

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. 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.

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- 2) Approval of a resolution adopting the City of Shelby's Comprehensive Bicycle and Pedestrian Plan 2020: Resolution No. 19-2020 12
- 3) Approval of a resolution of the City Council of the City of Shelby, North Carolina, determining that it is in the best interest of the City of Shelby to approve a Waiver Agreement with North Carolina Municipal Power Agency Number 1 and authorizing the execution and delivery of the Waiver Agreement: Resolution No. 20-2020 15
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City of Shelby
Agenda Item Summary
May 18, 2020
(via electronic meeting)

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City of Shelby
Agenda Item Summary
May 18, 2020
(via electronic meeting)

C. Consent Agenda

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Agenda Item: C-1

- 1) Approval of the Minutes of the Regular Meeting of May 4, 2020

Consent Agenda Item: (Bernadette Parduski, City Clerk)

Summary of Available Information:

Please read and offer changes as you deem necessary.

- Minutes of the Regular Meeting of May 4, 2020

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 – Electronic method
City Hall and Don Gibson Theatre

May 4, 2020
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members Eric B. Hendrick, David W. White, David Causby, Violet Arth Dukes, Charles Webber, and Andrew Hopper, Sr.; City Manager Rick Howell, MPA, ICMA-CM, Assistant City Manager Justin S. Merritt, MPA, Interim City Attorney Martha Raymond Thompson, City Clerk Bernadette A. Parduski, Director of Human Resources Deborah C. (Deb) Jolly, Director of Finance Elizabeth B. (Beth) Beam, Director of Water Resources David W. Hux, Fire Chief William P. Hunt, MPA, EFO, Director of Parks and Recreation Charlie Holtzclaw, Director of Planning and Development Services Walter (Walt) Scharer, AICP, Public Information and Communications Officer Chip Nuhrah, Jennipher H. Harrill, Social Media Manager, Blue Eyes Social Media Connections, and Stan Lowery, Executive Director, Don Gibson Theatre

Mayor Anthony called the meeting to order at 6:00 p.m. and certified a quorum was present. It was noted a location for public access to the meeting was established at the Don Gibson Theatre and monitored by Mr. Lowery. A maximum of ten (10) persons would be allowed to attend.

The Mayor called for a moment of silence to reflect and remember all those in our community, our country, and around the world, including our government officials and leaders, in service and working tirelessly to resolve the COVID-19 pandemic.

A. Approval of agenda:

1) Motion to adopt the proposed agenda

Mayor Anthony requested the addition of Item C-4 under the consent agenda as follows:

- Approval of a resolution regarding the provision of legal services for the City of Shelby: Resolution No. 18-2020

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

B. Special Presentation:

1) Shelby Bicycle + Pedestrian Plan – Walt Scharer, Director of Planning and Development Services

Mr. Scharer introduced the subject matter of his presentation by stating in 2019 the North Carolina Department of Transportation awarded the City of Shelby State Planning and Research (SPR) funding to produce a comprehensive bicycle and pedestrian plan. Council approved and accepted the funds in September 2019 and the planning process began. The grant amount was \$72,000 with a City match of \$8,000 for a total project cost of \$80,000. The City's consultant on this project, Toole Design Group of Raleigh, North Carolina, has completed the plan.

Next, Mr. Scharer acknowledged the following individuals which included staff, advisory board members, community partners, and citizen/advocates who participated in this project: Ben Yarboro, Shannon Porter, Scott Black, Juan Cherry, Mark Carter, Patrick McMurry, Bill McCarter, Audrey Whetten, Jane Love, Dean Ledbetter, Howard Liss, and Chuck Lampley.

Mr. Scharer stated the 2020 Shelby Bicycle and Pedestrian Plan includes both the overview of the process for developing the plan along with the recommendations and next steps to achieve a safer, more connected bicycling and pedestrian system. He provided a summary of the overall contents that make up the plan:

- Existing conditions review
- Public participation
- Network of facilities
- Catalyst projects
- Program and policy recommendations
- Implementation plan
- Design guidance

Mr. Scharer discussed the reasons for bicycling and walking in Shelby:

- Promote equity and inclusivity through all neighborhoods
- Encourage economic growth and community development
- Increase quality of life and build connections to community
- Create safer streets
- Improve health and encourage an active lifestyle

Mr. Scharer stated the public outreach process engaged the greater Shelby community through meaningful and creative events and outreach. The outreach key takeaways included:

- Viable mobility choices are valued
- Lack of adequate infrastructure
- Safety is a concern
- Connectivity to the future Rail Trail Project is critical

- Fill existing gaps in infrastructure especially in sidewalks and extend bicycle connectivity

Mr. Scharer stated several analyses were conducted during the planning process to ensure that the recommendations effectively serve all people and communities within Shelby and included:

- Public involvement – The public engagement process and the community analyses provided a foundation for developing the Shelby plan.
- Pedestrian hotspots – These areas need more sidewalks and trails that connect to the existing sidewalk network.
- Safety, comfort, and access – Bikeable communities are healthier, and enjoy more economic growth, than their less bike-friendly peers.
- Sidewalk inventory – Sidewalks provide basic mobility for walking and wheeling, connecting important points of interest and community destinations. A sidewalk network with gaps where there is no sidewalk reduces mobility and restricts accessibility to and from key destinations. Some of the conditions that hinder walking and make for unsafe maneuverability include breaks in sidewalk connectivity; non-ADA compliant curb ramps; poorly maintained, narrow, or broken sidewalks; or obstructions on the sidewalk path. Breaks in the network, also referred to as “gaps”, can reduce walkability, especially for individuals with physical disabilities and the elderly.
- Equity analysis – The equity analysis highlights areas within Shelby in which there are concentrations of underserved populations due to social, economic, and cultural disadvantages, and where people may benefit most from safer bicycling and walking connections based upon the lack of personal vehicle access.

Mr. Scharer discussed the recommended network, including 87 linear projects of bicycle and pedestrian facilities and 15 spot projects. He commented that public input was one layer of analysis used to craft a network of bicycle and pedestrian recommendations that would serve the City of Shelby. Mr. Scharer added a well-connected network of facilities in Shelby can increase users that bicycle and walk, provide connectivity to several destinations, and help the City strategize investments and implementation.

Each of the projects in the network of facilities is split into one of three categories:

- Primary Routes – West Marion Street
- Secondary Routes – Royster Avenue at South Morgan Street; Gidney Street
- Spot Projects – East Grover Street and North Dekalb Street

- Also mentioned were the Rail Trail and the 2020 Shelby on the Move Recreation Master Plan

Next, Mr. Scharer discussed the following as a variety of policy opportunities that align with the Shelby Bicycle and Pedestrian Plan goals and performance measures:

- Adopt a Sidewalk Improvement Policy
- Implement Bicycle Parking Requirements
- Create a Bicycle and Pedestrian Advisory Committee
- Adopt a Sidewalk Fee-in-lieu Policy or Ordinance
- Adopt a Developer Built Bikeway Policy or Ordinance

Mr. Scharer reviewed four catalyst projects that can build momentum, offer an illustration of proposed recommendations, and identify key elements of a successful network (safety, connectivity, comfort, unbroken flow, directness, and attractiveness) as follows:

- Primary Route – West Marion Street

Located in the heart of Uptown Shelby, West Marion Street is a vital connector within Uptown. West Marion Street also links Uptown to the surrounding residential neighborhoods, Court Square and the Earl Scruggs Center, and the commercial center of Shelby.

- Secondary Route – Royster Avenue

Royster Avenue is envisioned to be a neighborhood greenway, intended to encourage bicycling and walking to and from Uptown Shelby and the Rail Trail.

- Secondary Route – Gidney Avenue

Gidney Street links South Dekalb Street to numerous residential properties and the rear access to commercial retail that is along East Dixon Boulevard (Lowe's Home Improvement, Aldi's, Walmart Super Center, etc.). In addition, Gidney Street will connect directly to the planned Hickory Creek Greenway.

- Spot Project – East Grover Street/ North Dekalb Street

East Grover Street at North Dekalb Street is a highly trafficked and geometrically wide intersection. This intersection is adjacent to the Atrium Health Cleveland Hospital, along with several high-volume pharmacies. Long street crossings, high speeds, incomplete

sidewalks, and poor sight distances make this intersection a barrier for people bicycling and walking.

Lastly, Mr. Scharer concluded by stating recommendations that achieve a safe, connected, accessible, comfortable, and convenient bicycle and pedestrian network require design guidance that reflects best practices and can serve as a resource for the City moving forward. This design guidance, along with the entire Plan, should be used by planners and engineers to better understand important considerations as they plan and design safe and comfortable infrastructure for Shelby.

Council received the information and will consider the 2020 Shelby Bicycle and Pedestrian Plan for formal adoption at a future meeting.

C. Consent Agenda:

Mayor Anthony presented the consent agenda. Mr. Hopper 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 April 20, 2020
- 2) Adoption of an ordinance authorizing demolition of a dwelling (715 Congress Street): Ordinance No. 18-2020
- 3) Adoption of an ordinance authorizing demolition of a dwelling (319 Grice Street): Ordinance No. 19-2020
- 4) Approval of a resolution regarding the provision of legal services for the City of Shelby: Resolution No. 18-2020

D. Unfinished Business: None

E. New Business:

- 1) Consideration of a resolution supporting the City of Shelby's application for trail construction funds for the Carolina Thread Trail: Resolution No. 16-2020

Mr. Howell introduced Resolution No. 16-2020 for Council's consideration. If approved, this resolution would authorize the submittal of a grant application to the Carolina Thread Trail (CTT) organization requesting funding to assist the City of Shelby with replacement of the First Broad River Trail suspension bridge. The bridge was destroyed in February 2020 due to flooding.

Mr. Scharer added these grant awards may be as much as \$100,000 and applications are due in June 2020. He recommended applying for these funds to rebuild the suspension bridge.

ACTION TAKEN: Upon a motion made by Mr. Webber, City Council voted unanimously to approve and adopt Resolution No. 16-2020 entitled, “A RESOLUTION SUPPORTING THE CITY OF SHELBY’S APPLICATION FOR TRAIL CONSTRUCTION FUNDS FOR THE CAROLINA THREAD TRAIL”.

- 2) Consideration of a resolution of tentative award for the Brookwood Drive sewer asphalt repairs to Two Brothers Utilities, LLC: Resolution No. 17-2020

Mr. Howell introduced Resolution No. 17-2020 for Council’s consideration. If approved, this resolution would award a contract to Two Brothers Utilities, LLC in an amount not to exceed \$99,425.91. He explained this project was bid using the informal bid method which does not require the receipt of three (3) bids. The City received two bids and one no bid for the unit prices for the Brookwood Drive Asphalt Repair Project.

As background, Mr. Howell stated City staff has reviewed the existing conditions in the area and have discussed possibilities for repair. Sewer lines were installed along Brookwood Drive, Circleview Drive, Spring Drive, and Meadowood Drive in the late 1990s. Over the last five years, the City has observed settling along the sewer line that can be attributed to poor soils and/or compaction. The City has made a few repairs, however, other areas in this neighborhood are appearing with as much as four (4) inches of settlement in places. This work will repair poor construction from the original installation of sewer lines within this neighborhood.

Mr. Howell concluded by stating staff reviewed the bids and recommended the City award the bid to Two Brothers Utilities, LLC for the unit prices for Brookwood Drive Asphalt Repair that will not exceed \$99,425.91 without approval by the City of Shelby. It was noted funds are available in the Sewer operation budget for Fiscal Year 2019-2020.

ACTION TAKEN: Upon a motion made by Mr. Causby, City Council voted unanimously to approve and adopt Resolution No. 17-2020 entitled, “A RESOLUTION OF TENTATIVE AWARD FOR THE BROOKWOOD DRIVE SEWER ASPHALT REPAIRS TO TWO BROTHERS UTILITIES, LLC”.

F. City Manager’s Report:

- 1) Mr. Howell will deliver his proposed Fiscal Year 2020-2021 budget presentation and budget message at the next Council meeting of May 18, 2020. He anticipates the budget to be very similar to last year’s budget

due to the current economic conditions brought about by the COVID-19 pandemic and other factors. Mr. Howell told Council his recommendations will be made clear and to expect more frequent budget amendments from staff, which will be caused by uncertain and most likely lost revenues.

- 2) Mr. Howell reminded Council the City was awarded a North Carolina Department of Transportation (NCDOT) – Transportation Alternatives Program (TAP) grant in the amount of \$4.16 million to secure the purchase of the rail corridor for its rails-to-trail project. The City continues to work with NCDOT to obtain those funds which have been held back due to the Department’s budget issues.
- 3) Mr. Howell mentioned a citizen noticed the gates at Sunset Cemetery were missing. The gates were damaged by a bus driver, attempting to turn around, and are being repaired.
- 4) Mr. Howell said the Water Treatment Plant is scheduled for a startup date on May 15, 2020.
- 5) Mr. Howell mentioned the Wastewater Treatment Plant Biosolids Facility should have a startup date sometime in September or October 2020.
- 6) Regarding the US Department of Transportation BUILD (Better Utilizing Investments to Leverage Development Transportation Discretionary) Grants Program, Mr. Howell stated the City is in the process of completing and submitting its application seeking \$25 million in funding to build a rail trail within its rail corridor.
- 7) Mr. Howell reported the Coronavirus Aid, Relief, and Economic Security (CARES) Act, signed into law by the President, includes \$10 billion in funds to be awarded as economic relief to eligible US airports affected by the prevention of, preparation for, and response to the COVID-19 pandemic. Shelby Cleveland County Regional Airport was included and will receive a \$30,000 grant for operational purposes.
- 8) Regarding the construction of Shell Building No. 3 located on Plato Lee Road, Mr. Howell said the clearing and grubbing of that site has begun with Hickory Construction Company acting as general contractor.
- 9) Regarding the Foothills Farmers Market 2020 season, Mr. Howell advised Council new guidelines for the reopening of the market beginning Saturday, May 9, 2020, are intended to implement operational adjustments to mitigate health risks from COVID-19.
- 10) Regarding the Shelby1Fund Small Business Loan Program, Mr. Howell

informed Council 18 applications have been submitted to date requesting \$170,000, including 9 qualified, 6 disqualified, and 3 checks have been issued.

- 11) Mr. Howell provided Council with the City's Monthly Financial Summary of the Fiscal Year to date at March 2020.

G. Council Announcements and Remarks:

- 1) Mayor Anthony encouraged the public to complete to the 2020 Census.
- 2) Next, Mayor Anthony provided an update on the work of the Bobby Bell Commemoration Committee. The two ideas under consideration included the renaming of Dekalb Street to Bobby Bell Boulevard. NC House of Representatives Speaker Tim Moore's office provided additional information from NC Department of Transportation (DOT). NCDOT advised to forego the renaming process due to the current economic situation at this time and encouraged Council to seek an honorary designation of Dekalb Street to Bobby Bell Boulevard. Council should submit a local resolution and request the appropriate signage. The Mayor noted this project could be quickly accomplished. The second idea is the renaming of a City-owned facility namely, City Pavilion, which Council has the authority to do so. This project would only require additional, interpretative signage.

By consensus, Council agreed to proceed with both projects honoring Bobby Bell.

- 3) Mayor Anthony reminded all to support Shelby's small businesses during the COVID-19 pandemic.
- 4) Mr. Webber expressed his gratefulness and commended the City Manager, staff, and employees for enduring through the COVID-19 pandemic and the many challenges they faced over the last several months.

Mr. Causby echoed Mr. Webber's sentiments.

- 5) Mrs. Arth Dukes wished all to stay safe and healthy.

H. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to adjourn the meeting at 6:43 p.m.

Respectfully submitted,

**Bernadette A. Parduski, NCCMC, MMC
City Clerk**

**O. Stanhope Anthony III
Mayor**

Minutes of May 4, 2020

DRAFT

City of Shelby
Agenda Item Summary
May 18, 2020
(via electronic meeting)

Agenda Item: C-2

- 2) Approval of a resolution adopting the City of Shelby's Comprehensive Bicycle and Pedestrian Plan 2020: Resolution No. 19-2020

Consent Agenda Item: (Walter Scharer, Planning Director)

Summary of Available Information:

- Memorandum dated May 11, 2020 from Walter Scharer, Planning Director to Rick Howell, City Manager
- Resolution No. 19-2020

City Manager's Recommendation / Comments

Resolution No. 19-2020 is presented for City Council consideration at this time via the Consent Agenda. If approved this resolution would approve the 2020 Comprehensive Bicycle and Pedestrian. Mr. Scharer presented an overview of the plan at your May 4th regular meeting and a full copy has previously be made available to Council. This plan sets forth a blueprint for future bicycle and pedestrian facilities that may be constructed by the City and/or NCDOT. It will ultimately allow staff to better plan where resources are directed and to coordinate with NCDOT as well as the Gaston, Cleveland, Lincoln Metropolitan Planning Organization.

