

Shelby City Council Agenda
Regular Meeting
October 2, 2023 at 6:00 p.m.

City Hall Council Chamber
300 South Washington Street
Shelby, North Carolina

Welcome and Call to Order by Mayor Pro Tem Andrew L. Hopper, Sr.

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. Special Presentation:

- 1) Recognition of Stephanie Herndon on the occasion of her retirement from employment: Resolution No. 60-2023 1 - 2
- 2) Recognition of Public Power Week: October 1 – 7, 2023 3 - 4

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 September 18, 2023 5 - 11
- 2) Approval of a resolution for the acceptance of the American Rescue Plan grant offer for the 24-inch Transmission Main Waterline from the South tank to Forest Hill Drive Project: Resolution No. 69-2023 12 - 24

| | |
|--|---------|
| 3) Adoption of a resolution for the acceptance of the American Rescue Plan grant offer for the Hickory Creek Sewer Outfall Replacement Project – Windsor Drive to Highway 74: Resolution No. 70-2023 | 25 - 41 |
| 4) Approval of a resolution appointing a City Attorney for the City of Shelby: Resolution No. 71-2023 | 42 - 43 |
| 5) Approval of Special Event Applications: | |
| a) Music, Mutts and Mush Festival, requested date: October 21, 2023 | 44 - 51 |
| b) Veteran’s Day Parade: requested date: Saturday, November 11, 2023 | 52 - 58 |
| c) Lighting the Way - Luminaries on the Courtsquare, requested date: December 8, 2023 | 59 - 65 |
| D. Unfinished Business: | 66 |
| None | |
| E. New Business: | 66 |
| None | |
| F. City Manager’s Report | 66 |
| G. Council Announcements and Remarks | 67 |
| H. Closed Session | |
| 1) To consult with an attorney in order to preserve the attorney client privilege pursuant to N.C.G.S.143-318.11(a)(3) regarding Allen v. City of Shelby | 67 |

- 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). 67

I. Adjournment: 67

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

- 1) Motion to adjourn

B. Special Presentations:

Agenda Item B-1

- 1) Recognition of Stephanie Herndon on the occasion of her retirement from employment: Resolution No. 60-2023

Presenting: (Andrew L. Hopper, Sr., Mayor Pro Tem)

- Copy of Resolution No. 60-2023

City Manager's Recommendation / Comments

This time is scheduled on your agenda to recognize Stephanie Herndon on the occasion of her retirement from employment. In keeping with policy City Council previously adopted Resolution No. 60-2023 to recognize her for having served the City faithfully for the past 28 years with the Shelby Police Department. She is to be congratulated!

Stephanie is a dedicated employee who has provided Customer Service over the past several years in the performance of her duties. She has been a vital part of the team in the Shelby Police Department. She will be missed both personally and professionally.

As is in keeping with current policy Stephanie Herndon will be presented with a framed resolution, a city lapel pin and a key to the City. It is customary and appropriate to recognize Stephanie for her many years of service to the City.

Please join me in wishing her a healthy and happy retirement.

Resolution No. 60-2023

**A RESOLUTION HONORING STEPHANIE MICHELLE HERNDON
ON THE OCCASION OF HER RETIREMENT FROM EMPLOYMENT
WITH THE CITY OF SHELBY**

WHEREAS, on the occasion of her retirement from employment on August 1, 2023, it is fitting for City Council to express its appreciation to Stephanie Michelle Herndon for her loyal service to the City of Shelby from May 15, 1995 to August 1, 2023; and

WHEREAS, Ms. Herndon has been a loyal team member in the continuing development of the City of Shelby Police Department and to the City of Shelby government as a whole; and,

WHEREAS, the City of Shelby is most grateful for the professional contributions Ms. Herndon has given to all the citizens and organizations within the Shelby community; and,

WHEREAS, the City Council of the City of Shelby wishes to acknowledge and express its appreciation to Ms. Herndon for her over 28 years of employment, noting that Ms. Herndon will be missed both professionally and as a fellow co-worker.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council publicly express their sincere appreciation to Stephanie Michelle Herndon and extend the very best wishes for a successful, healthy, safe, and happy retirement.

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

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Shelby to be affixed this the 21st day of August, 2023.

O. Stanhope Anthony III
Mayor

ATTEST:

Carol Williams
City Clerk

Agenda Item B-2

2) Recognition of Public Power Week: October 1 – 7, 2023

Presenting: (Rick Howell, City Manager)

➤ Proclamation

City Manager's Recommendation / Comments

Each year during the first week of October, Public Power Week is celebrated across our nation. The City of Shelby has been a proud public power provider since 1912. During this week the City will take the time to thank our customers for trusting us to meet their power needs. Being a public power providers means that our electric system is governed by what is best for our customers and not shareholders. A public power provider offers many benefit to our customers including:

- A locally and publicly owned and operated electric system.
- A not for profit, but function to serve the utility needs of their citizens while offering competitive rates.
- Offer reliable service to their customers and respond quickly to outages and emergencies.
- A consistently lower instance of power outages.
- We know and care about the people they serve.

Please join me in celebrating Public Power Provider week.

PROCLAMATION
RECOGNIZING PUBLIC POWER WEEK, OCTOBER 1-7, 2023:
A WEEK-LONG CELEBRATION
OF THE CITY OF SHELBY'S YEAR-ROUND SERVICE

WHEREAS, public power is a crucial component of cities and towns across North Carolina, contributing to the overall health of communities by providing reliable electricity, excellent local service, and prompt restoration; and

WHEREAS, North Carolina's more than 70 public power cities and towns are among more than 2,000 across the country; and

WHEREAS, many of North Carolina's public power cities and towns have been electric providers for more than 100 years, assisting their communities through boom times as well as pandemics and economic downturns; and

WHEREAS, North Carolina's public power utilities are dependable institutions that are committed to providing excellent service; and

WHEREAS, the City of Shelby recognizes Public Power Week and commends the public power cities and towns across our state for their outstanding contributions to our communities;

NOW, THEREFORE, I, O. Stanhope Anthony, III, Mayor of the City of Shelby, do hereby proclaim October 1 -7, 2023, as "PUBLIC POWER WEEK" in the City of Shelby and commends its observation to all citizens.

O. Stanhope Anthony, III
Mayor

ATTEST:

Carol Williams
City Clerk

C. Consent Agenda:

Agenda Item: C-1

- 1) Approval of the Minutes of the Regular Meeting of September 18, 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 September 18, 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

September 18, 2023
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony, III, presiding; Council Members Andrew L. Hopper, Sr., David Causby, David White, Violet Arth, Charles Webber, and Emilie Bullock; City Manager Rick Howell, MPA, ICMA-CM, Assistant City Manager Ben Yarboro, Assistant City Manager Justin Longino, Interim City Attorney Julie Hooten, City Clerk Carol Williams, Deputy City Clerk Breanna Jones, Director of Human Resources Deborah (Deb) Jolly, Director of Finance Elizabeth (Beth) Beam, CPA, Fire Chief William Hunt, EFO, Chief of Police Brad Fraser, Director of Planning and Development Services Walter (Walt) Scharer, Public Works Director Scott Black, Director of Water Resources Brian Wilson, Public Information and Communications Officer Chip Nuhrah, Director of Parks and Recreation Charlie Holtzclaw, 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 proposed agenda as presented.

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

B. Special Presentation:

- 1) Oath of Office – Swearing in of Bradley Steve Fraser, Chief of Police

Mayor Anthony acknowledged the promotion of Bradley Steve Fraser to Chief of Police and administered the oath of office with Chief Fraser's wife and son present. Chief Fraser recognized his family and Police staff in attendance. Chief Fraser stated he was proud to be a part of a great team and lead the Shelby Police Department with over 100 of the best law enforcement officers in North Carolina.

C. Public Comment:

1) Cedric Sims who resides at 5203 Devonport Court, Glenn Dale, Maryland, spoke to Council about his dilemma regarding the property at 407 Oakland Drive, Shelby, North Carolina, which he hopes to acquire but indicated his efforts have been hindered. Mayor Anthony responded to Mr. Sims that the City Manager and City Attorney are aware of the situation. Ms. Hooten stated she would speak to Mr. Sims after the meeting. Mr. Sims provided hard copies of his correspondences to the City Clerk.

D. Public Hearing:

- 1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina at 600 South Morgan Street: Ordinance No. 42-2023

Mr. Scharer presented this item to Council and stated this property is located at 600 S. Morgan Street and is currently dual zoned as Light Industrial (LI) and R6. The applicant is requesting to rezone both parcels to LI-CZ. The Conditional Zoning (CZ) confines this property to only being a sign fabrication shop with accessory uses to park their vehicles and an office. Mr. Scharer further stated this is consistent with the development patterns in the area and consistent with the Comprehensive Future Land Use Plan. Mr. Scharer stated the Planning Board does recommend this zoning amendment.

Mayor Anthony opened the public hearing at 6:14 p.m. and invited comments from the public.

Justin Hamrick, who resides at 101 Bear Creek Drive, Shelby, North Carolina stated he is in support of this zoning amendment and is available if Council has any questions.

Mayor Anthony closed the public hearing at 6:15 p.m.

ACTION TAKEN: Upon a motion made by Ms. Arth, City Council voted unanimously to approve Ordinance No. 42-2023 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA AT 600 SOUTH MORGAN STREET."

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 August 21, 2023
- 2) Approval of a resolution approving an application by the City of Shelby Police Department to the U.S. Department of Justice for an Edward Byrne Memorial Justice Assistance Grant and accepting the funds of same:
Resolution No. 66-2023
- 3) Adoption of an ordinance granting permission by the City Council of the City of Shelby, North Carolina to use the 10%/70% development option available in the City's Unified Development Ordinance: Ordinance No. 43-2023
- 4) Approval of Special Event Application:
 - a) Single Moms' Night of Hope at the Don Gibson Theater hosted by Pleasant City Church: requested date: September 23, 2023
 - b) Pinnacle Classical Academy's Homecoming Parade: requested date: Friday, December 1, 2023
- 5) Management Reports:
 - a) Monthly Financial Summary, dated July 2023

END OF CONSENT AGENDA

F. Unfinished Business:

- 1) City of Shelby's County Home Road Electric Relocation Project:
 - a) Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's County Home Road Electric Relocation Project: Ordinance No. 44-2023
 - b) Approval of a resolution accepting and approving a utility relocation agreement for Duke Energy infrastructure in conflict with the County Home Road Reconstruction Project in Shelby, North Carolina: Resolution No. 67-2023

Mr. Howell reminded Council that the closing of a section of County Home Road was due to the traffic and safety concerns in this area; the City negotiated with the State Employees' Credit Union to develop a road that better lined up with Magnolia Plantation and reduce the safety and traffic issues. Mr. Howell stated Resolution No. 67-2023 approves a utility relocation

agreement with Duke Energy, and Ordinance No. 44-2023 establishes a budget to provide funding for the relocation project.

ACTION TAKEN: Upon a motion by Mr. Causby, City Council voted unanimously to adopt Ordinance No. 44-2023 entitled, “AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY’S COUNTY HOME ROAD ELECTRIC RELOCATION PROJECT” and Resolution No. 67-2023 entitled, “A RESOLUTION ACCEPTING AND APPROVING A UTILITY RELOCATION AGREEMENT FOR DUKE ENERGY INFRASTRUCTURE IN CONFLICT WITH THE COUNTY HOME ROAD RECONSTRUCTION PROJECT IN SHELBY, NORTH CAROLINA.”

G. New Business

- 1) **Approval of a resolution for the acceptance of the Local Assistance for Stormwater Infrastructure Investments (LASII) funding grant offer for citywide stormwater modeling, infrastructure assessment, and master plan: Resolution No. 68-2023**

Mr. Howell introduced Resolution No. 68-2023 and stated this resolution accepts the Local Assistance Stormwater Infrastructure Investments funding grant in the amount of \$330,000 which would allow the City to do some modeling and improve our stormwater situation in the city limits. Mr. Howell stated no match is required, but formal acceptance of this grant is necessary.

