

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.

- 1) Approval of the Minutes of the Regular Meeting of January 9, 2023 2 - 7
- 2) Approval of City of Shelby authorization of modified project allocations for North Carolina state appropriations for water and wastewater projects: Resolution No. 2-2023 8 - 14
- 3) Adoption of an ordinance concurring with the North Carolina Department of Transportation for speed limit revision inside the corporate limits of Shelby, North Carolina: Ordinance No. 4-2023 15 - 23

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- 4) Adoption of budget ordinance amendment for the City of Shelby's Rail Trail Corridor project: Ordinance No. 5-2023** **24 - 34**
- 5) Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council – February 6, 2023** **35 - 36**

D. Unfinished Business:

- 1) Motion to acknowledge and sign the Response to the Auditor's Findings, Recommendations and Fiscal Matters** **37 - 48**

E. New Business:

- 1) Approval of a resolution authorizing selection of TGS Engineers based on qualifications for professional engineering services for a Traffic Impact Analysis for a lane reconfiguration project in Shelby, North Carolina: Resolution No. 3-2023** **49 - 65**
- 1) Approval of a resolution declaring the intent of the City Council of the City of Shelby to consider the permanent closure of Ella Street and a portion of South Washington Street between Textile Street and East Shannonhouse Street: Resolution No. 4-2023** **66 - 72**
- 2) Adoption of a proposed ordinance amending section 42-172(b) Two-Hour Parking and 42-173 Parking Prohibited on Certain Streets: Ordinance No. 6-2023** **73 - 80**

F. City Manager's Report **81**

G. Council Announcements and Remarks **81**

H. Closed Session:

81

- 1) Roy Jones, CEO and Matt Schull, COO of ElectriCities – Discussions of a proposed or existing contract to which a joint agency may be or is a party for the construction, ownership, or operation of works, plants, and facilities for or incident to the generation, transmission, or use of electric power and energy or the purchase, sale, exchange, interchange, wheeling, pooling, transmission, or use of electric power and energy shall be confidential and information relating to such discussions shall not be a public record under Chapter 132 of the General Statutes; provided that any contract entered into by or on behalf of a joint agency as defined by G.S. 159B-3 shall be a public record unless otherwise exempted by law. (1993 (Reg. Sess., 1994), c. 570, s. 11.) – North Carolina General Statute 159B-38.

To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes - NCGS 143-318.11(a)(1)

- 2) To establish, or to instruct staff concerning the position to be taken by or on behalf of City Council in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease pursuant to North Carolina General Statute 143-318.11(a)(5).

I. Adjournment:

82

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

- 1) Motion to adjourn

City of Shelby
Agenda Item Summary
January 23, 2023
City Hall Council Chamber

B. Public Comment:

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

A reminder that it has been past practice of City Council to only listen to public comment without reply except to refer citizens with requests and concerns to the Office of the City Manager so that they may be addressed in a timely fashion or included on a future agenda for consideration by Council. If this is warranted and directed by City Council.

City of Shelby
Agenda Item Summary
January 23, 2023
City Hall Council Chamber

C. Consent Agenda:

Agenda Item: C-1

- 1) Approval of the Minutes of the Regular Meeting of January 9, 2023

Consent Agenda Item: (Carol Williams, City Clerk)

Summary of Available Information:

Please read and offer changes as you deem necessary.

- Minutes of the Regular Meeting of January 9, 2023

City Manager's Recommendation / Comments

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

MINUTES

Regular Meeting
City Hall Council Chamber

January 9, 2023
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony, III, presiding; Council Members Andrew L. Hopper, Sr., David Causby, Violet Arth, David White, Charles Webber, and Emilie Bullock.; City Manager Rick Howell, MPA, ICMA-CM, Assistant City Manager Justin S. Merritt, MPA, Assistant City Manager Benjamin (Ben) Yarboro, Interim City Attorney Julie Hooten, City Clerk Carol Williams, Deputy City Clerk Breanna Jones, Public Information and Communications Officer Chip Nuhrah, Director of Human Resources Deborah (Deb) Jolly, Director of Finance Elizabeth (Beth) Beam, CPA, Police Chief Jeffrey (Jeff) Ledford, Fire Chief William Hunt, EFO, Director of Planning and Development Services Walter (Walt) Scharer, Interim Public Works Director Scott Black, and Jennipher H. Harrill, Social Media Manager, Blue Eyes Media Connections;

Mayor Anthony called the meeting to order at 6:00 p.m. and delivered the invocation.

Mr. Causby led the Pledge of Allegiance.

A. Approval of agenda:

- 1) Motion to adopt the agenda as presented.

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

B. Public Hearing:

- 1) Consideration of an ordinance to extend the corporate limits of the City of Shelby, North Carolina: Ordinance No. 1-2023

Mr. Scharer introduced the property located on Hubbard Terrace just off of Wesson Road as two lots totaling approximately one acre and is contiguous to existing city limits. The two lots are currently zoned R-20 and Mr. Scharer clarified that this hearing is not a rezoning hearing only a contiguous voluntary annexation hearing.

Mayor Anthony opened the public hearing at 6:03 p.m. and invited comments from the public.

Noel MacArthur who resides at 1414 Hubbard Terrace, Shelby, North Carolina acknowledged he is the property owner of the lot adjacent to this site. Mr. MacArthur stated he and his wife are in favor of this annexation. Mr. MacArthur further stated he hopes City Council will allow the annexation of the entire road (Hubbard Terrace) in the future.

Mayor Anthony closed the public hearing at 6:05 p.m.

Mayor Anthony disclosed that Mr. Causby once owned the two lots on Hubbard Terrace but is no longer the property owner. Attorney Hooten advised Mr. Causby does not need to recuse himself from the vote.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve Ordinance No. 1-2023 entitled, "AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF SHELBY, NORTH CAROLINA."

2) Consideration of an ordinance to extend the corporate limits of the City of Shelby, North Carolina: Ordinance No. 2-2023

Mr. Scharer introduced the property located on Hubbard Terrace just off of Wesson Road as one lot totaling approximately .66 acre. This lot is non-contiguous to the city limits; therefore, this is considered a satellite voluntary annexation. The lot is currently zoned R-20 and Mr. Scharer clarified that this hearing is not a rezoning hearing only a voluntary satellite annexation hearing.

Mayor Anthony opened the public hearing at 6:06 p.m. and invited comments from the public.

No comments were offered from the public.

Mayor Anthony closed the public hearing at 6:07 p.m.

ACTION TAKEN: Upon a motion made by Ms. Arth, City Council voted unanimously to approve Ordinance No. 2-2023 entitled, "AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF SHELBY, NORTH CAROLINA."

E. Consent Agenda:

Mayor Anthony presented the consent agenda. Mr. Webber moved to approve the consent agenda and the following items were unanimously adopted:

- 1) Approval of the Minutes of the Regular Meeting of December 5, 2022
- 2) Adoption of budget ordinance amendment for the City of Shelby's City Park Pool Renovation project: Ordinance No. 3-2023

F. Unfinished Business:

None

G. New Business

- 1) A resolution awarding the contract for the City of Shelby Stormwater Infrastructure Assistance Program project at 715 S. Dekalb St. in Shelby, North Carolina: Resolution No. 1-2023

Mr. Howell presented this resolution and reminded Council that after the Stormwater Program was adopted, staff recommended a certain amount of money to be used for an "off right of way" stormwater assistance program. Mr. Howell further explained that this allotted money helps residential and commercial property owners with drainage work that improves the flow of rain and floodwaters. Mr. Howell acknowledged if this resolution is approved then Two Brothers Utilities, LLC would be awarded the contract for this project in the amount of \$39,721.

ACTION TAKEN: Upon a motion made by Mr. Causby, City Council voted unanimously to approve Resolution No. 1-2023 entitled, "A RESOLUTION AWARDED THE CONTRACT FOR THE CITY OF SHELBY STORMWATER INFRASTRUCTURE ASSISTANCE PROGRAM PROJECT AT 715 S. DEKALB ST. IN SHELBY, NORTH CAROLINA."

- 2) Designation of authorized voting delegate for the North Carolina League of Municipalities 2023-2024 Biennium Legislative Goals, required by January 12, 2023

Mr. Howell introduced this item by reminding Council that the North Carolina League of Municipalities develops legislative goals, and a delegate is required from the city to vote on these goals. Mr. Howell stated he has served as the delegate in the past and would be happy to serve in that capacity again if Council agrees.

ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted unanimously to designate City Manager Rick Howell as the

authorized voting delegate for the North Carolina League of Municipalities 2023-2024 Biennium Legislative Goals.

H. City Manager's Report

- Regarding the City Hall Roof Replacement project: Hope to have a recommendation to Council at the January 23rd meeting.
- Regarding Phase 1A of the Rail Trail: Stormwater materials have been delivered, retaining wall materials have been ordered, surveying, clearing and grubbing have been completed, erosion control has been installed and soil testing is ongoing. Completion date is June 5th, 2023.
- Mr. Howell welcomed members of the Leadership Cleveland County class.
- February 22nd is the League of Municipalities Town/State dinner in Raleigh.
- Annual NCLM conference is April 25 – 27, 2023 in Concord, North Carolina.

I. Council Announcements and Remarks:

Mayor Anthony appreciated the hard work of our Public Works and Water Resources Department for their work repairing the multiple water main breaks during the recent subfreezing weather. Mr. Howell thanked the Mayor for mentioning this and acknowledged all the Utility and Public Work employees work hard in sometimes tough conditions.

Ms. Arth stated it was great to see everyone after the New Year.

Mr. White stated the City of Shelby is like one big family and our departments work well together. Mr. White also asked about the manhole between Warren Street and Graham Street; Mr. Howell stated that is a sewer project for a private development on that property.

Mr. Causby acknowledged the increase in COVID cases in our area and encouraged everyone to get vaccinated.

Mr. Webber commended the Mayor for his update on Monday with the Mayor. Mr. Webber also welcomed the Leadership Cleveland County class members and offered his help in any way.

Mr. Hopper gave an update on the Gaston/Cleveland/Lincoln MPO meeting he attends regularly. The main NCDOT project in our area is the redesign of Hwy. 150 and Marion Street. Mr. Hopper stated that in the past the bids for this project all came in too high; then this summer there were no bids submitted by construction companies. Mr. Hopper announced that the project is going to be re-bid on January 10th and hopefully there will be some reasonable bids submitted. Mr. Hopper also stated there is major work going on in various locations for the bypass.

J. Adjournment:

1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Ms. Arth, City Council voted unanimously to adjourn the meeting at 6:22 p.m.

Respectfully submitted,

Carol Williams
City Clerk

O. Stanhope Anthony, III
Mayor

Minutes of January 9, 2023

City of Shelby
Agenda Item Summary
January 23, 2023
City Hall Council Chamber

Agenda Item: C-2

- 2) Approval of City of Shelby authorization of modified project allocations for North Carolina state appropriations for water and wastewater projects:
Resolution No. 2-2023

Consent Agenda Item: (David Hux, Water Resources Director)

Summary of Available Information:

- Memorandum dated January 17, 2023, from David Hux, Director of Water Resources to Rick Howell, City Manager
- Resolution No. 2-2023
- Exhibit A: Revised S.L. 2022-74 North Carolina Funding Appropriation Allocation for Water and Wastewater Projects

City Manager's Recommendation / Comments

Resolution No. 2-2023 is presented for City Council consideration at this time via the Consent Agenda. This resolution would modify the previously adopted Resolution No. 68-2022 which allocated the \$10,200,000 in funding appropriated by the NC General Assembly for water and wastewater projects under Session Law 2022-74. The amended resolution moves \$1,000,000 from the Water/Wastewater Improvements for Residential Development to the Water Plant Filtration Rehabilitation Project. It also moves \$200,000 from the Water and Wastewater System Repairs and Maintenance item to the Water Filtration Rehabilitation Project.

Mr. Hux explains the need to moves these funds in his staff memo to me. I have discussed it with him and agree that it is prudent to do so given the conditions discovered in the water filtration system. I would note that none of the unsewered neighborhood funding is affected by this amendment as that money is from another ARP source.

It is my recommendation that Resolution No. 2-2023 be adopted and approved via the Consent Agenda.



Memorandum

To: Rick Howell; City Manager

CC: Ben Yarboro; Assistant City Manager – Operations
Brian Wilson; Water Resources Operations Manager

From: David Hux, Director of Water Resources *David Hux*

Date: January 17, 2023

Subject: Funding Application for Water and Wastewater Projects (S.L. 2022-74)
Modified Project Allocations – \$10.2 Million Appropriation

BACKGROUND

Through Session Law 2022-74, the City of Shelby has been appropriated \$10,200,000 for water and wastewater infrastructure projects. Based on the guidance for these funds, City Staff reviewed infrastructure needs and developed a list of justified projects that meet the submittal and project completion deadlines.

Below is a summary of the projects along with the estimated costs that were anticipated for these projects:

24" Waterline to South Tank and Forest Hills Drive - \$2,000,300

- \$7,700,300 (Total Project Cost)
- \$5,700,000 from previous 2021-2022 State Appropriation

Provides the balance of funding necessary to construct approximately 12,000 linear feet of 24" Waterline from the Marion St./Morgan St. intersection to the South Tank and Forest Hill Dr. via Morgan St., Graham St. and Washington St.

Hickory Creek Sewer Windsor to Holly Oak - \$2,105,000

- \$3,805,000 (Total Project Cost)
- \$1,700,000 from previous 2021-2022 State Appropriation

Provides the balance of funding necessary for replacement of approximately 4,800 linear feet of 18" - 24" sewer line from Windsor Drive to US74 and a section south of Earl Road around Holly Oak Park.

Water Treatment Plant Filter Rehabilitation - \$2,500,000

Filter rehabilitation of eight filters. Project also provides repair/replacement of sedimentation basin valves. This project is currently being designed for bid and should be ready for bid in February 2023.

Existing Water and Sewer System Repairs and Maintenance - \$ 1,594,700

- Funding to be used for water treatment plant filtration improvements, sedimentation basin valving improvements, looping of dead-end waterlines, replacement of water distribution lines and replacement of sewer collection system lines.

Water/Sewer System Improvements to Promote Residential Development - \$2,000,000

- This funding would be used to for extension of services for residential development on parcels that lie outside the current service area. Developers would still be required to install water and sewer infrastructure within the new development.

The projects listed above and funding allocations were approved by City Council with Resolution 68-2022 that was approved on November 7, 2022.

REVIEW

The design phase of the project is nearing completion and the bidding documents have been finalized. As part of the design phase services, McGill Associates has updated the opinion of probable construction cost. The estimate reflects the current construction market and is based on manufacturer equipment quotations and contractor estimates. It is now estimated that the total base bid will be \$3,700,000. The estimated budget cost is approximately \$1,200,000 above the original budget. We believe that this increase is due to the following reasons:

1. It was originally intended that twenty-four (24) slide gates on the sedimentation basins would be repaired as part of this project. Due to the age of these slide gates and discussions with the valve manufacturer, replacement parts are not available. Therefore, all twenty-four (24) slide gates will now be fully replaced as part of this project, resulting in an increase in project costs.

Currently, half of the treatment plant must be shutdown at one time for basin cleaning and maintenance because of faulty valves. Replacing these valves will allow the staff to shutdown smaller basins for maintenance, particularly during higher treatment plant flows.

2. Construction costs have increased universally over the past several years due to unprecedented rates of inflation. In particular, stainless-steel prices have grown exponentially. This project includes many stainless-steel components including: sixty-four (64) stainless steel mud valves and twenty-four (24) stainless steel slide gates.
3. The project includes the rehabilitation of all eight (8) filters. It was determined that coating the filter walls should be added to the project scope to ensure viable filtration for long term operation.
4. McGill has recommended an above average contingency factor (15%) is also needed for this project due to the variety of unknowns associated with construction on a facility that is nearly over 75 years old. Furthermore, the condition of the concrete in the filters will not be known until all equipment and media is removed during construction.

The largest increase in the estimated construction is the valve replacement portion. As noted above, staff intended to make repairs to the valves; however, during design the supplier indicated that parts are no longer available. These valves are essential in the operation of the sedimentation basin. Currently, an entire side of the plant must be removed from service to perform basin cleaning and maintenance. As water demand increases, this becomes problematic for longer shutdowns. Replacing the valves will enable staff to have smaller shutdowns.