This plan also updates the 2007 Comprehensive Pedestrian Plan. It was funded by a \$72,000 grant from NCDOT using SPR Funds. The City was required to provide a 10% match of \$8,000. Many of the sidewalk improvements as well as the trail system construction were identified in the previous plan. I would also note that staff took measures to ensure the public was heard through a representative citizen steering committee as well as surveys and public meetings.

It is my recommendation that Resolution No. 19-2020 be adopted and approved by City Council via the Consent Agenda at this time.



Memorandum

To: Rick Howell - City Manager
From: Walter Scharer – Planning Director
Date: May 11, 2020
Subject: Bicycle/Pedestrian Plan Contract

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. In 2018, the City of Shelby was awarded SPR funds to complete a 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.

City staff issued a Request for Qualifications for firms to submit for consideration. After reviewing the qualifications and interviewing firms, the City of Shelby hired Toole Design to assist the City in creating a new Bicycle and Pedestrian Plan. A special steering committee was also created to help create this plan. I gave a presentation about this plan to City Council on May 4, 2020. Staff now recommends the City adopt this plan.

Please place this item on the consent agenda for the May 18, 2020 City Council meeting.

Attachment: Resolution

RESOLUTION NO. 19-2020

A RESOLUTION ADOPTING THE CITY OF SHELBY'S COMPREHENSIVE
BICYCLE AND PEDESTRIAN PLAN 2020

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, The City of Shelby adopted a Comprehensive Pedestrian Plan in 2007; and,

WHEREAS, The City of Shelby wished to update the Comprehensive Pedestrian Plan 2007 and add a Bicycle component; and,

WHEREAS, NCDOT State Planning and Research Program Fund was awarded to the City for this plan; and,

WHEREAS, As the City of Shelby created a Steering Committee and hired Toole Design Group to complete the plan.

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

Section 1. That City hereby adopts the Comprehensive Bicycle and Pedestrian Plan 2020.

Adopted and approved this 18th day of May 2020.

O. Stanhope Anthony III
Mayor

ATTEST:

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

City of Shelby
Agenda Item Summary
May 18, 2020
(via electronic meeting)

Agenda Item: C-3

- 3) Approval of a resolution of the City Council of the City of Shelby, North Carolina, determining that it is in the best interest of the City of Shelby to approve a Waiver Agreement with North Carolina Municipal Power Agency Number 1 and authorizing the execution and delivery of the Waiver Agreement:
Resolution No. 20-2020

Consent Agenda Item: (Rick Howell, City Manager)

Summary of Available Information:

- Copy of Resolution No. BDR-6-20
- Waiver Agreement
- Resolution No. 20-2020

City Manager's Recommendation / Comments

Resolution No. 20-2020 is presented for City Council consideration at this time via the Consent Agenda. If approved this resolution would essentially allow the NC Municipal Power Agency #1 to no longer provide mailed hard copies of Annual Budget Information and Monthly wholesale power bills to the City. Currently the City receives hard copies by mail and electronically by email. While it may seem somewhat strange that Council must actually adopt this resolution so formally I would note that because it is clearly spelled out in the existing agreements that the NCMPA1 must deliver these documents by first class mail. This matter was discussed by the NCMPA1 Board of Commissioners and was unanimously approved.

It is my recommendation that Resolution No. 20-2020 be adopted and approved by City Council via the Consent Agenda at this time.

**NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1
BOARD OF DIRECTORS
RESOLUTION NO. BDR-6-20**

**A RESOLUTION APPROVING AND AUTORIZING THE
EXECUTION OF A WAIVER AGREEMENT BETWEEN
NORTH CAROLINA MUNICIPAL POWER AGENCY
NUMBER 1 AND EACH OF ITS PARTICIPANTS**

WHEREAS, North Carolina Municipal Power Agency Number 1 (“Power Agency”) and each of its Participants, by agreement dated as of the first day of May, 1978, entered into a Project Power Sales Agreement (as amended in 1984 and as may be further amended or supplemented, the “PPSA”) pursuant to which Power Agency, among other things, agreed to sell, and the Participant, among other things, agreed to purchase and pay for, its Participant’s Share of Project Output; and

WHEREAS, Power Agency and each of its Participants, by agreement also dated as of the first day of May, 1978, entered into a Supplemental Power Sales Agreement (as amended in 1984 and as may be further amended or supplemented, the “SPSA” and, together with the PPSA, the “Agreements”) pursuant to which Power Agency, among other things, agreed to provide or cause to be provided and to sell, and the Participant, among other things, agreed to purchase, the Participant’s All Requirements Bulk Power Supply requirements, consisting of Project Output and Supplemental Bulk Power Supply; and

WHEREAS, Section 5(a) of each of the Agreements provides that Power Agency shall mail to the Participant prior to each Contract Year certain budget information and, when appropriate, certain amended budget information (collectively, “Annual Budget Information”); and

WHEREAS, Section 5(b) of each of the Agreements provides that Power Agency shall mail to the Participant during each month of each Contract Year a Monthly Bill (the “Monthly Bill”); and

WHEREAS, since the date of the Agreements, (i) Power Agency’s and the Participants’ accounting systems have significantly changed due to improvements to and enhancements in computer technology and their respective accounting and computer systems, and (ii) the advent of and improvements to electronic means of communication have been developed, in each case making it easier, faster and more efficient for Power Agency and the Participant to communicate and exchange information, including Annual Budget Information and Monthly Bills; and

WHEREAS, as a result of the foregoing, Power Agency and the Participant have determined that it is more efficient and preferable for Power Agency to transmit Annual Budget Information and Monthly Bills to the Participant by electronic means as opposed to United States mail, as is required by the Agreements, and have agreed to execute a waiver agreement giving effect thereto.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF NORTH CAROLIA MUNICIPLA POWER AGENCY NUMBER 1:**

Section 1: Waiver Agreement. The Board of Directors of Power Agency hereby determines that it is in the best interest of Power Agency to execute an agreement waiving the provisions of Section 5(a) and 5(b) of each of the Agreements requiring the mailing of Annual Budget Information and Monthly Bills, respectively, to the Participant and permitting Power Agency to provide Annual Budget Information and Monthly Bills to the Participant by electronic means (collectively, the “Waiver”), approves and authorizes the execution of a waiver agreement (the “Waiver Agreement”) giving effect to the Waiver and directs that a copy of the Waiver Agreement be delivered to each of the Participants for the Participant’s approval and execution.

Section 2. Effective Date. This resolution shall take effect immediately upon adoption.

Adopted this 24th day of April, 2020.

WAIVER AGREEMENT

This WAIVER AGREEMENT is dated as of May 18, 2020, by and between North Carolina Municipal Power Agency Number 1, a joint agency of the State of North Carolina (“Power Agency”), and the municipality of the State of North Carolina that has executed this Waiver Agreement (the “Participant”).

WHEREAS, Power Agency and the Participant, by agreement dated as of the first day of May, 1978, entered into a Project Power Sales Agreement (as amended in 1984 and as may be further amended or supplemented, the “PPSA”) pursuant to which Power Agency, among other things, agreed to sell, and the Participant, among other things, agreed to purchase and pay for, its Participant’s Share of Project Output; and

WHEREAS, Power Agency and the Participant, by agreement also dated as of the first day of May, 1978, entered into a Supplemental Power Sales Agreement (as amended in 1984 and as may be further amended or supplemented, the “SPSA” and, together with the PPSA, the “Agreements”) pursuant to which Power Agency, among other things, agreed to provide or cause to be provided and to sell, and the Participant, among other things, agreed to purchase, the Participant’s All Requirements Bulk Power Supply requirements, consisting of Project Output and Supplemental Bulk Power Supply, and

WHEREAS, Section 5(a) of each of the Agreements provides that Power Agency shall mail to the Participant prior to each Contract Year certain budget information and, when appropriate, certain amended budget information (collectively, “Annual Budget Information”); and

WHEREAS, Section 5(b) of each of the Agreements provides that Power Agency shall mail to the Participant during each month of each Contract Year a Monthly Bill (the “Monthly Bill”) and

WHEREAS, since the date of the Agreements, (i) Power Agency’s and the Participant’s accounting systems have significantly changed due to improvements to and enhancements in computer technology and their respective accounting and computer systems, and (ii) the advent of and improvements to electronic means of communication have been developed, in each case making it easier, faster and more efficient for Power Agency and the Participant to communicate and exchange information, including Annual Budget Information and Monthly Bills; and

WHEREAS, as a result of the foregoing, Power Agency and the Participant have determined that it is more efficient and preferable for Power Agency to transmit Annual Budget Information and Monthly Bills to the Participant by electronic means as opposed to United States mail, as is required by the Agreements; and

WHEREAS, on April 24, 2020, the Board of Directors of Power Agency adopted a resolution approving waiving the provisions of Section 5(a) and 5(b) of each of the Agreements requiring the mailing of Annual Budget Information and Monthly Bills, respectively, to the Participant and permitting Power Agency to provide Annual Budget Information and Monthly Bills to the Participant by electronic means (collectively, the “Waiver “), and directed that a waiver agreement be submitted to each of the Participants for approval and execution; and

WHEREAS, the Participant has determined that the Waiver is in the best interest of the Participant and has authorized and directed that this Waiver Agreement be executed for and on behalf of the Participant.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are acknowledged hereby, the parties hereto mutually agree as follows:

Section 1. Unless the context clearly indicates to the contrary, all capitalized terms used in this Waiver Agreement shall have the meanings given them in the Agreements.

Section 2. For and during the remainder of the term of each of the Agreements, and any extensions thereto, the Participant hereby waives and forever relieves Power Agency of the obligation to mail Annual Budget Information and Monthly Bills to the Participant, as required by Section 5(a) and 5(b) of each of the Agreements, respectively, so long as Power Agency provides Annual Budget Information and Monthly Bills to the Participant by electronic means to such address as the Participant shall specify in writing to Power Agency (as such address may be changed similarly from time to time).

Section 3. This Waiver Agreement shall become effective upon the execution and delivery of similar waiver agreements by Power Agency and each Participant and shall otherwise become effective upon execution and delivery hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Waiver Agreement all by the authority of their respective governing bodies duly given.

Executed the 18th day of May 2020.

City of Shelby, North Carolina

By: _____
O. Stanhope Anthony III
Mayor

ATTEST:

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

(SEAL)

Executed this 18th day of May 2020.

NORTH CAROLINA MUNICIPAL POWER
AGENCY NUMBER 1

By: _____

ATTEST:

(Ass't) Secretary-Treasurer

(SEAL)

RESOLUTION NO. 20-2020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA, DETERMINING THAT IT IS IN THE BEST INTEREST OF THE CITY OF SHELBY TO APPROVE A WAIVER AGREEMENT WITH NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1 AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE WAIVER AGREEMENT

WHEREAS, the City of Shelby, North Carolina (the “Municipality”) and North Carolina Municipal Power Agency Number 1 (“Power Agency”) entered into a Project Power Sales Agreement dated as of the first day of May, 1978, (as amended in 1984 and as may be further amended or supplemented, the “Project Power Sales Agreement”), pursuant to which Power Agency sells, and the Municipality purchases and pays for, the Municipality’s Participant’s Share (as defined in the Project Power Sales Agreement) of Project Output (as defined in the Project Power Sales Agreement); and

WHEREAS, the Municipality and Power Agency entered into a Supplemental Power Sales Agreement also dated as of the first day of May, 1978 (as amended in 1984 and as may be further amended or supplemented, the “Supplemental Power Sales Agreement” and, together with the Project Power Sales Agreement, the “Agreements”), pursuant to which Power Agency sells, and the Municipality purchases and pays for, All Requirements Bulk Power Supply (as defined in the Supplemental Power Sales Agreement), which consists of Project Output (as defined in the Supplemental Power Sales Agreement) and Supplemental Bulk Power Supply (as defined in the Supplemental Power Sales Agreement); and

WHEREAS, Section 5(a) of each of the Agreements provides that Power Agency shall mail to the Participant prior to each Contract Year certain budget information and, when

appropriate, certain amended budget information (collectively, “Annual Budget Information”); and

WHEREAS, Section 5(b) of each of the Agreements provides that Power Agency shall mail to the Participant during each month of each Contract Year a Monthly Bill (the “Monthly Bill”); and

WHEREAS, as a result of changes to Power Agency’s and the Participant’s accounting systems due to improvements to and enhancements in computer technology and their respective accounting and computer systems, and (ii) the advent of and improvements to electronic means of communication since the date of the Agreements, in each case making it easier, faster and more efficient for Power Agency and the Participant to communicate and exchange information, including Annual Budget Information and Monthly Bills, Power Agency and the Participant have determined that it is more efficient and preferable for Power Agency to transmit Annual Budget Information and Monthly Bills to the Participant by electronic means as opposed to United States mail, as is required by the Agreements; and

WHEREAS, on April 24, 2020, the Board of Directors of Power Agency adopted a resolution approving waiving the provisions of Section 5(a) and 5(b) of each of the Agreements requiring the mailing of Annual Budget Information and Monthly Bills, respectively, to the Participant and permitting Power Agency to provide Annual Budget Information and Monthly Bills to the Participant by electronic means (collectively, the “Waiver “), and directed that a waiver agreement (the “Waiver Agreement”) be submitted to each of the Participants for approval and execution; and

WHEREAS, Power Agency has caused to be furnished to this governing body a copy of the Waiver Agreement.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Shelby, North Carolina:

1. After due consideration to the contents of each of the preambles set forth above and of the Waiver Agreement, it is hereby found and determined that it is in the best interest of the Municipality to approve and authorize the execution and delivery of the Waiver Agreement.

2. The Municipality hereby approves the form, terms and provisions of the Waiver Agreement in the form presented to the meeting at which this Ordinance is adopted, with such changes therein as shall be approved by the officials of the Municipality executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all such changes. The Mayor and the Clerk of the Municipality are hereby authorized and directed to execute, acknowledge and deliver the Waiver Agreement in the name of and on behalf of the Municipality and thereupon to cause the aforesaid Waiver Agreement to be delivered to Power Agency.

3. The officers and officials of the Municipality are hereby authorized and directed to execute such further documents and to take any and all further action as, upon the advice of the Attorney of the Municipality, shall be deemed necessary or desirable in order to effectuate the execution and delivery of the Waiver Agreement.

4. The Clerk of the Municipality is hereby directed to file with the minutes of the meeting at which this Ordinance is adopted the copy of the Waiver Agreement.

5. This Resolution shall become effective from and after its adoption.

ADOPTED this 18th day of May 2020.

O. Stanhope Anthony III
Mayor

ATTEST:

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

CLERK'S CERTIFICATE

I, Bernadette A. Parduski, City Clerk of the City of Shelby, North Carolina, (the "Municipality"), DO HEREBY CERTIFY as follows:

1. As of the date of this Certificate and the date of the introduction and adoption of the Resolution hereinafter described, the City Council of the Municipality ("the Governing Body") consisted of six (6) members, all of whom have been duly elected and qualified.

2. O. Stanhope Anthony III was the duly elected and qualified Mayor of the Municipality at the time of the introduction and adoption of the Resolution hereinafter described and at the time of the execution by the Municipality of the document hereinafter described. Justin S. Merritt was the Director of Finance/Assistant City Manager of the Municipality duly appointed by the City Manager, and acting in that capacity at the time of the introduction and adoption of the Resolution hereinafter described and at the time of the execution by the Municipality of the documents hereinafter described.

3. The undersigned has been duly appointed by and as such the appointment was confirmed by the Governing Body as Clerk of the Municipality, to hold office at the pleasure of the Governing Body, and the election as Clerk predated the introduction and adoption of the Resolution hereinafter described and remains in full force and effect as of the date of this Certificate.

4. The seal, an impression of which appears below, is the corporate seal duly adopted by the Municipality.

5. The undersigned, as Clerk, is charged with the duty of keeping custody of the minutes and official records of the proceedings of the Governing Body.

6. At a regular meeting of the Governing Body conducted on the 18th day of May 2020, the Resolution entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA, DETERMINING THAT IT IS IN THE BEST INTEREST OF THE CITY OF SHELBY TO APPROVE A WAIVER AGREEMENT WITH NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1 AND APPROVING AND AUTHORIZING THE

EXECUTION AND DELIVERY OF THE WAIVER AGREEMENT, a copy of which is attached hereto and made a part of this Certificate (the “Resolution”), was introduced.

