

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

Invocation

Pledge of Allegiance

A. Approval of Agenda

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

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

B. Special Presentation:

- 1) Uptown Shelby Association Update - Carly Bostic, Executive Director 1
- 2) Richard Hooker presentation – HBCU College and Career Day, March 13, 2024 2

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 February 19, 2024 3 - 11
- 2) Approval of a resolution to host the display for the Cleveland County Fellowship of Christian Athletes Sports and Recreation Hall of Fame, Annual Awards Banquet, and Annual Selection Committee meetings at Shelby City Park: Resolution No. 18-2024 12 - 15
- 3) Approval of a resolution authorizing execution of a contract for Fire Suppression Services under Automatic Aid between the City of Shelby and Shanghai Volunteer Fire Department, Inc. (Shanghai Fire District): Resolution No. 19-2024 16 - 31

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| 4) Approval of a resolution authorizing execution of a contract for Fire Suppression Services under Automatic Aid between the City of Shelby and Number Seven Volunteer Fire Department, Inc. (Lattimore Fire District): Resolution No. 20-2024 | 32 -47 |
| 5) Approval of a resolution authorizing execution of a contract for Fire Suppression Services under Automatic Aid between the City of Shelby and Cleveland Volunteer Fire Department, Inc. (Gardner Fire District): Resolution No. 21-2024 | 48 - 63 |
| 6) Adoption of a Grant Project Ordinance for American Rescue Plan Act of 2021: Coronavirus State and Local Fiscal Recovery Funds: Ordinance No. 18-2024 | 64 - 67 |
| 7) Adoption of a budget ordinance amendment for the City of Shelby's Highway 74 Bypass Section D&E Natural Gas Line Relocation Project: Ordinance No. 19-2024 | 68 - 77 |
| 8) Acceptance of the Certificate of Sufficiency regarding Petition of Annexation of applicant, Caleb Peeler, Eaves Road | 78 - 90 |

D. Unfinished Business:

None	91
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E. New Business:

- | | |
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| 1) Request for Qualifications (RFQ) for a Comprehensive Land Use Plan for the City of Shelby, North Carolina | 92 - 99 |
| 2) Consideration of appointment to the North Carolina Municipal Power Agency 1 (NCMPA1) Board of Commissioners as First and Second Alternates: | 100 |

<i>Currently:</i>	Commissioner:	Rick Howell
	1 st Alternate:	Justin Merritt
	2 nd Alternate:	Ben Yarboro

<i>Proposed:</i>	Commissioner:	Rick Howell
	1st Alternate:	Ben Yarboro
	2nd Alternate:	Justin Longino

F. City Manager's Report 101

G. Council Announcements and Remarks 101

H. Closed Session: 101

1) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including on a tentative list of economic development incentives that may be offered by the public body in negotiations pursuant to North Carolina General Statute 143-318.11(a)(4).

2) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body 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).

3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged pursuant to North Carolina General Statute 143-318.11(a)(3).

I. Adjournment: 102

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) Uptown Shelby Association Update - Carly Bostic, Executive Director

Presenting: (Carly Bostic, Executive Director of Uptown Shelby Association)

- Presentation from Carly Bostic

City Manager's Recommendation / Comments

This time is scheduled on your agenda to allow Carly Bostic, Executive Director of Uptown Shelby Association, to update the City Council. I've asked Mrs. Bostic to update Council on a quarterly basis.

Agenda Item B-2

- 2) Richard Hooker presentation – HBCU College and Career Day, March 13, 2024

Presenting: (Richard Hooker)

- Presentation by Mr. Hooker

City Manager's Recommendation / Comments

This time is scheduled on your agenda to present a Proclamation to Mr. Richard Hooker in honor of the HBCU College and Career Day scheduled for March 13, 2024.

C. Consent Agenda:

Agenda Item: C-1

- 1) Approval of the Minutes of the Regular Meeting of February 19, 2024

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 February 19, 2024

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 of Shelby City Council
Don Gibson Theatre

February 19, 2024
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony, III, presiding; Council Members Andrew L. Hopper, Sr., David Causby, Violet Arth, David White, Charles Webber, and Emilie Bullock; City Manager Rick Howell, MPA, ICMA-CM, Assistant City Manager Justin Longino, MBA, City Attorney Jason Lunsford, 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, Public Works Director Scott Black, Director of Water Resources Brian Wilson, Public Information and Communications Officer Chip Nuhrah, 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 presented.

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

B. Public Comment:

None

C. Public Hearing:

- 1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina for parcel 66481 (Metcalf/Magness):
Ordinance No. 14-2024

Mr. Longino presented this item to Council and stated this parcel consists of 1.86 acres on the corner of Metcalf Road and Magness Road. Mr. Longino stated the preliminary discussion with the applicant is to build townhomes on

this property; however, Mr. Longino cautioned that this is a conventional rezoning so no conditions are stipulated and anything in the R-6 zoning district category would be allowed if this parcel is rezoned. This property is currently zoned as R-20 which allows 2 dwelling units per acre. The applicant has requested a zoning amendment to R-6 which primarily allows a variety of high density single-family detached dwellings, apartments, condominiums, and townhomes with a maximum density of approximately 7 – 19 dwelling units per acre. Mr. Longino presented the future land use map which shows the majority of the area as low density residential. Mr. Longino further stated that this property is in a watershed which would require a special intensity allocation permit which is a separate process and will occur only if the zoning amendment is approved. Mr. Longino concluded that the Planning and Zoning Board did not recommend this rezoning amendment.

Mayor Anthony opened the public hearing at 6:09 p.m. and invited comments from the public.

Greg Paring who resides at 1315 Moonshadow Lane, Shelby, North Carolina stated he has lived in Shelby for twelve years and commended the City Manager and Council for the phenomenal improvement in Shelby during those twelve years. Mr. Paring stated this same area was slated years ago for a zoning change to R-6 which was not approved at that time. Mr. Paring asked Council to follow the recommendation of the Planning and Zoning Board and deny this current request.

Julie Rubin who resides at 1301 Turtle Crossing, Shelby, North Carolina referenced Governor Cooper's Executive Order # 305 which among other things, adds protection to native plants. Ms. Rubin stated the 26 cedar trees on the property are native to North Carolina, therefore, should be protected.

Stacy Rumpfelt who resides at 1351 Moonshadow Lane, Shelby, North Carolina conveyed to Council that she's concerned with the surplus of available homes due to the new developments throughout the City. Ms. Rumpfelt referenced the median number of days a house is on the market, and stated currently there are nine homes in Grey Fox Forest that are for sale. Ms. Rumpfelt stated she is a proponent of development when it is the right development in the right space. She encouraged Council to listen to their constituents and the Planning and Zoning Board and deny this rezoning amendment request.

Mr. Kevin Dedmon who resides at 1352 Harvest Moon Lane, Shelby, North Carolina presented a petition to Council and read the petition statement. Mr. Dedmon stated he grew up in Shelby, graduated from Shelby High School, and returned to Shelby to raise his family. He is always proud to say he's from Shelby. Mr. Dedmon continued by stating Shelby has a strong sense of identity, a strong sense of community, and through thoughtful leadership

Shelby has always had a strong sense of future planning. Mr. Dedmon further stated that development is essential to growth, but it needs to be done with purpose and attention to detail, and to listen to the citizen boards like the Planning and Zoning Board on their recommendations. Mr. Dedmon concluded by stating he hopes Council will deny the zoning amendment.

Robert Smith who resides at 1324 Moonshadow Lane, Shelby, North Carolina stated he agrees with the neighbors that have spoken. He is also in favor of keeping the cedar trees on the corner. Mr. Smith questioned the amount of useable land on the property after easements and utilities are established, and the amount of potential water runoff is another concern.

Kathy Woody who resides at 1347 Moonshadow Lane, Shelby, North Carolina stated she has built seven homes in the Grey Fox Forest subdivision. She does not believe there is space for townhomes on the proposed property and worries it might affect the property values of the homes in Grey Fox Forest. Mrs. Woody also stated that if the property is rezoned to R-6 it could open the property up to many possibilities, not necessarily just townhomes. Mrs. Woody asked Council to take everything into consideration when they vote tonight.

Anne Eskridge who resides at 1306 Turtle Crossing, Shelby, North Carolina is concerned with the rapid development in the City. She stated one main concern is the availability of healthcare if the City grows too swiftly. Ms. Eskridge gave statistics from the North Carolina Medical Board as to the number of physicians and the availability of beds at our hospital compared to the number of people needing medical care. Ms. Eskridge concluded by stating that for this reason and the many reasons given by her neighbors, she asks Council to decline the rezoning request.

Peter Newberry who resides at 1322 Moonshadow Lane, Shelby, North Carolina is concerned about the increase in traffic in the area if townhomes are built at that intersection. Mr. Newberry referenced another property that is already zoned R-6 is for sale on Metcalf Road and slated for 139 homes which would bring even more traffic to the area. Mr. Newberry concluded by stating he opposes the rezoning request.

Mayor Anthony closed the public hearing at 6:28 p.m.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to deny Ordinance No. 14-2024 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA FOR PARCEL 66481 (METCALF/MAGNESS)" due to it being inconsistent with the Shelby adopted Comprehensive Plan and in receiving disapproval from the Planning Board the request is unreasonable because the

surrounding zoning is R20 and the current area is zoned R10 and R20, low density, the proposed change would not conform with the surrounding neighborhood and other community would not support the change to high density.