Staff believes that these funding increases are necessary rehabilitation of a water treatment plant and will allow for safe and reliable drinking water treatment that meets EPA and State standards for the next 30 years.

RECOMMENDATION

Based on the project shortfall, City staff recommends the following modified project allocations as follows:

24" Waterline to South Tank and Forest Hills Drive	\$2,000,300
Hickory Creek Sewer Windsor to Holly Oak	\$2,105,000
Water Filter Rehabilitation	\$3,700,000
Water/Sewer Improvements to Promote Residential Development	\$1,000,000
<u>Water and Sewer System Repairs and Maintenance</u>	<u>\$1,394,700</u>
Total:	\$10,200,000

Please let me know if additional information is needed.

RESOLUTION 2-2023

CITY OF SHELBY AUTHORIZATION OF MODIFIED PROJECT ALLOCATIONS
FOR NORTH CAROLINA STATE APPROPRIATIONS FOR
WATER AND WASTEWATER PROJECTS

WHEREAS, the City of Shelby is eligible for funding from the NC General Assembly 2022 Budget Appropriations through the Department of Environmental Quality (DEQ) for Water and Wastewater projects as approved in Session Law 2022-74; and,

WHEREAS, the City of Shelby is eligible for \$10,200,000, to be paid out on a reimbursement basis after the City has awarded NCDEQ approved contracts for eligible Water and Wastewater projects; and,

WHEREAS, City staff identified the following Water and Wastewater projects and received authorization for the following projects that are consistent with the goals established by City Council:

• 24" Waterline to South Tank and Forest Hills Drive	\$2,000,300
• Hickory Creek Sewer Windsor to Holly Oak	\$2,105,000
• Water Filter Rehabilitation	\$2,500,000
• Water/Sewer Improvements to Promote Residential Development	\$2,000,000
• Water and Sewer System Repairs and Maintenance	<u>\$1,594,700</u>
Total:	\$10,200,000

WHEREAS, the authorization of the projects above where approved by Council with Resolution 68-2022, and

WHEREAS, the Water Treatment Plant Filter Upgrades Project has been designed and an updated cost estimate has been prepared that exceeds the threshold that the City Manager can approve based on resolution 68-2022; and

WHEREAS, the Water Treatment Plant Filter Upgrades estimated costs now is \$3,700,000, which is \$1,200,000 over the previous construction estimate; and

WHEREAS, City staff has recommending the following modifications to the water and sewer projects to cover the project shortfall,

• 24" Waterline to South Tank and Forest Hills Drive	\$2,000,300
• Hickory Creek Sewer Windsor to Holly Oak	\$2,105,000
• Water Filter Rehabilitation	\$3,700,000
• Water/Sewer Improvements to Promote Residential Development	\$1,000,000
• Water and Sewer System Repairs and Maintenance	<u>\$1,394,700</u>
Total:	\$10,200,000

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

Section 1. The City Council of the City of Shelby hereby approves the aforementioned revised funding allocation plan (Exhibit A) submitted by the City Manager.

Section 2. The City Manager is authorized to complete the project applications and expenditures of said funds in accordance with all applicable local, state, and federal laws and regulations.

Resolution No. 2-2023
January 23, 2023
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Section 3. The City Manager must bring specific project budget ordinance(s) to City Council for review and approval in accordance with applicable laws and policies.

Section 4. The City Manager shall be authorized to effect transfers between capital projects from the State's \$10.2 million appropriation for the projects listed above.

Adopted this the 23rd day of January 2023 in the City of Shelby, North Carolina.

O. Stanhope Anthony, III
Mayor

ATTEST:

Carol Williams
City Clerk

Exhibit A

**Revised S.L. 2022-74 North Carolina Funding Appropriation Allocation for
Water and Wastewater Projects**

<u>Project Description</u>	<u>Amount Allocated</u>
24-inch Waterline to South Tank and Forest Hill Dr.	\$ 2,000,300
<ul style="list-style-type: none">- Covers a funding shortfall from original estimate based on final design and inflation.	
Hickory Creek Sewer Windsor to Holly Oak	\$ 2,105,000
<ul style="list-style-type: none">- Covers a funding shortfall from original estimate based on final design and inflation.	
Water Treatment Plant Filter Rehabilitation	\$ 3,700,000
<ul style="list-style-type: none">- Filter rehabilitation of eight filters. Project also provides repair/replacement of sedimentation basin valves.	
Existing Water and Sewer System Repairs and Maintenance	\$ 1,394,700
<ul style="list-style-type: none">- Funding to be used for water and sewer system improvements such as liftstation rehabilitation, water line and sewer line repairs/replacement.	
Water/Sewer System Improvements to Promote Residential Development	\$1,000,000
<ul style="list-style-type: none">- This funding would be used to for extension of services for residential development on parcels that lie outside the current service area. Developers would still be required to install water and sewer infrastructure within the new development.	
Total Funding Allocation	\$10,200,000

City of Shelby
Agenda Item Summary
January 23, 2023
City Hall Council Chamber

Agenda Item: C-3

- 3) Adoption of an ordinance concurring with the North Carolina Department of Transportation for speed limit revision inside the corporate limits of Shelby, North Carolina: Ordinance No. 4-2023

Consent Agenda Item: (Ben Yarboro, Assistant City Manager)

Summary of Available Information:

- Memorandum dated January 17, 2023, from Ben Yarboro, Assistant City Manager to Rick Howell, City Manager
- Memorandum dated December 30, 2022, from Justin Wright, Civil Engineer to Ben Yarboro, Assistant City Manager
- NCDOT Proposed Speed Limit Modifications
- Certification of Municipal Declaration to Repeal Speed Limits and Request for Concurrence
- Ordinance No. 4-2023

City Manager's Recommendation / Comments

Ordinance No. 4-2023 is presented for Council consideration at this time via the Consent Agenda. If approved this ordinance would essentially mean that the City of Shelby concurs with the recommendations of the NCDOT as detailed in the staff memo and presented ordinance. The nature of these recommended changes from NCDOT is simply to make technical corrections. Mr. Yarboro has explained the process that must take place between the City and NCDOT within his memo.

It is my recommendation Ordinance No. 4-2023 be adopted and approved by City Council at this time via the Consent Agenda.



Memorandum

To: Rick Howell, City Manager
From: Ben Yarboro, Assistant City Manager
RE: NCDOT Recommended Speed Limit Ordinance Modifications
Date: January 17, 2023

Summary

The North Carolina Department of Transportation recently provided City Staff with a Certification of Municipal Ordinance Declaring Speed Limit Modifications and Request for Concurring Ordinance form for sections of W. Dixon Blvd. and E. Dixon Blvd. The proposed Ordinance from NCDOT results in the following changes:

- W. Dixon Blvd. (From Charles Rd. to Westside Dr.) decreases from 55 mph to 45 mph
- E. Dixon Blvd. (From Sue Lane to Link Rd. – near Showsmars) decreases from 55 mph to 45 mph

Pursuant to General Statute 20-141(f), the City of Shelby must adopt an Ordinance and complete the Certification or Municipal Ordinance from NCDOT to enact and repeal speed limits on NCDOT owned roadways located within Shelby's jurisdiction. The City of Shelby Engineering Department coordinated the review of the proposals outlined in the attached memo from Justin Wright, Civil Engineer. Based on this review, City staff recommends approval of the speed limit modifications proposed by NCDOT.

Recommendation

Staff Recommends adoption of the proposed ordinance and execution of the certification of municipal ordinance provided by the North Carolina Department of Transportation.

Please advise if you have any questions or need additional information

Enclosure

- Memo from Justin Wright dated December 30, 2022

Memorandum

To: Ben Yarboro, Assistant City Manager

From: Justin Wright, Civil Engineer

RE: NCDOT recommended speed limit ordinance modification

Date: December 30, 2022

Background

Staff has received a Certification of Municipal Ordinance Declaring Speed Limit Modifications and Request for Concurring Ordinance by Department of Transportation form for sections of W. Dixon Blvd., Warren St., US 74 Business (Marion St.), NC 18 (Lafayette St.), NC 18 (Fallston Rd.), Washburn Switch Rd., and McBrayer Springs Rd.. Pursuant to General Statute 20-141(f), the City of Shelby must adopt an Ordinance and complete the Certification or Municipal Ordinance from NCDOT to enact and repeal speed limits on NCDOT roadways located within Shelby's jurisdiction.

City Council approved Ordinance No. 53-2022 to repeal/enact the proposed changes. NCDOT has approached the City again to repeal two additional ordinances in order to enforce changes on US 74 that were previously approved in Ordinance No. 53-2022.

Review

The Police, Department, Fire Department, Public Works, and Engineering Department has reviewed the speed limit modifications request by NCDOT. The proposed speed limit modifications are:

West Dixon Blvd (US 74)

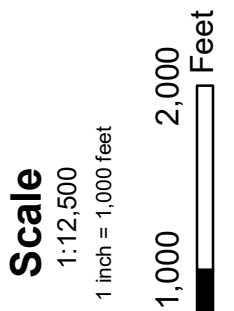
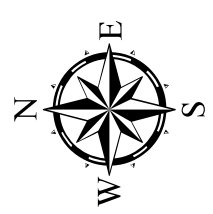
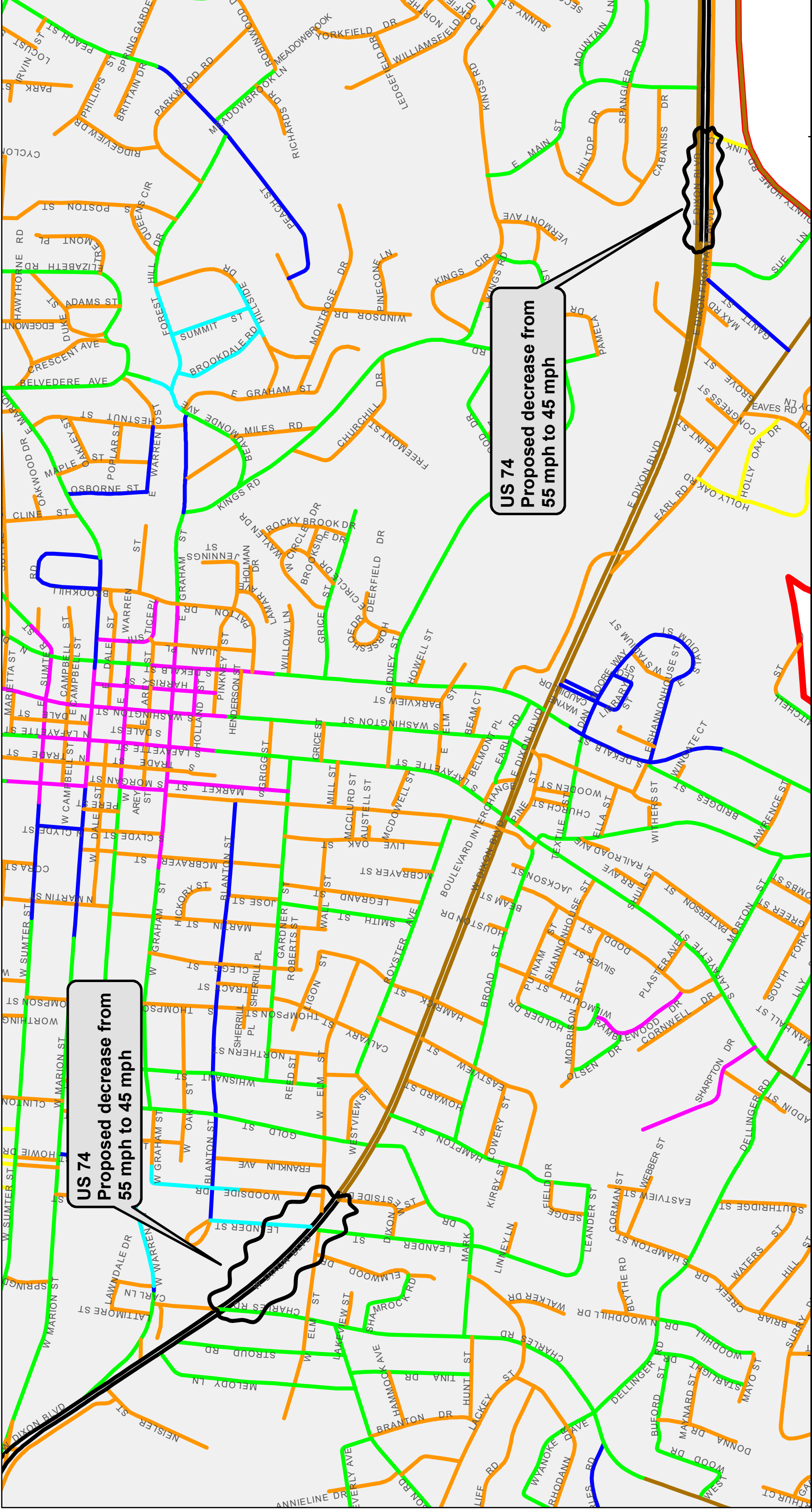
- To repeal ordinance number 1058792; a 45 MPH speed limit on W. Dixon Blvd from a point .36 southeast of SR 1253 (Charles Rd.), southeastward to a point .19 mile northwest of SR 1233 (Link Road)

- To repeal ordinance number 1058791; a 55 MPH speed limit on W. Dixon Blvd. from a point .09 mile southeast of SR 1396 (Creek Road), eastward to a point .36 mile southeast of SR 1253 (Charles Rd.)
- ***This would result in a decrease from 55 mph to 45 mph between Charles Rd to Westside and Sue Ln. to Link Rd.***

Recommendation

Staff Recommends adoption of the proposed ordinance and execution of the certification of municipal ordinance provided by NCDOT

Please Advise if you have any questions or need additional information



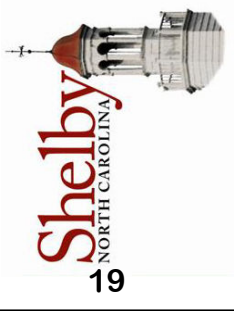
Legend

NCDOT Proposed Speed Limit Modifications	
	10 mph Speed Limit
	15 mph Speed Limit
	20 mph Speed Limit
	25 mph Speed Limit
	35 mph Speed Limit
	40 mph Speed Limit
	45 mph Speed Limit
	No Speed Limit Sign (35 MPH)
	School Zone

Map Information:
 Datum: NAD 1983
 Coordinate: State Plane
 North Carolina
 Projection: Lambert Conformal Conic

Map Produced By:
 City of Shelby
 GIS Office

Date of Printing:
 8/9/2022



**Certification of Municipal Declaration
To Repeal Speed Limits and Request for Concurrence**

Concurring State Ordinance Number: 1058791

Division: 12 **County:** CLEVELAND

Municipality: SHELBY

Type: Municipal Speed Zones

Road: US 74

Car: 55 MPH

Truck: 55 MPH

Description: From a point 0.09 mile southeast of SR 1396 (Creek Road), eastward to a point 0.36 mile southeast of SR 1253 (Charles Road).

Municipal Certification

I, _____, Clerk of _____, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the _____ day of _____, 20____, the repeal of speed limits as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

The said municipal declaration is recorded as follows:

Minute Book: _____ Page: _____ Ordinance Number: _____

In witness whereof, I have hereunto set my
hand and the municipal seal this _____ day
of _____, 20_____.

(signature)

(municipal seal)

Department of Transportation Approval

Division: _____ Title: _____ Date: _____

Region: _____ Title: _____ Date: _____

**Certification of Municipal Declaration
To Repeal Speed Limits and Request for Concurrence**

Concurring State Ordinance Number: 1058792

Division: 12 **County:** CLEVELAND

Municipality: SHELBY

Type: Municipal Speed Zones

Road: US 74

Car: 45 MPH

Truck: 45 MPH

Description: From a point 0.36 mile southeast of SR 1253 (Charles Road), southeastward to a point 0.19 mile northwest of SR 1233 (Link Road).

Municipal Certification

I, _____, Clerk of _____, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the _____ day of _____, 20____, the repeal of speed limits as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

The said municipal declaration is recorded as follows:

Minute Book: _____ Page: _____ Ordinance Number: _____

In witness whereof, I have hereunto set my hand and the municipal seal this _____ day of _____, 20_____.