7. After consideration by the Governing Body, the Resolution was duly adopted by the Governing Body at a regular meeting of the Governing Body conducted on the 18th day of May 2020, by a unanimous vote. The Resolution was thereafter duly recorded in the 2020 Resolution Book of the Municipality. A copy of an excerpt of the pertinent minutes of said meeting is attached hereto.

8. The meeting referred to in this Certificate was a duly called and held regular meeting of the Governing Body, open to the public, and a quorum of the Governing Body was present and acting throughout; the excerpt of the minutes attached hereto has been compared by the undersigned with the original thereof that is on file and of record in the office of the undersigned and it is a full, true and complete copy of said original; the copy of the Resolution attached hereto has been compared by the undersigned with the original thereof that is on file in the 2020 Resolution Book and it is a full, true and complete copy of said original. The Resolution has not been amended, modified, superseded or repealed and is in full force and effect as of the date hereof.

9. A copy of the Waiver Agreement has been filed in the Clerk’s office with the minutes of the proceedings at which the Resolution was adopted.

10. The copy of the Waiver Agreement furnished to North Carolina Municipal Power Agency Number 1 by the undersigned, together with this Certificate, has been duly executed by the Mayor of the Municipality and duly attested by the undersigned as Clerk of the Municipality, and the corporate seal of the Municipality has been impressed thereon or affixed thereto, all pursuant to authority granted by the Resolution. In addition, the execution copy of the Waiver Agreement has been endorsed by the appropriate representative of the Municipality to the extent such endorsement is required to be affixed thereto.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the City of Shelby, North Carolina this the 18th day of May 2020.

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

(Impress Seal Here)

Attachments:
Resolution
Minutes

City of Shelby
Agenda Item Summary
May 18, 2020
(via electronic meeting)

Agenda Item: C-4

- 4) Adoption of Fiscal Year 2019-2020 Budget Ordinance Amendment No. 16:
Ordinance No. 20-2020

Consent Agenda Item: (Justin Merritt, Assistant City Manager)

Summary of Available Information:

- Memorandum dated May 6, 2020 from Justin Merritt, Assistant City Manager to Rick Howell, City Manager
- Copy of Resolution No. 4-2013 and Incentive Agreement dated February 1, 2013
- Copy of Resolution No. 10-2016 and Incentive Agreement dated March 10, 2016
- KSM Castings Incentive Grant Payment Schedule
- KSM Castings Expansion Project Incentive Grant Payment Schedule
- Letters dated March 27, 2020 from KSM Casting Group to City of Shelby referencing both incentive agreements
- Ordinance No. 20-2020

City Manager's Recommendation / Comments

Ordinance No. 20-2020 is presented for City Council consideration at this time via the Consent Agenda. If approved this amendment would formally appropriate the incentive grant for Tax Year 2019-20. KSM Castings has now met the requirements for year six of the original grant incentive in the amount of \$147,294 and for year two of the 2016 grant incentive in the amount of \$79,703. These grants are tied to the initial 2013 investment by KSM Castings where it was expected to invest \$45,000,000 and the 2017 expansion investment where it was expected to invest up to an additional \$80,000,000 over 7 years. The ultimate taxable investment by the company today totals \$51,294,966 accounting for depreciation with additional investment expected to come. If approved this ordinance would approve the budget amendment so that the requested grant distributions to KSM Castings can be paid before the close of the fiscal year. A total of 269 jobs have been created as a result of the investment made by KSM Castings.

It is my recommendation Ordinance No. 20-2020 be adopted and approved by City Council at this time via the Consent Agenda



To: Rick Howell, City Manager
From: Justin Merritt, Assistant City Manager
Date: May 06, 2020
Subject: KSM Castings NC, Inc. Incentive Grant Distribution

Background:

As you are aware, the City of Shelby entered into agreements with KSM Castings NC Incorporated to provide Industrial Incentive Grants upon completion of certain grant requirements. The agreements are attached and detail the guidelines of the grant program.

KSM Castings NC Incorporated has now met the requirements for year six of the 2013 grant agreement and for year two of the 2016 agreement and has asked for the grant distribution to be made.

Recommendation:

The recommendation from staff is to approve the attached budget amendment so that the requested grant distributions can be made.

RESOLUTION NO. 4-2013

A RESOLUTION CONFIRMING THE CITY OF SHELBY'S
INTENT TO OFFER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT
AND RELATED INCENTIVES

WHEREAS, on the City of Shelby has established the practice of offering economic development incentives for the purpose of promoting the economic health and vitality of the community; and,

WHEREAS, the Cleveland County Economic Development Partnership has presented a qualifying economic development project named "Project X-Cel" (the "Project") with an total expected investment valued at \$45 Million of net new investment which shall be eligible for incentives through the policy; and,

WHEREAS, the City Council believes that Project X-Cel 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 new customer of the City for water and sewer services and natural gas service, and will result in the creation of a substantial number of new full-time permanent jobs; and,

WHEREAS, the City Manager and the Cleveland County Economic Development Partnership have determined that the Project meets the goals set forth by City Council including job creation and capital investment.

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

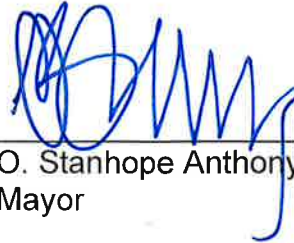
Section 1. In accordance with the City's economic development incentive practices, the City Council extends to the Project by agreement the offer to provide annual grants with an amount equal to an estimated \$1.35 Million paid over a period of 20 years along with an upfront, one-time cash grant in the amount of \$250,000. Additionally, the City Council approves the City's construction of water and sewer infrastructure improvements at an expected cost to the City of \$455,000 and natural gas infrastructure improvements onto said property located at 641 Plato Lee Road, Shelby, North Carolina at an expected cost to the City of \$125,000. The grant award is subject to execution of a legal agreement drafted in accordance with the provisions of North Carolina General Statute § 158-7.1, said agreement describing the Project and stating expected benchmarks and recourse for non-compliance. The City Manager and City Attorney were hereby authorized and directed to negotiate the language of said legal agreement for presentation to and final approval by the City Council, and to record the approved agreement in the Office of the Register of Deeds for Cleveland County.

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.

Resolution No. 4-2013
January 29, 2013
Page 3

Adopted and approved this the 29th day of January 2013.

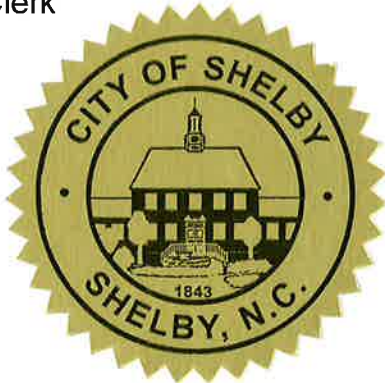


O. Stanhope Anthony III
Mayor

ATTEST:



Bernadette A. Parduski, NCCMC, MMC
City Clerk



INCENTIVE AGREEMENT

This **Incentive Agreement** (the "Agreement") is made and entered into as of the 1st day of February, 2013 (the "Effective Date"), by and between **CITY OF SHELBY, NORTH CAROLINA**, a Municipal Corporation of the State of North Carolina (the "City") and **KSM CASTINGS NC INC.**, a corporation of the State of North Carolina (the "Company"). The City and the Company may from time to time hereinafter be referred to individually as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the Local Development Act of 1925, as amended, (Article 1 of Chapter 158 of the North Carolina General Statutes) grants cities the authority to make appropriations for the purposes of aiding and encouraging the location or expansion of certain business enterprises in the city or for other purposes which the city's governing body finds in its discretion, will increase the population, taxable property base and business prospects of the city; and,

WHEREAS, the City Council of the City of Shelby (the "Council"), pursuant to North Carolina law, has adopted the City of Shelby Industrial Incentive Program (the "Program"), duly adopted and enforced at the time of this Agreement, in order to induce existing industry to expand in the City and target new industries to locate in the City, through the provision and improvement of utility services to industrial properties, and the provision of various incentives including the payment of certain incentive grants, as determined in accordance with the provisions of the Program; and,

WHEREAS, the Company contemplates the construction and equipping of building on approximately sixty (60) acres of land now owned by Cleveland County, North Carolina (the "Project") near the town of Shelby, North Carolina; and,

WHEREAS, the Company's resulting location of the Project at the approximately sixty (60) acres of land now owned by Cleveland County, North Carolina located at 641 Plato Lee Road, near the town of Shelby, North Carolina ("Property") will stimulate the local economy and will promote business in the City; and,

WHEREAS, the Company intends to create approximately 189 new, permanent full-time jobs during the first six (6) years of this Agreement at the Project, which the Company will pay an average wage at or above the average wage for Cleveland County as determined pursuant to N.C.G.S. 158-7.1(d2)(1) and said jobs shall remain in Cleveland County throughout the Grant Term of this Agreement; and,

WHEREAS, the entire Project will include site improvements, buildings and the installation of machinery and equipment with a total investment expected of approximately Forty Five Million Dollars (\$45,000,000.00) in Cleveland County; and,

WHEREAS, The Company will become a significant customer of the City's sewer, water and natural gas utilities; and,

WHEREAS, the Council has determined following a public hearing on January 29, 2013 and having made all findings and determinations required by law, that the Company meets the criteria for participation in the Program due to the planned construction and operation of the Project, which will increase the population, taxable property base and business prospects of the City, and that certain incentives for the Project (the "Incentives") will encourage the Company to locate its operations in the area, and that it is in the public interest to provide assistance as authorized by the North Carolina General Statutes § 158-7.1; and

WHEREAS, the Company acknowledges that the Incentives will serve as an inducement for the Company to construct and operate the Project in Cleveland County.

NOW, THEREFORE, in consideration of the reasons recited above, and the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto do each contract and agree as follows:

Incentive Number One

- 1.1 Water and Sewer Services. Water and sewer services will be provided to the Project for the Company by the City satisfactory to the Company's needs and specifications. The City will ensure that, at no cost to the Company, water and sewer infrastructure is delivered to locations on the Property within the public right of way and in accordance with the Company's schedules and requirements (including, without limitation those set forth on **Exhibit A**). Without limiting the foregoing, the City will provide temporary water access (a fire hydrant that can be connected to and metered to) at the beginning of rough grading of the Property (expected to be March 1, 2013). The City anticipates that it will secure a grant fund of no less than Four Hundred Fifty Thousand Dollars (\$450,000.00) for the purpose of extending water and sewer infrastructure to the Project. The City will ensure that the Company incurs no connection or tap-on fees or charges for water and sewer services in connection with the construction of the Project. If the Company elects to have the Property annexed by the City, the City agrees to provide the best available water and sewer rates to the Company.
- 1.2 Company's Equipment. All piping, backflow protection devices, fittings, etc., and any necessary sewer flow metering apparatus and connections located past the metering points shall be at the Company's sole expense.
- 1.3 Easement. A twenty five (25) foot water line and sanitary sewer easement (12.5' each side of centerline), at a mutually agreeable location, shall be reserved and/or granted for or to the City at no cost to the Company.

Incentive Number Two

- 2.1 Natural Gas Service. At no cost to the Company, the City will construct, and deliver to a designated location in the Property, by no later than October 1, 2013, an adequately sized natural gas line to the Project for the Company satisfactory to the Company's needs and specifications (including, without limitation, those set forth on Exhibit A, and the gas line must be capable of delivering pressure after the metering point of at least four (4) psi). The metering device(s) shall be placed at a mutually agreed upon place, typically next to the building. The City shall at all times have the right of access for servicing, maintaining and reading said meter. The City will also be responsible for any required fittings or regulator apparatus on the City owned portion of the gas line leading to the meter. The City will ensure that the Company incurs no connection fees or charges related to the extension of the natural gas services in connection with the construction of the Project. So long as the City provides adequate natural gas service to the Property, the Company agrees not to use an alternative fuel source to natural gas at the Property for the Project that would substantially impact the Company's use of natural gas at the Property for a period of twenty (20) years. The previous sentence is not intended to restrict the Company's ability to use propane, acetylene, oxygen bottles and similar fuels for use in maintenance and repair up to minimal levels which is permitted. If the Company elects to have the Property annexed by the City, the City agrees to provide the best available natural gas rates to the Company. The Company further agrees that if it has not received a Certificate of Occupancy for the Project within three (3) years after the closing date of the Property (subject to a 12-month extension if an extension would be allowed under Section 6.1), then the Company shall pay to the City an amount equal to fifty per cent (50%) of the out-of-pocket costs the City incurred in providing the natural gas infrastructure to the Property for up to One Hundred Twenty Five Thousand Dollars (\$125,000.00) in such costs incurred by the City.
- 2.2 Company's Equipment. Any regulators required past the metering point for specialized equipment shall be at the Company's sole expense.
- 2.3 Easement. A twenty five (25) foot natural gas line easement (12.5' each side of centerline), at a mutually agreeable location, shall be reserved and/or granted for or to the City at no cost to the Company.
- 2.4. Billing for Services. The City will bill the Company monthly for water, sewer and natural gas services utilized by the facilities associated with the Project according to the City's regular water, sewer and natural gas service published public rate schedules as established from time to time by the Council and subject to Section 1.1 and 2.1.

Incentive Number Three

- 3.1 Permitting. The City agrees to expedite the processing of all applications for construction, zoning and other permits, approvals and consents required by the City for the development of the Project.
- 3.2 Fees. The City will ensure that the Company incurs no fees for permitting, inspection, development, or other fees normally charged by the City for development and/or industrial projects.
- 3.3 Lighting for Access Road. Cleveland County is working with the North Carolina Department of Transportation to provide an industrial entrance ("Access Road") into the Project site, which may include a turning lane. If the Company elects to have the Property annexed by the City, then (a) at no cost to the Company, the City will install adequate lighting along the Access Road no later than October 1, 2013 and it will be done in a manner that does not disrupt Company's construction of the Project, and (b) the City will own, operate and maintain the Access Road and the associated lighting in accordance with the City's rules, regulations and policies for the maintenance of road and lighting infrastructure and, upon notification by the Company, will provide expedited attention to matters relating to maintenance, repair and operation of the Access Road and the associated lighting. The proposed location of the Access Road is set forth on **Exhibit B** attached hereto.

The Company's Obligations.

- 4.1 Customer of the City. The Company agrees to become a regular customer of the City's water, sewer and natural gas systems, subject to the city's policies and ordinances regulating the discharge of wastewater, use of water and natural gas, and to the City's schedule of rates and fees, subject to Section 1.1 and 1.2.
- 4.2 Preparation of Easements. The City will prepare and provide to the Company without cost, and the Company will execute at no cost to the City, the necessary temporary and permanent construction and maintenance easements for the installation and maintenance of the gravity collection sewer lines, water distribution lines, and natural gas lines, as set forth herein, including future easements for the possible extensions or revisions of the sewer, water and natural gas systems as the City may deem necessary or appropriate.
- 4.3 Company's Ownership. The Company will exclusively own, operate and maintain all sewer flow metering devices, pretreatment facilities, water service lines past the point of metering, and all natural gas service lines and piping past the point of metering connecting each facility and/or building at the Company's premises.

5. Application for Service. The Company will make application for service at the appropriate time providing appropriate financial guarantees as required by current City Utility Service policy.
6. Contingent Incentives. If within sixty (60) days of the date of this Agreement, the Company petitions the City for Voluntary Annexation to the City of the Property, and the Property is actually Annexed into the City, the City will make the following Incentive Grants to the Company:
 - 6.1 Upfront Grant. The City will pay to the Company a cash grant of Two Hundred Fifty Thousand Dollars (\$250,000.00) to help offset grading costs the Company would incur for the Project on the Property. The Two Hundred Fifty Thousand Dollars (\$250,000.00) will be paid to the Company within twenty (20) days after the Company closes on the Property and the formal Annexation of the Property and recordation by the City is complete. In the event the Company has not received a Certificate of Occupancy for the Project within three (3) years of the closing date of the Property, then, within thirty (30) days of said three (3) year date, the Company shall repay to the City the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00). Notwithstanding the 3-year period described above, if the Company has not received a Certificate of Occupancy for the Project within three (3) years of the closing date of the Property due to an event beyond the reasonable control of Company (such as acts of God, terrorism, fires, natural calamities, floods, and earthquakes) then the Company shall have an additional 12-month period to secure the Certificate of Occupancy for the Project prior to being required to repay the \$250,000.00.
 - 6.2 Grant Criteria. The Company shall comply with the following conditions (the "Grant Criteria") in order to qualify for Incentive Grants (defined in Section 6.4(b)) pursuant to this Agreement.
 - a. The Company shall received a Certificate of Occupancy for the Project within thirty six (36) months after the closing date of the Property (subject to a 12-month extension if any extension would be allowed under Section 6.1).
 - b. The Company shall maintain its investment (subject to normal depreciation) in the City for the duration of the Grant Term (hereinafter defined in Section 6.4(a)).
 - c. The Company shall operate the Project substantially in compliance with all applicable laws, rules, regulations, ordinances, and orders of all governmental bodies, agencies, authorities, and courts having jurisdiction.
 - d. The City shall not be responsible for any aspect of the design or construction of the Project except the water, sewer and natural gas utilities as described herein.
 - e. The Company shall be current in the payment of all ad valorem taxes, utility charges and fees imposed on the Company by Cleveland County and any municipality within the County, including the City.