D. Consent Agenda:

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

- 1) Approval of the Minutes of the Regular Meeting of February 5, 2024
- 2) Approval of the Minutes of the Special Meeting of January 27, 2024
- 3) City Of Shelby FY 2023-2024 Budget Ordinance Amendment (911 Grant): Ordinance No. 15-2024
- 4) Approval of a resolution adopting the City Of Shelby's Customer Services Policy: Resolution No. 13-2024
- 5) Approval of a resolution approving the contract for the performance of the City Of Shelby's annual audit and preparation of financial statements for the Fiscal Year ended June 30, 2024: Resolution No. 14-2024
- 6) Approval of a resolution directing the City Clerk to determine sufficiency of a voluntary annexation petition from Caleb Peeler: Resolution No. 15-2024 (Eaves Road)
- 7) Approval of a resolution accepting property from the Optimist Club of Shelby, N.C., Inc.: Resolution No. 16-2024
- 8) Approval of a resolution accepting a dedication of land for the Relocation of Juan Place and Justice Place: Resolution No. 17-2024
- 9) Adoption of a budget ordinance amendment for the City Of Shelby's Carolina Thread Trail Project: Ordinance No. 16-2024
- 10) Acceptance of the Certificate of Sufficiency regarding Petition of Annexation of applicant, Piedmont Amistad

Mayor Anthony neglected to read Item D-11 as a Consent item, so another motion was presented from Ms. Arth to add the Management Reports to the Consent Agenda, Council unanimously adopted the Management Reports:

11) Management Reports:

- a) Shelby City Park Economic Impact Report – 2023
- b) Financial Report – January 2024

END OF CONSENT AGENDA

E. Unfinished Business:

- 1) Adoption of an ordinance establishing a capital project ordinance and budgets for the city of Shelby's O. Max Gardner Home Acquisition and Restoration Project: Ordinance No. 17-2024

Mr. Howell stated as background that Senator Alexander through a directed state grant from the NC General Assembly provided for a grant to the City of Shelby in the amount of \$3,995,000 which is specified for the acquisition and restoration of the home of former Governor O. Max Gardner. Mr. Howell introduced this ordinance by stating if adopted this ordinance establishes a capital budget, which is the first step in moving forward with this project. Mr. Howell stated the City is not authorized to spend any of the grant funds until the final grant documents are signed by the State which should be in the next few weeks; when we receive the documents and the funding, then the City will discuss the next steps.

ACTION TAKEN: Upon a motion by Mr. Causby, City Council voted unanimously to adopt Ordinance No. 17-2024 entitled, "AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY'S O. MAX GARDNER HOME ACQUISITION AND RESTORATION PROJECT."

F. New Business

None

G. City Manager's Report:

- Construction of the new **County Home Road** segment near the SECU is set to begin as soon as some required electric utility relocation is completed by Duke Energy. Once that work is completed the City's contractor can begin road construction. Estimated completion date is still by end of May.
- The deadline for proposals from potential developers for the Hotel Charles project is March 8th.

- The deadline for submittal of the USDOT RAISE grant application for construction of the remainder of the Carolina Harmony Trail to the SC state line is February 28th.
- On March 4th agenda there will be a Request for Qualifications for firms to conduct the development of a new Comprehensive Land Use Plan will go out in the coming weeks. The current plan was completed in April 2009.
- Carolina Harmony Trail (Rail Trail) - TGS Engineering continues the design of the remainder of Phase I of the rail trail. This essentially is the section from Marion Street to Dekalb Street (exclusive of the Depot Park section). This section is tentatively scheduled to go out to bid in late early fall 2024.
- Depot Park - Destination by Design is working on the engineering and architectural design for the renovation of the old depot and construction of Depot Park. Design is expected to be complete by the end of the first quarter 2024. It is anticipated that bid notification will be issued in March to be received in May with a construction start in July/August on the Depot Park portion.
- The Depot building work is a little behind the park bidding process due to a need to address State Historic Preservation Office comments and requirements involving the roof of the depot structure. It is scheduled to be vacated no later than April 15th.
- Aquatics Center - Construction on this project is complete and the facility was open to the public during the 2023 season. Portions of the pool concrete deck are being replaced by the contractor once temperatures allow.
- Dog Park - Planning has begun for the development of a dog park on a portion of the former Shelby Middle School ballfield. This 6-acre site is adjacent to and will eventually be accessed from the rail trail. A more detailed schedule will be shared with Council once the site has been fully evaluated to address stormwater issues. An engineer has been retained to assist this project.
- TAMP - Phase I of the implementation of the Transportation Asset Management Plan is nearing completion. Approximately \$2.8 million of the \$10 million street improvement bonds passed by voters in November 2023 have been used in this phase for street resurfacing. Approximately 17 miles of streets have been resurfaced in TAMP Phase I.

Planning for Phase II is in process as staff continues plans for viable utility improvements prior to the start of resurfacing in late Winter / early Spring 2024. Approximately 15 miles of additional resurfacing will be completed by the end of 2024. This brings total street resurfacing to 32 miles. Approximately \$6.0 million of the \$10 million street improvement bonds passed by voters in November 2021 have been used to date for street resurfacing.

TAMP Phase III planning is moving forward. Much of this work is contingent on the planning, budgeting and construction of underground utility repair and replacement projects in advance of resurfacing. This phase would resurface approximately 18 miles. It is proposed for funding from the remaining \$4.0 million in authorized street / sidewalk improvement bonds. A revenue source for repayment of these bonds has not yet been identified.

- **City Council Chambers** – A scope of work is being developed to renovate the interior of the chambers after the broken water line flooded the room. I anticipate the scope to include a new sound system, camera system, addition of a video display system, carpet replacement, furnishings, ADA bathroom upgrades, lighting improvements as well as other improvements.
- **City Hall Annex** – This project is expected to be bid in March. Upland Architecture has largely completed design. This project will involve the relocation of personnel from the Planning and Development Services Department (Planning/Zoning, Code Enforcement and Building Inspections) and the Human Resources Department to the former SPD building.

H. Council Announcements and Remarks:

Mayor Anthony mentioned that the Essentials of Local Government training he and Mr. Hopper attended this week was very productive. Mayor Anthony said that even though he and Mr. Hopper have been on Council a long time, there is always something new to learn and he hoped everyone could attend the training. One topic discussed was the Public Value Compass which has four points: Liberty, Community, Equity and Prosperity, which are values Council deals with every meeting.

Mayor Anthony mentioned the Town and State Dinner on March 6th at the Speedway Club at Charlotte Motor Speedway in Concord is from 5:15 p.m. – 8:00 p.m. Also, the City Vision Conference is in Winston-Salem this year on April 23rd – 25th.

Mr. Hopper reiterated what the Mayor proclaimed about how informative the training was that they attended in Asheville last week. Mr. Hopper also stated that attending this type of training helps Council members become more knowledgeable about what a Council can and cannot accomplish; with this knowledge Council meetings can run more effectively.

I. Closed Session:

- 1) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including on a tentative list of economic development incentives that may be offered by the public body in negotiations pursuant to North Carolina General Statute 143-318.11(a)(4).

ACTION TAKEN: Mr. White made a motion to enter a closed session pursuant to the appropriate North Carolina General Statutes as cited. Mayor Anthony invited all Council members present, along with Mr. Howell, Mr. Lunsford, Mr. Longino, Mrs. Williams and Mrs. Jones to attend. The motion passed unanimously, and Council moved into closed session at 6:53 p.m.

At the conclusion of the Closed Session item, Ms. Arth made a motion for City Council to return to the regular session at 7:03 p.m. and seal the minutes.

J. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Ms. Arth, City Council voted unanimously to adjourn the meeting at 7:04 p.m.

Respectfully submitted,

Carol Williams
City Clerk

O. Stanhope Anthony, III
Mayor

Minutes of February 19, 2024

Agenda Item: C-2

- 2) Approval of a resolution to host the display for the Cleveland County Fellowship of Christian Athletes Sports and Recreation Hall of Fame, Annual Awards Banquet, and Annual Selection Committee meetings at Shelby City Park: Resolution No. 18-2024

Consent Agenda Item: (Rick Howell, City Manager)

- Memorandum dated February 26, 2024 from Charlie Holtzclaw, Director of Parks & Recreation to Rick Howell, City Manager and Carol Williams, City Clerk
- Resolution No. 18-2024

City Manager's Recommendation / Comments

Resolution No 18-2024 is presented for City Council consideration via the Consent Agenda. If approved this resolution merely reasserts the City's commitment to work with the Fellowship of Christian Athletes to maintain the existing Sports and Recreation Hall of Fame at City Park and to continue to work with FCA to host the annual banquet and committee meetings at the park.

It does not commit the City to any funding of the Hall of Fame or any other activity of the FCA. It has been the arrangement between the City and the FCA from the beginning that the City is proud to play host as long as space allows.

It is my recommendation that Resolution No. 18-2024 be adopted and approved by City Council via the Consent Agenda.



Memorandum

To: Rick Howell, City Manager
Cc: Carol Williams, City Clerk
From: Charlie Holtzclaw, Director Parks & Recreation
Date: February 26, 2024
Subject: Cleveland County FCA Sports and Recreation Hall of Fame

Executive Summary of issue – Background

The Cleveland County Fellowship of Christian Athletes Sports and Recreation Hall of Fame was founded in 1965 and is one of the longest running and respected county sports and recreation hall of fames in North Carolina. Honorees are selected each year by the Hall of Fame Committee consisting of High School Athletic Directors from Shelby, Crest, Burns, Kings Mountain High Schools as well as members from Gardner Webb University and long time Committee appointees. In addition, Honor Athletes from each high school and Gardner Webb are recognized, and the Paris Yelton Memorial Award and Fan of the Year Award are presented.