(signature)

(municipal seal)

Department of Transportation Approval

Division: _____ **Title:** _____ **Date:** _____

Region: _____ **Title:** _____ **Date:** _____

ORDINANCE NO. 4-2023

AN ORDINANCE CONCURRING WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR SPEED LIMIT REVISION INSIDE THE CORPORATE LIMITS OF SHELBY, NORTH CAROLINA

WHEREAS, the City of Shelby has received a request from the North Carolina Department of Transportation for the approval of certification ordinance implementing speed limit modifications on certain state roads within the City Corporate Limits; and,

WHEREAS, the City and the State must concur in this action to modify the speed limits on any state highway located within the limits of the city; and,

WHEREAS, the City Council desires to cooperate with the Department of Transportation in the designation of speed limit modifications as requested.

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

Section 1. Based upon applicable provisions of the Shelby City Code and an engineering and traffic investigation pursuant to authority granted by GS 20-141(f), the speed zone modifications are detail by the Department of Transportation (DOT are hereby approved as follows:

RESCIND THE FOLLOWING SPEED LIMITS ON US 74

Speed Limit	Route	Description
55 MPH	US 74	From a point .09 mile southeast of SR 1396 (Creek Road), eastward to a point .36 mile southeast of SR 1253 (Charles Rd.)
45 MPH	US 74	From a point .36 mile southeast of SR 1253 (Charles Rd), southeastward to a point .19 mile northwest of SR 1233 (Link Road)

Section 2. The City Clerk is hereby authorized and directed to cause this Ordinance, and the attached DOT ordinance certification as ATTACHMENT A, to be certified and forwarded to the Department of Transportation for its use and files for purposes effectuating the stated speed zone modifications.

Section 3. The City Manager or his designees are hereby authorized to execute amendments and change orders to the applicable documents associated with this project.

Section 4. This resolution shall become effective upon its adoption and approval both by City and Department of Transportation.

Ordinance No. 4-2023
January 23, 2023
Page 2

Adopted and approved this the 23rd day of January 2023.

O. Stanhope Anthony III
Mayor

ATTEST:

Carol Williams
City Clerk

Approved as to form:

John Kubis
Interim City Attorney

City of Shelby
Agenda Item Summary
January 23, 2023
City Hall Council Chamber

Agenda Item: C-4

- 4) Adoption of budget ordinance amendment for the City of Shelby's Rail Trail Corridor project: Ordinance No. 5-2023

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

Summary of Available Information:

- Memorandum dated January 3, 2023, from Justin Wright, Civil Engineer to Justin Merritt, Assistant City Manager and Ben Yarboro, Assistant City Manager
- Supporting Documents
- Ordinance No. 5-2023

City Manager's Recommendation / Comments

Ordinance No.5-2023 is presented for City Council consideration via the Consent Agenda. If approved this resolution would amend Ordinance No. 34-2022 by appropriating an additional \$300,000 from Rail Trail funds to account for unanticipated traffic signalization and retaining wall costs. The details of the costs are outlined in Mr. Yarboro's memo to me. I have reviewed the changes with him and agree they are necessary to proceed with the project.

It is my recommendation that Ordinance No. 5-2023 be adopted and approved via the Consent Agenda.

Memorandum

To: Justin Merritt, Assistant City Manager
Ben Yarboro, Assistant City Manager

From: Justin Wright, Civil Engineer

RE: Shelby's Rail Trail Corridor Project
Project Budget Ordinance Amendment

Date: January 3, 2023

Background

Shelby City Council approved resolution 65-2019 authorizing the selection of TGS Engineers to perform the professional services related to the City of Shelby portion of the Rail Trail. Following the approval of City Council, staff began working with TGS engineers to develop a phased plan that will allow sections of the Rail Trail to continuously be constructed. Below are the plans phases of the City's Portion of the Shelby Rail Trail:

- Segment IA (Sunset Cemetery to Marion St.)
- Segment IB (Grover St. to Sunset Cemetery)
- Segment IIA (Marion St. to Depot Park)
- Depot Park (*Not Included in this Contract*)
- Segment IIB (Depot Park to S. Dekalb St.)

Review

Traffic Signal Work

City staff worked with TGS Engineers to prepare completed construction documents for City of Shelby Rail Trail Phase IA and continues to progress in the design of Phase IIA. During the design process multiple aesthetics and safety precautions have been expressed from the City of Shelby and by TGS engineers. In order to expand the Uptown Shelby aesthetic and pedestrian crossing safety TGS and their subcontract Impact Engineering has identified the following intersection for traffic signal upgraded designs:

- Morgan Street and West Marion Street
- Morgan Street and West Warren Street
- Morgan Street and West Graham Street
- Morgan Street/Broad Street and Lafayette Street

These intersections would include signal upgrade that would be designed to utilize black powder coated mast arms identical to the mast arms around Uptown Shelby. Pedestrian push buttons and pedestrian signals will be included in the design of each intersection to improve pedestrian safety. Impact Design will be responsible for the design of the intersection and will handle all coordination with North Carolina Department of Transportation (NCDOT) along with complying with NCDOT, Americans with Disabilities (ADA), and Public Right-of-Way Accessibility Guideline (PROWAG) standards in their signal upgrade design.

Retaining Wall

During the construction of the first segment of the rail trail structural drawing for the retaining wall located between Sumter St. Bridge and Marion St intersection was sent to Gravix to provide detail drawings along with specification for installing the wall. These structural drawing came back to TGS with a larger embedment and requires the wall to have a larger square footage than expected. TGS Engineer’s recommend City of Shelby to continue with Retaining wall that has been proposed by Gravix due to this will help stabilize the area and will prevent any future problems along this critical bank. Please see table below for the additional tasks or requirements in the table below.

Traffic Signal Work

Work Item/Description	Amount
Project Management and Coordination	\$5,400.00
Signal Design	\$40,000.00
Mast Arm Design	\$8,000.00
Pedestrian Signalization Accommodations	\$3,000.00
Project Meeting and Coordination	\$3,000.00

Retaining Wall

Work Items/ Description	
Retaining Wall Price Adjustment	\$227,593.32
Rip Rap above Retaining Wall	\$12,500.00
Total:	\$299,493.32

Recommendation

City Staff recommends the approval of the budget ordinance that will provide the scope of work listed above.

Please advise if you have any questions or need additional information.

Attachments:

- Change Order #1 – Signal Designs



201 W. Marion Street
Shelby, North Carolina 28150
(704) 476-0003 Phone

December 1, 2022

Mr. Rick Howell
City Manager - Shelby

**Re: Change Order #1 – Signal Designs
City of Shelby Rail Trail**

Dear Mr. Howell,

Below is a breakdown of our estimate for a change order for additional services provided on Shelby Rail Trail.

TGS Engineers Fee

- **Project Management and Coordination - \$5,400.00**

Impact Design Fee (See attached scope for Additional Details)

- **Signal Design (4) - \$40,000.00**
- **Mast Arm Design (4) - \$8,000.00**
- **Pedestrian Signalization Accommodations (4) - \$3,000.00**
- **Project Meetings and Coordination - \$3,000.00**

Total Fee for Change Order #1 = \$59,400

The payment for the contract will be lump sum.

If you have any need further information, please contact me at (704) 466-4502.

Offered by:
TGS Engineers

Accepted by:
City of Shelby

Jimmy Terry 12/1/2022
Project Manager Date

Rick Howell Date
City Manager

November 30, 2022

Mr. Jimmy Terry, PE
TGS Engineers
201 West Marion Street, Suite 200
Shelby, NC 28150
Phone: 704-466-4502 Email: jterry@tgsengineers.com
[Sent via Email]

Reference: Shelby Rail Trail Traffic Signal Designs – Shelby, North Carolina

Subject: Transportation Engineering Services Agreement

Dear Mr. Terry:

Impact Designs, Inc. is pleased to provide you with this Transportation Engineering Services Agreement for the above referenced project. We understand that the City of Shelby is pursuing a rail trail along Morgan Street. It is our understanding the 4 signal upgrades would like to be pursued by the City as a part of this project. The following is our proposed scope of services for the Project (“Services”). The parties acknowledge that the scope of services may change following consultation or coordination with the local governmental agencies and/or North Carolina Department of Transportation (NCDOT). The parties agree that should the scope of services change following any such consultation or coordination, Impact Designs will provide the Client with a revised proposal or an addendum to this agreement setting forth any such changes and associated costs to be paid by Client.

I.) SCOPE OF SERVICES:

A.) Signal Design(s):

1. Prepare a letter to the NCDOT requesting a traffic signal agreement between the City and NCDOT (if an existing agreement doesn’t already exist) for the 4 traffic signal upgrades. The letter will describe in general terms the scope of the traffic signal improvements and party responsibilities that are anticipated at the intersection.

Traffic Signal Upgrade Designs

- 1) Morgan Street and West Marion Street
 - 2) Morgan Street and West Warren Street
 - 3) Morgan Street and West Graham Street
 - 4) Morgan Street and Lafayette Street
2. We will utilize CADD files provided by others for the base plan. Surveys are not included in this scope of work.
 3. An on-site field review of the intersection with the base plan in hand will be made to locate possible conflicts and obtain notes of existing field conditions.
 4. Traffic signal design plans will be prepared in accordance with the latest NCDOT standards and specifications.
 5. We will coordinate with the NCDOT to determine special requirements of the traffic signal, if necessary.

6. Drawings will include intersection layout, loop detector chart and layout, signal head identification and location, phasing diagram, signal head sequence chart, timing information, electrical details and stop bar location detail.
7. We will submit copies of the plans to the NCDOT for review and comment.
8. Based on review comments, we will make the necessary corrections to the plans and prepare final plans for distribution.
9. Neither construction inspection nor administration is included in the base fee of this proposal. In the event of field conflicts due to the plan prepared by us, we will coordinate with the contractor on-site to work out the details.
10. This fee proposal does not include the preparation of “as-built” drawings of the intersection after completion of the project. It is normal practice for the selected signal contractor to ‘red-line’ any minor changes to the signal plans and forward to NCDOT as a Plan of Record. We will gladly provide these services, if requested, to be invoiced on an hourly fee basis.

B.) Mast Arm Designs

1. Impact will develop mast arm loading diagrams to indicate where signal head and sign loads will need to be placed on the mast arms.
2. Impact will develop technical sheets on metal pole specific details.
3. Impact will develop mast arm height calculations to ensure signal heads are the appropriate distance from the roadway surface.

C.) Pedestrian Signalization Accommodations

1. Impact will design pedestrian accommodations that meet ADA and PROWAG standards.
2. Impact will include pedestrian signal head wiring diagrams, pedestrian signal indication design, appropriate push button locations per NCDOT standards on the signal design plans.
3. Impact will also analyze any additional signal phases needed for appropriate rail trail integration into the traffic signals.

D.) Project Meetings and Coordination

1. Impact will budget and plan for six (6) – one (1) hour design and coordination meetings with City and design team staff.

E.) Additional Services:

Additional (extra) services are defined as any work item not included in the above scope of services that are requested by the client or review agencies. Additional services will be billable at the billing rates that are current at the time the extra work is identified. Meetings outside Task D will be considered extra. Extra work will be identified either in writing or by verbal communication but must be approved in writing by client before proceeding to perform such additional services.

II.) SUMMARY OF FEES:

Impact will provide the above noted services based on the following fee.

Service(s)	Lump Sum or Hourly+Expenses	FEE
A.) Signal Design (4 Signals)	Lump Sum	\$40,000.00
B.) Mast Arm Design (4 Signals)	Lump Sum	\$8,000.00
C.) Pedestrian Signalization Accommodations (4 Signals)	Lump Sum	\$3,000.00
D.) Project Meetings and Coordination	Lump Sum	\$3,000.00
	Total:	\$54,000.00

- a.) Fee is valid for 30 days from the date of this agreement.
- b.) Hourly rates/expenses are subject to change.
- c.) A schedule of Hourly Rate and Reimbursable Expenses can be provided upon request.

III.) GENERAL CONDITIONS:

Impact General Conditions (**Attachment 1**) are incorporated herein by reference (see attached). The undersigned client represents and acknowledges that they have been provided with a copy of the General Conditions and have read and fully understand the General Conditions.

IV.) PROJECT/CLIENT INFORMATION SHEET:

Impact Project/Client Information Sheet (**Attachment 2**) is incorporated herein by reference (see attached). A completed Project/Client Information Sheet must be returned with signed agreement.

ATTACHMENT - 1 **General Conditions**

1.01 *Payment Procedures*

- A. *Invoices*: Invoices are due and payable upon receipt. If Client fails to make any payment due Engineer for Services, extra work, or expenses within 30 days after receipt of Engineer's invoice, then (1) the amounts due Engineer will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day, and (2) in addition Engineer may, after giving three days written notice to Client, suspend Services under this Agreement until Engineer has been paid in full all amounts due for Services, extra work, expenses, and other related charges. Client waives any and all claims against Engineer for any such suspension.
- B. *Payment*: As compensation for Engineer providing or furnishing Services and extra work, Client shall pay Engineer as set forth herein. If Client disputes an invoice, either as to amount or entitlement, then Client shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion.

2.01 *Termination*

- A. The obligation to continue performance under this Agreement may be terminated for cause:
 - 1. By either party upon 14 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay Engineer for its Services shall constitute a substantial failure to perform and a basis for termination.
 - 2. By Engineer:
 - a. upon seven days written notice if Client demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - b. upon seven days written notice if the Engineer's Services are delayed for more than 30 days for reasons beyond Engineer's control.
- B. Engineer shall have no liability to Client on account of a termination for cause by Engineer.
- C. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 2.01.A.1 if the party receiving such notice begins, within three days of receipt of such notice, to correct its substantial failure to perform, proceeds diligently to cure such failure, and does cure such failure within no more than 14 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 14-day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 30 days after the date of receipt of the notice.
- D. The Agreement may be terminated for convenience by Client effective upon Engineer's receipt of written notice from Client.
- E. In the event of any termination under Paragraph 2.01.D, Engineer will be entitled to invoice Client and to receive full payment for all Services and extra work performed or furnished in accordance with this Agreement, plus reimbursement of expenses incurred through the effective date of termination in connection with providing the Services and extra work, Engineer's consultants' charges, if any, and any other reasonable costs incurred by Engineer as a result of such termination.

3.01 *General Considerations*

- A. Should completion of any portion of the Services by Engineer be delayed, suspended, or impaired, through no fault of Engineer, then the time for completion of Engineer's Services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- B. Engineer shall not be responsible for any decision made regarding the construction contract requirements, or any application, interpretation, clarification, or modification of the construction contract documents other than those made by Engineer or its consultants.

- C. All documents prepared or furnished by Engineer are instruments of service, and Engineer retains all ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Client shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Client, subject to receipt by Engineer of full payment due and owing for all Services and extra work relating to preparation of the documents and subject to the following limitations:
1. Client acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Client or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer;
 2. any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Client's sole risk;
 3. Client shall defend, indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Engineer; and such limited license to Client shall not create any rights in third parties.
- D. To the fullest extent permitted by law, Client and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project.
- E. **ENGINEER AND CLIENT AGREE THAT ENGINEER'S (INCLUDING ENGINEER'S OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS, AND EMPLOYEES) TOTAL LIABILITY TO THE CLIENT AND TO ANYONE CLAIMING BY, THROUGH, OR UNDER THE CLIENT FOR ANY AND ALL INJURIES, CLAIMS, LOSSES, COSTS, DAMAGES, AND EXPENSES ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SERVICES PERFORMED HEREUNDER, WHETHER ARISING IN CONTRACT, TORT, EQUITY, STRICT LIABILITY, BY STATUTE, OR OTHERWISE, SHALL BE LIMITED TO \$25,000.00 OR ENGINEER'S TOTAL FEE FOR THE SERVICES PERFORMED HEREUNDER, WHICHEVER IS GREATER.**
- F. Any disputes relating to or arising out of this Agreement or Engineer's Services shall be subject to mandatory mediation, which shall be a condition precedent to any form of binding dispute resolution. The Parties shall select a mutually agreeable mediator for any such dispute and the Parties agree to split the mediator's costs evenly. The Parties may mutually agree to waive mediation. Any disputes not resolved by mediation shall be subject to Arbitration administered by the American Arbitration Association under its Construction Industry Arbitration Rules in effect as of the date of this Agreement.
- G. This Agreement shall be governed by the laws of the State of North Carolina. The Parties agree that any dispute or other legal action relating to this Agreement, shall be conducted only in Iredell County, North Carolina, unless otherwise agreed to by the Parties or provided by law.
- H. A party's non-enforcement of any provision in the Agreement shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or the remainder of this Agreement.