- f. The Company shall conduct operations at the Project in such manner as to be in material compliance with applicable Federal, State and local environmental regulations.

6.3 Certification of Grant Criteria by the Company.

- a. In each year of the Grant Term (commencing on July 1 and ending June 30), the Company shall request payment of an Incentive Grant from the City. This request for payment can be made at any time after the Company has paid all local ad valorem taxes for that tax year. In connection with each request for payment of the Incentive Grant, the Company shall deliver to the City's Finance Director a performance letter certifying that for the subject year, the Company (i) satisfied all of the Grant Criteria, (ii) agreed to the Assessed Value (hereinafter defined) of the Project as determined by the Cleveland County Tax Assessor (subject to Cleveland County's standard challenging policy); and (iii) paid all applicable local taxes on the Assessed Value of the Project. If for any year of the Grant Term, the Company fails to request payment from the City of the Incentive Grant for that year, the Company forfeits absolutely its right to the Incentive Grant for that year.
- b. Upon receipt of such performance letter certification from the Company, the Cleveland County Tax Assessor shall determine, as of January 1st for each year of the Grant Term, the total property invested in the Project that is subject to ad valorem property taxes in the City (the "Taxable Investment") and the assessed value of the Taxable Investment (the "Assessed Value").
- c. The Company agrees to cooperate with the City by providing such reasonable information and access (upon advance written notice and during normal business hours) to the Company's records as may be necessary to verify and substantiate initial and ongoing compliance with the Grant Criteria. If the City is unable to independently verify compliance with the Grant Criteria upon exercise of reasonable effort, then the City shall provide ninety (90) days written notice to the Company of the additional information needed to ascertain compliance. If the Company does not provide such additional information, and such additional information is necessary to ascertain its compliance with this Agreement, to the City before the expiration of this ninety (90) day period, the City may immediately terminate this Agreement. To the full extent allowed by law, such information shall be kept confidential by the City and shall remain the property of the Company to be returned after the City's review.
- d. The Company acknowledges that it has been informed by the City that the City is required by law, upon request, to disclose "Public Records" as that term is defined by N. C. Gen. Stat. § 132.1. Notwithstanding the immediately preceding sentence, the City acknowledges that some or all of the information made available by the Company to the City pursuant to this Agreement may be exempt from disclosure as a "Public Record" pursuant to N. C. Gen. Stat. §§ 132-1.2, 132-6(d), and that all such information is proprietary. Some or all of

the information made available to the City pursuant to this Agreement may be designated by the Company as confidential and as a trade secret at the time of disclosure to the City. The City, to the fullest extent allowed by state law, will hold such designated information as confidential. The City shall, if it receives a request for disclosure of any such information, promptly notify the Company of such request so that the Company may defend any claims or disputes arising from efforts of others to cause such trade secrets to be disclosed as a Public Record, and the City shall refrain from making any such disclosures unless or until it (i) receives the Company's written permission to do so; or (ii) is compelled to do so by the final order of a court of competent jurisdiction. The Company shall have the right to direct any litigation of such dispute and shall indemnify the City for any legal fees and expenses incurred by the City in opposing such request for disclosure. The Company acknowledges that the City has met the disclosure requirements set forth in N. C. Gen. Stat. § 132-1.11(b).

6.4 Grant Term and Payment of Incentive Grants.

- a. Grant Term. The term "Grant Term" refers to the consecutive twenty (20) year period beginning as set forth in this Section 6.4(a) and during which the Company is entitled to receive Incentive Grants as set forth in this Agreement. Subject to the provisions below, the Grant Term (A) will begin upon verification that the Company has (i) satisfied all Grant Criteria, (ii) agreed to the Assessed Value of the Project as determined by the County's Tax Assessor (subject to Cleveland County's standard challenging policy), and (iii) paid all applicable local taxes on the Assessed Value and (B) will continue for twenty (20) years (ending on June 30 of the twentieth year) following initial verification as long as the Grant Criteria remain satisfied. Notwithstanding the foregoing, unless the Company directs otherwise in writing to the City Manager, the first year of the Grant Term shall not commence any earlier than July 1, 2014 (with assessed valuation on January 1, 2014, a corresponding bill being sent to the Company in approximately July 2014, payment for such bill being due by January 6, 2015, and the first Incentive Grant payment occurring between January 1st and March 31st 2015 subject to the City's verification as set forth in this Section 6.4(a)) in order to provide the Company with sufficient time to acquire and install a substantial part of the Taxable Investment and, accordingly, receive a full twenty (20) consecutive years of Incentive Grants. The Company can elect a later date for the twenty (20) year Grant Term to begin by providing notice in writing to the City Manager.
- b. Between January 1st and March 31st of each year of the twenty (20) year Grant Term, the City shall make an incentive grant payment to the Company in an annual amount equal to eighty per cent (80%) of the total ad valorem taxes paid by the Company to the City during the preceding calendar year of the Grant Term, as long as the Company remains compliant with this Agreement ("Incentive Grant").

- 6.5 Termination upon Failure to Pay Ad Valorem Taxes. If the Company at any time during the Grant Term fails to pay all applicable ad valorem taxes on the Assessed Value of the Project when due, then the City shall provide written notice to the Company stating that the ad valorem taxes are delinquent. If the taxes have not been paid within a ninety (90) day period of the Company's receipt of that notice, then the City may terminate this Agreement and have no further obligation to the Company for the payment of any Incentive Grant.
7. Utilities Suppliers. In addition to those commitments made forth above and not in limitation of any of the above obligations, the City will use its best efforts to encourage all suppliers of utilities to comply with their commitments to the Company.
8. Zoning/Land Use; Future Annexation. The City represents and warrants that the Property is zoned for the Company's intended present and contemplated future uses which include distribution, manufacturing, research and testing, warehousing, headquarters and office uses associated with casting and machining operations, all of which are permitted uses of the Property according to the applicable Zoning Ordinance for the City. The City further represents that no other zoning, covenants, land use or other site Project requirements or authority are known to exist which limit, prevent or prohibit the Project or the Property as proposed by the Company.
9. Grant and/or Loan Applications. The Company agrees to work cooperatively with the City in the submission of applications (if any) for grants and/or loans for the Project or infrastructure improvements for which the City may be eligible; provided, however, the Company would not incur, nor shall any application require that the Company incur, any obligation to repay any such grants and/or loans eventually obtained (if any) in the event the City fails to fulfill any other of its obligations under such grants or loans. However, the Company will cooperate with the grant funding agencies and the City in complying with the grant guidelines.
10. Notice. Formal notices, demands, and communications between the City and the Company shall be sufficiently given if personally delivered or if dispatched by registered or certified mail, postage prepaid, return receipt requested, or by a nationally recognized overnight courier to the principal offices of the City and the Company. Such written notices, demands and communications may be sent in the same manner to such other addresses as either Party may from time to time designate by formal notice hereunder.

If to City:

City of Shelby
 Shelby City Hall
 300 South Washington Street
 Shelby, NC 28150
 ATTN: City Manager

With copy that shall not constitute notice to:

Robert W. Yelton
 Yelton, Farfour & Fite, P.A.
 P O Box 1329
 Shelby, NC 28151-1329

If to the Company:

KSM Castings NC Inc.
Dr. Frank Boshoff, President
c/o Kloth-Senking Metallgießerei
Cheruskerring 38
31137 Hildesheim
Germany

With copy that shall not constitute notice to:

Kevin W. Chapman
Parker Poe Adams & Bernstein LLP
401 South Tryon Street, Suite 3000
3 Wells Fargo Center
Charlotte, NC 28202

11. Parties. This Agreement shall inure to the benefit of and be binding upon the Parties hereto, and their successors in interest.
12. Complete Agreement. This Agreement contains the entire agreement between the Parties and there are no other representations, inducements, or other provisions other than those expressed in this Agreement. If this Agreement or any provision hereof is determined to be invalid, unlawful or otherwise null and void by any court of competent jurisdiction, then the remainder of this Agreement will remain valid and enforceable.
13. Amendments to Agreement. This Agreement may only be modified, altered or amended by mutual written consent of the Parties.
14. Termination. Except as otherwise provided herein, this Agreement shall terminate on June 30 of the last year of the Grant Term; provided, that it will not terminate before the Incentive Grant associated with the last year of the twenty (20) year Grant Term has been paid.
15. Assignment. No Party shall assign, sublet or transfer any rights under or interest in this Agreement (including, but without limitation, monies that may become due or monies that are due) without the prior written consent of the other Party which consent shall not be unreasonably withheld, provided the Company has the right, at its sole discretion, to assign some or all of its rights hereunder to a subsidiary. Unless specifically stated to the contrary in any written consent to assignment, no assignment shall release or discharge the assignor from any duty or responsibility under this Agreement.
16. Event of Default. It shall be an Event of Default if any one or more of the following events shall occur for any reason whatsoever (and whether such occurrence shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):
 - a. If the Company shall fail to observe and perform any material provision of this Agreement and such failure shall continue for a period of thirty (30) or more days (unless a longer period is provided for herein) after the giving by the City of written notice of such failure to the Company; or

- b. If any material representation, warranty or other statement of fact contained in this Agreement or in any writing, certificate, report or statement furnished by the Company to the City in connection with the transaction described in this Agreement shall be false or misleading in any material respect when given; or
 - c. If the Company shall be unable to pay its debts generally as they become due; files a petition in bankruptcy; makes an assignment for the benefit of creditors; commences a proceeding for the appointment of a receiver, trustee, liquidator or conservator of itself or of the whole or a substantial part of its property; files a petition or answer seeking reorganization or arrangement of similar relief under the federal bankruptcy laws; or
 - d. If a court of competent jurisdiction shall enter an order, judgment, or decree appointing a custodian, receiver, trustee, liquidator, or conservator of the Company or of the whole or any substantial part of its properties, or approve a petition filed against the Company under the federal bankruptcy laws; or if, under the provisions of any other law for the relief or aid of debtors, a court of competent jurisdiction shall assume custody or control of the Company or of the whole or any substantial part of its properties.
17. Statutory Authority for Incentive Grant. Both the Company and the City acknowledge that any and all monies appropriated and expended by the City for local economic development incentives as provided in this Agreement are for a bona fide public purpose and are expended in good faith reliance on N. C. Gen. Stat. § 158-7.1. The City represents and warrants to the Company that the City has made all findings and determinations required by law and has taken all action necessary to authorize the approval of the incentives described herein and the execution, delivery and performance of this Agreement, and that this Agreement is a valid, legal and binding obligation of the City, enforceable against it in accordance with its terms. In the event a court of competent jurisdiction, after final appeal, rules in a lawsuit to which either the Company or the City is a party, that the monies expended by the City pursuant to this Agreement were not offered and accepted in good faith and pursuant to and in compliance with N. C. Gen. Stat. §158-7.1 and, further, that such monies must be repaid, the Company will make such repayment. If any incentives provided hereunder, including the Incentive Grants, or any portion thereof, are deemed by a court of competent jurisdiction to be ultra vires or not authorized by the laws or Constitution of the State of North Carolina, then the City will use reasonable efforts to provide to the Company equivalent incentives (support having a similar financial net present value to the Company) as allowed by law. Further, if any elected officials of the City are found by a court of competent jurisdiction, after final appeal, to be personally liable for any of the monies so expended, and such liability is not covered by the City's public officials' liability insurance, then the Company will indemnify such elected officials individually to the extent of the monies received by the Company pursuant to this Agreement, but exclusive of court costs and attorney fees. The City agrees to maintain adequate public official liability coverage, consistent with that maintained by other similarly situated cities in North Carolina. The City agrees to require that its insurer(s) providing such coverage waive any

subrogation rights it or they may have against the Company in connection with such coverage, and the City waives (on behalf of itself and its insurer) any claim or subrogation rights against the Company to the extent covered by such insurance coverage. In the event any lawsuit is brought against the City or any elected official of the City challenging the legality of this Agreement, then (a) the City shall exercise its best efforts to defend against any such lawsuit, including appealing any adverse judgment to the appropriate court, and (b) the City will promptly notify the Company in writing and allow the Company to participate in the defense of any challenge, at the Company's expense and with counsel of the Company's choosing. The indemnification arising under this Article shall survive this Agreement's termination. The indemnification by the Company shall not apply if neither the Company nor any of its representatives participated in the improper acts of the City officials.

18. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of North Carolina. Exclusive venue for any disputes arising hereunder is conferred upon the General Courts of Justice of the State of North Carolina sitting in Cleveland County.
19. Captions, Heading, Titles. Any paragraph headings contained in this Agreement are for convenience only and in no way enlarge or limit the scope or meaning of the various and several paragraphs contained herein.

Signature Pages to Follow

IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this contract to be duly executed, this the day and year first above written.

CITY OF SHELBY

Attest:

By: Bernadette A. Parduski
Bernadette A. Parduski, MMC,
City Clerk

By: O. Stanhope Anthony, III
O. Stanhope Anthony, III,
Mayor

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

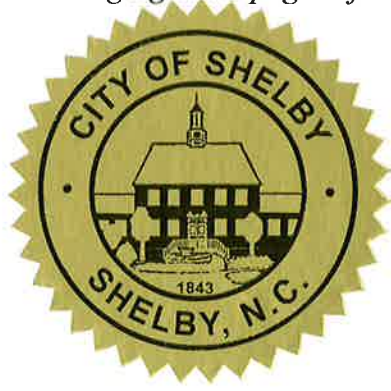
[Signature]
City of Shelby Finance Officer, on behalf
of the City

[Signature]
City of Shelby Attorney

The City Council of the City of Shelby approved this Agreement at its meeting held the 29th day of January, 2013.

[Signature]
O. Stanhope Anthony, III,
Mayor

[Remaining signature page to follow.]



ATTEST:



Stefan Tyman, Secretary

KSM Castings NC Inc.



Dr. Frank Boshoff, President

Exhibit A

Water and Sewer and Natural Gas Requirements

Water & Sewer

8" line* (with an upgrade to a 12" line at no cost to the Company if the Company deems it necessary) extended onto the site at tie in points in the public right of way identified by the Company at each of the structures located at the Project site. *The City has stated that a 8" line has the capacity to meet the anticipated demands submitted by the Company.

Natural Gas

4" line extended onto the site at tie in points identified by the Company at each of the structures located at the Project site. *The City has stated that a 4" line has the capacity to meet the anticipated demands submitted by the Company.