Review and comments

Upon completion of the newly renovated City Park Community Center in 2004, the Hall of Fame and City agreed this would be a great opportunity to move the display to the lobby for all to enjoy the sports and recreation history of Cleveland County for years to come. In addition, the annual awards banquet has been held at the City Park gymnasium since 2004 and always has great attendance. In 2023 the Hall of Fame invested significant funds to transform the display from framed individual pictures to modern electronic displays that will last for many years to come. The purpose of this Resolution is to solidify the relationship between the City of Shelby and the Cleveland County FCA Sports and Recreation Hall of Fame.

Recommendation

It is my recommendation to you that City Council consider approving this Resolution based on the history and significance of the Cleveland County FCA Sports & Recreation Hall of Fame for generations of folks to enjoy at Shelby City Park.

RESOLUTION NO. 18-2024

A RESOLUTION TO HOST THE DISPLAY FOR THE CLEVELAND COUNTY FELLOWSHIP OF CHRISTIAN ATHLETES SPORTS AND RECREATION HALL OF FAME, ANNUAL AWARDS BANQUET, AND ANNUAL SELECTION COMMITTEE MEETINGS AT SHELBY CITY PARK

WHEREAS, the Cleveland County Fellowship of Christian Athletes Sports and Recreation Hall of Fame started in 1965 in order to recognize those within the Cleveland County community who made outstanding contributions in the field of sports and recreation; and

WHEREAS, the Cleveland County Sports and Recreation Hall of Fame currently presents awards yearly for the Sports and Recreation Hall of Fame Inductees including the Paris Yelton Memorial Award, the Sports Fan of the Year Award, and the Honor Athlete Awards for Shelby, Crest, Burns and Kings Mountain High Schools as well as Gardner Webb University at the annual Awards Banquet at Shelby City Park; and

WHEREAS, Cleveland County has a rich history in athletic achievement and the Cleveland County Sports and Recreation Hall of Fame has honored that achievement since 2004 through its display(s) of inductees into the Hall of Fame at the Shelby City Park; and

WHEREAS, the Cleveland County Fellowship of Christian Athletes Sports and Recreation Hall of Fame will retain full responsibility for any required costs, to include but not limited to, maintenance or upkeep associated with providing or replacing the display(s); and

WHEREAS, the Cleveland County Fellowship of Christian Athletes Sports and Recreation Hall of Fame will continue its independent process of selecting, recognizing, and updating its display(s) of recipients at its sole expense; and

WHEREAS, the City of Shelby currently hosts two displays provided by the Cleveland County Fellowship of Christian Athletes Sports and Recreation Hall of Fame at the City Park located at 850 West Sumter St.; and

WHEREAS, the City of Shelby is honored to host the display(s) and the annual banquet in recognition of the great achievements of those from Cleveland County and the dedication to the local community; and

WHEREAS, the City will continue to receive and review permit applications by the Cleveland County Fellowship of Christian Athletes Sports and Recreation Hall of Fame for hosting the awards banquet, and the selection committee meetings and so long as space remains available within a City park able to accommodate the display, the City will continue to permit the displays to encourage citizen engagement in sports and recreation within the community.

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

Resolution No. 18-2024
March 4, 2024
Page 2

Section 1: The Cleveland County Fellowship of Christian Athletes Sports and Recreation Hall of Fame, at its sole expense, will have a place within the Shelby City Park to host its annual banquet, selection committee meetings, and display(s) recognizing the great achievements in sports and recreation of Cleveland County citizens.

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

Adopted and approved this the 4th day of March, 2024

O. Stanhope Anthony, III
Mayor

ATTEST:

Carol Williams
City Clerk

Agenda Item: C-3

- 3) Approval of a resolution authorizing execution of a contract for Fire Suppression Services under Automatic Aid between the City of Shelby and Shanghai Volunteer Fire Department, Inc. (Shanghai Fire District): Resolution No. 19-2024

Consent Agenda Item: (Rick Howell, City Manager)

- Memorandum dated February 27, 2024 from William Hunt, Fire Chief to Rick Howell, City Manager
- Contract for Public Safety Fire & Rescue Services
- Resolution No. 19-2024

City Manager's Recommendation / Comments

If approved this resolution would renew an automatic aid agreement with Shanghai Volunteer Fire Department, Inc. for the purpose of providing automatic aid within the city limits. It is important to note that the primary reasons for these agreements are to bolster the City's ISO rating, satisfy accreditation requirements, and most importantly to contractually ensure support services from the volunteer fire departments under certain circumstances.

It is my recommendation that Resolution No. 19-2024 be adopted and approved by City Council via the Consent Agenda.



February 27, 2024

Memorandum:

To: Rick Howell, City Manager
From: William Hunt, Fire Chief

Subject: Automatic-aid contract for fire and rescue services with the Shanghai Volunteer Fire Department Incorporated at the Shelby-Cleveland County Regional Airport.

Background

The Shanghai Volunteer Fire Department has provided automatic mutual aid response with the City of Shelby Fire & Rescue Department under a contractual agreement since 2011. The five-year term of the existing contract expires on June 30, 2024. The proposed contract for consideration extends the agreement for another five-year term to commence on July 1, 2024.

Discussion

The proposed contract is an automatic-aid agreement to include service to the Shelby-Cleveland County Regional Airport. It is important to note that this contract is separate from any existing local or state mutual aid agreements. The advantages for entering the contractual arrangement are as follows:

1. Provide initial responder services in advance of the arrival of resources from the City of Shelby Fire & Rescue Department in the service areas.
2. Maintain ISO Rating by providing coverage for the Service Areas within ISO's parameters of one- and one-half road miles for an engine company.
3. Satisfy the accreditation requirements from the Center for Public Safety Excellence as they apply to automatic aid agreements.
4. Provide the City of Shelby Fire & Rescue Department flexibility in summoning needed resources to the Service Area.
5. Continue satisfactory fire and rescue protective services to the Service Area.

Action

With this memorandum, please place on the agenda as appropriate for consideration by the Shelby City Council to approve the *Contract for Fire Suppression Services Under Automatic Aid with the Shanghai Volunteer Fire Department*.

Enclosures

cc: Carol Williams

RESOLUTION NO. 19-2024

A RESOLUTION AUTHORIZING EXECUTION OF A CONTRACT FOR
FIRE SUPPRESSION SERVICES UNDER AUTOMATIC AID
BETWEEN THE CITY OF SHELBY AND SHANGHAI VOLUNTEER FIRE
DEPARTMENT, INC. (SHANGHAI FIRE DISTRICT)

WHEREAS, by Ordinance No. 23-2008, adopted May 19, 2008, the City of Shelby annexed the area described in EXHIBIT A attached hereto (herein "Service Area"), which ordinance became effective on May 19, 2008; and

WHEREAS, the City of Shelby has satisfied prior statutory obligations to the Shanghai Volunteer Fire Department, Inc. (Shanghai Fire District) as prescribed under North Carolina General Statute 160A-37: and;

WHEREAS, the City of Shelby wishes to provide satisfactory fire and rescue public safety services in the Service Area; and

WHEREAS, pursuant to North Carolina General Statutes the City of Shelby Fire Department and Shanghai Volunteer Fire Department, Inc. (Shanghai Fire District) have the statutory authority to enter into a contract for fire protection services under an "automatic aid-initial responder" arrangement where the Shanghai Volunteer Fire Department, Inc. (Shanghai Fire District) provides protective services to the Service Area; and

WHEREAS, in consideration of the premises and the mutual promises set forth herein, and for other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the City of Shelby and the Shanghai Volunteer Fire Department, Inc. (Shanghai Fire District) hereby agree to this contract for provision of automatic aid protective services to the described Service Area.

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 by this action authorizes the execution of said Contract for Fire Suppression Services under Automatic Aid, as attached, by and between the City of Shelby, a municipal corporation, and the Shanghai Volunteer Fire Department, Inc. (Shanghai Fire District), a North Carolina corporation and a duly organized rural fire department.

Section 2. The City Manager and City Clerk of Shelby are hereby authorized and directed to execute the Contract specified in Section 1 of this resolution.

Resolution No. 19-2024
March 4, 2024
Page 2

Section 3. This resolution shall become effective upon its adoption and approval.
Adopted and approved this the 4th day of March 2024.

O. Stanhope Anthony, III
Mayor

ATTEST:

Carol Williams
City Clerk

STATE OF NORTH CAROLINA

CONTRACT FOR PUBLIC
SAFETY FIRE & RESCUE
SERVICES
UNDER AUTOMATIC AID

COUNTY OF CLEVELAND

THIS CONTRACT is entered into this ____ day of _____, 2024, by and between the City of Shelby, a municipal corporation and the Shanghai Volunteer Fire Department, Inc. (“Shanghai Fire District”), a North Carolina corporation and a duly organized rural fire department.

WITNESSETH:

WHEREAS the State of North Carolina has authorized the City of Shelby to form and operate a fire department for the protection and safety of its residents pursuant to N.C. Gen. Stat. 160A-291; and

WHEREAS the City from time to time requires the assistance of and support of other fire departments through contractual agreements to meet its obligations to its citizens, and

WHEREAS the City is dully authorized pursuant to N.C. Gen. Stat. § 160A-11 to enter into contracts and pursuant to N.C. Gen. Stat. § 160A-17 to contract for services for ensuing fiscal years; and

WHEREAS, the City of Shelby wishes to provide its citizens and businesses with satisfactory fire and rescue public safety services in the Service Areas; and

WHEREAS, the area described in Exhibit A (“Service Area”), attached, is the contiguous boundaries of the City of Shelby; and

WHEREAS, pursuant to N.C. Gen. Stat. §160A-11, the City of Shelby and the Shanghai Volunteer Fire Department, Inc. seek to enter into a contract where the Shanghai Volunteer Fire Department, Inc. will provide fire protection services within the Service Area.