ACTION TAKEN: Upon a motion by Mr. Hopper, City Council voted unanimously to adopt Resolution No. 68-2023 entitled, “A RESOLUTION FOR THE ACCEPTANCE OF THE LOCAL ASSISTANCE FOR STORMWATER INFRASTRUCTURE INVESTMENTS (LASII) FUNDING GRANT OFFER FOR CITYWIDE STORMWATER MODELING, INFRASTRUCTURE ASSESSMENT, AND MASTER PLAN.”

- 2) **Consideration of appointments to City advisory boards and commissions:**
 - a) **Planning and Zoning Board**

Mayor Anthony reported the terms of three incumbents, Charles Hamrick, Greg Taylor and Jeff Aderholdt concluded June 2023; Mr. Hamrick and Mr. Taylor wish to continue their service on this board. Mr. Aderholdt wishes to step down at this time; he is an ETJ member. Cleveland County is aware of the ETJ vacancy and will advise the City when they have an ETJ applicant.

There are four applications on file in the Clerk's Office:

- Ashley Hemming Ward 4
- Tasha Smith Ward 2
- Ric Francis Ward 4
- Matt Albinger Ward 4

ACTION TAKEN: Mr. Hopper nominated Charles Hamrick and Greg Taylor for reappointment. Mr. White made a motion to close the nominations and accept the nominations by acclamation. City Council voted unanimously to approve the nominations.

H. City Manager's Report

Rail Trail Phase 1A – Announced the ribbon cutting will be on October 21st during the Livermush Festival; making good progress with some concrete poured and pavers placed soon.

Hickory Creek Sewer Outfall construction is underway and making progress with that project.

ARP funds – We have three major projects and a few smaller projects that are being funded with ARP funds. Bids have come in significantly over what we anticipated. Money for the three major projects has to be encumbered by the end of 2024 and the money spent by the end of 2026.

Mr. Howell hopes to have a report in October to update Council on the status of ongoing projects and the TAMP Phase I and Phase II project.

I. Council Announcements and Remarks:

Mayor Anthony requested Mr. Howell obtain a status update on the Marion Street/Hwy. 150 project. Mr. Howell said he would talk with the Division Engineer at the Department of Transportation. Mr. Howell stated this project is relatively small but it's complicated due to the need for a Highway license and the fact that traffic has to remain moving during construction. Mayor Anthony stated he heard there was again only one bid when the project was put up for bid in August.

Members of Council congratulated Chief Fraser on his swearing in and look forward to his leadership.

J. Adjournment:

1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Ms. Arth, City Council voted unanimously to adjourn the meeting at 6:33 p.m.

Respectfully submitted,

**Carol Williams
City Clerk**

**O. Stanhope Anthony, III
Mayor**

Minutes of September 18, 2023

Agenda Item: C-2

- 2) Approval of a resolution for the acceptance of the American Rescue Plan grant offer for the 24-inch Transmission Main Waterline from the South tank to Forest Hill Drive Project: Resolution No. 69-2023

Consent Agenda Item: (Brian Wilson, Water Resources Director and Ben Yarboro, Assistant City Manager)

- Memorandum from dated September 27, 2023 from Brian Wilson, Director of Water Resources to Rick Howell, City Manager and Ben Yarboro, Assistant City Manager
- Resolution No. 44-2023
- Offer & Acceptance for ARP Funding from North Carolina Department of Environmental Quality
- Resolution No. 69-2023

City Manager's Recommendation / Comments

Resolution No. 69-2023 is presented for City Council consideration at this time as a routine matter via the Consent Agenda. If approved this resolution would formally accept the \$9,272,975 for the construction of the second phase of the cross town 24" diameter water transmission main to be constructed from the intersection of W. Marion Street and N. Morgan Street to the intersection of Beaumonde Avenue and Forest Hill Drive. It further accepts and gives assurance to NCDEQ that the City will abide by the conditions and assurances contained in the award offer. It further authorizes the City Manager or assigns furnish information and executive documents as required.

It is my recommendation that Resolution No. 69-2023 be adopted and approved by City Council via the Consent Agenda.



Post Office Box 207 · Shelby, NC 28151-0207

Memorandum

To: Rick Howell, City Manager

CC: Ben Yarboro, Assistant City Manager

From: Brian Wilson, Director of Water Resources

Date: September 27, 2023

Subject: Acceptance of NCDEQ Division of Water Infrastructure American Rescue Plan Grant – 24” Transmission Waterline to South Tank & Forest Hill Drive Project

Background

The City of Shelby was approved for grant funding through the American Rescue Plan (ARP) fund from the State Fiscal Recovery Fund established in S.L. 2021-180 & S.L. 2022-74. With approval of this funding the City of Shelby identified projects that met the criteria for the funding for water/wastewater infrastructure needs. One of the projects selected was the 24-Inch Transmission Main Waterline project from the South Tank to the Forest Hill Drive area. This project would consist of the construction of approximately 9,000 LF of 24” water transmission main, 4,420 LF of gravity sewer, 280 LF of 8” water main, and altitude valves for the North and South Tanks. This project was authorized by Council with Resolution 44-2023 on June 19, 2023.

On August 25, 2023, The City of Shelby received a letter from the State of North Carolina Department of Environmental Quality (NCDEQ) – Division of Water Infrastructure (DWI) offering ARP Funding in the amount of \$9,272,975 for the 24-Inch Transmission Main Waterline Project.

Review

Upon acceptance of the funding, the City of Shelby must submit the following items to the Division of Water Infrastructure: a resolution adopted by the governing body which accepts the offer and makes the applicable assurances therein contained, a signed copy of the offer and acceptance document, a federal identification number memo, and a sales tax reimbursement certification form.

Recommendation

The recommendation from Water Resources Staff is to approve the attached resolution to accept the American Rescue Plan grant offer in the amount \$9,272,975.

Please let me know if additional information is needed.

RESOLUTION NO. 44 – 2023

**A RESOLUTION AWARDING THE CONTRACT FOR THE CITY OF SHELBY
SOUTH WASHINGTON STREET WATER TRANSMISSION MAIN PROJECT TO
FULLER & CO. CONSTRUCTION, LLC**

WHEREAS, City of Shelby staff has recognized the need for a 24-inch water transmission main extending from Marion Street and Morgan Street to the South Tank and Forest Hills Drive; and,

WHEREAS, the City of Shelby selected Kimley-Horn and Associates, Inc., through the RFQ process, for engineering services for the South Washington Street Transmission Main design and construction administration; and,

WHEREAS, Kimley-Horn and Associates, Inc. designed said project and held a competitive public bid opening on May 23, 2023, consistent with the applicable North Carolina General Statutes for formal bidding of public construction contracts; and,

WHEREAS, the City of Shelby received bids from six (6) qualified contractors for the completion of the South Washington Street Water Transmission Main Project; and,

WHEREAS, the City of Shelby and Kimley-Horn and Associates, Inc. have reviewed the bids and now recommend the award of the construction contract for the work described to Fuller & Co. Construction, LLC in the amount of \$8,976,174.70.

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

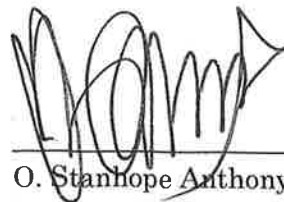
Section 1. The City Council of the City of Shelby hereby awards the contract to Fuller & Co. Construction, LLC in the amount of \$8,976,174.70 for the construction of the South Washington Street Water Transmission Main Project.

Section 2. The City Manager and City Clerk are hereby authorized to execute the applicable contracts associated with this project.

Section 3. The City Manager and his designees are hereby 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.

Adopted and Approved this the 19th day of June 2023.



O. Stanhope Anthony III
Mayor

ATTEST:



Carol Williams
City Clerk

August 25, 2023

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

SUBJECT: Offer & Acceptance for ARP Funding
Project No. SRP-D-ARP-0030
24” Transmission Line Washington Street
(formerly to South Tank and Forest Hill
Drive)
American Rescue Plan – Earmark
Shelby, NC

Dear Mr. Howell:

The City of Shelby has been approved for American Rescue Plan (ARP) funding from the State Fiscal Recovery Fund in the amount of \$5,700,000 from funds appropriated in S.L. 2021-180 and \$3,572,975 from funds appropriated in S.L. 2022-74 for a total of **\$9,272,975**. Projects funded from the State Fiscal Recovery Funds established in S.L. 2021-180/2022-74 must meet applicable federal law and guidance for the ARP funds. Accordingly, enclosed are two (2) copies of an offer-and-acceptance document, extending ARP funding in the amount of \$9,272,975. This offer is made by the Division of Water Infrastructure (DWI), subject to the assurances and conditions set forth in the enclosed offer-and-acceptance document. Funds will not be disbursed unless this offer is accepted.

Upon your acceptance, please submit the following items to Pam Whitley, Division of Water Infrastructure (DWI), 1633 Mail Service Center, Raleigh, North Carolina 27699-1633 or via email at pam.whitley@deq.nc.gov:


1. A resolution (sample copy attached), adopted by the governing body, accepting the offer, and making the applicable assurances contained therein;
2. One (1) copy of the original offer-and-acceptance document, executed by the Authorized Representative for the project, along with the signed “Standard Conditions and Assurances” for ARP Projects. **Please retain the second copy for your files.**
3. Federal Identification Number and Unique Entity ID # of the Recipient (Memo attached)
4. Sales Tax Certification (attached)

Once construction of the subject project has commenced, the enclosed “reimbursement request form” must be completed and submitted with all reimbursement requests. You are free to reproduce this form should additional copies be needed.

In addition, a memorandum requesting your federal identification number has been included with this offer of funding. You must complete and submit this form no later than the time when you choose to submit your first request for reimbursement. Reimbursement requests should be sent to DWI Finance Accountants at the address noted or emailed to dwi.businessoffice@deq.nc.gov.

On behalf of the Department of Environmental Quality, I am pleased to extend this offer of ARP funds, made available by the North Carolina Fiscal Recovery Fund. Should you have any questions concerning this offer of funding, or any of the stipulations outlined in this letter, please contact Mark Hubbard, DWI’s Grant Management Unit Supervisor, at 919.707.9162.

Sincerely,

DocuSigned by:


6300A872077B4C5...
Shadi Eskaf, Director

Division of Water Infrastructure, NCDEQ

Enclosures: Offer-and-Acceptance Document (2 copies)
Resolution by Applicant’s Governing Body to Accept an Offer of Funding
Fed ID/Unique Entity ID No. Request Memo
Sales-Tax Certification Form
Reimbursement Request Form

CC: Matthew Shoesmith, PE, Kimley-Horn, Charlotte (matthew.shoesmith@kimley-horn.com)
Beth B. Beam, City of Shelby (beth.beam@cityofshelby.com)
Rodolfo Giantaglia (DWI, via email)
Mark Hubbard (DWI, via email)
“DWI Administrative Unit”
Jennifer House (DWI, via email)
FILE: ARP Project File (**COM_LOX**)
Agreement ID: 2000057962

**STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER INFRASTRUCTURE**

Funding Offer and Acceptance

Legal Name and Address of Award Recipient

City of Shelby
P.O. Box 207
Shelby, North Carolina 28151-0207

Project Number: SRP-D-ARP-0030
Assistance Listing Number: 21.027
Unique Entity ID Number: L2J6LFPHD752

Funding Program

| Drinking Water | <input checked="" type="checkbox"/> | Additional Amount for | Previous Total | Total Offered |
|---------------------------------|-------------------------------------|-----------------------|----------------|---------------|
| Wastewater | <input type="checkbox"/> | Funding Increases | | |
| State Revolving Fund (SRF) | <input type="checkbox"/> | | | |
| State Reserve Loan (SRP) | <input type="checkbox"/> | | | |
| State Reserve Grant (SRP) | <input type="checkbox"/> | | | |
| State Grant Appropriation (SAP) | <input type="checkbox"/> | | | |
| American Rescue Plan Act (ARPA) | <input checked="" type="checkbox"/> | \$3,572,975 | \$5,700,000 | \$9,272,975 |

Project Description:

24" Transmission Line Washington Street
(formerly to South Tank and Forest Hill
Drive)

Total Financial Assistance Offer: **\$9,272,975**
Total Project Cost: **\$9,526,475**
Estimated Closing Fee*: **\$0.0**
For Loans
Principal Forgiveness: **\$0**

**Estimated closing fee calculated based on grant and loan amount.*

Pursuant to North Carolina General Statute 159G:

- The applicant is eligible under Federal and State law,
- The project is eligible under Federal and State law, and
- The project has been approved by the Department of Environmental Quality as having sufficient priority to receive financial assistance,

The Department of Environmental Quality, acting on behalf of the State of North Carolina, hereby offers the financial assistance described in this document.