Project X-CEL

Project Specifications for Site Selection

Preliminary project specifications (3)

Utilities required to accommodate manufacturing plant

		Phase 1	<i>Full expansion (future option)</i>
Electric power	Usage per month	1,100,000 KWh	4,400,000 KWh
	Connected load	3 MW	12 MW
	Peak load	2.5 MW	10 MW
	Load factor	~0.6	~0.6
	Plant Primary Distribution	380V or 400V or 20kV with a transformer on site	
Natural gas	Heating	approx. 1,000,000 m ³ /year	approx. 4,000,000 m ³ /year
Water	Potable water use	6,000,000 gallons/year	24,000,000 gallons/year
	Grey water use	-	-
	Fire water	3,500 gpm at 70 psi	
2 independent water sources required depending on local conditions, e.g. availability of an inexhaustible water source			
Sewer	Total discharge	3,000,000 gallons/year + rain	12,000,000 gallons/year + rain

SSOE Group

Exhibit B

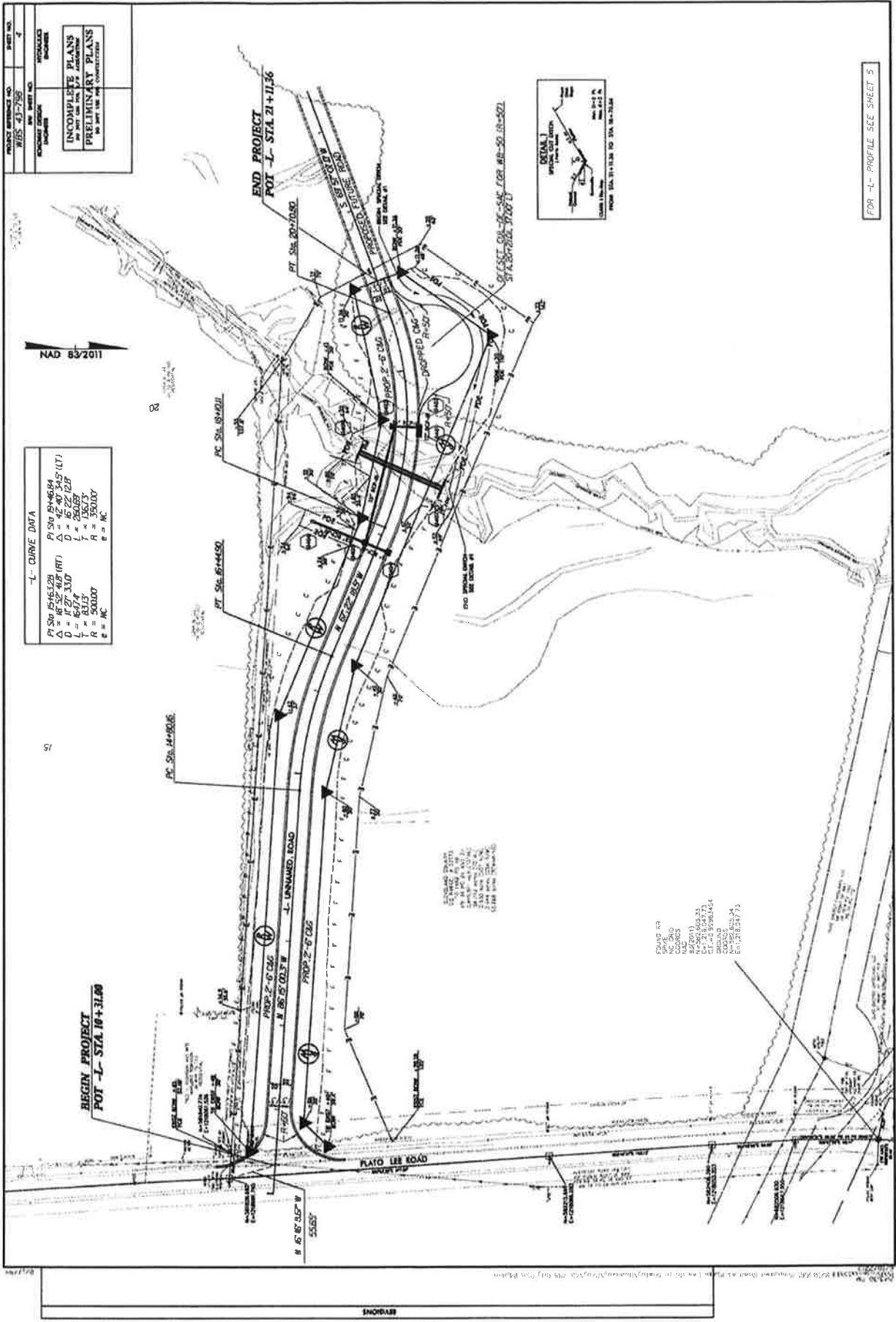
See attached Access Road proposed location

PROJECT REFERENCE NO.	WIS-43-758	SHEET NO.	4
CONTRACT NO.		DATE	
DESIGNER		APPROVED	
<p>INCOMPLETE PLANS DO NOT USE FOR CONSTRUCTION</p> <p>PRELIMINARY PLANS DO NOT USE FOR CONSTRUCTION</p>			

NAD 83/2011

-L- CURVE DATA

R	5146.58	R	8146.84
Δ	42° 40' 34.5" (UT)	Δ	42° 40' 34.5" (UT)
D	1127' 33.0"	D	1622' 12.8"
L	350.00'	L	350.00'
R	500.00'	R	350.00'
e	MC	e	MC



FOR -L- PROFILE SEE SHEET 5

AMENDMENT TO INCENTIVE AGREEMENT

This Amendment to Incentive Agreement (the "Amendment") is made and entered into as of the first day of April, 2013, by and between CITY OF SHELBY, NORTH CAROLINA, a Municipal Corporation of the State of North Carolina (the "City") and KSM CASTINGS NC INC., a corporation of the State of North Carolina (the "Company").

WITNESSETH:

WHEREAS, the parties hereto entered into an Incentive Agreement dated February 1, 2013, wherein certain incentives were offered to the Company by the City; and,

WHEREAS, Paragraph 1.1 of said Incentive Agreement states in part as follows: "The City will insure that, at no cost to the Company, water and sewer infrastructure is delivered to locations on the property within the public right-of-way in accordance with the Company's schedules and requirements." Paragraph 1.1 also states in part as follows: "The City anticipates that it will secure a grant fund of no less than Four Hundred Fifty Thousand (\$450,000.00) for the purpose of extending water and sewer infrastructure to the project."; and,

WHEREAS, the grant which the City anticipates receiving has a provision that if the Company does not achieve the number of new employees anticipated in the grant application, then the Company would be required to repay some of the grant funds; and,

WHEREAS, the City has agreed to indemnify and save harmless the Company against the repayment of any grant funds;

NOW, THEREFORE, the parties hereto amend the Incentive Agreement dated February 1, 2013, by adding Paragraph 1.4 to said Agreement as follows:

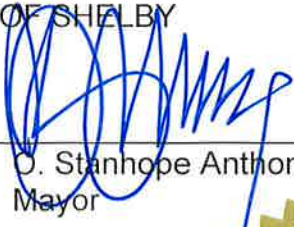
1.4 Indemnification of Company. In the event the Company is required by the State of North Carolina or any of its agencies to repay any part of a grant received by the City of Shelby for the construction of water and sewer infrastructure, then, and in that event, the City will indemnify and save harmless the company from the repayment of said grant funds.

Except as herein amended, all of the terms of the Incentive Agreement dated February 1, 2013, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this Amendment to Incentive Agreement to be duly executed, as of the day and year first above written.

CITY OF SHELBY

BY: _____



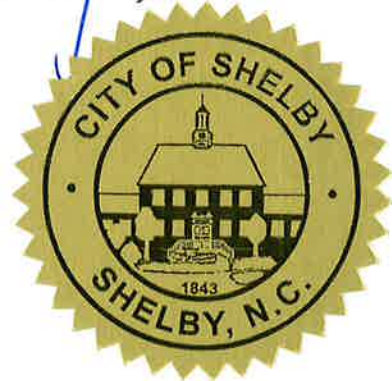
O. Stanhope Anthony III
Mayor

ATTEST:

BY: _____



Bernadette A. Parduski, NCCMC, MMC
City Clerk



KSM CASTINGS NC INC.

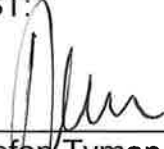
BY: _____



Dr. Frank Boshoff
President

ATTEST:

BY: _____



Stefan Tyman
Secretary



RESOLUTION NO. 10-2016

A RESOLUTION CONFIRMING THE CITY OF SHELBY'S
INTENT TO OFFER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT

WHEREAS, the City of Shelby has established the practice of offering economic development incentives for the purpose of promoting the economic health and vitality of the community, and,

WHEREAS, the City Manager in conjunction with the Cleveland County Economic Development Partnership has presented a qualifying economic development project named "Project Goldknuckle" (the "Project") with an total expected investment valued at approximately \$80 Million of net new investment which shall be eligible for incentives through the policy; and,

WHEREAS, the City Council believes that Project Goldknuckle 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 and sewer services and natural gas service, and will result in the creation of 80 new full-time permanent jobs; and

WHEREAS, the City Manager and the Cleveland County Economic Development Partnership have determined that the Project meets the goals set forth by City Council including job creation and capital investment.

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

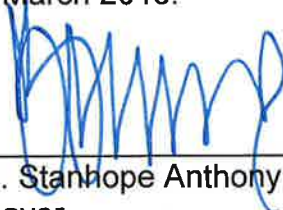
Section 1. In accordance with the City's economic development incentive practices, the City Council extends to the Project by agreement the offer to provide annual grants with an amount equal to 95% percent of the taxes paid to the City on the

net new taxable investment of the project over a period of 5 years and 35% over the remaining 10 year period. As part of the City of Shelby's incentive package there is a one-time cash grant in the amount of \$250,000 specifically intended to assist with site preparation contingent upon the Project becoming a substantial natural gas customer of the City. The grant award is subject to execution of a legal agreement drafted in accordance with the provisions of North Carolina General Statute § 158-7.1, said agreement describing the Project and stating expected benchmarks and recourse for non-compliance. The City Manager and City Attorney are hereby authorized and directed to negotiate the language of said legal agreement for presentation to and final approval by the City Council, and to record the approved agreement in the Office of the Register of Deeds for Cleveland County.

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 10th day of March 2016.

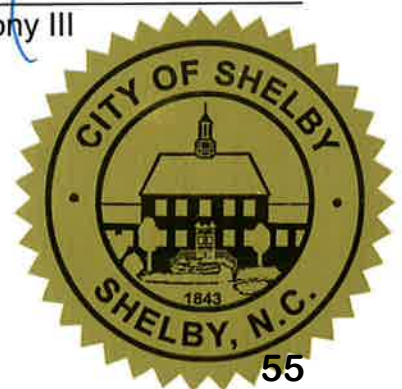


O. Stanhope Anthony III
Mayor

ATTEST:



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



INCENTIVE AGREEMENT

This **Incentive Agreement** (the "Agreement") is made and entered into as of the 10th day of March, 2016 (the "Effective Date"), by and between **CITY OF SHELBY, NORTH CAROLINA**, a Municipal Corporation of the State of North Carolina (the "City") and **KSM CASTINGS USA INC.**, a corporation of the State of North Carolina (the "Company"). The City and the Company may from time to time hereinafter be referred to individually as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the Local Development Act of 1925, as amended, (Article 1 of Chapter 158 of the North Carolina General Statutes) grants cities the authority to make appropriations for the purposes of aiding and encouraging the location or expansion of certain business enterprises in the city or for other purposes which the city's governing body finds in its discretion, will increase the population, taxable property base and business prospects of the city; and,

WHEREAS, the City Council of the City of Shelby (the "Council"), pursuant to North Carolina law, has adopted the City of Shelby Industrial Incentive Program (the "Program"), duly adopted and enforced at the time of this Agreement, in order to induce existing industry to expand in the City and target new industries to locate in the City, through the provision of various incentives as determined in accordance with the provisions of the Program; and,

WHEREAS, the Company contemplates the expansion of its operations through the construction and equipping of additional building(s) on approximately sixty (60) acres of land now owned by the Company (the "Expansion Project") near the City of Shelby, North Carolina; and,

WHEREAS, the Company intends to create approximately eighty (80) new, permanent full-time jobs during the first seven (7) years of this Agreement at the Expansion Project, which the Company will pay an average wage at or above the average wage for Cleveland County as determined pursuant to N.C.G.S. 158-7.1(d2)(1) and said jobs shall remain in the City throughout the Grant Term of this Agreement; and,

WHEREAS, the entire Expansion Project will include site improvements, buildings and the installation of machinery and equipment with a total investment of up to Eighty Million Dollars (\$80,000,000.00) during the first five (5) years of this Agreement; and,

WHEREAS, the Company is a significant customer of the City's sewer, water and natural gas utilities; and,

WHEREAS, the Council has determined following a public hearing on March 10, 2016, that the Company meets the criteria for participation in the Program due to the planned construction and operation of the Expansion Project, which will increase the population, taxable property base and business prospects of the City, and that certain incentives for the Expansion Project (the "Incentives") will encourage the Company to expand its operations in the area, and that it is in the

public interest to provide assistance as authorized by the North Carolina General Statutes § 158-7.1; and,

WHEREAS, the Company acknowledges that the Incentives will serve as an inducement for the Company to construct and operate the Expansion Project in Cleveland County;

NOW, THEREFORE, in consideration of the reasons recited above, and the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto do each contract and agree as follows:

Incentive Number One

- 1.1 The City will provide a site preparation grant equal to a total of Two Hundred Fifty Thousand Dollars (\$250,000.00).
- 1.2 This site preparation grant is specifically tied to the proposed calendar year minimum natural gas consumption as follows: 2018 = 68,260 ccf; 2019 = 341,300 ccf; 2020 = 409,560 ccf; 2021 = 460,755 ccf; and 2022 = 597,275 ccf. The City will require, and the Company agrees to repay, the sum of Fifty Thousand Dollars (\$50,000.00) of this grant for each calendar year in which the Company fails to reach the minimum natural gas consumption volumes set forth herein. If the Company is entitled to a grant under Incentive Number Four, the said sum of Fifty Thousand Dollars (\$50,000.00) shall be deducted by the City from said grant. If the Company is not entitled to a grant under Incentive Number Four, the Company agrees to pay to the City the said sum of Fifty Thousand Dollars (\$50,000.00) within sixty (60) days of the end of the calendar year in which the Company failed to reach the minimum natural gas consumption volume.
- 1.3 Fifty percent (50%) of the amount of this grant will be paid to the Company upon the issuance of the City's site plan approval and building permit. The remaining fifty percent (50%) will be paid to the Company upon the issuance of the initial certificate of occupancy by the City.

Incentive Number Two

2. The City agrees that building inspection and permitting fees will only be applicable to the first Ten Million Dollars (\$10,000,000.00) in net new investment made by the Company at the Expansion Project, and in no case shall said fees exceed Forty Thousand Dollars (\$40,000.00).

Incentive Number Three

3. The City agrees to allow the Company to have a temporary construction easement over City owned property for a construction period to be determined. The City will require proper advance notice of the commencement of construction and may require precautions to be taken by the Company to protect the City's utility assets.

Incentive Number Four

4.1 Grant Criteria. The Company shall comply with the following conditions (the “Grant Criteria”) with respect to the Expansion Project in order to qualify for Incentive Number Four (the “Incentive Grant”) pursuant to this Agreement.

- a. The Company shall begin its investment in the Expansion Project within 18 months of the execution of this Agreement.
- b. The Company shall maintain its investment (subject to normal depreciation) in the Expansion Project in the City for the duration of the Grant Term (hereinafter defined).
- c. The Company shall operate the Expansion Project substantially in compliance with all applicable laws, rules, regulations, ordinances, and orders of all governmental bodies, agencies, authorities, and courts having jurisdiction.
- d. The City shall not be responsible for any aspect of the design or construction of the Expansion Project.
- e. The Company shall be current in the payment of all ad valorem taxes, utility charges and fees imposed on the Company by the City.
- f. The Company shall conduct operations at the Expansion Project in such manner as to be in material compliance with applicable Federal, State and local environmental regulations.

4.2 Certification of Grant Criteria by the Company.

- a. In each year of the Grant Term (commencing on July 1 and ending June 30), the Company shall request payment of an Incentive Grant from the City. This request for payment can be made at any time after the Company has paid all local ad valorem taxes for that tax year. In connection with each request for payment of the Incentive Grant, the Company shall deliver to the City’s Finance Director a performance letter certifying that for the subject year, the Company (i) satisfied all of the Grant Criteria, (ii) agreed to the Assessed Value (hereinafter defined) of the Expansion Project as determined by the Cleveland County Tax Assessor (subject to Cleveland County’s standard challenging policy); and (iii) paid all applicable local taxes on the Assessed Value of the Expansion Project (“Performance Certification”). If for any year of the Grant Term, the Company fails to request payment from the City of the Incentive Grant for that year, the Company forfeits absolutely its right to the Incentive Grant for that year.
- b. The Cleveland County Tax Assessor shall determine, as of January 1st for each year of the Grant Term, the total property invested in the Expansion Project that is subject to ad valorem property taxes in the City (the “Taxable Investment”) and the assessed value of the Taxable Investment (the “Assessed Value”).