NOW, THEREFORE, based on the mutual promises and consideration provided, as set forth herein, and for other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the City of Shelby and the Shanghai Volunteer Fire Department, Inc. hereby agree to this contract for provision of fire protection services to the service area, according to the following terms and conditions:

1. SERVICE RESPONSIBILITY – FIRE AND RESCUE RESPONSE

The Shanghai Volunteer Fire Department shall regularly provide public safety services as the initial responder for fires, rescues and other emergency situations occurring in the Service area. The department shall respond to calls for service with the following:

1. a minimum of three firefighters, who shall be eighteen years of age or older;
2. firefighters shall possess validated minimum competency to comply with the provisions set forth in *NFPA 1403: Standard for Live Fire Training Evolutions*; and
3. a properly equipped fire apparatus capable of pumping at a rate of at least one thousand (1000) gallons per minute carrying at least five hundred (500) gallons of water, with the appropriate compliment of hose, tools, and equipment as outlined in the *North Carolina Response Rating Schedule (NCRRS)*.

The Service Area shall constitute the areas within the boundaries of the City limits as so indicated. The *Cleveland County Communication Center* shall routinely dispatch an assignment of resources to all fire, rescue, hazardous material and medical related incidents to the Service area utilizing the following general protocol:

- a) Aircraft emergencies (including aircraft in distress, malfunctions, and crashes), structure fires, technical rescue, hazardous material incidents or other significant emergencies at the Shelby-Cleveland County Regional Airport. Incidents will be serviced by the apparatus and personnel of the Shanghai Volunteer Fire Department along with the normal response protocol of the City's *Fire & Rescue Department*. This shall constitute the first alarm assignment and the effective response force of resources to the service area.
- b) Residential structure fire emergencies within the Pebble Creek and River Walk subdivisions. Incidents will be serviced by the apparatus and personnel of the Shanghai Volunteer Fire Department along with the normal response protocol of the City's *Fire & Rescue Department*. This shall constitute the first alarm assignment and the effective response force of resources to the service area.

EXCEPTION: A call for service from the activation of an automatic fire alarm system in a residential or commercial building.

The first arriving unit at the scene, regardless of department affiliation, shall commence fire suppression, rescue interventions or other emergency activities as incident conditions warrant and provide the initial management of the incident. The responsibility of incident management shall be that of the city's *Fire & Rescue Department* upon the arrival of its resources. All emergency operations will be conducted in a manner consistent with *National Incident Management System (NIMS)* including (but not limited to) assignment of responsibility for extrication actions at an auto accident and for other major tasks at the emergency scene.

2. SERVICE RESPONSIBILITY – EMERGENCY MEDICAL RESPONSE

The City of Shelby *Fire & Rescue Department* shall regularly provide public safety services for medical emergencies to the service area consistent with the department's level of certification and service provided in the rest of the city. The Shanghai Volunteer Fire Department, Inc. assumes no responsibility for the provision of emergency medical services in the service area.

3. SERVICE RESPONSIBILITY – MUTUAL AID AND ASSISTANCE

In addition to other services provided for herein, the Shanghai Volunteer Fire Department, Inc. and the City's *Fire & Rescue Department* will provide mutual aid and assistance, including backup equipment and personnel, In addition to other services provided for herein, the Shanghai Volunteer Fire Department, Inc. and the City's *Fire & Rescue Department* will provide mutual aid and assistance, including backup equipment and personnel, in those events where assistance from another department is necessary to adequately control large fires, rescues, or disasters, or to provide water supply for firefighting operations in situations where municipal water supply is not readily accessible in the service area consistent with local and state mutual aid agreements.

4. GENERAL PROVISIONS

It shall be the responsibility of the Shanghai Volunteer Fire Department, Inc. to equip and train its firefighters in a manner consistent with applicable regulations of the Occupational Safety and Health Administration (OSHA) of the United States Department of Labor.

It shall be the duty of the Shanghai Volunteer Fire Department, Inc. to maintain adequate communications equipment to allow efficient and professional dispatching of emergency calls. Notwithstanding the obligation of the Shanghai Volunteer Fire Department, Inc. to initiate fire and emergency services when its units arrive at the scene as provided, however, the primary emergency service responsibility within the service area shall be that of the City of Shelby.

The City of Shelby and the Shanghai Volunteer Fire Department, Inc. hereby acknowledge that each party may relocate its own vehicles and equipment based on emergency requirements, but that long term or permanent changes of a nature that substantially change the ability to deliver service as intended by the City of Shelby and the Shanghai Volunteer Fire Department, Inc. are matters on which the City of Shelby Fire Department and the Shanghai Volunteer Fire Department, Inc. representatives must confer and reach mutual agreement in writing.

5. COMPENSATION FOR SERVICES

The Shanghai Volunteer Fire Department, Inc. shall be compensated at an initial rate of \$3,500.00 annually or \$291.66 per month, not to exceed a total compensation of \$17,500.00 for the duration of the term of five (5) years or sixty months (60). The City shall remit the annual payment to the department within thirty days after the close of the city's fiscal year.

The Shanghai Volunteer Fire Department, Inc. shall provide the City with adequate and verifiable documentation of the incidents it responded to within the service area by June 30 of the City's fiscal year.

6. MAINTENANCE

The Shanghai Volunteer Fire Department, Inc. shall be responsible for continuing its customary equipment maintenance activities and shall immediately advise the chief of the City's *Fire & Rescue Department* if the condition of the equipment or lack of equipment will interfere with the Department's ability to respond to the service area.

7. RESPONSE

In providing support to the City's Fire & Rescue Department, the Shanghai Volunteer Fire Department, Inc.'s response shall be in the most professional manner possible. The Shanghai Volunteer Fire Department, Inc. shall begin its response to the address of the incident upon receiving dispatch notification by the Cleveland County 911 Center and shall continue its response until arriving at the scene of the emergency, or where cancelled, while enroute by an officer or the incident commander from the City's *Fire & Rescue Department* that is at the scene of the emergency.

In the event the Shanghai Volunteer Fire Department, Inc. is unable to continue providing reliable response to emergencies upon dispatch, the chief of the City's *Fire & Rescue Department* shall notify by mail or personal delivery to the chief of Shanghai Volunteer Fire Department, Inc., or its registered process agent, of the need for improvements immediately but in no event more than seven (7) days after the first instance of inadequate response shall be in writing and shall either be mailed by first class mail, postage prepaid, personal delivery or any method of service specified under Rule 4 of the NC Rules of Civil Procedure.

Upon notice by the chief of the City's *Fire & Rescue Department*, the Shanghai Volunteer Fire Department, Inc. shall institute the recommendations and improvements necessary. Failure to comply or an inability to comply shall result in acceleration of the termination of this contract agreement within thirty (30) days from the date of first notice.

8. TERM

The term of the contract shall be for one year and renewable for up to five-years (sixty months), subject to annual review, and shall commence on or before July 1, 2024, and shall end on June 30, 2029 at midnight. Renewal of this Agreement is dependent on city council and appropriation of taxpayer funds on a yearly basis.

9. NON-APPROPRIATION CLAUSE

The Shanghai Volunteer Fire Department, Inc. acknowledges that the City of Shelby and as an extension of the City, the City's *Fire & Rescue Department* is a governmental entity, and this

Agreement's validity is based upon the availability of public funding under the authority of its statutory mandate. In the event that public funds are unavailable and not appropriated for the performance of the City's *Fire & Rescue Department* obligations under this Agreement, then this Agreement shall automatically expire without penalty to the City thirty (30) days after written notice to the Shanghai Volunteer Fire Department, Inc. of the unavailability and non-appropriation of public funds. It is expressly agreed that the City's *Fire & Rescue Department* shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Agreement, but only as an emergency fiscal measure during a substantial fiscal crisis under the requirements of State law, and such emergency affecting the City's governmental operations. In the event of a change in the City's *Fire & Rescue Department* statutory authority, mandate, and mandated functions, by state and federal legislative or regulatory action, which adversely affects the City's *Fire & Rescue Department's* authority to continue its obligations under this contract, then this contract shall automatically terminate without penalty to City's *Fire & Rescue Department* upon written notice to the Shanghai Volunteer Fire Department, Inc. of such limitation or change in the City's *Fire & Rescue Department's* legal authority.

10. WAIVER OF LIABILITY

The Shanghai Volunteer Fire Department, Inc. agrees to assume full responsibility of its provision of fire suppression services and emergency response services to the Service area as required hereunder. Each party to this Contract shall assume any and all liability and responsibility for the death or injury to any personnel of their own command providing services hereunder. Neither party hereto shall assume responsibility or liability for property damaged or destroyed at the actual scene of any incident arising out of or related to firefighting and rescue operations, fire control tactics and strategy, emergency response actions or other operations as may be required due to the nature of the incident. Each party to this contract shall assume all liability and responsibility for damage to its own apparatus and equipment. The execution of this contract shall not be construed to be an assumption of any liability by either party hereto not otherwise imposed by law.

11. FIRE CODE ENFORCEMENT AND FIRE INVESTIGATION

For purposes of enforcement of the North Carolina Fire Code, the Shelby Fire Marshal's Office will enforce all fire code ordinances and perform all fire cause investigations in the Service Area.