For The State of North Carolina: **Shadi Eskaf, Director, Division of Water Infrastructure
North Carolina Department of Environmental Quality**

DocuSigned by:

6300A672077B4C5...
Signature

8/30/2023
Date

On Behalf of: _____ City of Shelby _____
Name of Representative in Resolution: _____
Title (Type or Print): _____

I, the undersigned, being duly authorized to take such action, as evidenced by the attached CERTIFIED COPY OF AUTHORIZATION BY THE APPLICANT'S GOVERNING BODY, do hereby accept this Financial Award Offer and will comply with the Assurances and the Standard Conditions.

Signature

Date

APPLICABLE STANDARD CONDITIONS**Project Applicant: City of Shelby****Project Numbers: SRP-D-ARP-0030**

1. Acceptance of this Funding Offer does not exempt the Recipient from complying with requirements stated in the U.S. Treasury's [Final Rule](#) for the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) and the [SLFRF Compliance and Reporting Guidance](#) not explicitly referred to in this document and any future requirements implemented by the U.S Treasury.
2. Acquisition of Real Property must comply with all applicable provisions of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (PL 92-646), as amended. The applicant shall certify that it has or will have a fee simple or such other estate or interest in the site of the project, including necessary easements and rights-of-way, to assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the project using a certification form provided by DEQ.
3. Specific MBE/WBE (DBE) forms and instructions are provided that are to be included in the contract specifications. These forms will assist with documenting positive efforts made by recipients, their consultants and contractors to utilize disadvantaged businesses enterprises. Such efforts should allow DBEs the maximum feasible opportunity to compete for subagreements and subcontracts to be performed. Documentation of efforts made to utilize DBE firms must be maintained by all recipients, and construction contractors, and made available upon request.
4. Subrecipients shall fully comply with Subpart C of 2 CFR Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business with Other Persons," as implemented and supplemented by 2 CFR Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Subrecipients may access suspension and debarment information at: <http://www.sam.gov>. This system allows subrecipients to perform searches determining whether an entity or individual is excluded from receiving Federal assistance.
5. Projects with a total cost of \$10,000,000 or more must meet U.S. Treasury requirements for prevailing wage rates, project labor agreements, and related requirements. Recipients can either certify meeting the requirements or provide plans and reports as the [SLFRF Compliance and Reporting Guidance](#) specifies.
6. The Uniform Guidance 2 CFR 200.317 through 2 CFR 200.327 gives minimum requirements for procurement, with 2 CFR 200.319(b) addressing engineering services procurement guidelines. ARPA-funded projects must also adhere to North Carolina State law, specifically NC General Statute 143-64.31, Article 3D Procurement of Architectural, Engineering, and Surveying (A/E) Services. NCGS 143-64.32 cannot be used to exempt funding recipients from a qualification-based selection for A/E. The State provides applicable certification forms that must be completed prior to receiving funds for any engineering services covered under this funding offer.
7. Local government units designated as distressed must complete associated requirements of statute §159G-45(b).
8. Funds made available by the ARPA that are not disbursed to the entity accepting the funds in this document by December 31st, 2026, will no longer be available for the project. Unused Federal funds will revert from the State of North Carolina to the U.S. Treasury.

ASSURANCES**Project Applicant: City of Shelby****Project Numbers: SRP-D-ARP-0030**

1. The Applicant intends to construct the project or cause it to be constructed to final completion in accordance with the Application approved for financial assistance by the Division. The recipient acknowledges that in the event a milestone contained in the Letter of Intent to Fund is missed, the Department of Environmental Quality will rescind this Funding Offer.
2. The Applicant is responsible for paying for the costs ineligible for ARPA funding.
3. The construction of the project, including the letting of contracts in connection therewith, conforms to the applicable requirements of State and local laws and ordinances.
4. The Applicant will provide and maintain adequate engineering supervision and inspection.
5. The recipient agrees to establish and maintain a financial management system that adequately accounts for revenues and expenditures. Adequate accounting and fiscal records will be maintained during the construction of the project and these records will be retained and made available for a period of at least three years following completion of the project.
6. All ARPA funds shall be expended solely for carrying out the approved project, and an audit shall be performed in accordance with G.S. 159-34. Partial disbursements on this loan will be made promptly upon request, subject to adequate documentation of incurred eligible costs, and subject to the recipient's compliance with the Standard Conditions of this Award. The Applicant agrees to make prompt payment to its contractor, and to retain only such amount as allowed by North Carolina General Statute.
7. The applicant will expend all of the requisitioned funds for the purpose of paying the costs of the project within three (3) banking days following the receipt of the funds from the State. Please note that the State is not a party to the construction contract(s) and the Applicant is expected to uphold its contract obligations regarding timely payment.
8. Funds must be fully spent (i.e., fully reimbursed to the recipient) by December 31, 2026.
9. The applicant acknowledges that loan funds contained in this Funding Offer require approval from the North Carolina Local Government Commission before they can be disbursed.

FEDERAL ID & Unique Entity ID # REQUEST MEMO

TO: All Loan and Grant Recipients

SUBJECT: Federal Identification Number

Please be advised that all local government units receiving grant or loan funds from the State of North Carolina must supply their Federal Identification Number to this office upon acceptance of your loan/grant offer. Therefore, please provide the information below and return to:

Division of Water Infrastructure
1633 Mail Service Center
Raleigh, North Carolina 27699-1633

RECIPIENT:

PROJECT NUMBER:

FEDERAL IDENTIFICATION NUMBER:

UNIQUE ENTITY ID:

(Suggested Format)

RESOLUTION BY GOVERNING BODY OF RECIPIENT

WHEREAS, the (unit of Government) has received an earmark for the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund established in S.L. 2022-74 to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

WHEREAS, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of \$_____ to perform work detailed in the submitted application, and

WHEREAS, the (unit of government) intends to perform said project in accordance with the agreed scope of work,

NOW, THEREFORE, BE IT RESOLVED BY THE (GOVERNING BODY) OF THE (UNIT OF GOVERNMENT):

That (unit of government) does hereby accept the American Rescue Plan Grant offer of \$_____.

That the (unit of government) does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.

That (name and title of authorized representative), and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

Adopted this the (date adopted) at (place), North Carolina.

(Signature of Chief Executive Officer)

Date

SALES-TAX REIMBURSEMENT CERTIFICATION FORM
(FOR FUNDING PROGRAMS IN THE DIVISION OF WATER INFRASTRUCTURE)

Applicant: _____

Project Number: _____

Check If Applicant is not a unit of government under North Carolina law

If Applicant noted above is a Unit of Government in North Carolina, check the applicable box below.

Sales Tax **IS** deducted in this scenario. Please show this on the disbursement requests.

The construction contract was bid with sales taxes and the unit of government will request reimbursement from the DOR.

Sales Tax **IS NOT** deducted in either of these scenarios.

The construction contract was bid with sales taxes and the unit of government will not request reimbursement from the DOR.

The construction contract was bid without sales taxes

(Printed Name and Title of Authorized Representative)

(Signature of Authorized Representative)

(Date)

Submit to: NC Dept. of Environment & Natural Resources
Division of Water Infrastructure
Pam Whitley, Project Management Branch
1633 Mail Service Center
Raleigh, NC 27699-1633

REIMBURSEMENT REQUEST FORM **NC Division of Water Infrastructure**

Funding Recipient: _____
 DWI Project No. _____

Payment No. _____ of _____
 Page No. _____ (Use more pages as needed)

| | Cumulative Cost to Date | Minus Ineligibles | Minus Overruns Not App'd By Change Order | Subtotal of Payable Cost | Minus Retainage on Payable Cost | Minus Cumulative Sales Tax | Other Adjustments (Other Funds e.g.) | Minus Previously Paid to Date | Requested For This Pay Request |
|---|-------------------------|--------------------|--|--------------------------|---------------------------------|----------------------------|--------------------------------------|-------------------------------|--------------------------------|
| CONSTRUCTION <i>(Rename as appropriate)</i> | | | | | | | | | |
| Contract 1 | \$1,200,000 | (\$100,000) | (\$100,000) | \$1,000,000 | (\$50,000) | (\$50,000) | (\$500,000) | (\$300,000) | \$100,000 |
| Contract 2 | \$505,000 | | (\$5,000) | \$500,000 | (\$25,000) | (\$10,000) | | (\$400,000) | \$65,000 |
| Contract 3 | | | | | | | | | |
| Contract 4 | | | | | | | | | |
| Contract 5 | | | | | | | | | |
| ENGINEERING <i>(Rename as appropriate)</i> | | | | | | | | | |
| Item 1 | \$250,000 | | | | | | | (\$250,000) | \$0 |
| Item 2 | | | | | | | | | |
| Item 3 | | | | | | | | | |
| Item 4 | | | | | | | | | |
| OTHER COSTS <i>(Rename as Appropriate)</i> | | | | | | | | | |
| Item 1 | | | | | | | | | |
| Item 2 | | | | | | | | | |
| Item 3 | | | | | | | | | |
| PAY REQUEST TOTALS | \$1,955,000 | (\$100,000) | (\$105,000) | | (\$75,000) | (\$60,000) | (\$500,000) | (\$950,000) | \$165,000 |

Certification

- I certify that to the best of my knowledge and belief the billed costs or disbursements are in accordance with terms of the project and that this request represents the monies due which have not been previously received and that an inspection has been performed and all work is in accordance with the terms and conditions of the award.
 - For applicable SRF projects, the project remains in compliance with Davis-Bacon and American Iron and Steel conditions or is the process of remediating noncompliance.

You must check ONE of the boxes below or your payment will not be processed:

The funds requested above have already been paid to the respective vendors, consultants & contractors by the funding recipient

OR

The funds requested above have not been paid to the respective vendors, consultants & contractors.

Funds received from the State will be disbursed to these entities within three (3) banking days.

Grant Percentage for SRP Projects: _____ %

Type or Print Name and Title _____ Signature of Authorized Representative _____ Date _____

DWI comments _____

Instructions and notes on how to use this form

- Complete guidance for preparing reimbursements can be found in section G.2. of the North Carolina SRF Program Overview and Guidance that was included with your Funding offer (applicable to State grants and loans too).
- **The form, as downloaded, is filled out with sample numbers. It is suggested that the sample be used as a reference (saved or printed).**
- Please submit ONE COPY of this form and backup documents when requesting funds.
- Only the Authorized Representative can sign this form, unless declared otherwise in a resolution.
- Construction contract line item overruns and engineering contract overruns must have approved change orders or engineering amendments before those costs will be paid.

RESOLUTION NO. 69-2023
A RESOLUTION FOR THE ACCEPTANCE OF THE AMERICAN RESCUE PLAN
GRANT OFFER FOR THE 24-INCH TRANSMISSION MAIN WATERLINE
FROM THE SOUTH TANK TO FOREST HILL DRIVE PROJECT

WHEREAS, the City of Shelby has qualified for the Viability Utility Reserve (VUR) designation associated with the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund established in S.L. 2021-180 and S.L. 2022-74 to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

WHEREAS, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of \$9,272,975 to perform work detailed in the submitted application, and

WHEREAS, the City of Shelby intends to perform said project in accordance with the agreed scope of work,

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

Section 1. That City of Shelby does hereby accept the American Rescue Plan Grant offer of \$9,272,975.