- c. The Company agrees to cooperate with the City by providing such information and access to the Company's records as may be necessary to verify and substantiate initial and ongoing compliance with the Grant Criteria. If the City is unable to independently verify compliance with the Grant Criteria upon exercise of reasonable effort, then the City shall provide thirty (30) days written notice to the Company of the additional information needed to ascertain compliance. If the Company does not provide such additional information, and such additional information is necessary to ascertain its compliance with this Agreement, to the City before the expiration of this thirty (30) day period, the City may immediately terminate this Agreement. To the full extent allowed by law, such information shall be kept confidential by the City and shall remain the property of the Company to be returned after the City's review.
- d. The Company acknowledges that it has been informed by the City that the City is required by law, upon request, to disclose "Public Records" as that term is defined by N. C. Gen. Stat. § 132.1. Notwithstanding the immediately preceding sentence, the City acknowledges that some or all of the information made available by the Company to the City pursuant to this Agreement may be exempt from disclosure as a "Public Record" pursuant to N. C. Gen. Stat. §§ 132-1.2, 132-6(d), and that all such information is proprietary. Some or all of the information made available to the City pursuant to this Agreement may be designated by the Company as confidential and as a trade secret at the time of disclosure to the City. The City, to the fullest extent allowed by state law, will hold such designated information as confidential. The City shall, if it receives a request for disclosure of any such information, notify the Company of such request so that the Company may defend any claims or disputes arising from efforts of others to cause such trade secrets to be disclosed as a Public Record, and the City shall refrain from making any such disclosures unless or until it (i) receives the Company's written permission to do so; or (ii) is compelled to do so by the final order of a court of competent jurisdiction. The Company shall have the right to direct any litigation of such dispute and shall indemnify the City for any legal fees and expenses incurred by the City in opposing such request for disclosure. The Company acknowledges that the City has met the disclosure requirements set forth in N. C. Gen. Stat. § 132-1.11(b).

4.3 Grant Term and Payment of Incentive Grants.

Grant Term. Subject to the provisions below, the Grant Term (A) will shall commence on July 1, 2017, unless the Company directs otherwise in writing to the City Manager as set forth herein, and (B) will continue for fifteen (15) years (ending on June 30 of the fifteenth year) as long as the Grant Criteria remain satisfied. The Company may elect to delay the commencement of the Grant Term by a period of one year by providing written notice to the City Manager at least ninety (90) days prior to July 1, 2017. Between January 1st and March 31st of each year of the Grant Term in which the City approves the Company's Performance Certification,, the City shall make an Incentive Grant payment to the Company in an

annual amount as set forth below, as long as the Company remains compliant with this Agreement:

- (a) ninety-five percent (95%) of the total ad valorem taxes paid by the Company to the City for the Expansion Project for years one (1) through five (5) of the Grant Term; and
- (b) thirty-five percent (35%) of the total ad valorem taxes paid by the Company to the City for the Expansion Project for years six (6) through fifteen (15) of the Grant Term.

The below table illustrates the implementation of the Incentive Grant based on the Company's anticipated investment schedule.

Grant Year	Net New Investment	Actual City Levy @ 43.5	Grant Incentive	Grant Back Incentive
1	\$ 10,000,000	\$43,500	\$41,325	95%
2	\$ 30,000,000	\$130,500	\$123,975	95%
3	\$ 45,000,000	\$195,750	\$185,963	95%
4	\$60,000,000	\$261,000	\$247,950	95%
5	\$80,000,000	\$348,000	\$330,600	95%
6	\$80,000,000	\$348,000	\$121,800	35%
7	\$80,000,000	\$348,000	\$121,800	35%
8	\$80,000,000	\$348,000	\$121,800	35%
9	\$80,000,000	\$348,000	\$121,800	35%
10	\$80,000,000	\$348,000	\$121,800	35%
11	\$80,000,000	\$348,000	\$121,800	35%
12	\$80,000,000	\$348,000	\$121,800	35%
13	\$80,000,000	\$348,000	\$121,800	35%
14	\$80,000,000	\$348,000	\$121,800	35%
15	\$80,000,000	\$348,000	\$121,800	35%

Totals		\$4,458,750	\$2,147,813
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4.4 Termination upon Failure to Pay Ad Valorem Taxes. If the Company at any time during the Grant Term fails to pay all applicable ad valorem taxes on the Assessed Value of the Expansion Project when due, then the City shall provide thirty (30) days written notice to the Company stating that the ad valorem taxes are delinquent. If the taxes have not been paid upon the expiration of such thirty (30) day period of the Company's receipt of notice, then the City may terminate this Agreement and have no further obligation to the Company for the payment of any Incentive Grant.

5. Notice. Formal notices, demands, and communications between the City and the Company shall be sufficiently given if personally delivered or if dispatched by registered or certified mail, postage prepaid, return receipt requested, or by a nationally recognized overnight courier to the principal offices of the City and the Company. Such written notices, demands and communications may be sent in the same manner to such other addresses as either Party may from time to time designate by formal notice hereunder.

If to City:

City of Shelby
 Shelby City Hall
 300 South Washington Street
 Shelby, NC 28150
 ATTN: City Manager

With copy that shall not constitute notice to:

Robert W. Yelton
 Yelton, Farfour & Fite, P.A.
 P O Box 1329
 Shelby, NC 28151-1329

If to the Company:

Jan-Christoph Schwarck, President
 KSM Castings NC Inc.
 120 Blue Brook Drive
 Shelby, NC 28150

With copy that shall not constitute notice to:

Sam Moses
 Parker Poe Adams & Bernstein LLP
 1201 Main Street, Suite 1450
 Columbia, South Carolina 29201

6. Parties. This Agreement shall inure to the benefit of and be binding upon the Parties hereto, and their successors in interest.

7. Complete Agreement. This Agreement contains the entire agreement between the Parties and there are no other representations, inducements, or other provisions other than those expressed in this Agreement concerning the Expansion Project. If this Agreement or any provision hereof is determined to be invalid, unlawful or otherwise null and void by any court of competent jurisdiction, then the remainder of this Agreement will remain valid and enforceable.

8. Amendments to Agreement. This Agreement may only be modified, altered or amended by mutual written consent of the Parties.

9. Termination. Except as otherwise provided herein, this Agreement shall terminate on June 30 of the last year of the Grant Term.
10. Assignment. No Party shall assign, sublet or transfer any rights under or interest in this Agreement (including, but without limitation, monies that may become due or monies that are due) without the prior written consent of the other Party, provided the Company has the right, at its sole discretion, to assign some or all of its rights hereunder to a subsidiary. Unless specifically stated to the contrary in any written consent to assignment, no assignment shall release or discharge the assignor from any duty or responsibility under this Agreement.
11. Event of Default. It shall be an Event of Default if any one or more of the following events shall occur for any reason whatsoever (and whether such occurrence shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):
 - a. If the Company shall fail to observe and perform any material provision of this Agreement and such failure shall continue for a period of thirty (30) or more days (unless a longer period is provided for herein) after the giving by the City of written notice of such failure to the Company; or
 - b. If any material representation, warranty or other statement of fact contained in this Agreement or in any writing, certificate, report or statement furnished by the Company to the City in connection with the transaction described in this Agreement shall be false or misleading in any material respect when given; or
 - c. If the Company shall be unable to pay its debts generally as they become due; files a petition in bankruptcy; makes an assignment for the benefit of creditors; commences a proceeding for the appointment of a receiver, trustee, liquidator or conservator of itself or of the whole or a substantial part of its property; files a petition or answer seeking reorganization or arrangement of similar relief under the federal bankruptcy laws; or
 - d. If a court of competent jurisdiction shall enter an order, judgment, or decree appointing a custodian, receiver, trustee, liquidator, or conservator of the Company or of the whole or any substantial part of its properties, or approve a petition filed against the Company under the federal bankruptcy laws; or if, under the provisions of any other law for the relief or aid of debtors, a court of competent jurisdiction shall assume custody or control of the Company or of the whole or any substantial part of its properties.
12. Statutory Authority for Incentive Grant. Both the Company and the City acknowledge that any and all monies appropriated and expended by the City for local economic development incentives as provided in this Agreement are for a bona fide public purpose and are expended in good faith reliance on N. C. Gen. Stat. § 158-7.1. In the event a court of competent jurisdiction, after final appeal, rules in a lawsuit to which

either the Company or the City is a party, that the monies expended by the City pursuant to this Agreement were not offered and accepted in good faith and pursuant to and in compliance with N. C. Gen. Stat. §158-7.1 and, further, that such monies must be repaid, the Company will make such repayment. Further, if any elected officials of the City are found by a court of competent jurisdiction, after final appeal, to be personally liable for any of the monies so expended, and such liability is not covered by the City's public officials' liability insurance, then the Company will indemnify such elected officials individually to the extent of the monies received by the Company pursuant to this Agreement, but exclusive of court costs and attorney fees. The City agrees to maintain adequate public official liability coverage, consistent with that maintained by other similarly situated cities in North Carolina. The City agrees to require that its insurer(s) providing such coverage waive any subrogation rights it or they may have against the Company in connection with such coverage, and the City waives (on behalf of itself and its insurer) any claim or subrogation rights against the Company to the extent covered by such insurance coverage. In the event any lawsuit is brought against the City or any elected official of the City challenging the legality of this Agreement, then the City shall exercise its best efforts to defend against any such lawsuit, including appealing any adverse judgment to the appropriate court. The indemnification arising under this Article shall survive this Agreement's termination.

13. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of North Carolina. Exclusive venue for any disputes arising hereunder is conferred upon the General Courts of Justice of the State of North Carolina sitting in Cleveland County.
14. Captions, Heading, Titles. Any paragraph headings contained in this Agreement are for convenience only and in no way enlarge or limit the scope or meaning of the various and several paragraphs contained herein.

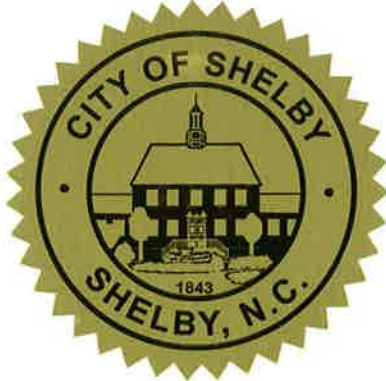
Signature Pages to Follow

IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this contract to be duly executed, this the day and year first above written.

CITY OF SHELBY

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

By: O. Stanhope Anthony, III
O. Stanhope Anthony, III,
Mayor



[Remaining signature page to follow.]

ATTEST:

KSM CASTINGS USA INC.

By: _____

FRANK FRIEDRICH BUZE
CEO KSM CASTINGS GROUP

By: _____

Jan-Christoph Schwarck
President

KSM Castings City Incentive Grant Payment Schedule

* Applicable agreement must be reviewed before annual remittance of grant incentive payment. Grant payments to be made after the taxpayer has paid in full all local property taxes. City has option to pay grant to taxpayer between January and March annually.

Column1 Tax Year (Fiscal Yr.)	Column2 2014-15	Column3 2015-16	Column4 2016-17	Column5 2017-18	Column6 2018-19	Column610 2019-20	Column611 2020-21	Column612 2021-22
% authorized	1 80%	2 80%	3 80%	4 80%	5 80%	6 80%	7 80%	8 80%
Estimated net new investment	12,452,750	32,440,075	33,440,050	33,396,575	31,616,525	\$ 29,358,425	\$ 26,941,625	\$ 24,671,525
Current City Tax Rate per \$100	0.00435	0.00435	0.004972	0.004972	0.005225	0.004972	0.004972	0.004972
Estimated City Tax Levy	\$54,169	\$141,114	\$166,264	\$166,048	\$165,196	\$145,970	\$133,954	\$122,667
Calculated Grant Incentive Payment	43,336	112,891	133,011	132,838	132,157	116,776	107,163	98,133
Actual net new investment#	\$ 3,544,497	\$ 22,464,080	\$ 38,312,963	\$ 44,176,954	\$ 38,393,229	\$ 35,237,844		
Current City Tax Rate per \$100	0.00435	0.00435	0.004972	0.004972	0.005225	0.005225	0.005225	0.005225
Actual City Tax Levy#	\$ 15,419	\$ 97,719	\$ 190,492.05	\$ 219,648	\$ 200,605	\$ 184,118	\$ -	\$ -
Actual Grant Incentive Payment	\$ 12,335	\$ 78,175.00	\$ 152,394	\$ 175,718	\$ 160,484	\$ 147,294	\$ -	\$ -
Difference (Levy Less Incentive Pmt.)	\$3,084	\$19,544	\$38,098	\$43,930	\$40,121	\$36,824	\$0	\$0

To be reported and confirmed by Cleveland County Tax Office annually to the City Manager and Finance Director.

City - Up front g

Requirements for remittance: (This list is not exhaustive. Please refer to agreement.)

- 1 - Company must have paid all local property taxes in full.
- 2 - Company must be current on all utility accounts with the City.
- 3 - Company must be current on all fees and charges owed to the City.
- 4 - Company must request in writing during the fiscal year to be eligible to receive the City grant. Grants not requested are forfeited for that fiscal year.
- 5 - Company must meet the minimum stated net new investments.
- 6 - Company must be in compliance with all federal, state and local laws. (Including zoning, nuisance and other applicable ordinances)

KSM Castings Expansion Project City Incentive Grant Payment Schedule

* Applicable agreement must be reviewed before annual remittance of grant incentive payment. Grant payments to be made after the tax in full all local property taxes. City has option to pay grant to taxpayer between January and March annually.

Column1	Column2	Column3	Column4	Column5	Column6	Column610
Tax Year (Fiscal Yr.)	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
% authorized	1 95%	2 95%	3 95%	4 95%	5 95%	6 35%
Estimated net new investment	10,000,000	30,000,000	45,000,000	60,000,000	80,000,000	80,000,000
Current City Tax Rate per \$100	0.005225	0.005225	0.005225	0.005225	0.005225	0.005225
Estimated City Tax Levy	\$52,250	\$156,750	\$235,125	\$313,500	\$418,000	\$418,000
Calculated Grant Incentive Payment	49,638	148,913	223,369	297,825	397,100	146,300
Actual net new investment#	\$ 15,081,785	\$ 16,057,122	\$ -	\$ -	\$ -	\$ -
Current City Tax Rate per \$100	0.005225	0.005225	0.005225	0.005225	0.005225	0.005225
Actual City Tax Levy#	\$ 78,802	\$ 83,898	\$ -	\$ -	\$ -	\$ -
Actual Grant Incentive Payment	\$ 74,862	\$ 79,703.54	\$ -	\$ -	\$ -	\$ -
Difference (Levy less Incentive Pmt.)	\$3,940	\$4,195	\$0	\$0	\$0	\$0

To be reported and confirmed by Cleveland County Tax Office annually to the City Manager and Finance Director.

Requirements for remittance: (This list is not exhaustive. Please refer to agreement.)

1 - Company must have paid all local property taxes in full.

	2019	BASE YR (2016)	SUBJ. TO 2016 INCENT.	SUBJ. TO 2013 INCENT.
62354	61,238	61,238		61,238
32573	8,701,700	5,681,304		5,681,304
62669	6,419	6,419		6,419
BPP			(= CURRENT YEAR - BASE YEAR)	
Plant (1) 1323136	29,488,883	32,939,427		29,488,883
Plant (2) 1310073	16,487,270			
TOTAL	54,745,510	38,688,388	16,057,122 ✓	35,237,844 ✓
KSM				
Shelby			83,898.46	184,117.73 (Tax Pd.)
2020				

KSM Castings Group

KSM Castings USA Inc.

March 27, 2020

City of Shelby
Shelby City Hall
300 South Washington Street
Shelby, NC 28150



Attn: Mr. Rick Howell, City Manager

Subject: 2019 tax Incentive Agreement Payment Request and Performance Letter Certification

Dear Mr. Howell:

I draw your attention to the incentive agreements made between KSM Castings NC Inc. and the City of Shelby, dated February 1, 2013. For the year ended December 31, 2019, this is to serve as performance certification that we have met the conditions required to receive payment, as required by the agreement. Hereto, KSM Castings USA Inc. has met these requirements:

1. All 2019 local property taxes , on the Assessed Value, have been paid,
2. All Grant Criteria have been satisfied,
3. Assessed Value of the Project by the County Tax Assessor has been accepted and not disputed,

These 2019 tax payments (excluding water district) have been made to the City:

- Real property-parcel #62354, bill # 3886260: \$ 319.97
 - Real property-parcel #32573, bill # 3886259: \$ 45,466.38 **note
 - Real property-parcel #62669, bill # 3886261: \$ 33.54
 - Business personal property, bill # 3893579 : \$ 154,079.42 HPDC Plant 1
 - Business personal property, bill #3905959_: \$ 86,145.98 CPC Plant 2 **note
- Total payment: \$ 286,045.29

**note: parcel 32573 includes improvements that are part of the 2nd incentive agreement, signed on March 10, 2016, for our expansion, which are for 95%. Business personal property, bill 3905959 are also part of this 2nd agreement.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Rollins', is written over the word 'Sincerely,'.

John Rollins
Director of Finance ,Treasurer
KSM Castings USA Inc.
704-751-0559

KSM Castings USA Inc.
120 Blue Brook Drive
(formerly: 641 Plato Lee Road)
Shelby, NC 28150

Internet: www.ksmcastings.com
E-Mail: info@ksmcastings.com
Telephone: 704-313-0422

KSM Castings Group

KSM Castings USA Inc.

