchaser, are hereby authorized and directed to cooperate with and provide Black Belt, the underwriters of Black Belt's Bonds, and their agents and representatives with such information relating to Gas Purchaser as may be necessary for use in the preparation and distribution of a preliminary official statement or other disclosure document used in connection with the sale of the Black Belt Bonds. After the Black Belt Bonds have been sold, any officer or employee of Gas Purchaser, or any agent or representative designated by Gas Purchaser, shall make such completions, deletions, insertions, revisions, and other changes in the preliminary official statement relating to Gas Purchaser not inconsistent with this Resolution as are necessary or desirable to complete it as a final official statement for purposes of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"). The Governing Body hereby covenants and agrees that Gas Purchaser will cooperate with Black Belt in the discharge of Black Belt's obligations to provide annual financial and operating information and notification as to material events with respect to Gas Purchaser as may be required by the Rule. Any officer or employee of Gas Purchaser, or such other agent or representative of Gas Purchaser as shall be appropriate, is hereby authorized and directed to provide such information as shall be required for such compliance, and such officer or employee may execute a continuing disclosure agreement with respect to the provision of such information if requested to do so by the underwriters of the Black Belt Bonds.

SECTION 8: The Black Belt Bonds are not obligations of Gas Purchaser but are limited obligations of Black Belt payable solely from the revenues and receipts pledged by Black Belt under the Indenture, including the revenues and receipts arising from the sale of gas to Project Participants. By consenting to the assignment of the Gas Supply Agreement and agreeing to provide information for inclusion in the official statement, Gas Purchaser is not incurring any financial liability with respect to the Black Belt Bonds.

SECTION 9: All acts and doings of the officers and employees of Gas Purchaser or any other agent or representative of Gas Purchaser which are in conformity with the purposes and intent of this Resolution and in furtherance of the execution and delivery of and performance under the Gas Supply Agreement, and in furtherance of the issuance and sale of the Black Belt Bonds, shall be and the same hereby are in all respects approved and confirmed, including without limitation the execution and delivery by the officers of Gas Purchaser of all certificates and documents as they shall deem necessary in connection with the Gas Supply Agreement and the Black Belt Bonds.

SECTION 10: If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Resolution.

SECTION 11: All other resolutions or orders, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed and this Resolution shall be in immediate effect from and after its adoption.

SECTION 12: This Resolution shall take effect immediately upon its adoption.

Adopted and approved this 17th day of September, 2018.

O. Stanhope Anthony, III,
Mayor

I, Bernadette A. Parduski, do hereby certify that I am the duly qualified and acting Clerk of the City of Shelby, North Carolina, and as such official I further certify that the foregoing is a true and correct copy of a Resolution adopted by the City Council of the City of Shelby, North Carolina, at a meeting, a quorum being present and acting throughout, held on September 17, 2018.

Bernadette A. Parduski, NC-CMC, IIMC-MMC,
City Clerk

EXHIBIT A
FORM OF GAS SUPPLY AGREEMENT

[Attached]

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

Agenda Item: G

City Manager's Report

Agenda Item: H

Council Announcements and Remarks

City of Shelby
Agenda Item Summary
September 17, 2018
City Hall Council Chamber

I. Closed Session:

- 1) To approve the Minutes and General Account of the Closed Session of May 14, 2018
- 2) To approve the Minutes and General Account of the Closed Session of July 19, 2018
- 3) To establish or instruct staff in negotiating the terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease pursuant to North Carolina General Statute 143-318.11 (a) (5)

J. Adjournment:

To adjourn a meeting of City Council, a majority of the Council members must vote for a motion to adjourn.

Motion to adjourn