Client Initials: _____

ORDINANCE NO. 5-2023

BUDGET ORDINANCE AMENDMENT FOR THE
CITY OF SHELBY’S RAIL TRAIL CORRIDOR PROJECT

WHEREAS, in accordance with applicable provisions of the North Carolina Budget and Fiscal Control Act, the City of Shelby finds it advisable and necessary to revise and amend its capital project ordinance and budgets for the City of Shelby’s Rail Trail Corridor Project; 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 the same for implementation and compliance with the North Carolina Local Government Budget and Fiscal Control Act;

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

Section 1. Ordinance No. 34-2017, the City’s Rail Trail Corridor Project, is hereby amended as follows to provide for Budget Amendment No. 5 for said project:

Rail Trail Corridor Project

(1) The following Econ. Dev. Fund Cap. Project Revenues are amended by the City:

Trail Grant Revenue	23109000-34602-RLTRL	\$300,000
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(2) The following Econ. Dev. Fund Cap. Project Expenditures are amended by the City:

Construction	231590-53000-RLTRL	\$300,000
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Section 2. That the revenues, expenditures and amendments set forth in Section 1 of this ordinance are hereby summarized as follows:

Rail Trail Corridor Project

	<u>Current Budget</u>	<u>Amendment No. 5</u>
Revenues		
Cleveland County Grant	\$ 15,000	\$ 15,000
Trail Grant Revenue	\$ 113,000	\$ 413,000
Transfer from General Fund	\$ 1,157,000	\$ 1,157,850
Transfer from EDF	\$ 222,000	\$ 222,000
State NCDOT Grant	\$ 4,160,000	\$ 4,160,000
NC State SCIF Grant	\$ 2,000,000	\$ 2,000,000
Proceeds from Financing	\$ 1,340,000	\$ 1,340,000
Expenditures		
Professional Services	\$ 712,000	\$ 712,000
Land	\$ 5,500,000	\$ 5,500,000
Construction	\$ 2,795,850	\$ 3,095,850

Ordinance No. 5-2023
January 23, 2023
Page 2

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 23rd day of January, 2023.

O. Stanhope Anthony, III
Mayor

ATTEST:

Carol Williams
City Clerk

APPROVED AS TO FORM:

John Kubis
Interim City Attorney

City of Shelby
Agenda Item Summary
January 23, 2023
City Hall Council Chamber

Agenda Item: C-5

- 5) Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council –
February 6, 2023

Consent Agenda Item: (Carol Williams, City Clerk)

Summary of Available Information:

- Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council for
February 6, 2023

City Manager's Recommendation / Comments

After reviewing with staff, the upcoming agenda schedule and any upcoming items requiring action by City Council it is my recommendation that the regular meeting slated for Monday, February 6, 2023, be cancelled via the Consent Agenda. If approved by City Council your next regularly scheduled meeting would be held on Monday, February 20, 2023.

**Notice of Cancellation
in the
Regular Meeting Schedule
of
Shelby City Council**

This notice is to inform the general public and the media and is conducted in accordance with the mandates of North Carolina General Statutes 160A-71 and 143-318.12 (a), that the regularly scheduled February 6, 2023, meeting of the Shelby City Council has been cancelled. The regular meeting schedule, as adopted by the Council, remains in place for all other regular meetings of the

Council and will resume:

**Monday, February 20, 2023, at 6:00 p.m.
City Hall Council Chamber
300 South Washington Street
Shelby, North Carolina**

Dated: January 18, 2023

**O. Stanhope Anthony III
Mayor**

City of Shelby
Agenda Item Summary
January 23, 2023
City Hall Council Chamber

D. Unfinished Business:

Agenda Item: D-1

- 1) Motion to acknowledge and sign the Response to the Auditor's Findings, Recommendations and Fiscal Matters

Unfinished Business Item: (Beth Beam, Finance Director)

Summary of Available Information:

- Memorandum dated January 10, 2023, from Beth B. Beam, Director of Finance to Rick Howell, City Manager
- Response to the Independent Auditor's Findings, Recommendations, and Fiscal Matters
- Performance Indicators
- Martin Starnes & Associates, CPA's, P.A. 2022 Amended Audit Contract Information

City Manager's Recommendation / Comments

This item is presented for City Council consideration under unfinished business. Approval would simply acknowledge the finding of the auditor that the City of Shelby had one Financial Performance Indicator of Concern. As presented previously by Ms. Thompson of Martin Starnes and Associates, CPA's, P.A. at your December 5, 2022 meeting the City was late in meeting the submittal deadline of December 1, 2022 established by the Local Government Commission. The City submitted on December 15, 2022.

It was explained to Council at that time that during the audit season the City accounting office experienced retirements of 2 seasoned employees and the relocation of another employee out of state. These vacancies left the accounting division critically short of people resources to complete much of the audit preparation work.

It is my recommendation that City Council adopt a simple motion authorizing the response to the independent auditors findings, recommendations and fiscal matters and that this be transmitted to the LGC as required.



To: Rick Howell, City Manager

From: Beth B. Beam, Director of Finance

Date: January 10, 2023

Subject: LGC Response for Financial Indicator of Concern for Fiscal Year Ending June 30, 2022

Background:

State law requires that all municipal governments publish a complete set of financial statements presented in conformity with generally accepted accounting principles and those statements must be audited in accordance with generally accepted auditing standards. The completed audit report is expected to be submitted to the Local Government Commission of NC within five months plus one day from the fiscal year end – December 1st.

Review and Comments:

Martin Starnes and Associates, CPA's, P.A. has audited the City of Shelby's financial statements for the year ending June 30, 2022. The audit firm is required to inform the Governing Body of any financial indicators of concern noted from the data input sheet submitted to the Local Government Commission along with the filing of the audit report. Ms. Thompson did inform Shelby's Governing Board of the one indicator identified in her presentation on December 5th, 2022 – a late submission of the audit. The City of Shelby must submit a "Response to the Auditor's Findings, Recommendations and Fiscal Matters" to the LGC within 60 days of the audit presentation.

Recommendation:

The recommendation from staff is for the Governing Body to acknowledge and sign the required response for fiscal year ending June 30, 2022 in the January 23, 2023 agenda and direct staff to submit the response to the Local Government Commission.

RESPONSE TO THE INDEPENDENT AUDITOR'S FINDINGS,
 RECOMMENDATIONS, AND FISCAL MATTERS

For Fiscal Year Ending 6/30/2022, the City of Shelby had one (1) Financial Performance Indicator of Concern.

Financial Performance Indicators of Concern:

Indicator: The 2022 Audit Report is expected to be submitted within five months plus one day from the year end per the auditor. (December 1st for most units.)

Condition: The City of Shelby's audit was submitted on December 15th, 2022.

The City of Shelby's accounting division experienced the retirement of two employees and the relocation to another state of a third employee during the fiscal year and audit season. Due to these vacancies, additional time was need this fiscal year to complete the information and the preparation of related journal entries for the year-end closing. During the audit process, an error was detected in the capital asset reporting module of our ERP system after all schedules were completed causing the capital asset work to have to be recalculated once the error was detected and corrected. The implementation of GASB 87 for the recording of leases also required additional attention. Both the capital asset and lease issues are one-time delays that will not be repeated in future years. We have added 3 new staff members who are assets to the accounting division. We will apply additional year-end close and audit preparation procedures to ensure all necessary audit documentation is made available to the auditors during the agreed upon time.

We, the undersigned, are aware of the Financial Performance Indicator of Concern.

Mayor: O. Stanhope Anthony _____

Mayor Pro Tempore: Andrew L. Hopper, Sr. _____

Council Member: Violet Arth _____

Council Member: Emilie Bullock _____

Council Member: David Causby _____

Council Member: Charles L. Webber _____

Council Member: David W. White _____

City Manager: James R. Howell _____

Director of Finance: Beth B. Beam _____

Date: _____

PERFORMANCE INDICATORS

The self-reported information from your unit's audit report was used to generate the following trends and performance indicators. We have created this Performance Indicator tab to make these indicators available to auditors and local governments when your audit is conducted. If any unit's results are shaded red, the unit must submit a "Response to the Auditor's Findings, Recommendations, and Fiscal Matters" within 60 days from the auditor's board presentation. The response must address all performance indicators shaded in red.

Unit Name:	Shelby	Fiscal Year 2022
Unit Number:	50356	

Explanation of Performance Indicator

In the past, units of government have been grouped by population to evaluate ratios and benchmarking (including Fund Balance Available). Beginning with fiscal year 2020, we have grouped units by General Fund expenditures for purposes of evaluating the minimum amount of fund balance a unit needs to operate. A unit's General Fund expenditures proved to be a better correlation to the amount of funds balance needed to operate, especially for units with large higher education or tourism populations. Activity from Debt Service Funds (if applicable) is included in the calculation because these funds typically originate from the General Fund and are transferred to a Debt Service Fund.

The table below lists the thresholds that are used in the analysis of your unit's fiscal health. These thresholds were determined based on an analysis of previous years general fund activity. These thresholds will be monitored and updated as applicable.

	Median FBA as % of Expenditures without Powell Bill	Minimum Thresholds FBA as % of Expenditures	# of Months FBA using Annualized Expenditures
Municipalities			
General Fund Expenditures below:			
\$100,000	260%	100%	12.00
\$100,000 to \$999,999	132%	71%	8.52
\$1,000,000 to \$9,999,999	63%	34%	4.08
Above \$10,000,000	46%	25%	3.00
Counties			
General Fund Expenditures below:			
Below \$100,000,000	39%	20%	2.40
\$100,000,000 and above	32%	16%	1.92

Units of government are grouped by general fund expenditures for purposes of evaluating available fund balance as a percentage of expenditures (GF FBA%). Each grouping category has its own minimum threshold. If you are in the lower quartile your GF FBA% might be considered a performance indicator of concern and you might be asked to communicate to us. To the left are the minimum thresholds for Municipalities and Counties.

GENERAL FUND:	Minimum Threshold	Unit Results								
<div style="text-align: center;"> <p>Fund Balance Available</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Year</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>2020</td> <td>21.02%</td> </tr> <tr> <td>2021</td> <td>26.97%</td> </tr> <tr> <td>2022</td> <td>32.15%</td> </tr> </tbody> </table> </div>	Year	Percentage	2020	21.02%	2021	26.97%	2022	32.15%	25% -- Average of similar units is 46%	32.15%
Year	Percentage									
2020	21.02%									
2021	26.97%									
2022	32.15%									

Fund balance available for appropriation is an important reserve for local governments to provide cash flow during periods of declining revenues and to be used for emergencies and unforeseen expenditures. The information to the left indicates the amount of available cash on hand. You will also see the average for units of your size. **Note that 8.33% represents enough fund balance to cover only one month of expenditures.** Normally, a unit has to either increase revenues or decrease expenditures to increase fund balance available.

This calculation looks at fund balance available plus debt service fund balance (if applicable) less Powell Bill. This number is then divided by the total of total expenditures plus transfers out less bond proceeds.

	Unit Name: Shelby Unit Number: 50356	Fiscal Year 2022		Explanation of Performance Indicator
		Minimum Threshold	Unit Results	
2.	There was appropriated fund balance for the General Fund in the 2022 budget AND your change in fund balance was negative. Please state if fund balance was used for operations or capital purposes.	Positive Change in Fund Balance	N/A	If the General Fund has more expenditures than revenues because of operational issues and fund balance was appropriated to cover the loss, the continuation of this practice could result in deterioration of a unit's fund balance available.
3.	The General Fund had total fund balance less than zero - Fund Deficit	Positive Fund Balance	\$17,020,945	The General Fund has a fund deficit which means that the unit's revenues and other receipts are inadequate to support its operations. G.S. 159.13(b)(2) requires that the board fund the full amount of a prior fiscal year's deficit in the current fiscal year's budget. Therefore, this deficit should have been funded immediately after the June 30, fiscal year-end. The law requires such action be taken to stop any further deterioration of the overall financial condition of the fund. Please let us know if the deficit was funded in the budget, and what actions the unit plans to take to bring the general fund balance up to an acceptable level.

Unit Name: Shelby		Fiscal Year 2022		Explanation of Performance Indicator								
Unit Number: 50356		Minimum Threshold	Unit Results									
4.	<p>WATER SEWER FUND:</p> <p>Quick Ratio-Water and Sewer</p> <table border="1"> <caption>Quick Ratio-Water and Sewer Data</caption> <thead> <tr> <th>Year</th> <th>Quick Ratio</th> </tr> </thead> <tbody> <tr> <td>2020</td> <td>2.31</td> </tr> <tr> <td>2021</td> <td>4.51</td> </tr> <tr> <td>2022</td> <td>4.69</td> </tr> </tbody> </table>	Year	Quick Ratio	2020	2.31	2021	4.51	2022	4.69	Equal or greater than 1	4.69	Note: if more than one performance indicator is identified, one proposed solution may solve all water and sewer performance indicators. A Quick Ratio less than 1 indicates that the unit owes more for its current bills than what it has on hand in unrestricted cash and investments plus what is owed from customers (accounts receivable). This could indicate that the fund may have difficulty paying its current bills. If this pattern continues, the water and/or sewer system may not be sustainable.
Year	Quick Ratio											
2020	2.31											
2021	4.51											
2022	4.69											
5.	<p>Cash Flow Indicators:</p> <table border="1"> <thead> <tr> <th>Indicator</th> <th>2020</th> <th>2021</th> <th>2022</th> </tr> </thead> <tbody> <tr> <td>Operating Net Income (Loss) excluding depreciation, including debt service principal and interest</td> <td>\$1,091,755</td> <td>\$628,660</td> <td>\$387,585</td> </tr> </tbody> </table>	Indicator	2020	2021	2022	Operating Net Income (Loss) excluding depreciation, including debt service principal and interest	\$1,091,755	\$628,660	\$387,585	Minimum Threshold Greater than zero	Unit Results \$387,585	This calculation subtracts operating expenses from operating revenues. Depreciation expense is not included in the calculation but debt principal and interest payments are included. A negative balance indicates that your rates are not covering your operating expenses and debt service payments.
Indicator	2020	2021	2022									
Operating Net Income (Loss) excluding depreciation, including debt service principal and interest	\$1,091,755	\$628,660	\$387,585									
6.	<table border="1"> <thead> <tr> <th>Indicator</th> <th>2020</th> <th>2021</th> </tr> </thead> <tbody> <tr> <td>Unrestricted cash /total expenses excluding depreciation, including debt service principal and interest</td> <td>53.23%</td> <td>90.82%</td> </tr> </tbody> </table>	Indicator	2020	2021	Unrestricted cash /total expenses excluding depreciation, including debt service principal and interest	53.23%	90.82%	Greater than 16% (2 months)	88.46%	This indicator calculates how many month's worth of expenses (including debt principal and interest but not depreciation) a unit can pay based on the amount of unrestricted cash at year-end. The typical billing cycle is one month (8.33%) and one extra month usually gives a local government enough cash to handle unusual monthly expenses (16.66%). This 16% would be the bare minimum necessary to keep the fund from experiencing cash flow issues.		
Indicator	2020	2021										
Unrestricted cash /total expenses excluding depreciation, including debt service principal and interest	53.23%	90.82%										
7.	<p>It appears your Water Sewer Fund has transfers-in for the support of operations that are greater than 3% of the total of operating and non-operating expenses. Please discuss the purpose of such transfers-in and if you plan to continue these transfers-in.</p>		No	The rate structure of the Water and Sewer Fund should support the operating expenses of the fund without operating subsidies or transfers from other funds.								