March 27, 2020

City of Shelby
Shelby City Hall
300 South Washington Street
Shelby, NC 28150



Attn: Mr. Rick Howell, City Manager

Subject: 2019 tax Incentive Agreement Payment Request and Performance Letter Certification

Dear Mr. Howell:

I draw your attention to the incentive agreements made between KSM Castings NC Inc. and the City of Shelby, dated March 10, 2016. For the year ended December 31, 2019, this is to serve as performance certification that we have met the conditions required to receive payment, as required by the agreement. Hereto, KSM Castings USA Inc. has met these requirements:

1. All 2019 local property taxes , on the Assessed Value, have been paid,
2. All Grant Criteria have been satisfied,
3. Assessed Value of the Project by the County Tax Assessor has been accepted and not disputed,

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- Total payment: \$ 286,045.29

**note: parcel 32573 includes improvements that are part of the 2nd incentive agreement, signed on March 10, 2016, for our expansion, which are for 95%. Business personal property, bill 3905959 are also part of this 2nd agreement.

Sincerely,

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John Rollins
Director of Finance ,Treasurer
KSM Castings USA Inc.
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120 Blue Brook Drive
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Shelby, NC 28150

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ORDINANCE NO. 20-2020

CITY OF SHELBY
FISCAL YEAR (FY) 2019-2020 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 2019-2020; 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 2019-2020 Budget Ordinance, is hereby amended as follows to provide for Budget Amendment No. 16 for the year:

(A) The City of Shelby, via Resolution No. 4-2013 and Resolution No. 10-2016, approved incentive agreements and awarded Industrial Incentive Grants to KSM Castings NC Inc. KSM Castings NC Inc. has now met the requirements for distribution of grant funds for the third year of their incentive. 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 | \$226,998 |
| (b) Increase 110495-49230
Transferred to Economic Development Fund | \$226,998 |

(2) The following Econ. Development Funds Line Items are amended:

- | | |
|---|-----------|
| (a) Increase 23009000-39000
Transferred from Other Funds | \$226,998 |
| (b) Increase 230590-42006
Economic Development | \$226,998 |

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. 16</u>
General Fund	\$ 26,408,234	\$ 26,635,232
Emergency Telephone System Fund	162,200	162,200
Powell Bill Fund	790,200	790,200
Economic Dev. Fund	1,154,313	1,381,311
Housing Fund	1,966,847	1,966,847
Cemetery Fund	30,000	30,000
Utilities-Water Fund	5,162,246	5,162,246
Utilities-Sewer Fund	5,548,800	5,548,800
Utilities-Electric Fund	22,408,955	22,408,955
Utilities-Gas Fund	16,668,850	16,668,850
Utilities – Stormwater Fund	832,160	832,160
FY 2019-2020 Budget Total:	<u>\$ 81,132,805</u>	<u>\$ 81,586,801</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 18th day of May 2020.

O. Stanhope Anthony, III
Mayor

ATTEST:

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

APPROVED AS TO FORM:

Martha Raymond Thompson
Interim City Attorney

City of Shelby
Agenda Item Summary
May 18, 2020
(via electronic meeting)

Agenda Item: C-5

- 5) Adoption of Fiscal Year 2019-2020 Budget Ordinance Amendment No. 17:
Ordinance No. 21-2020

Consent Agenda Item: (Justin Merritt, Assistant City Manager)

Summary of Available Information:

- Memorandum dated May 11, 2020 from Justin Merritt, Assistant City Manager to Rick Howell, City Manager
- Copy of Resolution No. 24-2017 and Economic Development Agreement dated April 3, 2017
- Amortization Schedule and Funding Breakdown for Inter-Local Agreement between County and City
- Ordinance No. 21-2020

City Manager's Recommendation / Comments

Ordinance No. 21-2020 is presented for City Council consideration at this time via the Consent Agenda. If approved this resolution appropriates \$1,101,926 in funding from the enterprise Funds to repay the County for the infrastructure loan. You will recall that Resolution No. 24-2017 was by Council in April 2017 that enacted an agreement between the City and Cleveland County in regard to issues of mutual interest and cooperation related to the expansion of the Clearwater Paper Company on the county owned Washburn Switch Business Park property. The following are keys points of which Council should be aware.

- 1) The County agreed to provide funding in an amount that will be sufficient to construct the identified infrastructure after taking into consideration grant funding and a capital contribution by the company.
- 2) The City agreed to reimburse the county for this funding from revenue generated by the project through utility consumptions and property tax revenue over a period of 15 years.
- 3) The County guaranteed the City will receive no less than 12.96% of sales tax allocations beginning no later July 1, 2019.
- 4) The County agreed to voluntarily annex all county owned property in the identified Washburn Switch corridor including the site where Clearwater Paper was to building its new expanded facility.

This agreement is a win-win situation for both the City and County and will be a significant benefit both long and short term for the citizens of our community.

It is my recommendation Ordinance No. 21-2020 be adopted and approved by City Council at this time via the Consent Agenda



To: Rick Howell, City Manager

From: Justin Merritt, Assistant City Manager

Date: May 11, 2019

Subject: Project Grizzly Utility Construction - County Loan Repayment

Background:

The City of Shelby and Cleveland County entered into an interlocal agreement on April 3, 2017, through Resolution 24-2017. This agreement, among other things, detailed the amount of financial participation from the City to provide utility infrastructure to Project Grizzly (Clearwater Paper expansion) and set this limit at \$11,064,000. This amount would initially come in the form of a loan from Cleveland County, which the City would repay over a term not to exceed 15 years, at a rate of interest not to exceed 3.25%.

This budget amendment will allow for repayment of year 3 of the loan, in the amount of \$1,101,926.

The interlocal agreement and debt repayment schedule are attached as reference.

Recommendation:

The recommendation from staff is to approve the attached budget amendment so that the requested debt payment can be made.

RESOLUTION NO. 24-2017

A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF SHELBY
AND CLEVELAND COUNTY FOR THE ADMINISTRATION OF
AN ECONOMIC DEVELOPMENT AGREEMENT

WHEREAS, the City of Shelby, a North Carolina municipal corporation (herein "City"), and Cleveland County, a body politic organized and existing under the laws of, and a political subdivision of, the State of North Carolina (herein "County"), working through the Cleveland County Economic Development Partnership (CCEDP), propose to enter into an Economic Development Agreement (herein "ED Agreement") with Clearwater Paper Corporation, a Delaware corporation authorized to do business in North Carolina (herein "Company"); and,

WHEREAS, said ED Agreement covers several different types of incentives, including the payment of cash incentives to the Company, the transfer of real property to the Company, and the construction and installation of infrastructure (utilities, roads, rail); and,

WHEREAS, the incentives provided for in the ED Agreement are interdependent, and the ED Agreement is accordingly structured to be an integrated package, and no one element of it may be changed or removed without affecting the whole; and,

WHEREAS, because of the structure of the ED Agreement, the City and County desire to agree between themselves as to their responsibilities for administration of the Project; and,

WHEREAS, the City and County have also agreed between themselves to certain financial commitments with respect to the ED Agreement, and have also agreed among themselves as to requesting the annexation by the City of certain County property.

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

SECTION 1. In consideration of the promises and covenants set forth herein, and for other valuable considerations, including the exchange of \$10.00 between the parties, the receipt and sufficiency of which is hereby acknowledged.

SECTION 2. The City Council of the City of Shelby by this action approves the ED Agreement, attached as EXHIBIT A, and authorizes the Mayor to execute the ED Agreement on behalf of the City of Shelby.

SECTION 3. This resolution shall become effective immediately on the date of its adoption.

Adopted and approved this 3rd day of April 2017.



O. Stanhope Anthony III
Mayor

ATTEST:



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

AGREEMENT OF CITY OF SHELBY AND CLEVELAND COUNTY
ADMINISTRATION OF ECONOMIC DEVELOPMENT AGREEMENT

This Administration Agreement, made and entered into this 3rd day of April, 2017, by and between the City of Shelby, a North Carolina municipal corporation (herein "City"), and Cleveland County, a body politic organized and existing under the laws of, and a political subdivision of, the State of North Carolina (herein "County").

WITNESSETH

WHEREAS, the City and the County, working through the Cleveland County Economic Development Partnership (CCEDP), propose to enter into an Economic Development Agreement herein "ED Agreement") with Clearwater Paper Corporation, a Delaware corporation authorized to do business in North Carolina (herein "Company"); and

WHEREAS, said ED Agreement covers several different types of incentives, including the payment of cash incentives to the Company, the transfer of real property to the Company, and the construction and installation of infrastructure (utilities, roads, rail); and

WHEREAS, the incentives provided for in the ED Agreement are interdependent, and the ED Agreement is accordingly structured to be an integrated package, and no one element of it may be changed or removed without affecting the whole; and

WHEREAS, because of the structure of the ED Agreement, the City and County desire to agree among themselves as to their responsibilities for administration of the Project; and

WHEREAS, the City and County have also agreed among themselves to certain financial commitments with respect to the ED Agreement, and have also agreed among themselves as to requesting the annexation by the City of certain County property;

NOW, THEREFORE, in consideration of the promises and covenants set forth herein, and for other valuable considerations, including the exchange of \$10.00 between the parties, the receipt and sufficiency of which is hereby acknowledged, the City and the County hereby agree as follows:

REFERENCES and DEFINITIONS, unless otherwise defined herein, certain capitalized terms (e.g., Project Site, IU Improvements) shall have the same meaning as in the Economic Development Agreement. Reference to the Economic Development Agreement is made for purposes of providing context for this Administration Agreement.

I. Limits of Financial Participation by Shelby

- A. The City and the County agree that the City's maximum financial commitment with respect to the Economic Development Agreement, exclusive of any fee waivers or administrative costs, for its contributions in aid of public infrastructure shall not exceed \$11,064,000 million (herein "City's Financial Commitment") which includes all applicable debt issuance and closing costs shared at a proportional amount. These costs are limited to the cost of constructing and installing water, sewer, and natural gas utility extensions, facilities, economic development, land purchase and connections (herein "City's IU Improvements") as provided in the Economic Development Agreement.
- B. Said Financial Commitment is based on the City's good faith estimates of the cost of constructing and installing the City's IU Improvements.
- C. The City will not be responsible for acquiring or paying for the acquisition of the land, easements, right-of-way, or other interests in land that may be necessary in

order for the City to install and construct the City's IU Improvements, and such costs are not included in the City's Financial Commitment.

- D. The City's Financial Commitment is expressly contingent upon the City's obtaining funding from the County for the cost of the City's IU Improvements at an interest rate that does not exceed 3.25%, and for a repayment period that does not exceed 15 years.
- E. In the event that \$11,064,000 million is not sufficient to cover the costs of the City's IU Improvements, the City will notify the County, and the County will have the option of paying some or all of the additional costs necessary to complete the City's IU Improvements. Nothing herein shall prohibit the City and the County from negotiating among themselves for the payment of any additional costs.
- F. In the event that the County exercises the claw back, per the agreement with Clearwater, on undeveloped property at the project site the County agrees to share any claw back equally with the City of Shelby.

II. SALES TAX ALLOCATION

- A. Beginning July 1, 2019 and with commencement of operations at the Expanded Facility as provided in the Economic Development Agreement, and following annexation of the Company's property (including the existing facility) as provided for therein, and pursuant to the allocation of North Carolina State local option sales tax revenue provided for in Article 39 of N.C.G.S. Chapter 105, the City expects to receive approximately-12.96% of sales tax revenue collected in and

distributed to Cleveland County for the term of its financing for the IU Improvements.

- B. In arranging and budgeting for the funding costs for its share of the cost of the City's IU Improvements, the City has relied on the allocation of said sales tax revenue remaining constant or exceeding 12.96% for the term of said financing, based on projections of economic and population growth in Cleveland County, and the parties agree that said projections are reasonable. The continued availability of this revenue is a critical factor in the City's decision to participate financially in the Economic Development Agreement at the level provided for therein.
- C. In the event that the City's allocation of sales tax revenue falls below 12.96% of the total sales tax revenue distributed to Cleveland County for any tax year that occurs during the term of the City's repayment period, the County will pay the City an amount equal to any such difference, so that the amounts received by the City, including its sales tax revenue allocation and payments made pursuant to this Agreement, will equal 12.96% of the sales tax revenue for Cleveland County.

III. ANNEXATION OF COUNTY PROPERTY

- A. On or before the 30th day following execution of this Agreement, the County shall submit a petition for voluntary annexation of property owned by it and located at the following addresses, and having the following County Real Estate Identification (REID) numbers:

1. Parcel # 40797.
2. Parcel # 32624.

3. Parcel # 32196.

4. Parcel # 61941.

5. Parcel # 62696.

6. Parcel # 32618.

7. Parcel # 58557.

- B. Said petitions shall be in a form satisfactory to the Shelby City Attorney, and shall not have an expiration date, other than as may be required by law.
- C. The City is under no obligation to annex any or all of said properties, but shall act on said petitions within 3 months from the date on which they are received. If said petitions expire by operation of law prior to the time specified above for action by the City, the County shall, at the request of the City, resubmit said petitions.
- D. If the County sells, leases, or otherwise conveys an interest in any of the properties identified herein, prior to submitting the petitions, or prior to the City acting on said petitions, the contract or instrument of transfer for said property shall require the grantee or subsequent holder of any interest in said property to comply with this Section by submitting a petition for annexation of said property or joining in a petition for annexation of said property regardless of who submits the petition. To this end, the City may record a memorandum of this Agreement in the Cleveland County Registry.
- E. If the County fails to comply with this Agreement with respect to any of the identified properties, resulting in any of said properties not being annexed (provided that they otherwise qualify for annexation), then the County shall pay the City an amount equal to the ad valorem taxes that would be due the City on

said non-annexed properties if said properties had been annexed. This obligation will continue for as long as the property is not annexed, and the City has the authority under State law to impose and collect ad valorem property tax on land within its jurisdiction.

IV. ADMINISTRATION OF ECONOMIC DEVELOPMENT PROJECT


- A. The City and County agree that each of them is participating to a substantial degree with respect to the Economic Development Project Agreement, including the commitment of financial and other resources, and that each has a substantial stake in the success of the Company and in the Economic Development Agreement.
- B. The City and County further agree that said Economic Development Agreement is an integrated package of incentives and other items, such that administration of any part of it by either entity acting alone would be impracticable.
- C. The Agreement contains several provisions that require performance by the Company with respect to which Company's failure to perform, or failure to perform completely, is cause to terminate the Agreement, or to invoke certain remedies, including but not limited to: reductions in the amount of financial incentives provided to the Company, repayment by the Company of some or all of amounts expended by the City or County pursuant to the Agreement, reconveyance of the Project Site from the Company to the County, payment by the Company of additional amounts in aid of public infrastructure, or payments by the Company in lieu of taxes.

D. Because of the significant consequences of a termination of the Economic Development Agreement, or a failure by the Company to perform its obligations thereunder in whole or in part, and because of the integrated structure of the Economic Development Agreement, the City and the County hereby agree:


1. That officials of the City and County will confer on a biweekly basis during the term of the Investment and Construction Schedule of the Economic Development Agreement, or more often as needed to monitor Company's compliance with the Agreement and to monitor progress on the construction activities by the Company as set out in the Investment and Employment Schedule, and on the IU Improvements.
2. Either the City or the County may determine that the Company is in violation or has not complied with one or more of the terms of the Economic Development Agreement (herein "Company Default").
3. If the City or the County determines that a Company Default has occurred, that entity must, within a reasonable time of making said determination, notify the other entity by any reasonable means, and the City and County shall confer regarding the Company Default prior to providing any notice to the Company of said Company Default.
4. The failure to provide the notification specified herein does not confer any substantive rights on the Company, but is only to ensure that issues regarding Company performance under the Economic Development Agreement are addressed in a timely manner by both governmental entities.

5. Without regard to whether both entities agree that a Company Default has occurred, either the City or the County may, after the conference required above, notify the Company of the Company Default.
6. Nothing herein shall prevent or prohibit the City and County from negotiating among themselves, or with the Company, for a resolution or curing of a Company Default.
7. This section is not included to create an interlocal agreement within the meaning of Article 20 of N.C.G.S. Chapter 160A. If any provision of this section is deemed invalid or unenforceable by a court of competent jurisdiction, then a Company Default shall be determined in accordance with the following, based on their respective interests in the ED Agreement.
 - A. The County shall determine whether a Company Default has occurred under Section II of the ED Agreement.
 - B. The County shall determine whether a Company Default has occurred under Section III of the ED Agreement.
 - C. The City shall determine whether a Company Default has occurred under Section IV of the ED Agreement.