Section 2. That the City of Shelby does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.

Section 3. That Rick Howell, City Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

Adopted this the 2nd day of October 2023 at Shelby, North Carolina.

Andrew L. Hopper, Sr.
Mayor Pro Tem

ATTEST:

Carol Williams
City Clerk

Agenda Item: C-3

- 3) Adoption of a resolution for the acceptance of the American Rescue Plan grant offer for the Hickory Creek Sewer Outfall Replacement Project – Windsor Drive to Highway 74: Resolution No. 70-2023

Consent Agenda Item: (Brian Wilson, Water Resources Director and Ben Yarboro, Assistant City Manager)

- Memorandum dated September 26, 2023, from Brian Wilson, Director of Water Resources to Ben Yarboro, Assistant City Manager and Rick Howell, City Manager
- Copy of Resolution No. 32-2023
- Offer & Acceptance for ARP Funding from North Carolina Department of Environmental Quality
- Resolution No. 70-2023

City Manager's Recommendation / Comments

Resolution No. 70-2023 is presented for City Council consideration at this time as a routine matter via the Consent Agenda. If approved this resolution would formally accept the \$4,627,000 for the construction of approximately 4,950 linear feet of 24" diameter sewer main along Hickory Creek from Windsor Drive to US Hwy 74 near Walmart. In addition two shorter segments of this sewer main collection line behind Holly Oak Park will be constructed. It further accepts and gives assurance to NCDEQ that the City will abide by the conditions and assurances contained in the award offer. If further authorizes the City Manager or assigns furnish information and executive documents as required.

It is my recommendation that Resolution No. 70-2023 be adopted and approved by City Council via the Consent Agenda.



Memorandum

To: Rick Howell, City Manager

CC: Ben Yarboro, Assistant City Manager

From: Brian Wilson, Director of Water Resources

Date: September 26, 2023

Subject: Acceptance of NCDEQ Division of Water Infrastructure American Rescue Plan Grant – Hickory Creek Sewer Outfall Replacement

Background

The City of Shelby was approved for grant funding through the American Rescue Plan (ARP) fund from the State Fiscal Recovery Fund established in S.L. 2021-180 & S.L. 2022-74. With approval of this funding the City of Shelby identified projects that met the criteria for the funding for water/wastewater infrastructure needs. One of the projects selected was the Hickory Creek Sewer Outfall Replacement. This project would consist of replacement of portions of the Hickory Creek Sewer outfall starting at a manhole located near 310 Windsor Drive and continue to US-74 near Walmart. Two sewer segments behind Holly Oak Park would also be included. Installation would consist of approximately 4,950 LF of 24” sewer line. As part of this project 27 manholes would also be replaced with new 5-foot diameter manholes. This project was authorized by City Council with Resolution 32-2023 on May 1, 2023.

On June 2, 2023, the City of Shelby received a letter from the State of North Carolina Department of Environmental Quality (NCDEQ) – Division of Water Infrastructure (DWI) offering ARP Funding in the amount of \$4,627,000 for the Hickory Creek Sewer Outfall Replacement.

Review

The City of Shelby must submit the following items to the Division of Water Infrastructure: a resolution adopted by the governing body which accepts the offer and makes the applicable assurances therein contained, a signed copy of the offer and acceptance document, a federal identification number memo, and a sales tax reimbursement certification form.

Recommendation

The recommendation from staff is to approve the attached resolution to accept the American Rescue Plan grant offer in the amount \$4,627,000 for the Hickory Creek Sewer Outfall Replacement project.

Please let me know if additional information is needed.

RESOLUTION NO. 32 – 2023

**A RESOLUTION AWARDING THE CONSTRUCTION CONTRACT FOR THE CITY OF
SHELBY HICKORY CREEK SEWER OUTFALL REPLACEMENT PROJECT**

WHEREAS, City of Shelby staff has recognized the need for a replacement project for the Hickory Creek Outfall, stretching from south of Highway 74 to Windsor Drive; and,

WHEREAS, the City of Shelby selected Withers Ravenel, through the RFQ process, for engineering services for the Hickory Creek Sewer Outfall Replacement Project; and,

WHEREAS, Withers Ravenel designed the project which consisted of replacing approximately 4,900 feet of 24" gravity sewer pipe; and

WHEREAS, the project was formally advertised and a competitive public bid opening was held on April 20, 2023, consistent with the applicable North Carolina General Statutes for formal bidding of public construction contracts; and,

WHEREAS, the City of Shelby received bids from six (6) qualified contractors for the completion of the Shelby Hickory Creek Sewer Outfall; and,

WHEREAS, the City of Shelby and Withers Ravenel have reviewed the bids and now recommend award of the construction contract for the work described to Dellinger, Inc. in the amount of \$4,019,580.

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

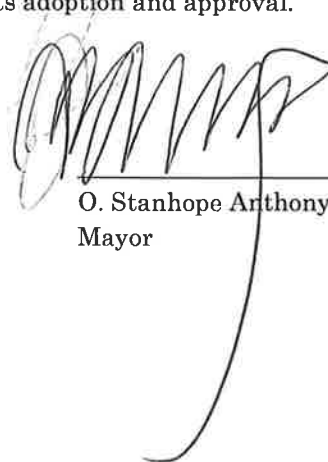
Section 1. The City Council of the City of Shelby hereby awards the contract to Dellinger, Inc. in the amount of \$4,019,580 for the construction of the Shelby Hickory Creek Sewer Outfall Project.

Section 2. The City Manager and City Clerk are hereby authorized to execute the applicable contracts associated with this project.

Section 3. The City Manager and his designees are hereby 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.

Adopted and approved this the 1st day of May, 2023.



O. Stanhope Anthony III
Mayor

ATTEST:



Carol Williams
City Clerk

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

SHADI ESKAF

Director



NORTH CAROLINA
Environmental Quality

June 2, 2023



Mr. Rick Howell, Manager
City of Shelby
Post Office Box 207
Shelby, North Carolina 28151-0207

SUBJECT: Offer & Acceptance for ARP Funding
Project No. SRP-W-ARP-0029
Hickory Creek Sewer Outfall Replacement –
Windsor to Highway 74
American Rescue Plan – Earmark
Shelby, NC

Dear Mr. Howell:

The City of Shelby has been approved for an American Rescue Plan (ARP) funding from the State Fiscal Recovery Fund comprising of the first subtotal of \$1,700,000, previously allocated from the City’s S.L. 2021-180 appropriation, the second subtotal of \$2,105,000, previously allocated from the City’s S.L. 2022-74 appropriation, and third subtotal of \$822,000, also allocated from the City’s S.L. 2022-74 appropriation, totaling **\$4,627,000**. Projects funded from the State Fiscal Recovery Funds established in S.L. 2022-74 must meet applicable federal law and guidance for the ARP funds. Accordingly, enclosed are two (2) copies of an offer-and-acceptance document, extending ARP funding in the amount of \$4,627,000. This offer is made by the Division of Water Infrastructure (DWI), subject to the assurances and conditions set forth in the enclosed offer-and-acceptance document. Funds will not be disbursed unless this offer is accepted.

Upon your acceptance, please submit the following items to Pam Whitley, Division of Water Infrastructure (DWI), 1633 Mail Service Center, Raleigh, North Carolina 27699-1633 or via email at pam.whitley@ncdenr.gov:

1. A resolution (sample copy attached), adopted by the governing body, accepting the offer, and making the applicable assurances contained therein;
2. One (1) copy of the original offer-and-acceptance document, executed by the Authorized Representative for the project, along with the signed “Standard Conditions and Assurances” for ARP Projects. **Please retain the second copy for your files.**
3. Federal Identification Number and Unique Entity ID # of the Recipient (Memo attached)



4. Sales Tax Certification (attached)

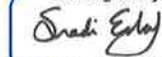
Once construction of the subject project has commenced, the enclosed “reimbursement request form” must be completed and submitted with all reimbursement requests. You are free to reproduce this form should additional copies be needed.

In addition, a memorandum requesting your federal identification number has been included with this offer of funding. You must complete and submit this form no later than the time when you choose to submit your first request for reimbursement. Reimbursement requests should be sent to DWI Finance Accountants at the address noted or emailed to dwibusinessoffice@ncdenr.gov.

On behalf of the Department of Environmental Quality, I am pleased to extend this offer of ARP funds, made available by the North Carolina Fiscal Recovery Fund. Should you have any questions concerning this offer of funding, or any of the stipulations outlined in this letter, please contact Mark Hubbard, DWI’s Grant Management Unit Supervisor, at 919.707.9162.

Sincerely,

DocuSigned by:



8300A873077B465

Shadi Eskaf, Director

Division of Water Infrastructure, NCDEQ

Enclosures: Offer-and-Acceptance Document (2 copies)
Resolution by Applicant’s Governing Body to Accept an Offer of Funding
Fed ID/Unique Entity ID No. Request Memo
Sales-Tax Certification Form
Reimbursement Request Form

CC: Rick Howell, Town Manager, City of Shelby (email: rick.howell@cityofshelby.com)
Brian Wilson, Water Resources Operations Manager, City of Shelby (email: brian.wilson@cityofshelby.com)
Beth Beam, Finance Director, City of Shelby (email: beth.beam@cityofshelby.com)
Chris Rosenboom, P.E., WithersRavenel, Consulting Engineer (Charlotte NC) (email: crosenboom@withersravenel.com)
Elisa Rehak, P.E., WithersRavenel, Project Manager (Charlotte NC) (email: erehak@withersravenel.com)
Rodolfo Giantaglia (DWI, via e-mail)
Eric Karis (DWI, via e-mail)
Mark Hubbard, P.E. (DWI, via e-mail)
“DWI Administrative Unit”
Jennifer House (DWI, via e-mail)
FILE: ARP Project File (COM_LOX)



**STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER INFRASTRUCTURE**

Funding Offer and Acceptance

Legal Name and Address of Award Recipient

City of Shelby
Post Office Box 207
Shelby, North Carolina 28151-0207

Project Number:

SRP-W-ARP-0029

Assistance Listing Number:

21.027

Unique Entity ID Number:

L2J6LFPHD752

Funding Program

| | <input type="checkbox"/> | Additional Amount for Funding Increases | Previous Total | Total Offered |
|---------------------------------|-------------------------------------|--|-----------------------|----------------------|
| Drinking Water | <input type="checkbox"/> | | | |
| Wastewater | <input checked="" type="checkbox"/> | | | |
| State Revolving Fund (SRF) | <input type="checkbox"/> | | | |
| State Reserve Loan (SRP) | <input type="checkbox"/> | | | |
| State Reserve Grant (SRP) | <input type="checkbox"/> | | | |
| State Grant Appropriation (SAP) | <input type="checkbox"/> | | | |
| American Rescue Plan Act (ARPA) | <input checked="" type="checkbox"/> | \$2,927,000 | \$1,700,000 | \$4,627,000 |

Project Description:

Hickory Creek Sewer Outfall Replacement
– Windsor to Highway 74

Total Financial Assistance Offer:

\$4,627,000

Total Project Cost:

\$4,627,000

Estimated Closing Fee*:

\$0.0

For Loans

Principal Forgiveness:

\$0

**Estimated closing fee calculated based on grant and loan amount.*

Pursuant to North Carolina General Statute 159G:

- The applicant is eligible under Federal and State law,
- The project is eligible under Federal and State law, and
- The project has been approved by the Department of Environmental Quality as having sufficient priority to receive financial assistance,

The Department of Environmental Quality, acting on behalf of the State of North Carolina, hereby offers the financial assistance described in this document.