Unit Name: Shelby		Fiscal Year 2022		Explanation of Performance Indicator												
Unit Number: 50356		Minimum Threshold	Unit Results													
8.	<p>ELECTRIC FUND:</p> <p>Quick Ratio-Electric</p> <table border="1"> <thead> <tr> <th>Year</th> <th>Value</th> </tr> </thead> <tbody> <tr> <td>2020</td> <td>3.50</td> </tr> <tr> <td>2021</td> <td>6.88</td> </tr> <tr> <td>2022</td> <td>4.85</td> </tr> </tbody> </table>	Year	Value	2020	3.50	2021	6.88	2022	4.85	Equal or greater than 1	4.85	<p>Note: if more than one performance indicator is identified, one proposed solution may solve all electric performance indicators.</p> <p>A Quick Ratio less than 1 indicates that the unit owes more for its current bills than what it has on hand in unrestricted cash and investments plus what is owed from customers (accounts receivable). This could indicate that the fund may have difficulty paying its current bills. If this pattern continues, the electric system may not be sustainable.</p>				
		Year	Value													
2020	3.50															
2021	6.88															
2022	4.85															
<p>Cash Flow Indicators:</p>	<table border="1"> <thead> <tr> <th>Year</th> <th>2020</th> <th>2021</th> <th>2022</th> </tr> </thead> <tbody> <tr> <td>Operating Net Income (Loss) excluding depreciation, including debt service principal and interest</td> <td>\$6,009,622</td> <td>\$7,662,882</td> <td>\$4,168,482</td> </tr> <tr> <td>Unrestricted cash / total expenses excluding depreciation, including debt service principal and interest</td> <td>20.86%</td> <td>61.50%</td> <td>41.60%</td> </tr> </tbody> </table>	Year	2020	2021	2022	Operating Net Income (Loss) excluding depreciation, including debt service principal and interest	\$6,009,622	\$7,662,882	\$4,168,482	Unrestricted cash / total expenses excluding depreciation, including debt service principal and interest	20.86%	61.50%	41.60%	Minimum Threshold Greater than zero	Unit Results \$4,168,482	<p>This calculation subtracts operating expenses from operating revenues. Depreciation expense is not included in the calculation but debt principal and interest payments are included. A negative balance indicates that your rates are not covering your operating expenses.</p> <p>This indicator calculates how many month's worth of expenses (including debt principal and interest but not depreciation) a unit can pay based on the amount of unrestricted cash at year-end. The typical billing cycle is one month (8.33%) and one extra month usually gives a local government enough cash to handle unusual monthly expenses (16.66%). This 16% would be the bare minimum necessary to keep the fund from experiencing cash flow issues.</p>
Year	2020	2021	2022													
Operating Net Income (Loss) excluding depreciation, including debt service principal and interest	\$6,009,622	\$7,662,882	\$4,168,482													
Unrestricted cash / total expenses excluding depreciation, including debt service principal and interest	20.86%	61.50%	41.60%													
9.																
10.																

Unit Name: Shelby		Fiscal Year 2022		Explanation of Performance Indicator
Unit Number: 50356		Fiscal Year 2022		
GENERAL PERFORMANCE INDICATORS:				
		2022	Target	
11.	The 2022 Audit Report is expected to be submitted within five months plus one day from the fiscal year end per the auditor. (December 1st for most units)	No	5 months plus one day after the fiscal year end	As stewards of the public's resources, the governing body is responsible for ensuring that the audited financial statements are available to the public in a timely manner. External groups such as the North Carolina General Assembly, Federal and State agencies that provide funding, and other public associations need current financial information about your local government as well.
12.	The budgeted ad valorem tax (including motor vehicles) for the General Fund had more than 3% uncollected for the fiscal year audited. Decreases are shown by a negative percentage.	1.73%	Less than 3%	This indicator shows that the local government did not collect 3% (or more) of its budgeted ad valorem taxes. This could be an indicator of negative economic events, inaccurate budgeting, and/or issues with the collection process. Uncollected revenues at the 3% level represent several pennies of the tax rate.
13.	You indicated that you expect a decrease in property value for your next property revaluation. In your FPIC Response Letter, please discuss the magnitude of the drop in valuation, the overall cause of the drop and how you plan to recover the lost revenues.	N/A	Any estimated decrease	You indicated that you expect a decrease in property value for your next property revaluation which could result in lost tax revenue.
14.	Did your audit disclose as a finding any budget violations? (Yes or No)	No	No over-expenditures	The unit has expenditures that exceed the legal budget ordinance. This indicates that the unit's purchase order system, contract approval process and / or payment process is not in compliance with North Carolina General Statute 159.
15.	If a unit has no performance indicators of concern that would require them to submit a Response to Audit Findings, Recommendations and Fiscal Matters, but they are currently on the Unit Assistance List, they must still submit an FPIC Response Letter. Their response should discuss the financial plan they have developed to address the issues that placed them on the Unit Assistance List and the progress they have made to date.	Unit is not on the Unit Assistance List at this time	Unit is not on the Unit Assistance List at this time	N/A-Unit is not on the Unit Assistance List.
16.	The Unit had material weaknesses, significant deficiencies, and/or statutory violations that should be addressed in the FPIC Response Letter.	No	No	This indicator lists whether the unit has any material weaknesses, significant deficiencies, or management letter comments that require a response.
17.	The unit had a board-appointed finance officer the entire fiscal year.	Yes	Yes	This indicator is to determine if during the fiscal year, the unit was without a board-appointed finance officer.

Unit Name: Shelby		Unit Number: 50356		Fiscal Year 2022	Explanation of Performance Indicator
GENERAL PERFORMANCE INDICATORS:		2022	Target		
18.	The unit had problems with debt service payments being late and/or did not comply with the bond covenants.	No		No	This indicator lists whether or not the unit has issues with debt service payments or bond covenants.
19.	Electric transfers-out have exceeded the amounts described in GS 159B-39. If your unit is a member of the North Carolina Eastern Municipal Power Agency it appears you have violated the GS. OR If you are not a member of the Eastern Municipal Power Agency it appears that you have violated your unit's transfer policy.	No		No	This indicator shows if there were electric transfers in in violation of G.S. 159B-39 or in violation of the unit's transfer policy.
20.	Are there additional issues the unit should address that affect the fiscal health or internal controls of the unit that were communicated to the unit during the audit presentation? Please include details of the issue in cell J44 to the right and in your EPIC Response.	No		No	This indicator lists any other issues that the unit should address.

Martin Starnes & Associates, CPAs, P.A.
 2022 Amended Audit Contract Information

Client Name	City of Shelby
-------------	----------------

Modification to Due Date (list new due date) 1/31/2023
 Modification to Fee (list new fee)

Reason(s) for Contract Amendment:
 (highlight the primary reason for amendment below)

- Change in scope
- Issue with unit staff/turnover Unit lost 2 accounting staff due to retirement and 1 to relocation
- Issue with auditor staff/workload
- Third-party financial statements not prepared by agreed-upon date
- Unit did not have bank reconciliations complete for the audit period
- Unit did not have reconciliations between subsidiary ledgers and general ledger complete
- Unit did not post previous years adjusting journal entries resulting in incorrect beginning balances in the general ledger
- Unit did not have information required for audit complete by the agreed-upon time GASB 87 Leases
- Delay in component unit reports
- Software - implementation issue
- Software - system failure Capital asset module calculation errors caused delays
- Software - ransomware/cyberattack
- Natural or other disaster
- Other (please explain)

Plan to Prevent Future Late Submissions:

If the amendment is submitted to extend the due date, please indicate the steps the unit and auditor will take to prevent late filing of audits in subsequent years. Indicate NA if this is an amendment due to a change in cost only.

Additional time was needed this fiscal year to complete the information and prepare the related journal entries necessary for recording leases due to implementation of GASB 87. Also, an error in our capital asset tracking was discovered after all documentation was already prepared and submitted, causing all capital asset work to be redone once the error was found and corrected. Both of these items are one-time delays that will not be repeated in future years; however, we will also apply additional year-end close and audit preparation procedures to ensure all necessary audit documentation is made available during the agreed upon time. We are hopeful to be hiring 2 accountants to fill the vacant positions in the very near future.

Additional Information:

Please provide any additional explanation or details regarding the contract modification.

Signer #1
 Chair of Board/Mayor's Name O. Stanhope Anthony III
 Title Mayor
 Email Address stan_anthony@cityofshelby.com

Signer #2
 Chair of Audit Committee N/A
 Email Address

Signer #3
 Finance Officer/Director Name Note: Finance Officer info only required if the fee is changing
 Title N/A
 Email Address

Component Unit Name (only if NOT a separate contract)	N/A
--	-----

Signer #4

Component Unit Chair Name	N/A
Email Address	

Signer #5

Component Unit Audit Committee Chair Name	N/A
Email Address	

Signer #6

Component Unit Finance Officer Name	Note: Finance Officer info only required if the fee is changing
Title	N/A
Email Address	

Other Information

Date client needs contract	10/31/22
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Board meeting date for contract approval	11/07/22
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Other information

City of Shelby
Agenda Item Summary
January 23, 2023
City Hall Council Chamber

E. New Business:

Agenda Item: E-1

- 1) Approval of a resolution authorizing selection of TGS Engineers based on qualifications for professional engineering services for a Traffic Impact Analysis for a lane reconfiguration project in Shelby, North Carolina: Resolution No. 3-2023

New Business Item: (Ben Yarboro, Assistant City Manager)

Summary of Available Information:

- Memorandum dated January 17, 2023, from Ben Yarboro, Assistant City Manager to Rick Howell, City Manager
- Memorandum dated December 30, 2022 from Justin Wright, Civil Engineer to Ben Yarboro, Assistant City Manager
- Request for Qualifications Statement for Professional Engineering Services for the Traffic Impact Analysis for Lane Reconfiguration Project in Shelby, North Carolina
- Map of Graham Street TIA Study Area
- Resolution No. 3-2023

City Manager's Recommendation / Comments

Resolution No. 3-2023 is presented for City Council consideration at this time. If approved this resolution would authorize the selection of TGS Engineers based on qualifications for professional engineering services for the performance of a Traffic Impact Analysis for a lane configuration project on East Graham Street from S. Morgan Street to Juan Place.

This analysis would study and make recommendations based upon traffic engineering standards and data on how E. Graham Street as described should be marked in the future.

It is my recommendation that Resolution No. 3-2023 be adopted and approved by City Council at this time.

Memorandum

To: Rick Howell, City Manager

From: Ben Yarboro, Assistant City Manager

RE: Recommendation of Award for the selection of an Engineering Firm for a Traffic Impact Analysis for a lane reconfiguration project on Graham St. in Shelby, North Carolina

Date: January 17, 2023

Summary

As detailed in the attached memo by Justin Wright, Civil Engineer, City staff desires to evaluate the potential for a lane reconfiguration on Graham St. from Dekalb St. to Morgan St. The potential reconfiguration would create a one through lane in each direction with a center turn lane and on street parking as width and driveway access allows. This is a similar layout to the streets that were modified as part of the recent Uptown Streetscape Project and is intended to promote pedestrian, cyclist and vehicular safety.

In compliance with NC General Statutes and the Mini Brooks Actf, City staff advertised a Request of Qualifications and received four responses from professional engineering firms. After evaluations of the proposals were conducted independently by four City staff, this committee made a recommendation to select TGS Engineers to complete this Traffic Impact Analysis.

This professional services contract will evaluate various factors such as the street widths, driveway locations, traffic volumes and turning traffic volumes, and then make a recommendation on the proposed street configuration. This recommendation will be based on a quantitative comparison of the “Levels of Service” of the existing layout versus the proposed layout.

It is important to note that this contract will provide City staff with the information necessary to determine the best long-term street layout for Graham St. that could be implemented in the future if desired by Council. As you may recall, the City of Shelby Water Resources Department has plans to construct a 24” water transmission line along this street. This water line project is anticipated to be completed in the next 18-24 months (dependent on material lead times) and any street reconfiguration will occur after the water line project has been completed.

Based on the recommendation by the City staff RFQ review committee, I recommend that City Council approve the attached Resolution authorizing the selection of TGS Engineers for the Traffic Impact Analysis of a potential lane reconfiguration on Graham St. from Dekalb St. to Morgan St.

Please advise if you have any questions or need any additional information.

Memorandum

To: Ben Yarboro, Assistant City Manager

From: Justin Wright, Civil Engineer

RE: Recommendation to Award Request for Qualifications Statement For Professional Engineering Services For Traffic Impact Analysis For Lane Reconfiguration Project In Shelby, North Carolina

Date: December 30, 2022

Background

The City Shelby has elected to Request for Qualifications for Professional Engineering Services to perform a traffic impact analysis for lane reconfiguration. The proposed study is located on Graham St. and is approximately 2,200 linear feet of roadway. The purpose of this Traffic Impact Analysis is to evaluate the impacts of a potential lane configuration (“road diet”) within the study area. The overall goal of any roadway modification is to serve as a “traffic calming” measure that increases the safety and comfort for motorists, pedestrians, and cyclists. To complete this project, the City must obtain expert professional engineering services for the design and reconstruction.

The professional services related to this roadway project are as follows:

- 1) Execute a traffic impact analysis for the site and surrounding area based on traffic projections. The traffic impact analysis shall include the following, but not limited to:
 - a. Parameters and Study Area
 - b. Impacted Roadways
 - c. Existing AM, Midday, and PM Peak Hour Traffic
 - d. Analysis of existing lane configuration
 - e. Level of Service (LOS) Comparison
 - f. Conclusion and recommendations
- 2) Prepare a preliminary layout of necessary roadway improvements for Graham St. from Patton Dr. to S. Morgan St.

- 3) The proposed roadway improvements shall be reviewed and commented on by the City of Shelby and NCDOT.
- 4) Preparing a final report and detailed cost estimate for all recommended work.

As outlined in the Request for Qualifications (RFQ), the criteria for this qualification-based selection were:

- 1) Technical Approach/Understanding of Project (25%)
- 2) Experience of Proposed Personnel (25%)
- 3) Availability of Staff and Resources (20%)
- 4) Relevant Design Experience (25%)
- 5) Location of the Firm Relative to the Project (5%)

Review

On November 10, 2022, the City of Shelby advertised a Request for Qualifications Statement for Professional Engineering Services for Traffic Impact Analysis For Lane Reconfiguration Project In Shelby, North Carolina. The City received four (4) responses to this advertisement prior to the December 1, 2022, deadline. Responses were received from the following firms (listed in alphabetical order):

- A. Morton Thomas and Associates, Inc. – Charlotte, NC
- Davenport – Charlotte, NC
- J.M Teague – Waynesville, NC
- TGS Engineers – Shelby, NC

A review committee consisting of four (4) City staff members was established to complete independent reviews and scoring of the four (4) responses that were received. After scoring was completed, the review committee discussed the results and determined that TGS Engineers was the most qualified firm to perform the Professional Engineering Services for the County Home Road Reconstruction Project in Shelby, North Carolina.

Recommendation

City Staff recommends that the Shelby City Council approves the resolution selecting TGS Engineers as the firm to perform the Professional Engineering Services for Traffic Impact Analysis For Lane Reconfiguration Project In Shelby, North Carolina. This resolution will authorize the City Manager to negotiate and execute an agreement that establishes the scope of work and fees associated with the professional services that are to be completed.

Please advise if you have any questions or need additional information.

Attachments:

- Request for Qualifications
- Scoring Sheet

**REQUEST FOR QUALIFICATIONS STATEMENT FOR PROFESSIONAL
ENGINEERING SERVICES FOR THE TRAFFIC IMPACT ANALYSIS FOR LANE
RECONFIGURATION PROJECT IN SHELBY, NORTH CAROLINA**

Date: November 10, 2022

The City of Shelby is requesting Statements of Qualification from interested and qualified firms to provide engineering services for a Traffic Impact Analysis in Shelby, North Carolina. The proposed study is located on Graham St. and is approximately 2,200 linear feet of roadway (see enclosed map for reference). The roadway project shall be coordinated with City of Shelby staff and North Carolina Department of Transportation Division 12.

PURPOSE

This Request for Qualifications is to obtain expert professional, technical, and advisory services that provides a Traffic Impact Analysis (TIA) for a potential lane reconfiguration project on Graham St. from Juan Pl to S. Morgan St. Through this TIA conclusions should be coordinated with City of Shelby and NCDOT to provided recommendations if needed.

The purpose of this Traffic Impact Analysis is to evaluate the impacts of a potential lane configuration (“road diet”) within the study area. The overall goal of any roadway modification is to serve as a “traffic calming” measure that increases the safety and comfort for motorists, pedestrians, and cyclists.

SCOPE OF WORK

- 1) Execute a traffic impact analysis for the site and surrounding area based on traffic projections. The traffic impact analysis shall include the following, but not limited to:
 - a. Parameters and Study Area
 - b. Impacted Roadways
 - c. Existing AM, Midday, and PM Peak Hour Traffic
 - d. Analysis of existing lane configuration
 - e. Level of Service (LOS) Comparison
 - f. Conclusion and recommendations
- 2) Prepare a preliminary layout of necessary roadway improvements for Graham St. from Patton Dr. to S. Morgan St.
- 3) The proposed roadway improvements shall be reviewed and commented on by the City of Shelby and NCDOT.
- 4) Preparing a final report and detailed cost estimate for all recommended work.