WHEREFORE, the parties hereto have executed this Administration Agreement the day and year first above written.



Title: _____
Cleveland County



Title: MAYOR
City of Shelby

[FORM OF EXECUTION to be approved by City and County legal staff.]

4827-9427-2323, v. 1



CLEVELAND COUNTY



*Offices of the
BOARD OF COMMISSIONERS
COUNTY MANAGER
COUNTY ATTORNEY
COUNTY CLERK*

Cleveland County, North Carolina Interlocal Agreement Amortization Schedule City of Shelby – North Shelby

As part of a consolidated 2017 installment financing agreement between Cleveland County, North Carolina, (the County), and Capital One Public Finance the County secured funding in the amount of \$11,000,000 in principal to finance the construction of a new public utility infrastructure on behalf of the City of Shelby, North Carolina, (the City).

The City shall have the option to prepay any amount of outstanding principal plus accrued interest at any time. In the event of a partial prepayment of the outstanding principal component the repayment schedule shall be recalculated as necessary in order to reflect the effect of such payment.

The debt issuance costs are shared proportionally based on the principal percentage of the borrowings. The City of Shelby's portion is \$64,000. The County's total investment in the land that was included in the project was \$2,044,767 and the City's portion of that is \$1,022,383. The County will allot the entire \$11,064,000, less amount to be provided for shared land costs which amounts to \$10,041,617 on any date after the review and signing of this document. The City will make annual payments to the County on May 1st of each year beginning May 1, 2019. The 2018 payment will be interest only. The financing will be for a 15 year term at coupon rate of 3.25%. These payments can be made via wire or done through other financial exchange. The method of payment will be a mutually agreed on decision by the City Manager and the County Manager annually during the budget process. See attached for scheduled debt payment amounts. Modification of any term of this agreement will be placed in writing and signed by both parties.

County Manager, Jeff Richardson

Handwritten signature of Jeff Richardson in black ink, positioned above a horizontal line.

City Manager, Rick Howell

Handwritten signature of Rick Howell in blue ink, positioned above a horizontal line.

Post Office Box 1210, Shelby, North Carolina 28151-1210

Telephone: 704-484-4800; Fax: 704-484-4930

www.clevelandcounty.com

Project Grizzley Amortization Schedule
Cleveland County and City of Shelby
\$11,064,000 financed @ 3.25% for 15 years

	<u>Principal</u>		<u>Interest</u>		<u>Total Payment</u>
1	\$ -	\$	359,580	\$	359,581
2	790,286		335,608		1,125,896
3	790,286		311,636		1,101,925
4	790,286		287,664		1,077,954
5	790,286		263,692		1,053,983
6	790,286		239,720		1,030,012
7	790,286		215,748		1,006,041
8	790,286		191,776		982,070
9	790,286		167,804		958,099
10	790,286		143,832		934,128
11	790,286		119,860		910,157
12	790,286		95,888		886,186
13	790,286		71,916		862,215
14	790,286		47,944		838,244
15	790,286		23,972		814,273
	<u>\$ 11,064,000</u>	<u>\$</u>	<u>2,876,640</u>	<u>\$</u>	<u>13,940,760</u>

Project Grizzly - Infrastructure Funding Breakdown
FOR INTER-LOCAL AGREEMENT BETWEEN COUNTY AND CITY

County Actual Land Costs	\$ 3,351,882	<u>Total Acres</u> 396	<u>Cost per Acre</u> \$ 8,464	
Total Land included in project Grizzley	Acres 241.574	Costs \$ 8,464.35	Total Costs \$ 2,044,766.28	236.708 To company 4.866 To City <u>241.574</u>

<u>County Portion</u>	<u>City Portion</u>
\$ 1,022,383	\$ 1,022,383

Funding Source	Land (\$1,022,383 M)	Electric (\$3.0 MM)	Water (\$10.0 MM)	Sewer (\$14.0 MM)	Rail (\$1.4 MM)	Road (\$2.455MM)	Contingency (\$520K)	Total Funding
Duke Energy	-	3,000,000	-	-	-	-	-	\$ 3,000,000
CDBG (State)	-	-	3,000,000	-	-	-	-	3,000,000
IDF (State)	-	-	-	1,000,000	-	-	-	1,000,000
Golden LEAF - Catalyst	-	-	-	1,500,000	-	-	-	1,500,000
Golden LEAF - MSDI	-	-	-	3,000,000	-	-	-	3,000,000
NC Railroad	-	-	-	-	875,000	-	-	875,000
NCDOT - Road Access	-	-	-	-	-	1,875,000	-	1,875,000
NCDOT - Rail	-	-	-	-	200,000	-	-	200,000
City of Shelby	1,022,383	-	7,000,000	1,405,000	-	-	1,572,617	11,000,000
Cleveland County	-	-	-	-	-	-	-	-
Project Grizzly	-	-	-	7,095,000	325,000	580,000	-	8,000,000
Total	\$ 1,022,383	\$ 3,000,000	\$ 10,000,000	\$ 14,000,000	\$ 1,400,000	\$ 2,455,000	\$ 1,572,617	\$ 33,450,000

Due to City of Shelby	Loan \$ 11,000,000
	Closing Costs 64,000
	Less : Land <u>(1,022,383)</u>
	\$ 10,041,617

ORDINANCE NO. 21-2020

CITY OF SHELBY
FISCAL YEAR (FY) 2019-2020 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 2019-2020; 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 2019-2020 Budget Ordinance, is hereby amended as follows to provide for Budget Amendment No. 17 for the year:

(A) The City of Shelby, via resolution 24-2017, entered into an interlocal agreement with Cleveland County to fund an infrastructure loan for economic development. Year three of the loan repayment is due to the County per the referenced agreement. Accordingly, the following budget modifications are approved in accordance with the chart of accounts heretofore established for the City of Shelby.

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

- | | |
|---|-----------|
| (a) Increase 63006000-39900
Fund Balance Appropriated | \$734,618 |
| (b) Increase 630731-49230
Transferred to Economic Development Fund | \$734,618 |

(2) The following Gas Fund line items are amended:

- | | |
|---|-----------|
| (a) Increase 64006000-39900
Fund Balance Appropriated | \$367,308 |
| (b) Increase 640741-49230
Transferred to Economic Development Fund | \$367,308 |

(3) The following Econ. Development Funds Line Items are amended:

- | | |
|---|-------------|
| (a) Increase 23009000-39630
Transferred from Electric Fund | \$734,618 |
| (b) Increase 23009000-39640
Transferred from Gas Fund | \$367,308 |
| (c) Increase 230590-42006
Economic Development | \$1,101,926 |

(4) The following Water Fund line items are amended:

(a) Increase 61006000-39000 Transferred from Other Funds	\$416,308
(b) Increase 610711-70001 Debt Service – Principal	\$298,571
(c) Increase 610711-70002 Debt Service – Interest	\$117,737

(5) The following Sewer Fund line items are amended:

(a) Increase 62006000-39000 Transferred from Other Funds	\$567,711
(c) Increase 620721-70001 Debt Service – Principal	\$407,156
(a) Increase 620721-70002 Debt Service – Interest	\$160,555

(6) The following Gas Fund line items are amended:

(a) Increase 64006000-39000 Transferred from Other Funds	\$117,907
(b) Increase 640741- 70001 Debt Service – Principal	\$84,561
(c) Increase 640741-70002 Debt Service – Interest	\$33,346

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. 17</u>
General Fund	\$ 26,635,232	\$ 26,635,232
Emergency Telephone System Fund	162,200	162,200
Powell Bill Fund	790,200	790,200
Economic Dev. Fund	1,381,311	2,483,237
Housing Fund	1,966,847	1,966,847
Cemetery Fund	30,000	30,000
Utilities-Water Fund	5,162,246	5,578,554
Utilities-Sewer Fund	5,548,800	6,116,511
Utilities-Electric Fund	22,408,955	23,143,573
Utilities-Gas Fund	16,668,850	17,154,065
Utilities – Stormwater Fund	<u>832,160</u>	<u>832,160</u>
FY 2019-2020 Budget Total:	<u>\$ 81,586,801</u>	<u>\$ 84,892,579</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.

Ordinance No. 21-2020
May 18, 2020
Page 3

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

Adopted and approved this the 18th day of May 2020.

O. Stanhope Anthony III
Mayor

ATTEST:

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

APPROVED AS TO FORM:

Martha Raymond Thompson, Interim City Attorney
City Attorney

City of Shelby
Agenda Item Summary
May 18, 2020
(via electronic meeting)

Agenda Item: D

Unfinished Business

None

City of Shelby
Agenda Item Summary
May 18, 2020
(via electronic meeting)

Agenda Item: E-1

New Business

- 1) Proposed Fiscal Year (FY) 2020-2021 Annual Operating Budget for the City of Shelby

Consent Agenda Item: (Rick Howell, City Manager)

Summary of Available Information:

- City Manager's Budget Message FY 2020-2021
- Proposed FY 2020-2021 Budget Ordinance
- Proposed FY 2020-2021 Supplemental Budget Ordinance
- Attachment A Personnel Summary
- Attachment B Position Reclassification Summary
- FY 2020-2021 Capital Equipment List
- City Manager's Budget Presentation

City Manager's Recommendation / Comments

The proposed fiscal year 2020-2021 annual budget will be presented at this time on the agenda. I will provide Council with an overview of my budget message and summarize the significant and noteworthy changes within the proposed budget. It is recommended that Council schedule the required public hearing for Monday, June 1, 2020.

City Council has been provided a copy the recommended Budget Ordinance for the fiscal year beginning July 1, 2020, the Supplemental Budget Ordinance, the City Manager's Budget Message, the Authorized Personnel Summary, the Position Reclassification Summary and the Schedule of Fees and Charges as well as the Budget Summary. These documents will be made available to the public via the City's website by close of business Wednesday, May 20th.

There is no action required by Council at this time.

City of Shelby
Agenda Item Summary
May 18, 2020
(via electronic meeting)

Agenda Item: E-2

- 2) Consideration of a resolution authorizing disbursement of travel and tourism funding to the Cleveland County Arts Council for Fiscal Year 2020-2021:
Resolution No. 21-2020

Consent Agenda Item: (Rick Howell, City Manager)

Summary of Available Information:

- Resolution No. 21-2020

City Manager's Recommendation / Comments

Resolution No. 21-2020 is presented for City Council consideration at this time. It is presented separately from Resolution 22-2020 to remove any conflict of interest real or perceived. As you all know Councilmember Violet Arth Dukes is an employee of the Cleveland County Arts Council and as such it could be perceived that she has a conflict of interest when voting on this matter given it awards her employer a grant in the amount of \$15,000. This could be considered or perceived by some that Councilmember Arth Dukes is receiving a prohibited "direct benefit" from the City if she were to vote. As such it is up to a member of Council to request recusal and for Council to grant that recusal.

I have reviewed the applications submitted by the eligible organizations for travel and tourism grant funding. Each year past grant recipients and other organizations that have expressed an interest are eligible to submit grant applications for these funds generated through the 3% room occupancy tax levied by City Council. Each is reviewed to determine if the purpose for use of funds is eligible under the statutes and city policy, the economic impact of the event(s) and/or promotion, past use of funds, success of past events to attract overnight visitors, financial participation by the entity, as well as other relevant criteria. Resolution No. 21-2020 is presented for consideration at this time.

It is my recommendation that Resolution No. 21-2020 be adopted and approved by City Council at this time.

RESOLUTION NO. 21-2020

A RESOLUTION AUTHORIZING DISBURSEMENT OF
TRAVEL AND TOURISM FUNDING TO THE CLEVELAND COUNTY ARTS COUNCIL
FOR FISCAL YEAR 2020-2021

WHEREAS, the City of Shelby through the adoption of the 2005 Strategic Growth Plan recognizes the need to promote economic development efforts throughout the City; and

WHEREAS, City of Shelby currently levies a 3% occupancy tax in accordance with Resolution 69-97 and NC Session Law 1997-361 for the purpose of generating revenue for the promotion of travel and tourism within the City; and

WHEREAS, said occupancy tax proceeds are restricted for use by the noted resolution and session law for travel and tourism promotion and tourism related expenditures; and

WHEREAS, the City Manager has determined that sufficient funding has been appropriated by Council for the fiscal year beginning July 1, 2020; and

WHEREAS, the following organizations have submitted applications and requests to the City Manager and it is his determination that each is eligible under the city policy and the applicable general statute and therefore recommends that the following amounts be awarded:

1. Cleveland County Arts Council – Art of Sound Festival \$15,000.
Marketing and Event Support

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA as follows:

- 1) City Council authorizes disbursement of local occupancy tax funds for the preceding organization in the designated amount at the discretion of the Finance Director in consultation with the City Manager.

- 2) Authorizes the City Manager to obtain activity reports from each funded organization detailing the use of said funds. The same shall be reported to City Council following the close of the fiscal year ending June 30, 2021.

This Resolution shall become effective upon its adoption and approval.

Adopted and approved this the 18h day of May 2020.

O. Stanhope Anthony III
Mayor

ATTEST:

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

City of Shelby
Agenda Item Summary
May 18, 2020
(via electronic meeting)

Agenda Item: E-3

- 3) Consideration of a resolution authorizing disbursement of travel and tourism funding for Fiscal Year 2020-2021: Resolution No. 22-2020

Consent Agenda Item: (Rick Howell, City Manager)

Summary of Available Information:

- Resolution No. 22-2020

City Manager's Recommendation / Comments

I have reviewed the applications submitted by the eligible organizations for travel and tourism grant funding. Each year past grant recipients and other organizations that have expressed an interest are eligible to submit grant applications for these funds generated through the 3% room occupancy tax levied by City Council. Each is reviewed to determine if the purpose for use of funds is eligible under the statutes and city policy, the economic impact of the event(s) and/or promotion, past use of funds, success of past events in attracting overnight visitors, financial participation by the entity, as well as other relevant criteria. Resolution No. 22-2018 is presented for consideration at this time.

As you all know these funds are limited and the competition is significant. I have tried to balance requests for funding within the provisions of adopted City policy to ensure the greatest benefit is realized as set forth within the applicable NC General Statute. As a reminder funds received in the current fiscal year are awarded for appropriation in the following fiscal year.

It is my recommendation that Resolution No. 22-2020 be adopted and approved by City Council at this time.

RESOLUTION NO. 22-2020

A RESOLUTION AUTHORIZING DISBURSEMENT OF
TRAVEL AND TOURISM FUNDING FOR FISCAL YEAR 2020-2021

WHEREAS, the City of Shelby through the adoption of the 2005 Strategic Growth Plan recognizes the need to promote economic development efforts throughout the City; and

WHEREAS, City of Shelby currently levies a 3% occupancy tax in accordance with Resolution 69-97 and NC Session Law 1997-361 for the purpose of generating revenue for the promotion of travel and tourism within the City; and

WHEREAS, said occupancy tax proceeds are restricted for use by the noted resolution and session law for travel and tourism promotion and tourism related expenditures; and

WHEREAS, the City Manager has determined that sufficient funding has been appropriated by Council for the fiscal year beginning July 1, 2020; and

WHEREAS, the following organizations have submitted applications and requests to the City Manager and it is his determination that each is eligible under the city policy and the applicable general statute and therefore recommends that the following amounts be awarded:

- | | |
|---|------------|
| 1. Earl Scruggs Center | \$30,000. |
| Marketing and Exhibit / Event Support | |
| 2. Don Gibson Theatre | \$30,000. |
| Marketing and Concert Sponsorship | |
| 3. Cleveland County Travel and Tourism | \$15,000. |
| Marketing / Event Support | |
| 4. Sharks Aquatics Club | \$ 7,100. |
| Swim Meet Event Equipment / Facility Rental | |
| 5. Foothills Farmers Market | \$ 6,000. |
| Travel/Tourism Promotion | |
| 6. Uptown Shelby Association | \$ 28,000. |
| Travel/Tourism Promotion/Mural Project | |

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA as follows:

- 1) City Council authorizes disbursement of local occupancy tax funds for the preceding organizations at the discretion of the Finance Director in consultation with the City Manager.
- 2) Authorizes the City Manager to obtain activity reports from each funded organization detailing the use of said funds. The same shall be reported to City Council following the close of the fiscal year ending June 30, 2021.

This Resolution shall become effective upon its adoption and approval.

Adopted and approved this the 18th day of May 2020.

O. Stanhope Anthony III
Mayor

ATTEST:

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

City of Shelby
Agenda Item Summary
May 18, 2020
(via electronic meeting)

Agenda Item: F

City Manager's Report

I will update Council on various projects and issues at this time.

Agenda Item: G

Council Announcements and Remarks

H. Adjournment

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

Motion to adjourn