12. NONDISCRIMINATION GUARANTEES

In consideration of the signing of this contract, the parties hereto for themselves, their agents, officials, employees and servants agree not to discriminate in any manner on the basis of race, color, creed age, or national origin with reference to the subject matter of this contract, no matter how remote.

13. DRUG FREE WORKPLACE

The Shanghai Volunteer Fire Department, Inc. acknowledges receipt of a copy of the City of Shelby's *Drug Free Workplace Policy* and agrees to its terms. Specifically, the Shanghai Volunteer Fire Department, Inc. acknowledges and agrees that its employees and any volunteers are safety-sensitive employees for purposes of said policy and are subject to testing as described therein.

14. TERMINATION

With the exception provided for in Section 7, Response, either party at the expiration of any contract year may terminate this contract unilaterally, provided that written notice is given to the non-terminating party not less than ninety (90) days in advance of the termination date. For purposes of giving said notice, the Shanghai Volunteer Fire Department, Inc. shall notify the chief of the City of Shelby *Fire & Rescue Department*; the City shall notify the Chief of the Shanghai Volunteer Fire Department, Inc. , or its registered process agent.

Upon notice of termination, the Shanghai Volunteer Fire Department, Inc. shall receive compensation pro rata for the term in which services were performed at the contracted rate of \$291.66 per month.

15. AMENDMENT

This Contract may be amended by the agreement of both parties, reduced to writing and annexed hereto.

16. AGENT

The Shanghai Volunteer Fire Department, Inc. shall at all times comply with the laws of North Carolina regarding corporations and shall at all times keep the City of Shelby advised of the name and address of its registered agent for the service of process.

17. NOTICES

All notices, reports, and other communications ("Notice") given pursuant to this Contract shall be in writing and shall either be mailed by first class mail, postage prepaid, personal delivery or any method of service specified under Rule 4 of the NC Rules of Civil Procedure. Notice sent by mail shall be effective three days after the date of mailing. Notice given in any other manner shall be effective upon actual receipt by the addressee.

The Notice address for the Shanghai Volunteer Fire Department, Inc. is:
Shanghai Volunteer Fire Department, Inc.
1435 Burke Rd.
Shelby, NC 28152

The Notice Address for the City is:

City of Shelby
300 Washington St.
P.O. Box 207
Shelby, NC 28151

Each party is responsible for notifying the other in writing in the event of an address change.

18. ELECTRONIC VERSION OF CONTRACT

The City may convert a signed original of the Contract to an electronic record pursuant to a North Carolina Department of Natural and Cultural Resources approved procedure and process for converting paper records to electronic records for record retention purposes. Such electronic record of the Agreement shall be deemed for all purposes to be an original signed Contract.

19. ENTIRE AGREEMENT

This Contract contains the entire agreement of the parties and there are no representations, inducements or other provisions other than those expressed in writing.

20. PERFORMANCE OF GOVERNMENT FUNCTIONS

Nothing contained in this Contract shall be deemed or construed to in any way stop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental or other powers or functions, or shall limit the City's discretion in the exercise of such powers and functions.

21. ALTERNATIVE DISPUTE RESOLUTION

In the event either party to this Contract raises a dispute, such dispute may be settled through mediation as prescribed by the rules and requirements of the Superior Court Civil Division of Cleveland County and the North Carolina Dispute Resolution Commission pursuant to N.C. Gen. Stat. § 7A-38.3. The parties may, by agreement, select a certified mediator to conduct its mediated settlement conference within 21 days of providing written notice of a dispute to this contract. Preference is for remote mediation based upon the mutual agreement and selection of a certified mediator by the parties utilizing the directory of certified mediators maintained by the NC Dispute Resolution Commission located at www.NCDRC.gov. Once selected, the mediator shall schedule the date, time and location of the conference and timely notify all attorneys.

22. VENUE

All matters relating to this Contract shall be governed by the laws of the State of North Carolina, without regard to its choice of law provisions, and venue for any action related to the Agreement shall be Cleveland County Superior Court or the United States District Court for the Western District of North Carolina, Asheville Division.

23. NO THIRD PARTY BENEFICIARIES

There are no third party beneficiaries to this Contract.

24. PRINCIPLES OF INTERPRETATION AND DEFINITIONS

In this Contract, (1) The singular includes the plural and the plural the singular. The pronouns “it” and “its” include the masculine and feminine. (2) References to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The words “include,” “including,” etc. mean include, including, etc. without limitation. (3) References to a “Section” or “section” or “paragraph” shall mean a section or paragraph of this Contract. (4) “Contract” and “Agreement,” whether or not capitalized, refer to this instrument. (5) Titles of sections, paragraphs, and articles are for convenience only, and shall not be construed to affect the meaning of this Contract (6) “Duties” includes obligations. (7) The word “person” includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities. (8) The word “shall” is mandatory. (9) The word “day” means calendar day.

25. PRE-AUDIT REQUIREMENT

This Contract has not been fully executed and is not effective until the Preaudit Certificate (if required by NCGS § 159-28) has been affixed and signed by the City finance officer or deputy finance officer.

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

Beth Beam, Finance Director

IN WITNESS WHEREOF, each party has caused this Contract to be executed by its duly authorized official as of the day and year first above written.

ATTEST:

CITY OF SHELBY

City Clerk
(Official Seal)

By: _____
City Manager

NORTH CAROLINA
_____ COUNTY

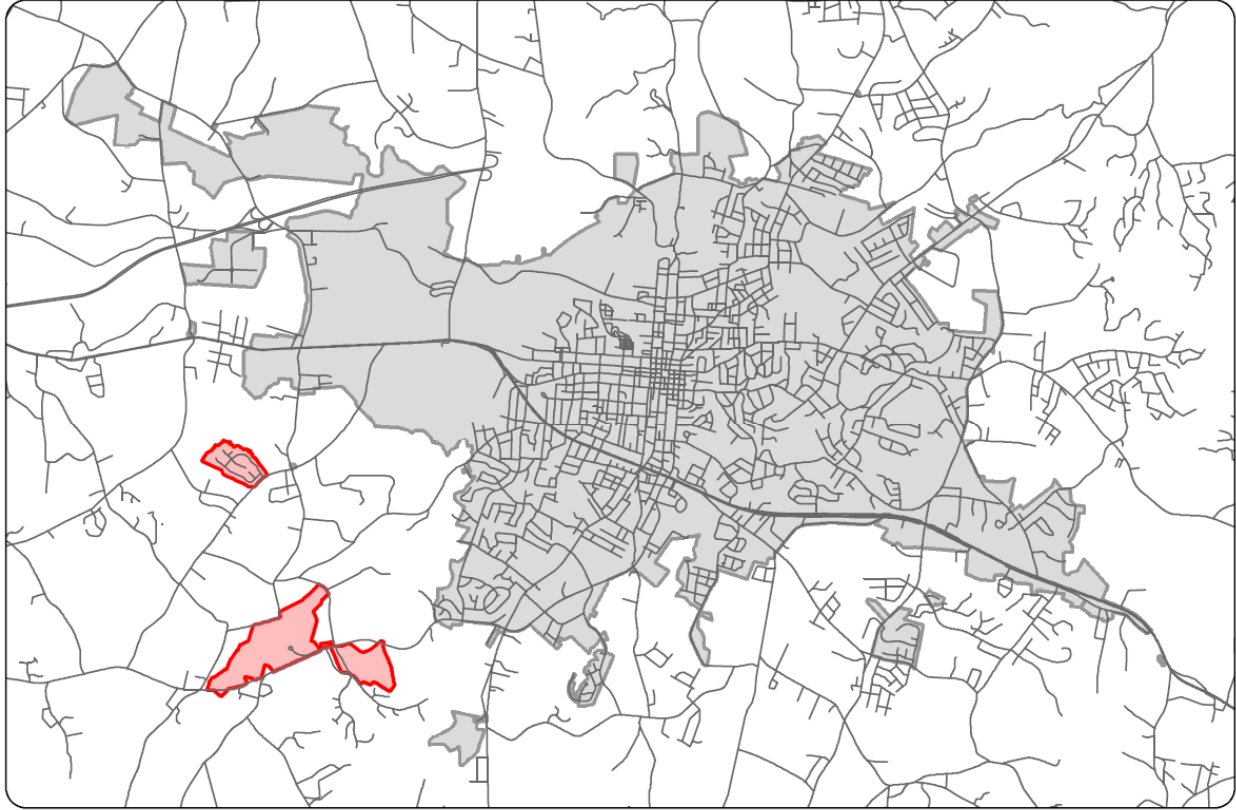
Personally appeared before me this _____ day of _____, 2024, _____, who, being first duly sworn, acknowledged the execution of the foregoing agreement for the purposes and considerations therein expressed.

Notary Public
My Commission Expires: _____



Chief James Queen
Shanghai Volunteer Fire Department, Inc.

Appendix: Service Area

Shanghai Fire Department - Automatic Aid



Legend

-  Shanghai Fire Department Mutual Aid
-  Shelby City Limits

N
7/1/2024

0 0.25 0.5 1 1.5 2 Miles

The City of Shelby makes no representations, warranties or guarantees as to the accuracy and completeness of the enclosed 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.