REQUIREMENTS

The selected consultant will be required to enter into an agreement with the City of Shelby. The types of services and expertise required for this solicitation are described below. Consultants offering expertise in the services described below are encouraged to submit statements of qualifications.

PROPOSAL CONTENT AND EVALUATION

Five (5) copies of your proposal must be received no later than 2:00 PM, December 1st, 2022. The proposals must be addressed to:

City of Shelby
Attn: Bryant Nodine, Business Manager
PO Box 207
Shelby, NC 28151-0207

Include in your proposal the following specific items, which will assist in the evaluation of all proposals:

- 1) Project Approach:
 - a. Describe your team's approach to successfully delivering the project. Provide details on how each task will be completed. Include any recommendations for maximizing effectiveness and efficiency.
- 2) Relevant Project Experience:
 - a. Provide a summary of your experience with similar projects, including location and client contact information. Specify the services provided, the office location from which the work was performed, and staff members' responsibilities.
- 3) Project Team:
 - a. Provide an organizational chart identifying all staff assigned to the project, including any sub-contractors, defining roles, responsibilities, and task assignments for the duration of the project.
- 4) Qualifications of Personnel:
 - a. Provide relevant experience and qualifications of all personnel assigned to the project.
- 5) Scope of Work:
 - a. Provide an outline for keeping the project on schedule and within budget. Include projected workloads and staff availability, as well as a projected schedule for completion of significant milestones and the draft and final plan.
- 6) Insurance Certification:
 - a. Submit current insurance certificates for professional liability insurance, which indicates limits of liability. If selected, the successful firm shall provide certificates of insurance that also name City of Shelby as additional insured.
- 7) References:
 - a. Provide contact information for at least three (3) references for clients familiar with similar work by your firm.

Proposals shall be limited to a maximum of fifteen (15) pages, not including a cover page or cover letter.

DO NOT INCLUDE A PRICED PROPOSAL

INQUIRIES

Questions that arise shall be submitted via email to Mr. Bryant Nodine at bryant.nodine@cityofshelby.com by 2:00 PM, November 22, 2022. Questions and answers will be provided to others receiving this request.

INCURRING COSTS

The City of Shelby is not liable for any cost incurred by the consultant in the preparation or presentation of a response to this request.

RIGHT OF AWARD OR REJECT

It is understood that all submittals will become part of the public's file on this matter, without obligation to the City. The City of Shelby reserves the right to accept and/or reject any and all submittals.

SELECTION AND EVALUATION

The City of Shelby will evaluate the submittals received. The City will review all requests, evaluate required criteria, select a consultant and enter into negotiations with the selected firm, or select a short list for interviews, then complete the process.

Each of the criteria listed in this outline will be evaluated on how fully each submittal meets the requirements, and each will be ranked. Particular emphasis will be placed on the consultant's past successful completion of similar projects shown by work summaries of the firm and individuals to do the work, and by references.

STATEMENT OF INTEREST AND QUALIFICATIONS

Each submittal from a qualified consultant received in response to this request will be judged as a demonstration of the consultant's capabilities and qualifications. Only those consultants who supply complete information as required by this request will be considered for evaluation. The factors used to determine those to be considered are:

- 1) An understanding of the requirements of this request demonstrated by the organization, clarity, and completeness of the submittal.
- 2) The past performance record and qualifications of the firm and the individuals who will do the work, verifiable through references and resumes, and
- 3) The ability of the consultant to provide a timely response.

EVALUATION CRITERIA

The contract will be awarded to a qualified consultant. Minimum standards for qualifications are:

www.cityofshelby.com

- 1) Technical Approach/Understanding of Project (25%)
- 2) Experience of Proposed Personnel (25%)
- 3) Availability of Staff and Resources (20%)
- 4) Relevant Design Experience (25%)
- 5) Location of the Firm Relative to the Project (5%)

SELECTION

The City of Shelby will form a selection committee that will evaluate the submittals received. The City will review all requests, evaluate required criteria, select a consultant and enter into negotiations with the selected firm, or select a short list for interviews, then complete the process.

Each of the criteria listed in this outline will be evaluated on how fully each submittal meets the requirements, and each will be ranked. Particular emphasis will be placed on the consultant's past successful completion of similar projects shown by work summaries of the firm and individuals to do the work, and by references.

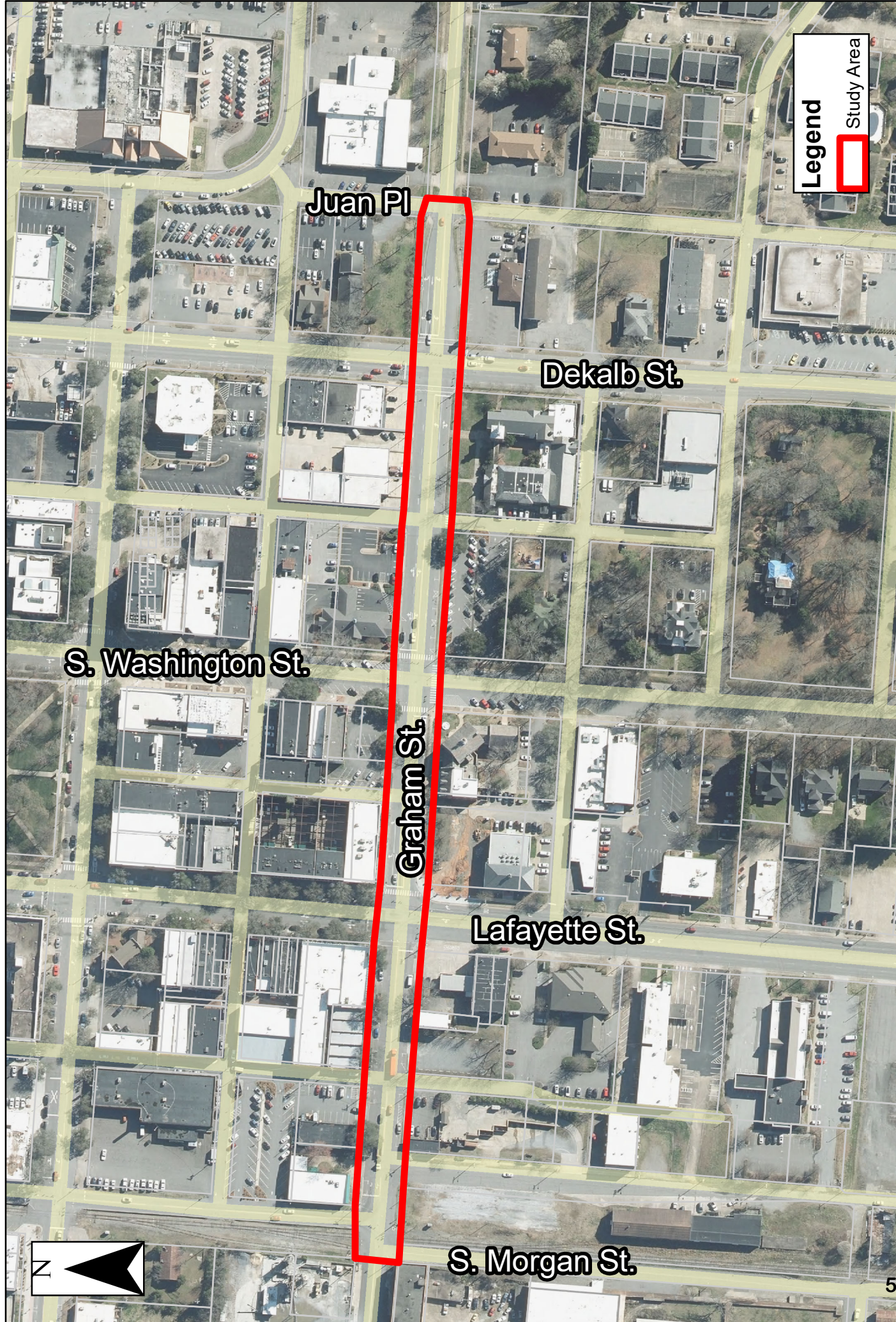
After selection of a consultant, a contract will be prepared based on a negotiated Scope of Services and final fee proposal. Should the negotiations be unsuccessful with the number one ranked firm, negotiations will cease with that firm, and negotiations will begin with the number two ranked firm. This process will continue until a satisfactory contract is completed.

CONTRACT REQUIREMENTS


The final consultant will be required to complete a Service Contract, which will incorporate the submittal and work schedule as a part of the contract. In addition, it will be necessary for the successful consultant to be covered by Workman's Compensation insurance, which will extend to the work done within the State of North Carolina.

NONDISCRIMINATION

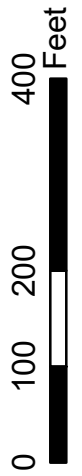
The City of Shelby complies with all civil rights provisions of federal statutes and related authorities that prohibit discrimination in programs and activities receiving federal and state financial assistance. Therefore, the City of Shelby does not discriminate on the basis of race, sex, color, age, national origin, religion or disability, in the admission, access to and treatment in the City's programs and activities.



Legend

 Study Area

1 inch = 200 feet



S. Washington St.

Juan Pl

Dekalb St.

Graham St.

Lafayette St.

S. Morgan St.



Graham St. TIA Study Area

RFQ for Professional Civil Engineering Services for Traffic Impact Analysis of Graham St.

Firm	Technical Approach / Understanding of Project (25%)	Experience of Proposed Personnel (25%)	Availability of Staff and Resources (20%)	Relevant Design Experience (25%)	Location of Firm Relative to the Project (5%)	Total	Notes
A. Morton Thomas and Associates, Inc.	20	20	17	21	4	82	
Davenport	17	17	15	18	3	70	
J.M Teague	19	18	16	19	4	76	
TGS Engineers	22	21	18	22	5	88	

Evaluated By: _____

Scott Smith

Date: _____

December 9, 2022

RFQ for Professional Civil Engineering Services for Traffic Impact Analysis of Graham St.

Firm	Technical Approach / Understanding of Project (25%)	Experience of Proposed Personnel (25%)	Availability of Staff and Resources (20%)	Relevant Design Experience (25%)	Location of Firm Relative to the Project (5%)	Total	Notes
A. Morton Thomas and Associates, Inc.	23	23	19	23	3	91	1) Relevant project experience. 2) Project Manager has over 30 years of experience.
Davenport	20	20	19	20	4	83	1) Years of experience for Project Manager is not known. 2) 10-month projection for length of project.
J.M Teague	24	23	19	24	4	94	1) Performed same project on a similar street in Shelby. 2) 6-month projection for length of project.
TGS Engineers	23	22	19	23	5	92	1) Extensive work experience with the City and Division 12 of NCDOT. 2) Using VHB as sub-contractor. 3) Currently working on Rail Trail project in the same area.

Evaluated By: Byron Mc

Date: 12/9/2022

RFQ for Professional Civil Engineering Services for Traffic Impact Analysis of Graham St.

Firm	Technical Approach / Understanding of Project (25%)	Experience of Proposed Personnel (25%)	Availability of Staff and Resources (20%)	Relevant Design Experience (25%)	Location of Firm Relative to the Project (5%)	Total	Notes
A. Morton Thomas and Associates, Inc.	23	22	19	22	3	89	<ul style="list-style-type: none"> *Project Approach uses short term build out (Look three years out) *Gave Multiple Relevant experiences, however all experiences around Raleigh, NC (Outside Division 12) *Gave statement on availability *Project Timeline 3.5 Months *Located in Charlotte; however proposal from Raleigh
Davenport	21	22	16	21	4	84	<ul style="list-style-type: none"> *Gave Multiple Relevant experiences, however most around Winston Salem *One project in Division 12 *Availability Averages around 50% then increases *Project Timeframe 10 Months *Located in Charlotte
J.M Teague	21	22	17	24	3	87	<ul style="list-style-type: none"> *Previously performed the Uptown Shelby "Road Diet" *Multiple TIA in Shelby *Communication before with NCDOT Distric/Division in shelby *Availability Averages around 50% *Project Timeframe 6 Months *Located in Waynesville
TGS Engineers	22	22	18	24	5	91	<ul style="list-style-type: none"> *Project traffic future (2045) build *Subcontractor helped develop NCDOT Road Diet Guidance *Previously had project within City of Shelby *Communication before with NCDOT Distric/Division in shelby *Gave statement on availability *Project Timeframe 5 months *Located in Shelby; Sub Located in Charlotte

Justin Wright
 12-9-22

Evaluated By:

Date:

RFQ for Professional Civil Engineering Services for Traffic Impact Analysis of Graham St.

Firm	Technical Approach / Understanding of Project (25%)	Experience of Proposed Personnel (25%)	Availability of Staff and Resources (20%)	Relevant Design Experience (25%)	Location of Firm Relative to the Project (5%)	Total	Notes
A. Morton Thomas and Associates, Inc.	25	25	19	23	2	94	Road diet experience. 3 month turn around, is that enough time?
Davenport	25	20	14	22	3	84	Div. 12 experience. Video traffic count for thorough analysis. On call TIA for Gastonia. Over 7 months
J.M Teague	21	22	17	22	3	85	One TIA equivalent to project in Shelby, others just reviewing one property project. 6 months to complete
TGS Engineers	22	23	17	25	5	92	Roadway design experience in Div. 12. Road diet guidance for NCDOT. 6 months

Evaluated By: Tyler Brooks

Date: 12-9-22

RFQ for Professional Civil Engineering Services for Traffic Impact Analysis of Graham St.

Firm	Todd Frashier	Bryant Nodine	Justin Wright	Tyler Brooks	Ranking Average	Notes
A. Morton Thomas and Associates, Inc.	2	3	2	1	2	
Davenport	4	4	4	4	4	
J.M Teague	3	1	3	3	2.5	
TGS Engineers	1	2	1	2	1.5	

Evaluated By: _____

Date: _____

RESOLUTION NO. 3-2023

**A RESOLUTION AUTHORIZING SELECTION OF TGS ENGINEERS
BASED ON QUALIFICATIONS FOR PROFESSIONAL ENGINEERING
SERVICES FOR A TRAFFIC IMPACT ANALYSIS FOR A LANE
RECONFIGURATION PROJECT IN SHELBY, NORTH CAROLINA**

WHEREAS, the proposed study area is located on Graham St. and is approximately 2,200 linear feet of roadway from Dekalb St. to Morgan St. with the purpose of evaluating the impacts of a potential lane reconfiguration (“road diet”) within the study area; and,

WHEREAS, the overall goal of this potential roadway modification is to serve as a “traffic calming” measure that increases the safety and comfort for motorists, pedestrians, and cyclists; and,

WHEREAS, the City of Shelby must contract with a licensed firm to provide the Professional Engineering services needed for the traffic impact analysis; and,

WHEREAS, City staff issued a Request for Qualifications dated November 10, 2022 to engineering firms interested in providing Professional Engineering services related to this project; and,

WHEREAS, four (4) proposals were received from Professional Engineering firms interested in performing the work associated with this project; and,

WHEREAS, City staff has reviewed the proposals and determined that TGS Engineers is the most qualified firm to perform the professional services as outlined in the Request for Qualifications.

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

Section 1. The City Council of the City of Shelby hereby desires for the City Manager to enter into negotiations with TGS Engineers to negotiate a contract for the above referenced project.

Section 2. If a fair and reasonable fee cannot be negotiated with the best qualified firm, negotiations will be terminated and initiated with the next best qualified firm.

Section 3. The City Manager is hereby authorized to execute a contract with a firm after successful negotiations.

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

Resolution No. 3-2023
January 23, 2023
Page 2

Adopted and approved this the 23rd day of January 2023.

O. Stanhope Anthony III
Mayor

ATTEST:

Carol Williams
City Clerk

City of Shelby
Agenda Item Summary
January 23, 2023
City Hall Council Chamber

Agenda Item: E-2

- 2) Approval of a resolution declaring the intent of the City Council of the City of Shelby to consider the permanent closure of Ella Street and a portion of South Washington Street between Textile Street and East Shannonhouse Street:
Resolution No. 4-2023

New Business Item: (Walt Scharer, Planning Director)

Summary of Available Information:

- Memorandum dated January 13, 2023, from Walt Scharer, Planning Director to Rick Howell, City Manager
- City of Shelby Planning and Development Services Department General Application
- Supporting Documents
- Map of Proposed Street ROW Closure of Ella Street & South Washington Street
- Resolution No. 4-2023

City Manager's Recommendation / Comments

Resolution No. 4-2023 is presented for City Council consideration at this time as a new business item. If approved this resolution simply states the City's intent to close the noted streets and provides notice to the public of this intent. A public hearing is also set for Monday, February 20, 2023 to hear public comment. All affected property owners will receive notice either by newspaper publication, certified mail and posted public notice. This action is initiated at the request of the adjoining property owners.