For The State of North Carolina:

**Shadi Eskaf, Director, Division of Water Infrastructure
North Carolina Department of Environmental Quality**

| | |
|---|------------------|
| DocuSigned by:  6300A872077B4C5 Signature | 6/2/2023 Date |
|---|------------------|

On Behalf of:

City of Shelby

Name of Representative in Resolution:

Title (Type or Print):

I, the undersigned, being duly authorized to take such action, as evidenced by the attached CERTIFIED COPY OF AUTHORIZATION BY THE APPLICANT'S GOVERNING BODY, do hereby accept this Financial Award Offer and will comply with the Assurances and the Standard Conditions.

| | |
|-----------|------|
| Signature | Date |
|-----------|------|

APPLICABLE STANDARD CONDITIONS**Project Applicant: City of Shelby****Project Numbers: SRP-W-ARP-0029**

1. Acceptance of this Funding Offer does not exempt the Recipient from complying with requirements stated in the U.S. Treasury's Final Rule for the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) and the SLFRF Compliance and Reporting Guidance not explicitly referred to in this document and any future requirements implemented by the U.S Treasury.
2. Acquisition of Real Property must comply with all applicable provisions of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (PL 92-646), as amended. The applicant shall certify that it has or will have a fee simple or such other estate or interest in the site of the project, including necessary easements and rights-of-way, to assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the project using a certification form provided by DEQ.
3. Specific MBE/WBE (DBE) forms and instructions are provided that are to be included in the contract specifications. These forms will assist with documenting positive efforts made by recipients, their consultants and contractors to utilize disadvantaged businesses enterprises. Such efforts should allow DBEs the maximum feasible opportunity to compete for subagreements and subcontracts to be performed. Documentation of efforts made to utilize DBE firms must be maintained by all recipients, and construction contractors, and made available upon request.
4. Subrecipients shall fully comply with Subpart C of 2 CFR Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business with Other Persons," as implemented and supplemented by 2 CFR Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Subrecipients may access suspension and debarment information at: <http://www.sam.gov>. This system allows subrecipients to perform searches determining whether an entity or individual is excluded from receiving Federal assistance.
5. Projects with a total cost of \$10,000,000 or more must meet U.S. Treasury requirements for prevailing wage rates, project labor agreements, and related requirements. Recipients can either certify meeting the requirements or provide plans and reports as the SLFRF Compliance and Reporting Guidance specifies.
6. The Uniform Guidance 2 CFR 200.317 through 2 CFR 200.327 gives minimum requirements for procurement, with 2 CFR 200.319(b) addressing engineering services procurement guidelines. ARPA-funded projects must also adhere to North Carolina State law, specifically NC General Statute 143-64.31, Article 3D Procurement of Architectural, Engineering, and Surveying (A/E) Services. NCGS 143-64.32 cannot be used to exempt funding recipients from a qualification-based selection for A/E. The State provides applicable certification forms that must be completed prior to receiving funds for any engineering services covered under this funding offer.
7. Local government units designated as distressed must complete associated requirements of statute §159G-45(b).
8. Funds made available by the ARPA that are not disbursed to the entity accepting the funds in this document by December 31st, 2026, will no longer be available for the project. Unused Federal funds will revert from the State of North Carolina to the U.S. Treasury.

ASSURANCES

Project Applicant: City of Shelby

Project Numbers: SRP-W-ARP-0029

1. The Applicant intends to construct the project or cause it to be constructed to final completion in accordance with the Application approved for financial assistance by the Division. The recipient acknowledges that in the event a milestone contained in the Letter of Intent to Fund is missed, the Department of Environmental Quality will rescind this Funding Offer.
2. The Applicant is responsible for paying for the costs ineligible for ARPA funding.
3. The construction of the project, including the letting of contracts in connection therewith, conforms to the applicable requirements of State and local laws and ordinances.
4. The Applicant will provide and maintain adequate engineering supervision and inspection.
5. The recipient agrees to establish and maintain a financial management system that adequately accounts for revenues and expenditures. Adequate accounting and fiscal records will be maintained during the construction of the project and these records will be retained and made available for a period of at least three years following completion of the project.
6. All ARPA funds shall be expended solely for carrying out the approved project, and an audit shall be performed in accordance with G.S. 159-34. Partial disbursements on this loan will be made promptly upon request, subject to adequate documentation of incurred eligible costs, and subject to the recipient's compliance with the Standard Conditions of this Award. The Applicant agrees to make prompt payment to its contractor, and to retain only such amount as allowed by North Carolina General Statute.
7. The applicant will expend all of the requisitioned funds for the purpose of paying the costs of the project within three (3) banking days following the receipt of the funds from the State. Please note that the State is not a party to the construction contract(s) and the Applicant is expected to uphold its contract obligations regarding timely payment.
8. Funds must be fully spent (i.e., fully reimbursed to the recipient) by December 31, 2026.
9. The applicant acknowledges that loan funds contained in this Funding Offer require approval from the North Carolina Local Government Commission before they can be disbursed.

**STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER INFRASTRUCTURE**

Funding Offer and Acceptance

Legal Name and Address of Award Recipient

City of Shelby
Post Office Box 207
Shelby, North Carolina 28151-0207

Project Number:

SRP-W-ARP-0029

Assistance Listing Number:

21.027

Unique Entity ID Number:

L2J6LFPHD752

Funding Program

| | <input type="checkbox"/> | Additional Amount for Funding Increases | Previous Total | Total Offered |
|---------------------------------|-------------------------------------|--|-----------------------|----------------------|
| Drinking Water | <input type="checkbox"/> | | | |
| Wastewater | <input checked="" type="checkbox"/> | | | |
| State Revolving Fund (SRF) | <input type="checkbox"/> | | | |
| State Reserve Loan (SRP) | <input type="checkbox"/> | | | |
| State Reserve Grant (SRP) | <input type="checkbox"/> | | | |
| State Grant Appropriation (SAP) | <input type="checkbox"/> | | | |
| American Rescue Plan Act (ARPA) | <input checked="" type="checkbox"/> | \$2,927,000 | \$1,700,000 | \$4,627,000 |

Project Description:

Hickory Creek Sewer Outfall Replacement
– Windsor to Highway 74

Total Financial Assistance Offer:

\$4,627,000

Total Project Cost:

\$4,627,000

Estimated Closing Fee*:

\$0.0

For Loans

Principal Forgiveness:

\$0

**Estimated closing fee calculated based on grant and loan amount.*

Pursuant to North Carolina General Statute 159G:

- The applicant is eligible under Federal and State law,
- The project is eligible under Federal and State law, and
- The project has been approved by the Department of Environmental Quality as having sufficient priority to receive financial assistance,

The Department of Environmental Quality, acting on behalf of the State of North Carolina, hereby offers the financial assistance described in this document.

For The State of North Carolina:

**Shadi Eskaf, Director, Division of Water Infrastructure
North Carolina Department of Environmental Quality**

| | |
|---|------------------|
| DocuSigned by:  6300AB72077BAC5 Signature | 6/2/2023 Date |
|---|------------------|

On Behalf of:

City of Shelby

Name of Representative in Resolution:

Title (Type or Print):

I, the undersigned, being duly authorized to take such action, as evidenced by the attached CERTIFIED COPY OF AUTHORIZATION BY THE APPLICANT'S GOVERNING BODY, do hereby accept this Financial Award Offer and will comply with the Assurances and the Standard Conditions.

| | |
|-----------|------|
| Signature | Date |
|-----------|------|

APPLICABLE STANDARD CONDITIONS**Project Applicant: City of Shelby****Project Numbers: SRP-W-ARP-0029**

1. Acceptance of this Funding Offer does not exempt the Recipient from complying with requirements stated in the U.S. Treasury's Final Rule for the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) and the SLFRF Compliance and Reporting Guidance, not explicitly referred to in this document and any future requirements implemented by the U.S Treasury.
2. Acquisition of Real Property must comply with all applicable provisions of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (PL 92-646), as amended. The applicant shall certify that it has or will have a fee simple or such other estate or interest in the site of the project, including necessary easements and rights-of-way, to assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the project using a certification form provided by DEQ.
3. Specific MBE/WBE (DBE) forms and instructions are provided that are to be included in the contract specifications. These forms will assist with documenting positive efforts made by recipients, their consultants and contractors to utilize disadvantaged businesses enterprises. Such efforts should allow DBEs the maximum feasible opportunity to compete for subagreements and subcontracts to be performed. Documentation of efforts made to utilize DBE firms must be maintained by all recipients, and construction contractors, and made available upon request.
4. Subrecipients shall fully comply with Subpart C of 2 CFR Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business with Other Persons," as implemented and supplemented by 2 CFR Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Subrecipients may access suspension and debarment information at: <http://www.sam.gov>. This system allows subrecipients to perform searches determining whether an entity or individual is excluded from receiving Federal assistance.
5. Projects with a total cost of \$10,000,000 or more must meet U.S. Treasury requirements for prevailing wage rates, project labor agreements, and related requirements. Recipients can either certify meeting the requirements or provide plans and reports as the SLFRF Compliance and Reporting Guidance specifies.
6. The Uniform Guidance 2 CFR 200.317 through 2 CFR 200.327 gives minimum requirements for procurement, with 2 CFR 200.319(b) addressing engineering services procurement guidelines. ARPA-funded projects must also adhere to North Carolina State law, specifically NC General Statute 143-64.31, Article 3D Procurement of Architectural, Engineering, and Surveying (A/E) Services. NCGS 143-64.32 cannot be used to exempt funding recipients from a qualification-based selection for A/E. The State provides applicable certification forms that must be completed prior to receiving funds for any engineering services covered under this funding offer.
7. Local government units designated as distressed must complete associated requirements of statute §159G-45(b).
8. Funds made available by the ARPA that are not disbursed to the entity accepting the funds in this document by December 31st, 2026, will no longer be available for the project. Unused Federal funds will revert from the State of North Carolina to the U.S. Treasury.

ASSURANCES

Project Applicant: City of Shelby

Project Numbers: SRP-W-ARP-0029

1. The Applicant intends to construct the project or cause it to be constructed to final completion in accordance with the Application approved for financial assistance by the Division. The recipient acknowledges that in the event a milestone contained in the Letter of Intent to Fund is missed, the Department of Environmental Quality will rescind this Funding Offer.
2. The Applicant is responsible for paying for the costs ineligible for ARPA funding.
3. The construction of the project, including the letting of contracts in connection therewith, conforms to the applicable requirements of State and local laws and ordinances.
4. The Applicant will provide and maintain adequate engineering supervision and inspection.
5. The recipient agrees to establish and maintain a financial management system that adequately accounts for revenues and expenditures. Adequate accounting and fiscal records will be maintained during the construction of the project and these records will be retained and made available for a period of at least three years following completion of the project.
6. All ARPA funds shall be expended solely for carrying out the approved project, and an audit shall be performed in accordance with G.S. 159-34. Partial disbursements on this loan will be made promptly upon request, subject to adequate documentation of incurred eligible costs, and subject to the recipient's compliance with the Standard Conditions of this Award. The Applicant agrees to make prompt payment to its contractor, and to retain only such amount as allowed by North Carolina General Statute.
7. The applicant will expend all of the requisitioned funds for the purpose of paying the costs of the project within three (3) banking days following the receipt of the funds from the State. Please note that the State is not a party to the construction contract(s) and the Applicant is expected to uphold its contract obligations regarding timely payment.
8. Funds must be fully spent (i.e., fully reimbursed to the recipient) by December 31, 2026.
9. The applicant acknowledges that loan funds contained in this Funding Offer require approval from the North Carolina Local Government Commission before they can be disbursed.

FEDERAL ID & Unique Entity ID # REQUEST MEMO

TO: All Loan and Grant Recipients

SUBJECT: Federal Identification Number

Please be advised that all local government units receiving grant or loan funds from the State of North Carolina must supply their Federal Identification Number to this office upon acceptance of your loan/grant offer. Therefore, please provide the information below and return to:

Division of Water Infrastructure
1633 Mail Service Center
Raleigh, North Carolina 27699-1633

RECIPIENT:

PROJECT NUMBER:

FEDERAL IDENTIFICATION NUMBER:

UNIQUE ENTITY ID:

(Suggested Format)

RESOLUTION BY GOVERNING BODY OF RECIPIENT

WHEREAS, the (unit of Government) has received an earmark for the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund established in S.L. 2022-74 to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

WHEREAS, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of \$ _____ to perform work detailed in the submitted application, and

WHEREAS, the (unit of government) intends to perform said project in accordance with the agreed scope of work,

NOW, THEREFORE, BE IT RESOLVED BY THE (GOVERNING BODY) OF THE (UNIT OF GOVERNMENT):

That (unit of government) does hereby accept the American Rescue Plan Grant offer of \$ _____.