Agenda Item: C-4

- 4) Approval of a resolution authorizing execution of a contract for Fire Suppression Services under Automatic Aid between the City of Shelby and Number Seven Volunteer Fire Department, Inc. (Lattimore Fire District): Resolution No. 20-2024

Consent Agenda Item: (Rick Howell, City Manager)

- Memorandum dated February 27, 2024 from William Hunt, Fire Chief to Rick Howell, City Manager
- Contract for Public Safety Fire & Rescue Services
- Resolution No. 20-2024

City Manager's Recommendation / Comments

If approved this resolution would renew an automatic aid agreement with Number Seven Volunteer Fire Department, Inc. for the purpose of providing automatic aid within the city limits. It is important to note that the primary reasons for these agreements are to bolster the City's ISO rating, satisfy accreditation requirements, and most importantly to contractually ensure support services from the volunteer fire departments under certain circumstances.

It is my recommendation that Resolution No. 20-2024 be adopted and approved by City Council via the Consent Agenda.



February 27, 2024

Memorandum:

To: Rick Howell, City Manager
From: William Hunt, Fire Chief

Subject: Automatic-aid contract for fire and rescue services with the Number 7 Volunteer Fire Department Incorporated to defined areas of the City of Shelby.

Background

The Number 7 Department has provided automatic mutual aid response with the City of Shelby Fire & Rescue Department under a contractual agreement since 2011. The five-year term of the existing contract expires on June 30, 2024. The proposed contract for consideration extends the agreement for another five year term to commence on July 1, 2024.

Discussion

The proposed contract is an automatic-aid agreement to include services to defined service area to include industrial properties along Washburn-Switch Rd, Plato-Lee Rd and the Foothills Commerce Center. It is important to note that this contract is separate from any existing local or state mutual aid agreements. The advantages for entering the contractual arrangement are as follows:

1. Provide initial responder services in advance of the arrival of resources from the City of Shelby Fire & Rescue Department in the service areas.
2. Maintain ISO Rating by providing coverage for the Service Areas within ISO's parameters of one- and one-half road miles for an engine company.
3. Satisfy the accreditation requirements from the Center for Public Safety Excellence as they apply to automatic aid agreements.
4. Provide the City of Shelby Fire & Rescue Department flexibility in summoning needed resources to the Service Area.
5. Continue satisfactory fire and rescue protective services to the Service Area.

Action

With this memorandum, please place on the agenda as appropriate for consideration by the Shelby City Council to approve the *Contract for Fire Suppression Services Under Automatic Aid with the Shanghai Volunteer Fire Department*.

Enclosures

cc: Carol Williams

RESOLUTION NO. 20-2024

A RESOLUTION AUTHORIZING EXECUTION OF A CONTRACT FOR
FIRE SUPPRESSION SERVICES UNDER AUTOMATIC AID
BETWEEN THE CITY OF SHELBY AND NUMBER SEVEN TOWNSHIP
VOLUNTEER FIRE DEPARTMENT, INC. (LATTIMORE FIRE DISTRICT)

WHEREAS, by Ordinance No. 25-2006, adopted June 19, 2006, the City of Shelby annexed the area described in EXHIBIT A: PPG INDUSTRIES attached hereto (herein "Service Area"), which ordinance became effective on July 1, 2006; and

WHEREAS, by Ordinance No. 20-2010, adopted July 19, 2010, the City of Shelby annexed the area described in EXHIBIT B: FOOTHILLS COMMERCE CENTER attached hereto (herein "Service Area"), which ordinance became effective on July 19, 2010;and

WHEREAS, the City of Shelby has satisfied prior statutory obligations to the Number Seven Township Volunteer Fire Department, Inc. (Lattimore Fire District) as prescribed under North Carolina General Statute 160A-37: and;

WHEREAS, the City of Shelby wishes to provide satisfactory fire and rescue public safety services in the Service Areas; and

WHEREAS, pursuant to North Carolina General Statutes the City of Shelby Fire Department and Number Seven Township Volunteer Fire Department, Inc. (Lattimore Fire District) have the statutory authority to enter into a contract for fire protection services under an "automatic aid-initial responder" arrangement where the Number Seven Township Volunteer Fire Department, Inc. (Lattimore Fire District) provides protective services to the Service Areas; and

WHEREAS, in consideration of the premises and the mutual promises set forth herein, and for other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the City of Shelby and the Number Seven Township Volunteer Fire Department, Inc. (Lattimore Fire District) hereby agree to this contract for provision of automatic aid protective services to the described Service Areas.

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 by this action authorizes the execution of said Contract for Fire Suppression Services under Automatic Aid, as attached, by and between the City of Shelby, a municipal corporation, and the Number Seven Township Volunteer Fire Department, Inc. (Lattimore Fire District), a North Carolina corporation and a duly organized rural fire department.

Resolution No. 20-2024
March 4, 2024
Page 2

Section 2. The City Manager and City Clerk of Shelby are hereby authorized and directed to execute the Contract specified in Section 1 of this resolution.

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

Adopted and approved this the 4th day of March 2024.

O. Stanhope Anthony, III
Mayor

ATTEST:

Carol Williams
City Clerk

STATE OF NORTH CAROLINA

CONTRACT FOR PUBLIC
SAFETY FIRE & RESCUE
SERVICES UNDER
AUTOMATIC AID

COUNTY OF CLEVELAND

THIS CONTRACT is entered into this _____ day of _____, 2024, by and between the City of Shelby, a municipal corporation located within North Carolina, and the Number Seven Volunteer Fire Dept. Inc. (“Lattimore Fire District”), a North Carolina corporation and a duly organized rural fire department.

WITNESSETH:

WHEREAS the State of North Carolina has authorized the City of Shelby to form and operate a fire department for the protection and safety of its residents pursuant to N.C. Gen. Stat. 160A-291; and

WHEREAS the City from time to time requires the assistance of and support of other fire departments through contractual agreements to meet its obligations to its citizens, and;

WHEREAS the City is dully authorized pursuant to N.C. Gen. Stat. § 160A-11 to enter into contracts and pursuant to N.C. Gen. Stat. § 160A-17 to contract for services for ensuing fiscal years; and

WHEREAS, the City of Shelby wishes to provide satisfactory fire and rescue public safety services in the Service Area; and

WHEREAS, the area described in Exhibit A (“Service Area”), attached, is the contiguous boundaries of the City of Shelby; and

WHEREAS, pursuant to N.C. Gen. Stat. §160A-11, the City of Shelby *Fire & Rescue Department* and Number Seven Volunteer Fire Department, Inc. have the statutory authority to enter into a contract for fire protection services under an” automatic aid-initial responder” arrangement where the Number Seven Volunteer Fire Department, Inc. provides protective services to the service area.

NOW, THEREFORE, based on the mutual promises and consideration provided, as set forth herein, and for other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the City of Shelby and the Number Seven Volunteer Fire Department, Inc. hereby agree to this contract for provision of automatic aid protective services to the described service area according to the following terms and conditions:

1. SERVICE RESPONSIBILITY – FIRE & RESCUE RESPONSE

The Number Seven Volunteer Fire Department, Inc. shall regularly provide public safety services as an initial responder for fires, rescues and other emergency situations occurring in the service area. The department shall respond to calls for service with the following:

1. a minimum of three firefighters who shall be eighteen years of age or older;
2. firefighters shall possess validated minimum competency to comply with the provisions set forth in *NFPA 1403: Standard for Live Fire Training Evolutions*; and
3. a properly equipped fire apparatus capable of pumping at a rate of at least one thousand (1000) gallons per minute carrying at least five hundred (500) gallons of water, with the appropriate compliment of hose, tools, and equipment as outlined in the *North Carolina Response Rating Schedule (NCRRS)*.

The Service Area shall constitute the areas within the boundaries of the city limits as so indicated. The *Cleveland County Communication Center* shall routinely dispatch an assignment of resources to all fires, rescues, and hazardous material type incidents to the service area utilizing the following general protocol.

- a) Non-fire related incidents and minor emergencies which typically require the response of no more than one piece of fire apparatus and up to eight firefighters will be serviced by the apparatus and personnel of Number Seven Volunteer Fire Department, Inc. This shall constitute the first alarm assignment and the effective response force of resources to the Service Area.
- b) All structure fires, technical rescue, hazardous material incidents or other significant emergencies will be serviced by the apparatus and personnel of the Number Seven Volunteer Fire Department, Inc.'s along with the normal response protocol of the *City's Fire & Rescue Department*. This shall constitute the first alarm assignment and the effective response force of resources to the Service Area.

The first arriving unit at the scene, regardless of department affiliation, shall commence fire suppression, rescue interventions or other emergency activities as incident conditions warrant and provide the initial management of the incident. The responsibility of incident management shall be that of the City of Shelby's *Fire & Rescue Department* upon the arrival of its resources. All emergency operations will be conducted in a manner consistent with *National Incident Management System (NIMS)* including (but not limited to) assignment of responsibility for extrication actions at auto accidents and for other major tasks at the emergency scene.

2. SERVICE RESPONSIBILITY – EMERGENCY MEDICAL RESPONSE

The City of Shelby's *Fire & Rescue Department* shall regularly provide public safety services for medical emergencies to the Service Area consistent with the Department's level of

certification and service provided in the rest of the City. The Number Seven Volunteer Fire Department, Inc. assumes no responsibility for the provision of emergency medical services in the Service Area.

3. SERVICE RESPONSIBILITY – MUTUAL AID AND ASSISTANCE

In addition to other services provided for herein, the Number Seven Volunteer Fire Department, Inc. and the City of Shelby's *Fire & Rescue Department* will provide mutual aid and assistance, including backup equipment and personnel, In addition to other services provided for herein, the Number Seven Volunteer Fire Department, Inc. and the City's *Fire & Rescue Department* will provide mutual aid and assistance, including backup equipment and personnel, in those events where assistance from another department is necessary to adequately control large fires, rescues, or disasters, or to provide water supply for firefighting operations in situations where municipal water supply is not readily accessible in the service area consistent with local and state mutual aid agreements.