A brief explanation. The petitioner for closure in this instance owns 100% of the frontage along Ella Street and the short segment of S. Washington Street between Textile Street and E Shannonhouse Street. It is the petitioners intent, if approved, to utilize the property as part of the multi family residential development proposed for the area.

I have asked City staff to work toward addressing some issues of concern. This would include whether the City can put conditions on the closure that would allow the street right of way to revert back to the City if the development is not built. The City would likely retain utility easements for water, sewer, electric and natural gas lines unless staff deems it unnecessary. A more detailed recommendation would be brought forth at the time of the public hearing. Action tonight merely adopts a resolution making the public aware that the City has been petitioned and that the City intends to consider the petition following a public hearing.

It is my recommendation that Resolution No. 4-2023 be adopted and approved by City Council at this time.



Memorandum

To: Rick Howell – City Manager
From: Walter Scharer – Planning Director
Date: January 13, 2023
Subject: Request to close Ella Street and a portion of South Washington Street between Textile Street and East Shannonhouse Street

Executive Summary of issue – Background

The property owners adjacent to Ella Street and the portion of South Washington Street between Textile Street and East Shannonhouse Street have petitioned the City to close the rights-of-way of these two blocks. A location map showing this site is attached.

Review and Comments

This request is part of the proposed Cambridge Commons multi-family development. The developer is redesigning the project with the rights-of-way being closed.

Pursuant to North Carolina General Statute 160A-299, the City may close a street or alley after passing a resolution of intent that establishes a public hearing for said closing. The public hearing for this street closing, as established by the resolution of intent, is scheduled for February 20, 2023.

Recommendation

Please place this item on the agenda for the January 23, 2023 City Council meeting.

Attachments: Right-of-Way Closure Request, Location Map, and Resolution of Intent



City of Shelby
Planning and Development Services Department

General Application

Address of Subject Property:

See attached

Applicant(s) Name: Cleveland County MMR Limited Partnership, and Cleveland County 2 MMR Limited Partnership

Address: Post Office Box 4503

Greensboro, NC 27404

Email: mrenson@triad.rr.com

Phone: (336) 908-7718

Owner(s) Name: Cleveland County MMR Limited Partnership, and Cleveland County 2 MMR Limited Partnership

Email: mrenson@triad.rr.com

Phone: (336) 908-7718

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

Request for (Check all that apply):

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

Project Information (Fill in applicable information):

Parcel Number:

Proposed Zoning:

Proposed Land Use:

Previous Use:

Approx. Building Sq. Ft.:

Approx. Project Acreage:

Business Name: Cambridge Commons Apts - Phases 1 and 2

Construction Sq. Ft.: approx 108,000 square feet

Valuation: Total development cost approx \$28,300,000

Provide a detailed description of the proposed project. Attach additional pages or documentation if necessary.

98 units of affordable housing, consisting of a mix of garden apartments, townhouse type units, and duplexes. There is also a community building with a rental office, a community room with kitchenette, a computer center, laundry facilities, and an exercise/fitness room. Other amenities include playgrounds, covered picnic shelters, and a gazebo.

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

Cleveland County MMR Limited Partnership
By: Cleveland County MMR LLC
By: Maide M. Dawson, Manager
Signature of Applicant

January 4, 2023
Date

Received by:

Date

Cleveland County MMR Limited Partnership
Cleveland County 2 MMR Limited Partnership

Cambridge Commons Apartments
Application for Street / ROW Closure
Attachment #1

Addresses of subject properties:

1001 S. Washington Street
1005 S. Washington Street
1011 S. Washington Street
1012 S. Washington Street
1015 S. Washington Street
1019 S. Washington Street
1022 S. Washington Street
1023 S. Washington Street
1026 S. Washington Street
1027 S. Washington Street
102 Ella Street
106 Ella Street
108 Ella Street
112 Ella Street
114 Ella Street

LEGEND

- IRF - IRON PIPE FOUND
- IR - IRON ROD FOUND
- IR - IRON NAIL FOUND
- CP - CONCRETE CURB
- CP - CONCRETE EASEMENT POINT
- CMF - CONCRETE MONUMENT
- MMF - MAG NAIL FOUND
- MM - MAG NAIL FOUND
- CP - COMPUTED POINT
- MM - SANITARY
- MP - POWER POLE
- LP - LIGHT POLE
- DB - DEED BOOK
- PB - PLAT BOOK
- SF - SQUARE FEET

DEED LINE
LINE NOT SURVEYED
SANITARY LINE
OVERHEAD POWER LINE

EASEMENT NOTE

A 30' (15' EACH SIDE) OF UTILITY LINE/UTILITY EASEMENT IS RETAINED BY THE CITY OF SHELBY FOR UTILITIES LYING INSIDE THE STREET AND ALLEY RIGHT-OF-WAYS SHOWN HEREON. THE CITY OF SHELBY HAS NO INTEREST IN THE PROPERTY IN THE CITY THAT ARE NOT SHOWN HEREON

NOTES:

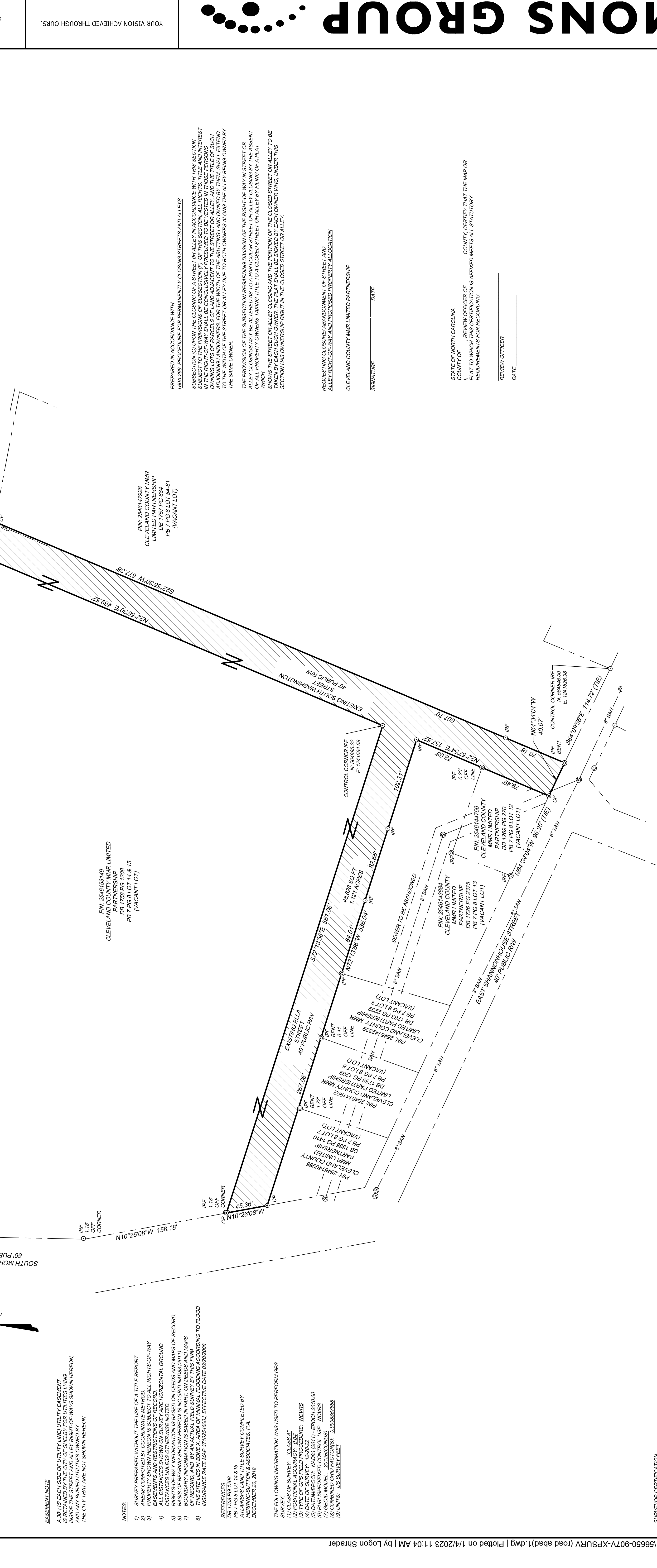
- SURVEY PREPARED WITHOUT THE USE OF A TITLE REPORT.
- AREAS COMPUTED BY COORDINATE METHOD.
- PROPERTY SHOWN HEREON IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, ENCUMBRANCES, AND INTERESTS.
- ALL DISTANCES SHOWN ON SURVEY ARE HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE NOTED.
- RIGHTS-OF-WAY INFORMATION IS BASED ON DEEDS AND MAPS OF RECORD.
- BOUNDARY INFORMATION IS BASED IN PART ON DEEDS AND MAPS OF RECORD AND BY AN ACTUAL FIELD SURVEY BY THIS FIRM.
- INSURANCE RATE MAP 371025600A1 EFFECTIVE DATE 02/20/2008

REFERENCES:

DB 1738 PG 248
PB 7 PG 8 LOT 14 & 15
ATLANTA'S LAND AND TITLE SURVEY COMPLETED BY ASSOCIATES, P.A.
DECEMBER 20, 2019

THE FOLLOWING INFORMATION WAS USED TO PERFORM GPS

(1) CLASS OF SURVEY: "CLASS A"
(2) POSITIONAL ACCURACY: 0.02"
(3) DATE OF SURVEY: 01/11/2023
(4) DATE OF SURVEY PAPER: 01/11/2023
(5) DATUM/EPOCH: NAD83(2011) - EPOCH 2010.00
(6) PUBLISHED FIELD CONTROL USE: NCJCS
(7) PUBLISHED FIELD CONTROL USE: NCJCS
(8) COMBINED GRID FACTORS: 0.9999997288
(9) UNITS: US SURVEY FEET



PRELIMINARY PLAT
NOT FOR RECORDATION,
CONVEYANCES OR SALES.

PROFESSIONAL LAND SURVEYOR
MICHAEL S. MILLER
L-3677

SURVEYOR CERTIFICATION

I, MICHAEL S. MILLER, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK _____ PAGE _____ ETC.); (OTHER) THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK PAGE _____; THAT THE RATIO OF PRECISION OR ACCORDANCE WITH G.S. 47-30 AS AMENDED IS 1:10,000; THAT THIS PLAT WAS PREPARED IN WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL, THIS _____ DAY OF _____ A.D., _____

STATE OF NORTH CAROLINA
COUNTY OF CLEVELAND
REVIEW OFFICER OF _____ COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER _____
DATE _____

CLEVELAND COUNTY MMR LIMITED PARTNERSHIP
SIGNATURE _____ DATE _____

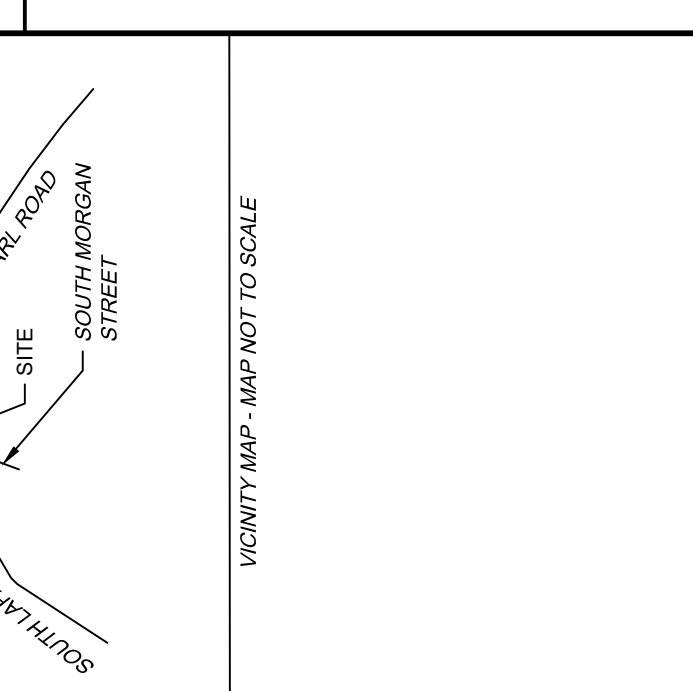
REQUESTING CLOSURE/ABANDONMENT OF STREET AND ALLEY RIGHT-OF-WAY AND PROPOSED PROPERTY ALLOCATION

CLEVELAND COUNTY MMR LIMITED PARTNERSHIP

PREPARED IN ACCORDANCE WITH 15B-258, 258-200 FOR PERMANENTLY CLOSING STREETS AND ALLEYS

SUBSECTION (C) UPON THE CLOSING OF A STREET OR ALLEY IN ACCORDANCE WITH THIS SECTION SUBJECT TO THE PROVISIONS OF SUBSECTION (F) OF THIS SECTION, ALL RIGHTS, TITLE AND INTEREST IN THE CLOSING OF THE STREET OR ALLEY SHALL BE LIMITED TO THE RIGHTS, TITLE AND INTERESTS OF THE OWNERS OF PARCELS OF LAND ADJACENT TO THE STREET OR ALLEY, AND THE TITLE OF SUCH ADJOINING LANDOWNERS FOR THE WIDTH OF THE ABUTTING LAND OWNED BY THEM, SHALL EXTEND TO THE WIDTH OF THE STREET OR ALLEY DUE TO BOTH OWNERS ALONG THE ALLEY BEING OWNED BY THE SAME OWNER.

THE PROVISION OF THIS SUBSECTION REGARDING DIVISION OF THE RIGHT-OF-WAY IN STREET OR ALLEY CLOSINGS MAY BE ALTERED AS TO A PARTICULAR STREET OR ALLEY CLOSING BY THE ASSENT WHICH PROPERTY OWNERS TAKING TITLE TO A CLOSED STREET OR ALLEY BY FILING OF A PLAT SHOWS THE STREET OR ALLEY CLOSING AND THE PORTION OF THE CLOSED STREET OR ALLEY TO BE TAKEN BY EACH SUCH OWNER. THE PLAT SHALL BE SIGNED BY EACH OWNER WHO UNDER THIS SECTION HAS OWNERSHIP RIGHT IN THE CLOSED STREET OR ALLEY.