That the (unit of government) does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.

That (name and title of authorized representative), and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

Adopted this the (date adopted) at (place), North Carolina.

(Signature of Chief Executive Officer)

Date

SALES-TAX REIMBURSEMENT CERTIFICATION FORM
(FOR FUNDING PROGRAMS IN THE DIVISION OF WATER INFRASTRUCTURE)

Applicant: _____

Project Number: _____

Check If Applicant is not a unit of government under North Carolina law

If Applicant noted above is a Unit of Government in North Carolina, check the applicable box below.

Sales Tax **IS** deducted in this scenario. Please show this on the disbursement requests.

The construction contract was bid with sales taxes and the unit of government will request reimbursement from the DOR.

Sales Tax **IS NOT** deducted in either of these scenarios.

The construction contract was bid with sales taxes and the unit of government will not request reimbursement from the DOR.

The construction contract was bid without sales taxes

(Printed Name and Title of Authorized Representative)

(Signature of Authorized Representative)

(Date)

Submit to: NC Dept. of Environment & Natural Resources
Division of Water Infrastructure
Pam Whitley, Project Management Branch
1633 Mail Service Center
Raleigh, NC 27699-1633

REIMBURSEMENT REQUEST FORM

NC Division of Water Infrastructure

Funding Recipient: _____ of _____ Payment No. _____ of _____
 DWI Project No. _____ (Use more pages as needed)

| CONSTRUCTION (Rename as appropriate) | Cumulative Cost to Date | Minus Ineligibles | Minus Overruns Not App'd By Change Order | Subtotal of Payable Cost | Minus Retainage on Payable Cost | Minus Cumulative Sales Tax | Other Adjustments (Other Funds e.g.) | Minus Previously Paid to Date | Requested For This Pay Request |
|---|--------------------------------|--------------------------|---|--------------------------|--|-----------------------------------|---|--------------------------------------|---|
| Contract 1 | \$1,200,000 | (\$100,000) | (\$100,000) | \$1,000,000 | (\$50,000) | (\$50,000) | (\$500,000) | (\$300,000) | \$100,000 |
| Contract 2 | \$505,000 | | (\$5,000) | \$500,000 | (\$25,000) | (\$10,000) | | (\$400,000) | \$65,000 |
| Contract 3 | | | | | | | | | |
| Contract 4 | | | | | | | | | |
| Contract 5 | | | | | | | | | |
| ENGINEERING (Rename as appropriate) | Cumulative Cost to Date | | | | | | | | |
| Item 1 | \$250,000 | | | | | | | (\$250,000) | \$0 |
| Item 2 | | | | | | | | | |
| Item 3 | | | | | | | | | |
| Item 4 | | | | | | | | | |
| OTHER COSTS (Rename as appropriate) | Cumulative Cost to Date | | | | | | | | |
| Item 1 | | | | | | | | | |
| Item 2 | | | | | | | | | |
| Item 3 | | | | | | | | | |
| PAY REQUEST TOTALS | Cumulative Cost to Date | Minus Ineligibles | Minus Overruns Not App'd By Change Order | | Minus Retainage on Payable Cost | Minus Cumulative Sales Tax | Other Adjustments (Other Funds e.g.) | Minus Previously Paid to Date | Total Requested For This Pay Request |
| | \$1,955,000 | (\$100,000) | (\$105,000) | | (\$75,000) | (\$60,000) | (\$500,000) | (\$950,000) | \$165,000 |

Certification
 - I certify that to the best of my knowledge and belief the billed costs or disbursements are in accordance with terms of the project and that this request represents the monies due which have not been previously received and that an inspection has been performed and all work is in accordance with the terms and conditions of the award.
 - For applicable SRF projects, the project remains in compliance with Davis-Bacon and American Iron and Steel conditions or is the process of remediating non-compliance.

You must check ONE of the boxes below or your payment will not be processed:
 The funds requested above have already been paid to the respective vendors, consultants & contractors by the funding recipient OR
 The funds requested above have not been paid to the respective vendors, consultants & contractors.
 Funds received from the State will be disbursed to these entities within three (3) banking days.

Type or Print Name and Title _____ Signature of Authorized Representative _____ Date _____

DWI comments _____

Instructions and notes on how to use this form
 - Complete guidance for preparing reimbursements can be found in section G.2. of the North Carolina SRF Program Overview and Guidance that was included with your Funding offer (applicable to State grants and loans too).
 - The form, as downloaded, is filled out with sample numbers. It is suggested that the sample be used as a reference (saved or printed).
 - Please submit ONE COPY of this form and backup documents when requesting funds.
 - Only the Authorized Representative can sign this form, unless declared otherwise in a resolution.
 - Construction contract line item overruns and engineering contract overruns must have approved change orders or engineering amendments before those costs will be paid.

RESOLUTION NO. 70-2023

A RESOLUTION FOR THE ACCEPTANCE OF THE AMERICAN RESCUE PLAN GRANT OFFER FOR THE HICKORY CREEK SEWER OUTFALL REPLACEMENT PROJECT – WINDSOR DRIVE TO HIGHWAY 74

WHEREAS, the City of Shelby has qualified for the Viability Utility Reserve (VUR) designation associated with the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund established in S.L. 2021-180 and S.L. 2022-74 to assist eligible units of government with meeting their water/wastewater infrastructure needs; and,

WHEREAS, the North Carolina Department of Environmental Quality (NCDEQ) has offered American Rescue Plan (ARP) funding in the amount of \$4,627,000 to perform work detailed in the submitted application for the Hickory Creek Sewer Outfall Replacement Project; and,

WHEREAS, it is the desire of the Shelby City Council to accept these funds, in the amount of \$4,627,000, for the Hickory Creek Sewer Outfall Replacement Project; and,

WHEREAS, the City of Shelby intends to perform said project in accordance with the agreed scope of work.

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

Section 1. That City of Shelby does hereby accept the American Rescue Plan Grant offer of \$4,627,000.

Section 2. That the City of Shelby does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.

Section 3. That Rick Howell, City Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

Adopted this the 2nd day of October 2023 at Shelby, North Carolina.

Andrew L. Hopper, Sr.
Mayor Pro Tem

ATTEST:

Carol Williams
City Clerk

Agenda Item: C-4

- 4) Approval of a resolution appointing a City Attorney for the City of Shelby:
Resolution No. 71-2023

Consent Agenda Item: (Rick Howell, City Manager)

- Resolution No. 71-2023

City Manager's Recommendation / Comments

Resolution No. 71-2023 is presented for City Council consideration at this time. If approved this resolution would formalize the appointment of Jason Lunsford as City Attorney under NC General Statute 160A-173.

The City received a number of competitive applicants and I was happy to have a qualified field from which to select the staff attorney for the City. I am pleased to welcome Jason to the City of Shelby management team and look forward to working with him. His first day of work is proposed for Monday, October 23, 2023. He will be present at your regular meeting to be held Monday, October 16, 2023 for a formal introduction.

I want to thank the Mayor and City Council for your leadership and support during this long and challenging process.

RESOLUTION NO. 71-2023
A RESOLUTION APPOINTING A CITY ATTORNEY

WHEREAS, the City of Shelby currently has a vacancy for the position of City Attorney and City Council has directed the City Manager to implement a search for a full-time staff attorney; and,

WHEREAS, the City Manager conducted a search to identify a qualified candidate for the City Attorney position; and,

WHEREAS, the City Manager is recommending to City Council that it appoint Jason Scott Lunsford as City Attorney; and,

WHEREAS, North Carolina General Statute 160A-173 provides that the City Council shall appoint a City Attorney to serve at its pleasure and to be its legal advisor.

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

Section 1. That Jason Scott Lunsford is hereby appointed to serve as City Attorney for an indefinite period at the pleasure of City Council.

Section 2. This resolution shall become effective on Monday, October 2, 2023.

Adopted and approved this the 2nd day of October 2023.

Andrew L. Hopper, Sr.
Mayor Pro Tem

ATTEST:

Carol Williams
City Clerk

Agenda Item: C-5

5) Approval of Special Event Applications:

- a) Music, Mutts, and Mush Festival, requested date: October 21, 2023
- b) Veteran's Day Parade: requested date: Saturday, November 11, 2023
- c) Lighting the Way - Luminaries on the Court Square, requested date: December 8, 2023

Consent Agenda Item: (Carol Williams, City Clerk)

- Memorandums from Carol Williams, City Clerk to Rick Howell, City Manager
- Special Event Application(s)

City Manager's Recommendation / Comments

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

Memo

To: Rick Howell, City Manager

From: Carol Williams, City Clerk

Date: September 27, 2023

Re: Special Event Permit Application

BACKGROUND:

A Special Event Permit Application has been submitted for the following:

- ✓ Music, Mutts and Mush Festival, requested date: October 21, 2023

REVIEW:

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

RECOMMENDATION:

Please place the attached Special Event Permit Application on the Consent Agenda of October 2, 2023 for Council's review and approval.

ATTACHMENT:

- A. Special Event Permit Application packet received September 18, 2023

**CITY OF SHELBY
SPECIAL EVENT PERMIT
APPLICATION INSTRUCTIONS**



1. **EVENT NAME:** *Mush, Music & Mutts Festival: The Official NC Fall Liver Mush Festival.*

2. **PURPOSE AND BRIEF DESCRIPTION OF EVENT:**

The purpose of this event is to provide a family friendly festival to create community pride and draw visitors to Uptown Shelby.

- A) Celebrate a unique local food (liver mush)
 - a. Mack's Liver Mush and Corriher's Liver Mush will both be represented
 - b. Uptown restaurants invited to plan liver mush themed menu item/s
 - c. **NEW Some Food vendors opted to offer a Liver Mush menu item**
 - d. Liver Mush Eating Contest
 - e. (Live Streaming parts of this from Greenbrook Design)
 - i. Liver Mush Recipe Contest
 - ii. Liver Mush Cook Off with Cleveland Community College
- B) Celebrate and showcase our music heritage by presenting music representing local and NC music roots as well as foster inclusivity.
- C) Rollover Pets presents festival for pets and owners including pet costume contest, pet parade, pet products and services and Dynamo Dog Show.
- D) Family Friendly Experiences
 - a. **NEW Carolina Harmony Trail Stage, program & ribbon cutting.**
 - b. **NEW Infant/Toddler Comfort Area by Cleveland County WIC: Provides changing spaces, nursing area and quiet for visitors with babies and young children. Located in the Chamber of Commerce and a WIC Bus parked onsite for guests to visit.**
 - c. Activities and music in festival and Farmer's Market to tie into festival.
 - d. Children's Parade (costume optional) led by Dancing Fleas.
 - e. Central United Methodist Church and HomeTrust Bank provide pumpkin painting for kids.
 - f. Kid Zone, with kid/family friendly activities and photo opportunities. Earl Scruggs Center will also have an instrument/music tent
 - g. Cleveland County YMCA providing an Activity Zone for Kids/Adults with large inflatable and additional activities.

3. **LOCATION OF EVENT:** The event will be held in Uptown Shelby, primarily around the courtsquare with activity extending approximately ½ a block on some streets in the festival zone. SEE MAP attached. Major locations of the event and primary road closures are:

- **Marion** between Harris and Morgan
- **Warren** between Harris and Lafayette
- **Lafayette** between Warren and Campbell
- **Washington** between Warren and Campbell

4. **PLEASE INDICATE:**

Approximately how many people will attend the event? 12,000 – 15,000
based on mobile data analytics from 2019 that identified appx. 12,000 unique

mobile devices within the festival area). Weather may impact.