4. GENERAL PROVISIONS

It shall be the responsibility of the Number Seven Volunteer Fire Department, Inc. to equip and train its firefighters in a manner consistent with applicable regulations of the Occupational Safety and Health Administration (OSHA) of the United States Department of Labor.

It shall be the duty of the Number Seven Volunteer Fire Department, Inc. to maintain adequate communications equipment to allow efficient and professional dispatching of emergency calls. Notwithstanding the obligation of the Number Seven Volunteer Fire Department, Inc. to initiate fire and emergency services when its units arrive at the scene as necessary, the primary emergency service responsibility within the service area shall be that of the City's *Fire & Rescue Department*.

The City of Shelby and the Number Seven Volunteer Fire Department, Inc. hereby acknowledge that each party may relocate its own vehicles and equipment based on emergency requirements, but that long term or permanent changes of a nature that substantially change the ability to deliver service as intended by the City of Shelby and the Number Seven Volunteer Fire Department, Inc. are matters on which the City's *Fire & Rescue Department* and the Number Seven Volunteer Fire Department, Inc. representatives must confer and reach mutual agreement in writing.

5. COMPENSATION FOR SERVICES

The Number Seven Volunteer Fire Department, Inc. shall be compensated at an initial rate of \$5,000.00 annually or 416.66 per month, not to exceed a total compensation of \$25,000.00 over the term of five (5) years or sixty (60) months (60). The city shall remit the annual payment to the department within thirty days after the close of the City's fiscal year.

The Number Seven Volunteer Fire Department, Inc. shall provide the City with adequate and verifiable documentation of the incidents the department responded to within the Service Area by June 30 of each fiscal year until the expiration of this agreement

6. MAINTENANCE

The Number Seven Volunteer Fire Department, Inc. shall be responsible for continuing its customary equipment maintenance activities and shall immediately advise the chief of the City's *Fire & Rescue Department* if the condition of the equipment or lack of equipment will interfere with the Department's ability to respond to the service area.

7. RESPONSE

In providing support to the City's *Fire & Rescue Department*, the Number Seven Volunteer Fire Department, Inc.'s response shall be in the most professional manner possible. The Number Seven Volunteer Fire Departments shall begin its response to the address of the incident upon receiving dispatch notification by the Cleveland County 911 Center and shall continue its response until arriving at the scene of the emergency, or where cancelled while enroute by an officer or the incident commander from the City's *Fire & Rescue Department* that is at the scene of the emergency.

In the event Number Seven Volunteer Fire Department, Inc. is unable to continue providing reliable response to emergencies upon dispatch, the chief of the City's *Fire & Rescue Department* shall notify by mail or personal delivery the chief of Number Seven Volunteer Fire Department, Inc., or its registered process agent, of the need for improvements immediately but in no event more than seven days after the first instance of inadequate response shall be in writing and shall either be mailed by first class mail, postage prepaid, personal delivery or any method of service specified under Rule 4 of the NC Rules of Civil Procedure.

Upon notice by the chief of the City's *Fire & Rescue Department*, the Number Seven Volunteer Fire Department, Inc. shall institute the recommendations and improvements necessary. Failure to comply or an inability to comply shall result in acceleration of the termination of this contract agreement within thirty (30) days from the date of first notice.

8. TERM

The term of the Contract shall be for one year and renewable for up to five-years (sixty months) and commence with the execution of this document on or before July 1, 2024, and shall end on June 30, 2029, at midnight. Renewal of this Agreement is dependent on city council and appropriation of taxpayer funds on a yearly basis.

9. NON-APPROPRIATION CLAUSE

The Number Seven Volunteer Fire Department, Inc. acknowledges that the City of Shelby and as an extension of the City, the City's *Fire & Rescue Department* is a governmental entity, and this

Agreement's validity is based upon the availability of public funding under the authority of its statutory mandate. In the event that public funds are unavailable and not appropriated for the performance of the City's *Fire & Rescue Department* obligations under this Agreement, then this Agreement shall automatically expire without penalty to the City thirty (30) days after written notice to the Number Seven Volunteer Fire Department, Inc. of the unavailability and non-appropriation of public funds. It is expressly agreed that the City's *Fire & Rescue Department* shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Agreement, but only as an emergency fiscal measure during a substantial fiscal crisis under the requirements of State law, and such emergency affecting the City's governmental operations. In the event of a change in the City's *Fire & Rescue Department* statutory authority, mandate, and mandated functions, by state and federal legislative or regulatory action, which adversely affects the City's *Fire & Rescue Department's* authority to continue its obligations under this contract, then this contract shall automatically terminate without penalty to City's *Fire & Rescue Department* upon written notice to the Number Seven Volunteer Fire Department, Inc. of such limitation or change in the City's *Fire & Rescue Department's* legal authority.

10. WAIVER OF LIABILITY

The Number Seven Volunteer Fire Department, Inc. agrees to assume full responsibility for its provision of fire suppression services and emergency response services to the service area as required hereunder. Each party to this contract shall assume any and all liability and responsibility for the death or injury to any personnel of their affiliation while providing services hereunder. Neither party hereto shall assume responsibility or liability for property damaged or destroyed at the actual scene of any incident arising out of or related to firefighting and rescue operations, fire control tactics and strategy, emergency response actions or other operations as may be required due to the nature of the incident. Each party to this contract shall assume all liability and responsibility for damage to its own apparatus and equipment. The execution of this Contract shall not be construed to be an assumption of any liability by either party hereto not otherwise imposed by law.

11. FIRE CODE ENFORCEMENT AND FIRE INVESTIGATION

For purposes of enforcement of the North Carolina Fire Code, the Shelby Fire Marshal's Office will enforce all fire code ordinances and perform all fire cause investigations in the service area.

12. NONDISCRIMINATION GUARANTEES

In consideration of the signing of this contract, the parties hereto for themselves, their agents, officials, employees, and servants agree not to discriminate in any manner on the basis of race, color, creed, age, or national origin with reference to the subject matter of this Contract, no matter how remote.

13. DRUG FREE WORKPLACE

The Number Seven Volunteer Fire Department, Inc. acknowledges receipt of a copy of the City of Shelby's *Drug Free Workplace Policy* and agrees to its terms. Specifically, the Number Seven Volunteer Fire Department, Inc. acknowledges and agrees that its employees and any volunteers are safety-sensitive employees for purposes of said Policy and are subject to testing as described therein.

14. TERMINATION

With the exception provided for in Section 7, Response, either party, at the expiration of any contract year may terminate this contract unilaterally, provided that written notice is given to the non-terminating party not less than ninety (90) days in advance of the termination date.

Upon notice of termination, the Number Seven Volunteer Fire Department, Inc. shall receive compensation pro rata for the term in which services were performed at the contracted rate of \$416.66 per month.

For purposes of giving said notice, the Number Seven Volunteer Fire Department, Inc. shall notify the chief of the *City of Shelby Fire & Rescue Department*; the city shall notify the chief of the Number Seven Volunteer Fire Department, Inc., or its registered process agent.

15. AMENDMENT

This contract may be amended by the agreement of both parties, reduced to writing and annexed hereto.

16. AGENT

The Number Seven Volunteer Fire Department, Inc. shall at all times comply with the laws of North Carolina regarding corporations and shall at all times keep the City of Shelby advised of the name and address of its registered agent for the service of process.

17. NOTICES

All notices, reports, and other communications ("Notice") given pursuant to this Contract shall be in writing and shall either be mailed by first class mail, postage prepaid, personal delivery or any method of service specified under Rule 4 of the NC Rules of Civil Procedure. Notice sent by mail shall be effective three days after the date of mailing. Notice given in any other manner shall be effective upon actual receipt by the addressee.

The Notice address for the Number Seven Volunteer Fire Department, Inc. is:
Number Seven Volunteer Fire Department, Inc.
341 Westlee Street
Shelby, NC 28150

The Notice Address for the City is:

City of Shelby
300 Washington St.
P.O. Box 207
Shelby, NC 28151

Each party is responsible for notifying the other in writing in the event of an address change.

18. ELECTRONIC VERSION OF CONTRACT

The City may convert a signed original of the Contract to an electronic record pursuant to a North Carolina Department of Natural and Cultural Resources approved procedure and process for converting paper records to electronic records for record retention purposes. Such electronic record of the Agreement shall be deemed for all purposes to be an original signed Contract.

19. ENTIRE AGREEMENT

This Contract contains the entire agreement of the parties and there are no representations, inducements, or other provisions other than those expressed in writing.

20. PERFORMANCE OF GOVERNMENT FUNCTIONS

Nothing contained in this Contract shall be deemed or construed to in any way stop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions, or shall limit the City's discretion in the exercise of such powers and functions.

21. ALTERNATIVE DISPUTE RESOLUTION

In the event either party to this Contract raises a dispute, such dispute may be settled through mediation as prescribed by the rules and requirements of the Superior Court Civil Division of Cleveland County and the North Carolina Dispute Resolution Commission pursuant to N.C. Gen. Stat. § 7A-38.3. The parties may, by agreement, select a certified mediator to conduct its mediated settlement conference within 21 days of providing written notice of a dispute to this contract. Preference is for remote mediation based upon the mutual agreement and selection of a certified mediator by the parties utilizing the directory of certified mediators maintained by the NC Dispute Resolution Commission located at www.NCDRC.gov. Once selected, the mediator shall schedule the date, time and location of the conference and timely notify all attorneys.