PROPOSED STREET & ALLEY CLOSING/ABANDONMENT
THE CITY OF SHELBY, NORTH CAROLINA

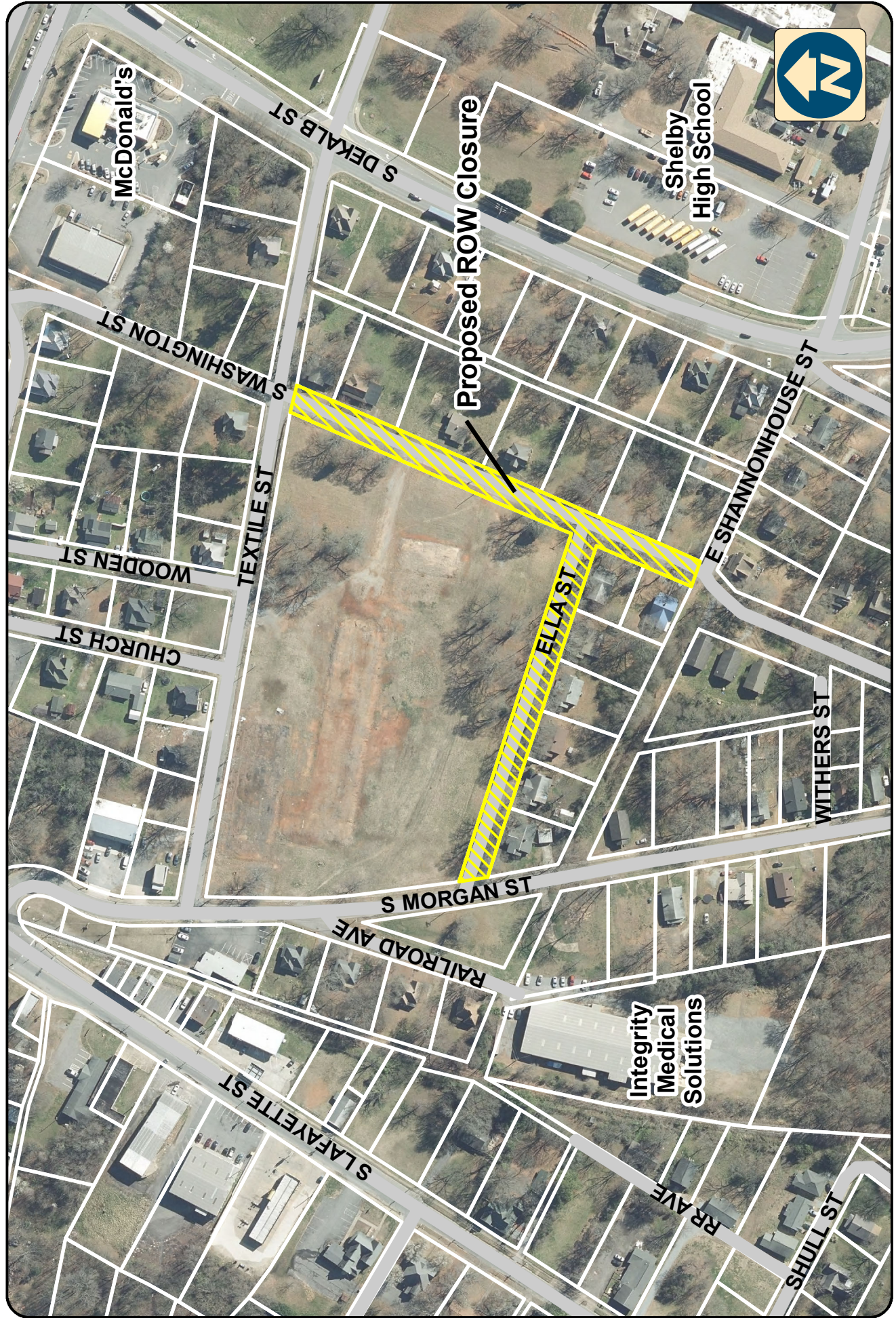
CITY OF SHELBY CLEVELAND CO., N.C.
Date: 12/03/2023 Scale: 1" = 50'
Sheet 1 of 1 J.N.: 56650
Drawn by: L.S. Checked by: M.M.
Revised:

SCALE 1" = 50'
0 50 100



Proposed Street ROW Closure

Ella Street & South Washington Street



Date: 1/6/2023



1 inch = 200 feet

Scale 1:2,400

RESOLUTION NO. 4– 2023

A RESOLUTION DECLARING THE INTENT OF THE CITY COUNCIL OF THE CITY OF SHELBY TO CONSIDER THE PERMANENT CLOSURE OF ELLA STREET AND A PORTION OF SOUTH WASHINGTON STREET BETWEEN TEXTILE STREET AND EAST SHANNONHOUSE STREET

WHEREAS, North Carolina General Statute 160A-299 authorizes the City Council of the City of Shelby to permanently close public streets and alleys within its jurisdiction; and,

WHEREAS, the City has received a request and petition from abutting property owners to permanently close Ella Street and a portion of South Washington Street between Textile Street and East Shannonhouse Street; and,

WHEREAS, the City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to this proposal;

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

Section 1. That a public hearing on the matter will be held at 6:00 PM, on the 20th day of February 2023 in the Council Chamber at the City Hall in Shelby, North Carolina to consider an order closing Ella Street and a portion of South Washington Street between Textile Street and East Shannonhouse Street.

Section 2. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four (4) successive weeks prior to the public hearing in *The Shelby Star*.

Section 3. The City Clerk is further directed to transmit by certified mail, return receipt requested, to each owner of property abutting on said street a copy of this Resolution of Intent and shall cause a notice of the Public Hearing to be prominently posted in at least two places along the subject street.

Section 4. This Resolution of Intent shall become effective upon its adoption and approval.

Adopted and Approved this 23rd day of January 2023.

O. Stanhope Anthony, III
Mayor

ATTEST:

Carol Williams
City Clerk

City of Shelby
Agenda Item Summary
January 23, 2023
City Hall Council Chamber

Agenda Item: E-3

- 3) Adoption of a proposed ordinance amending section 42-172(b) Two-Hour Parking and 42-173 Parking Prohibited on Certain Streets: Ordinance No. 6-2023

New Business Item: (Walter Scharer, Planning Director)

Summary of Available Information:

- Memorandum dated January 17, 2023, from Walter Scharer, Planning Director to Rick Howell, City Manager
- Petition Request to the City of Shelby dated November 4, 2022
- Map of Proposed 2 Hour Parking Site for Edgemont Avenue from E Marion Street to Hawthorne Road
- Ordinance No. 6-2023

City Manager's Recommendation / Comments

Ordinance No. 6-2023 is presented for City Council consideration as a new business item. If approved this ordinance would place restrictions on the location and time allowed for on street parking on Edgemont Street. I would refer you to the map contained in the agenda packet prepared by staff.

A number of citizens living on and adjacent to Edgemont Street have submitted a petition requesting consideration of the changes recommended by City staff. The recommendations address concerns noted by residents and various staff members. These include proximity of parking near the Edgemont Street intersections with E Marion Street to reduce site visibility issues and the possible blocking of a fire hydrant. It limits the length of time parking is allowed on Edgemont Street as well to 2 hours to prevent overnight parking and to allow residents on the street to benefit from the parking designation.

It is my recommendation that Ordinance No. 6-2023 be adopted and approved at this time.



Memorandum

To: Rick Howell - City Manager
From: Walter Scharer – Planning Director
Date: January 17, 2023
Subject: Petition for parking changes on Edgemont Avenue

Executive Summary of Issue – Background

A number of citizens have submitted a petition to address on street parking on Edgemont Avenue. The petition is attached.

Review and Comments

Staff has reviewed the area.

Recommendation

Staff proposes no parking from Marion Street for the first 135 feet on both sides of the Edgemont Avenue. Thereafter, staff proposes two hour parking on the remainder of both sides of Edgemont Avenue to Hawthorne Road.

Please place this on the agenda for the next City Council meeting on January 23, 2023.

Attachments: Petition, Location Map, Ordinance

Petition Request to the City of Shelby
November 4, 2022

The following signatures below are in support of limited parking on the street sides of Edgemont Avenue between the intersections of East Marion Street and Hawthorn Ave. We feel it is in the best interest of safety for traffic exiting East Marion Street onto Edgemont Avenue as well as traffic flowing towards Marion Street. The short span between these intersections consist of a multifamily housing complex entrance and three residential driveways. For the past 12 month period the street has been used for commercial and personal vehicle parking by residents of the multifamily complex. This parking is continuously denying street-side pickup of yard waste and rollout containers. On a recent traffic fatality on Marion Street, this portion of Edgemont was used to detour traffic. This heavy flow of two way traffic from the detour along with the street-side parking complicated the safe flow of traffic. Detours are very common through our neighborhood.

Our request is for parking limits of 2hr. This allows for visitors to the community as well as service or delivery vehicles.

Thank you for your consideration on this small portion of the gateway to our history neighborhood.

[Signature]
Name:

822 East Marion Street
Current Address:

Alayal Hester
Name:

107 Edgemont Ave Apt B
Current Address:

Doug Brown
Name:

911 Hawthorne Rd
Current Address:

Becca Sitzes
Name:

97 Edgemont Ave.
Current Address:

Patrick Vollmer
Name:

91-1 Edgemont Ave
Current Address:

Hammond & Coates
Name:

835 Hawthorne Rd.
Current Address:

[Faint, illegible handwritten signatures and notes on the right side of the page.]

Lori Paterno

Name:

902 Hawthorne Rd.

Current Address:

Dawn Anthony

Name:

105 Edgemont Ave.

Current Address:

Juan Anthony

Name:

105, Edgemont Ave.

Current Address:

DAND LEE

Name:

903 Duke St.

Current Address:

DR. J. Brent Hayes

Name:

822 Hawthorne Rd.

Current Address:

MORAN ALDRIDGE

Name:

821 HAWTHORNE RD SHELBY

Current Address:

Steve Wilkins

Name:

107 Edgemont Ave

Current Address:

SUSAN H. MABAY

Name:

903 Hawthorne Rd.

Current Address:

[Faint, illegible handwritten notes on the right side of the page, possibly bleed-through from the reverse side.]

Name:

Bryan & Michelle Hayes

Current Address:

97-1 Edgemont Ave.

Name:

Ashley M. Blake

Current Address:

97-6 Edgemont Ave

Name:

Anna Hall

Current Address:

91-1 Edgemont Ave.

Name:

Celeste R. Wilson

Current Address:

97-2 Edgemont Ave

Name:

Erin Dalton

Current Address:

97-3 Edgemont Ave

Name:

Current Address:

Name:

Current Address:

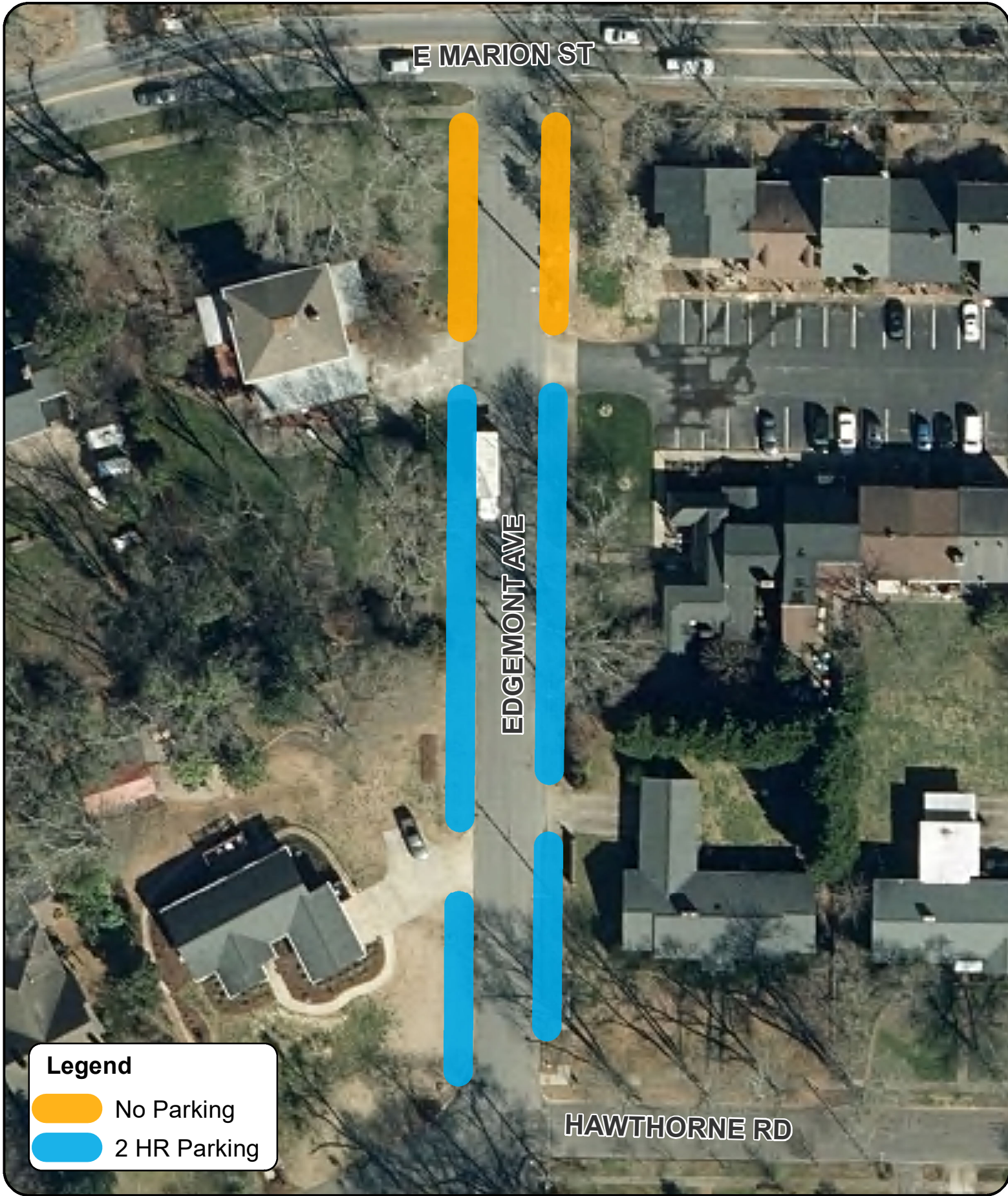
Name:

Current Address:





Proposed 2 Hour Parking Site

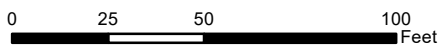
Edgemont Ave from E Marion St to Hawthorne Rd



Legend

-  No Parking
-  2 HR Parking

Scale 1:600



78
1 inch = 50 feet

ORDINANCE NO. 6-2023

**A PROPOSED ORDINANCE AMENDING SECTION 42-172(b) TWO-HOUR PARKING
AND 42-173 PARKING PROHIBITED ON CERTAIN STREETS**

WHEREAS, the City of Shelby has received a petition requesting two-hour parking on a portion of Edgemont Avenue located within the City; and,

WHEREAS, the City staff have reviewed said petition and has made their findings and recommendations to City Council; and,

WHEREAS, time-limited on-street parking contributes to traffic calming and improves traffic safety; and,

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

Section 1. The Code of Ordinances, Section 42-172(b) and Section 42-173, is hereby amended to read as follows:

Sec. 42-172. Two-hour parking.

(b) *On designated streets ~~Mills Street~~.* It shall be unlawful for any person to park a motor vehicle for more than two consecutive hours, on the streets and portions of streets within the city as indicated below:

Street	Side	Extent
Mills Street	North	From a point beginning 168 feet west from the west edge of South Lafayette Street and extending west therefrom a distance of 48 feet to a point on the north side of Mills Street.
Edgemont Avenue between East Marion Street and Hawthorne Road	West and East	<p>On the west side of Edgemont Avenue, from the corner at Hawthorne Road to the southern corner of the driveway of 822 East Marion Street.</p> <p>On the east side of Edgemont Avenue, from 15 feet north of the fire hydrant to the southern corner of the driveway of 97 Edgemont Avenue.</p> <p>On Edgemont Avenue, this two-hour parking is designated as such for 24-hours per day, seven days per week, including holidays.</p>

Sec. 42-173. Parking prohibited on certain streets.

Parking of motor vehicles shall be prohibited on both sides of Dover Drive for a distance of 50 feet west from its intersection with Dover Street.

Parking of motor vehicles shall be prohibited on both sides of Edgemont Avenue for a distance of 135 feet south from its intersection with East Marion Street.

Section 2. The City Clerk of the City of Shelby is hereby authorized and directed to cause the provisions of Section 2 of this ordinance to be properly codified.

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

ADOPTED AND APPROVED this the 23rd day of January 2023.

O. Stanhope Anthony III
Mayor

ATTEST:

Carol Williams
City Clerk

APPROVED AS TO FORM:

John Kubis
Interim City Attorney

City of Shelby
Agenda Item Summary
January 23, 2023
City Hall Council Chamber

Agenda Item: F

City Manager's Report

I will report to Mayor and Council on a number of ongoing projects and issues. The projects and issues reported upon are intended to be for your information and do not necessarily require action by Council.

Agenda Item: G

Council Announcements and Remarks

Agenda Item: H

Closed Session

- 1) Roy Jones, CEO and Matt Schull, COO of ElectriCities – Discussions of a proposed or existing contract to which a joint agency may be or is a party for the construction, ownership, or operation of works, plants, and facilities for or incident to the generation, transmission, or use of electric power and energy or the purchase, sale, exchange, interchange, wheeling, pooling, transmission, or use of electric power and energy shall be confidential and information relating to such discussions shall not be a public record under Chapter 132 of the General Statutes; provided that any contract entered into by or on behalf of a joint agency as defined by G.S. 159B-3 shall be a public record unless otherwise exempted by law. (1993 (Reg. Sess., 1994), c. 570, s. 11.) – North Carolina General Statute 159B-38.

To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes - NCGS 143-318.11(a)(1)

City of Shelby
Agenda Item Summary
January 23, 2023
City Hall Council Chamber

- 2) To establish, or to instruct staff concerning the position to be taken by or on behalf of City Council in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease pursuant to North Carolina General Statute 143-318.11(a)(5).

I. Adjournment:

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

- 1) Motion to adjourn