Approximately how many vehicles will be present? On grounds, limited to necessary Vendor and display vehicles. Attendee vehicles in the area could be apprx. 4,000 – 6,000 in designated parking lots and street spaces.

Cleveland County Government Lots(front and back) are added as public parking options. Working to partner for a bus/shuttle transport.

Approximately how many animals will be present? Approximately 250 domestic animals with their owners within laws of Uptown Shelby will participate in the Mutts portion of the festival, primarily on Warren.

If the event is a parade, please indicate the amount of street that will be needed: **Not Applicable**

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

Name: Emily Epley, Cleveland County Travel & Tourism Director (Overall)
Address: 311 E. Marion Street, Shelby, NC 28150
Phones: 704.484.4804 (Daytime) 704.692.5463(Evening)
E-mail address Emily.epley@clevelandcountync.gov

Name: Fred and Jennipher Harrill, Owners, Roll Over, LLC
Address: 105 W. Warren Street, Shelby, NC 28150
Phones: 704.406.9251 (Daytime)
E-mail address fred@rolloverpets.com

Name: Foothills Farmers Market at City Pavilion
Address: P.O. Box 502, Shelby, NC 28151
Phones: 704.482.4365 (Daytime)
E-mail address info@foothillsfarmersmarket.com

6. PLEASE LIST THE FOLLOWING:

Requested day(s) and date(s) Saturday, October 21, 2023
Alternate day(s) and date(s) Not Applicable
Requested hours of operation, from 8:30 AM to 4:30 PM

7. EVENT NOTIFICATION TO RESIDENTS AND BUSINESSES:

Neighbors and businesses in the surrounding area will be notified by written communication (email, fliers, signs), phone calls to key

locations impacted as necessary as well as street signs regarding the event road closure dates/times.

8. **SANITATION:** Wesson is working with us to provide adequate portable toilets as well as handwashing sinks –
 - a. Delivery: Friday, October 21, 2022 around 5 PM
 - b. Pickup: Saturday, October 21, 2022 after 4:30 PM
 - Rental of (3) Special Event ADA Units w/Hand Sanitizers
 - Rental of (8) Special Event Party Units w/Hand Sanitizers
 - Rental of (6) Free Standing Sink Units
 - c. Wesson will service these units if required. Majority of the toilets and sinks will be located in the alley near the Arts Council off Washington street. Remaining units and sinks will be at Warren Street near Pet Festival and another location near PSU in lot.

Based on the number of trash and recycling units provided in previous years for this event, we request the City determine appropriate quantity. Our staff/volunteers will distribute the units to designated locations in the festival area and return them to designated area for pickup. We will have heavier concentration located near primary concentration of food vendors/seating.

9. **FOOD/BEVERAGES/ENTERTAINMENT:** There will be approximately 80 - 90 food and non-alcoholic beverage vendors that are required to provide appropriate permits from Cleveland County Health Department as well as a copy of their liability insurance policy. Necessary Health Department paperwork will be filed by Emily Epley within designated deadline.

Three (3) vendors will sell/serve beer/wine on Washington Street and are responsible for management of consumption within the approved area: Newgrass Brewing Company, Double E Brewing and Baker Buffalo Creek Vineyard & Winery. Each has been provided the link and information for the ABC Special Occasion permit application per Detective Hamrick's Guidance and the City of Shelby website.

Entertainment will consist of:

Live Music, Carolina Harmony Trail Program and Ribbon Cutting, announcements of recipe contest winners, liver mush eating contest. Live streaming of cooking contest and Liver Mush Cookoff
Amplification on 2 Festival Stages:

Main Stage: Corner of Washington and Marion on the Gragg &

Gragg side of the intersection so as to have good flow for attendees and not to interfere with/delay reopening of Marion Street at conclusion of festival. Active between 8:30 am and 4:30 pm.

Secondary Stage: Carolina Harmony Trail Stage will be located on Warren Street approximately ½ way between Lafayette St. and Morgan Street. This stage will be taken down first (before the one at Gragg financial) to allow for the earliest possible opening of the Marion Street.

Music will also occur around the festival in the form of “street musicians/buskers”. These are to be acoustic only.

There will be a **kids area** with activities on the square, leveland County YMCA is presenting a **family zone** between the Taxi stand and the corner of Warren and Washington. They will have an inflatable, mini-golf, fitness challenges for kids/parents and other activities that promote wellness.

10. SECURITY AND SAFETY PROCEDURES:

Street closures around the courtsquare Friday evening – reopening by approximately 6:30 pm Saturday (or once all vendors are gone and we have been able to clean up from the festival.) Working to confirm street closure needs due to assembling stages and tents for the Main Visitor Area near Washington/Warren intersection.

Star Stage and Sound is handling stages/sound. Inflatable is being provided by Cleveland County YMCA. There will be one tent set up by Got You Covered on Friday night on the courtsquare in front of ESC porch + one on Washington St. for Event Staff use. Police Officers will be hired to provide safety and security.

Cleveland County EMS will be on location at the festival to respond to any medical issues that arise. *Left messages for Lt. Conner to discuss Police presence/planning.*

City of Shelby Fire Marshall will be consulted on plans and layout prior to the setup of the event. Vendors are required to obtain their own permits where applicable. The stage is provided by Star Stage and Sound who will obtain necessary permits and inspections.

11. **CITY SERVICES/EQUIPMENT REQUESTED FOR THIS EVENT:** Additional trash cans, recycling cans, sanitation truck on site, road closures, active event panels/power in designated festival area, including City Pavilion. We have contacted EMS

and they will be onsite. Shelby Police Department – we would like to have guidance/insights for Festival Emergency Plan as well as strong Shelby Police presence. LM *for Lt. Conner @SPD*

12. FALSE STATEMENT; PENALTY: Any person who shall willfully make any false statement in any application for a license under any section of this article or schedule shall be guilty of a misdemeanor, and upon conviction shall be fined and/or imprisoned subject to the general penalty provisions in section 1-4.

13. ADDITIONAL COMMENTS: I will coordinate with all of the partners of this event to ensure all rules and guidelines are being followed. I will personally walk through the event area at the conclusion to ensure the area is left clean and without negative impact. We have pride in the community and will do all we can to ensure an event that represents this during as well as after the event in how we leave the festival area.

EVENT PANELS will be required. Final vendor applications are due by September 19th. After that time, we will be able to provide more specific details on types and locations of power needs. We will submit appropriate paperwork and payment at that time.

I've attached a map – "2023 Mush, Music & Mutts Festival Map" which shows road closures and what I can confirm for restrooms/portable toilets and the staging for this year. I will be working with partners to create a revised map with current details and vendor locations once they are finalized. Vendor registration ends September 19th.

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

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

SIGNATURE *Emily Epley* 9/18/23
Emily Epley (C) 704.692.5463 (O) 704.484.4804

APPLICANT 311 E. Marion Street, Shelby, NC 28150 PHONE

PHYSICAL ADDRESS
Emily.epley@clevelandcountync.gov

E-MAIL ADDRESS

9.9.22

DATE

2023 Livermush Festival



2023
FESTIVAL
FOOTPRINT/
VENDOR MAP
v.1

Memo

To: Rick Howell, City Manager

From: Carol Williams, City Clerk

Date: September 27, 2023

Re: Special Event Permit Application

BACKGROUND:

A Special Event Permit Application has been submitted for the following:

- ✓ Veteran's Day Parade, requested date: November 11, 2023

REVIEW:

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

RECOMMENDATION:

Please place the attached Special Event Permit Application on the Consent Agenda of October 2, 2023 for Council's review and approval.

ATTACHMENT:

- A. Special Event Permit Application packet received September 14, 2023

criminal in nature, shall be subject to the maximum penalty authorized by G.S. 14-4, as amended.

CITY OF SHELBY SPECIAL EVENT PERMIT APPLICATION

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

1. EVENT NAME: Cleveland County Veterans
Day parade

2. PURPOSE AND BRIEF DESCRIPTION OF EVENT:
To honor and recognize local Veterans
to the public of Cleveland County

3. LOCATION OF EVENT (ATTACH MAP):
Staging on S. Market (Northbound) TR W. Graham St.
(Eastbound) TL Lafayette St. (Northbound)
TL West Merian St (Westbound) End Bell Pavilion.

4. PLEASE INDICATE:

Approximately how many people will attend the event? 300

Approximately how many vehicles will be present? 60

Approximately how many animals will be present? 0

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

Single lane _____

All lanes in travel direction _____

Whole street ✓

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

Name: Marty Pendergraft

Address: 4633 Ellenboro Rd, Mooresboro

Phones: 704 287 8312
(Daytime) (Evening)

Marty.Pendergraft@gmail.com
E-mail address

Name: _____

Address: _____

Phones: _____
(Daytime) (Evening)

E-mail address

6. PLEASE LIST THE FOLLOWING:

Requested day(s) and date(s) 11 Nov 2023

Alternate day(s) and date(s) _____

Requested hours of operation, from 900 AM/PM to 1100 AM/PM

Parade begins at 1000.

7. EVENT NOTIFICATION TO RESIDENTS AND BUSINESSES: As an event planner, you are responsible for notifying the neighbors and businesses in the surrounding area of your event. The City requires notifying as many businesses and residents around the event site as possible as early as possible. Please provide your plan of notification at the time you submit your permit application.

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

9. AVAILABILITY OF FOOD, BEVERAGES, AND/OR

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

Will alcoholic beverages be served? NO

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

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

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

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

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

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

Name: _____

Address: _____

Phones: _____

Indicate medical services that will be provided for the event.

AMBULANCE: _____

DOCTOR (S): _____

PARAMEDICS: _____

11. CITY SERVICES/EQUIPMENT REQUESTED FOR THIS EVENT:

public works - road closure
law enforcement - traffic control

Event Power Request Form and Pricing

To utilize the event panels for power in Uptown Shelby, this form must be submitted with event application and payment made at time of application.

Please use the map below for event panel locations, circle the event panels that you need for your event. If you have questions about the electrical requirements for your event, please contact the Electric Superintendent at 704-669-6649.

NONE

Name of Special Event: _____

Authorize Event/Vendor Coordinator: _____

Phone No.: _____ Mobile No.: _____

Email: _____

Event panel (EP) cost is \$15.00 per day per event panel.

Stage panel (STG PAN) cost is \$110.00 per day per stage panel.

Full Day Rentals only

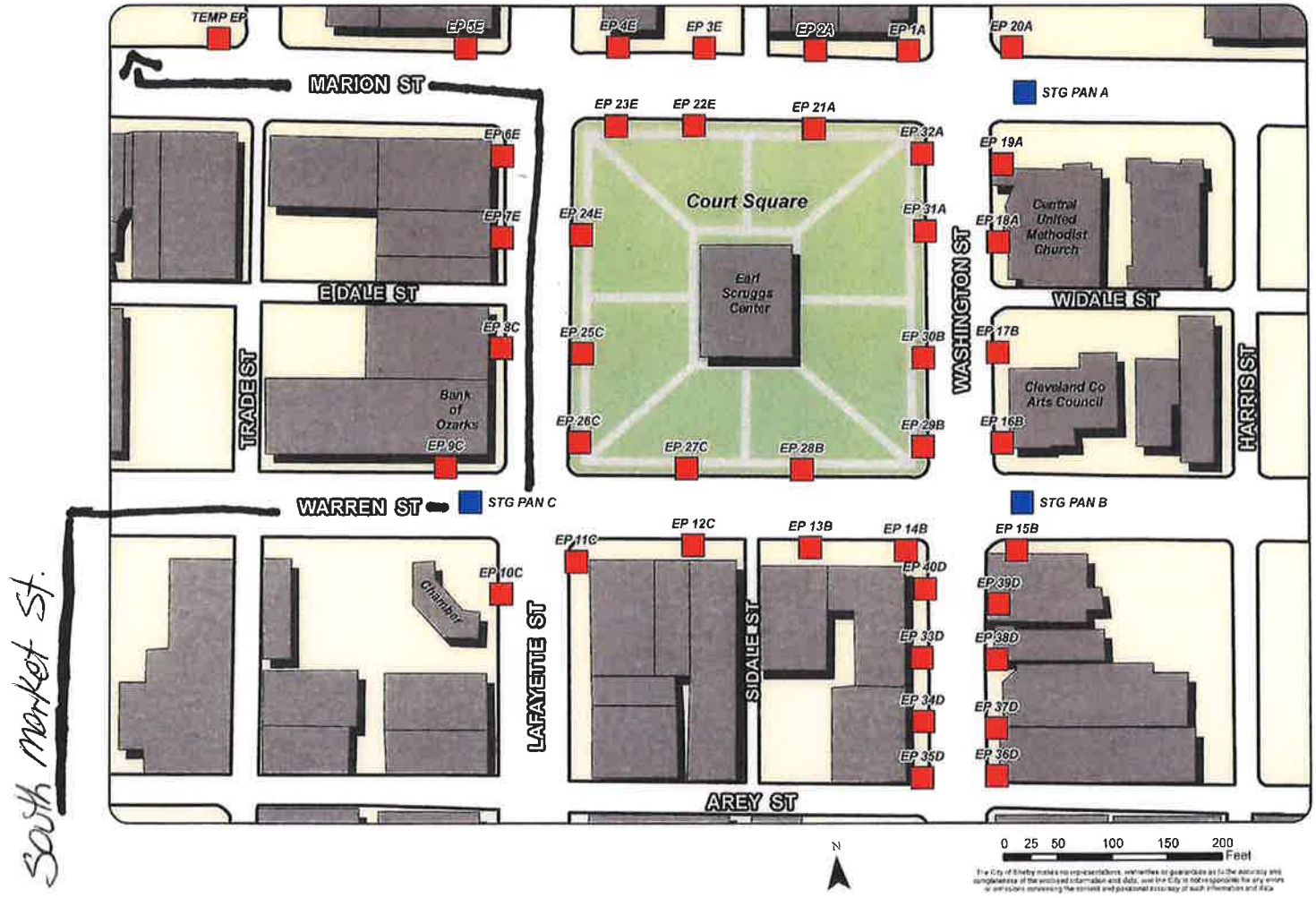
Total Number of Event Panels:
_____ x \$15.00 x Number of Days _____ = \$ _____

Total Number of Stage Panels:
_____ x \$110.00 x Number of Days _____ = \$ _____

All fees must be paid at the time of event application.

Any event panel not requested and paid for in advance and requested the day of the event will be subject to an after-hours charge.

City of Shelby Uptown Event Panels



The City of Shelby makes no representations, warranties or guarantees as to the accuracy and completeness of the provided information and data, and the City is not responsible for any errors or omissions concerning the content and positional accuracy of such information and data.



12. ANY ADDITIONAL COMMENTS:

Restrooms Available at Bobby Bell Pavilion.

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

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

Marty Pendergraft
SIGNATURE

Marty Pendergraft 704 287 8912
APPLICANT PHONE

4633 Ellenboro Rd. Mooresboro NC 28114
PHYSICAL ADDRESS

marty.pendergraft@gmail.com
E-MAIL ADDRESS

14 Sept. 2023
DATE

Memo

To: Rick Howell, City Manager

From: Carol Williams, City Clerk

Date: September 27, 2023

Re: Special Event Permit Application

BACKGROUND:

A Special Event Permit Application has been submitted for the following:

- ✓ Lighting the Way luminaries, requested date: December 8, 2023

REVIEW:

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

RECOMMENDATION:

Please place the attached Special Event Permit Application on the Consent Agenda of October 2, 2023 for Council's review and approval.

ATTACHMENT:

- A. Special Event Permit Application packet received August 23, 2023

criminal in nature, shall be subject to the maximum penalty authorized by G.S. 14-4, as amended.

CITY OF SHELBY SPECIAL EVENT PERMIT APPLICATION

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

1. EVENT NAME:

"Lighting The Way"

2. PURPOSE AND BRIEF DESCRIPTION OF EVENT:

Fundraiser for VIA Health Partners, formerly Hospice Cleveland County. Plastic luminaries with battery operated tea lights placed on edges of the side walk, 3-4 tables, Snacks and programs.

3. LOCATION OF EVENT (ATTACH MAP):

Marion Street side and a portion of Lafayette St. on the Court Square. See attached map.

4. PLEASE INDICATE:

Approximately how many people will attend the event? 50+, drop-in event

Approximately how many vehicles will be present? /

Approximately how many animals will be present? /

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

Single lane /

All lanes in travel direction /

Whole street _____

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

Name: VIA Health Partners - Pam Sharts

Address: 951 Wendover Heights Dr, Shelby, NC 28150

Phones: 980-468-2359 (Daytime) 704-472-9388 (Evening)

E-mail address: Sharts P@hpcer.org

Name: VIA Health Partners - Barb Robertson

Address: 951 Wendover Heights Dr, Shelby, NC 28150

Phones: 980-468-2360 (Daytime) 704-477-2201 (Evening)

E-mail address: Robertson B@hpcer.org

6. PLEASE LIST THE FOLLOWING:

Requested day(s) and date(s) December 8th, 2023

Alternate day(s) and date(s) December 15th, 2023

Requested hours of operation, from 3 AM/PM to 11 AM/PM

7. EVENT NOTIFICATION TO RESIDENTS AND BUSINESSES: As an event planner, you are responsible for notifying the neighbors and businesses in the surrounding area of your event. The City requires notifying as many businesses and residents around the event site as possible as early as possible. Please provide your plan of notification at the time you submit your permit application.

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

9. AVAILABILITY OF FOOD, BEVERAGES, AND/OR

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

Will alcoholic beverages be served? No

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

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

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

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

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

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

Name: Uptown Shelby Association
Address: _____
Phones: _____

Indicate medical services that will be provided for the event.

AMBULANCE: _____
DOCTOR (S): _____
PARAMEDICS: _____

11. CITY SERVICES/EQUIPMENT REQUESTED FOR THIS EVENT:

6-9pm- Lights dimmed or turn off spot lights or sidewalk lights on
Marion St. side so luminaries are visible. One electric outlet
requested from the Earl Scruggs Center between 6 and 9 pm.
"See attached map."

Event Power Request Form and Pricing

To utilize the event panels for power in Uptown Shelby, this form must be submitted with event application and payment made at time of application.

Please use the map below for event panel locations, circle the event panels that you need for your event. If you have questions about the electrical requirements for your event, please contact the Electric Superintendent at 704-669-6649.

Name of Special Event: _____

Authorize Event/Vendor Coordinator: _____

Phone No.: _____ Mobile No.: _____

Email: _____

Event panel (EP) cost is \$15.00 per day per event panel.

Stage panel (STG PAN) cost is \$110.00 per day per stage panel.

Full Day Rentals only

Total Number of Event Panels:

_____ x \$15.00 x Number of Days _____ = \$ _____

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All fees must be paid at the time of event application.

Any event panel not requested and paid for in advance and requested the day of the event will be subject to an after-hours charge.

12. ANY ADDITIONAL COMMENTS:

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

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

Pam Sharts

SIGNATURE

Pam Sharts

APPLICANT

980-408-2359

PHONE

951 Wendover Heights Dr. Shelby, NC 28150

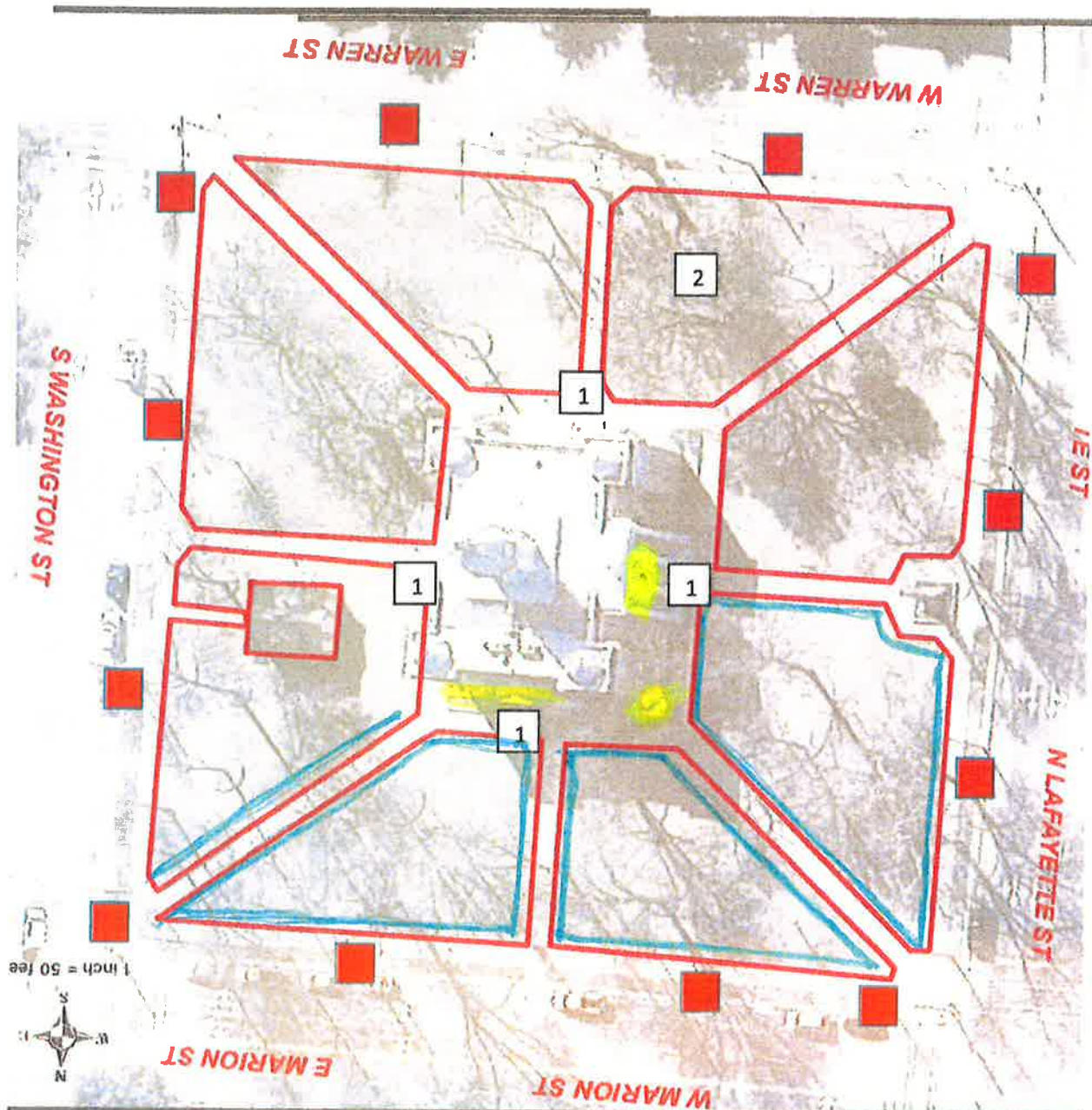
PHYSICAL ADDRESS

Sharts P @ hpcer.org

E-MAIL ADDRESS

8/23/23

DATE



- ① electrical outlets
- ② tent stakes
- ③ banner stakes

be noted determined

■ EVENT PANELS FROM CITY OF SHELBY

- ● Luminaries will be placed on edge of sidewalk in blue areas above
- ● Trees + tables for programs

* please lower or turn off spot lights or sidewalk lights so luminaries are visible between 6pm to 9pm

Effective 8-24-2020

* Power needed

Agenda Item: D

Unfinished Business

None

Agenda Item: E

New Business

None

Agenda Item F

City Manager's Report: Rick Howell, City Manager

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) To consult with an attorney in order to preserve the attorney client privilege pursuant to N.C.G.S.143-318.11(a)(3).

- 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