22. VENUE

All matters relating to this Contract shall be governed by the laws of the State of North Carolina, without regard to its choice of law provisions, and venue for any action related to the

Agreement shall be Cleveland County Superior Court or the United States District Court for the Western District of North Carolina, Asheville Division.

23. NO THIRD PARTY BENEFICIARIES

There are no third party beneficiaries to this Contract.

24. PRINCIPLES OF INTERPRETATION AND DEFINITIONS

In this Contract, (1) The singular includes the plural and the plural the singular. The pronouns “it” and “its” include the masculine and feminine. (2) References to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The words “include,” “including,” etc. mean include, including, etc. without limitation. (3) References to a “Section” or “section” or “paragraph” shall mean a section or paragraph of this Contract. (4) “Contract” and “Agreement,” whether or not capitalized, refer to this instrument. (5) Titles of sections, paragraphs, and articles are for convenience only, and shall not be construed to affect the meaning of this Contract (6) “Duties” includes obligations. (7) The word “person” includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities. (8) The word “shall” is mandatory. (9) The word “day” means calendar day.

25. PRE-AUDIT REQUIREMENT

This Contract has not been fully executed and is not effective until the Preaudit Certificate (if required by NCGS § 159-28) has been affixed and signed by the City finance officer or deputy finance officer.

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

Beth Beam, Finance Director

IN WITNESS WHEREOF, each party has caused this contract to be executed by its duly authorized official as of the day and year first above written.

ATTEST:

CITY OF SHELBY

City Clerk
(Official Seal)

By: _____
City Manager

NORTH CAROLINA
_____ COUNTY

Personally appeared before me this _____ day of _____, 2024, _____, who,
being first duly sworn, acknowledged the execution of the foregoing agreement for the purposes
and considerations therein expressed.

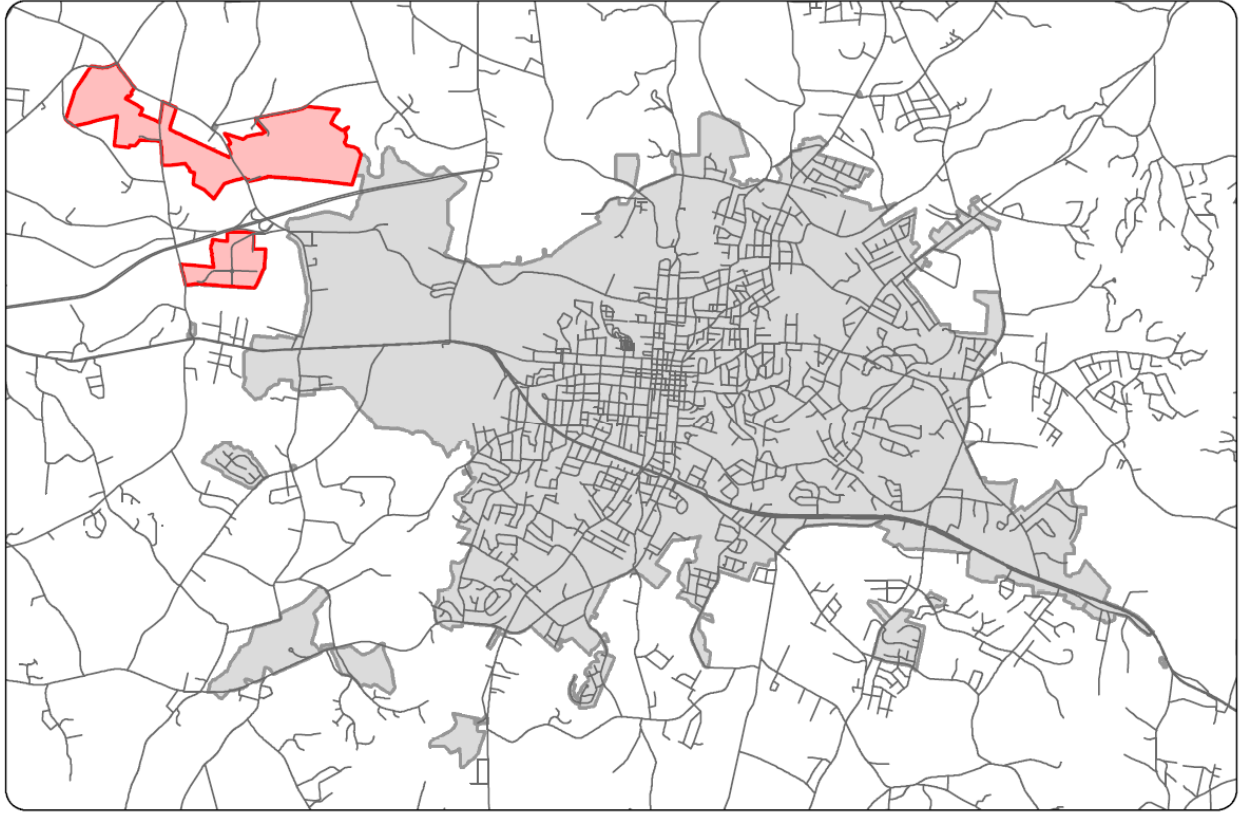
Notary Public

My Commission Expires: _____



Chief Michael Owens
Number Seven Volunteer Fire Department, Inc.

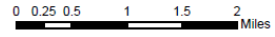
Appendix: Service Area

Number 7 Fire Department - Automatic Aid



Legend

-  Number 7 Fire Department Mutual Aid
-  Shelby City Limits



The City of Shelby makes no representations, warranties or guarantees as to the accuracy and completeness of the enclosed 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.

Agenda Item: C-5

- 5) Approval of a resolution authorizing execution of a contract for Fire Suppression Services under Automatic Aid between the City of Shelby and Cleveland Volunteer Fire Department, Inc. (Gardner Fire District): Resolution No. 21-2024

Consent Agenda Item: (Rick Howell, City Manager)

- Memorandum dated February 27, 2024 from William Hunt, Fire Chief to Rick Howell, City Manager
- Contract for Public Safety Fire & Rescue Services
- Resolution No. 21-2024

City Manager's Recommendation / Comments

If approved this resolution would renew an automatic aid agreement with Cleveland Volunteer Fire Department, Inc. for the purpose of providing automatic aid within the city limits. It is important to note that the primary reasons for these agreements are to bolster the City's ISO rating, satisfy accreditation requirements, and most importantly to contractually ensure support services from the volunteer fire departments under certain circumstances.

It is my recommendation that Resolution No. 21-2024 be adopted and approved by City Council via the Consent Agenda.



February 27,2024

Memorandum:

To: Rick Howell, City Manager
From: William Hunt, Fire Chief

Subject: Automatic-aid contract for fire and rescue services with the Cleveland Volunteer Fire Department Incorporated in the Shelby City Limits.

Background

The Cleveland Volunteer Fire Department has provided automatic mutual aid response with the City of Shelby Fire & Rescue Department under a contractual agreement since 2011. The five-year term of the existing contract expires on June 30, 2024. The proposed contract for consideration extends the agreement for another five-year term.

Discussion

The proposed contract is an automatic-aid agreement that includes protective services inside the contiguous city boundaries. The Cleveland Volunteer Fire Department will provide an additional compliment of personnel and resources to those being sent by the City of Shelby Fire & Rescue Department for certain types of fire emergencies. It is important to note that this contract is separate from any existing local or state mutual aid agreements. The advantages this contractual arrangement are as follows:

1. Provide initial responder services in advance of the arrival of resources from the City of Shelby Fire & Rescue Department in the Service Area.
2. Maintain ISO Rating by improving coverage for the Service Areas within ISO's parameters of one- and one-half road miles for an engine company.
3. Satisfy the accreditation requirements from the Center for Public Safety Excellence as they apply to automatic aid agreements.
4. Provide the City of Shelby Fire & Rescue Department flexibility in summoning needed resources to the Service Area.
5. Continue satisfactory fire and rescue protective services to the Service Area.

Action

With this memorandum, please place on the agenda as appropriate for consideration by the Shelby City Council to approve the *Contract for Fire Suppression Services under Automatic Aid with the Cleveland Volunteer Fire Department*.

Enclosures

cc: Carol Williams

RESOLUTION NO. 21-2024

A RESOLUTION AUTHORIZING EXECUTION OF A CONTRACT FOR
FIRE SUPPRESSION SERVICES UNDER AUTOMATIC AID BETWEEN
THE CITY OF SHELBY AND CLEVELAND VOLUNTEER FIRE DEPARTMENT, INC.
(GARDNER FIRE DISTRICT)

WHEREAS, the area described in EXHIBIT A attached hereto (herein "Service Area") is the contiguous boundaries of the City of Shelby; and

WHEREAS, the City of Shelby has satisfied prior statutory obligations to the Cleveland Volunteer Fire Department, Inc. (Gardner Fire District) as prescribed under North Carolina General Statute 160A-37: and;

WHEREAS, the City of Shelby wishes to provide satisfactory fire and rescue public safety services in the Service Area; and

WHEREAS, pursuant to North Carolina General Statutes the City of Shelby Fire Department and Cleveland Volunteer Fire Department, Inc. (Gardner Fire District) have the statutory authority to enter into a contract for fire protection services under an "automatic aid-initial responder" arrangement where the Cleveland Volunteer Fire Department, Inc. (Gardner Fire District) provides protective services to the Service Area; and

WHEREAS, in consideration of the premises and the mutual promises set forth herein, and for other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the City of Shelby and the Cleveland Volunteer Fire Department, Inc. (Gardner Fire District) hereby agree to this contract for provision of automatic aid protective services to the described Service Area.

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 by this action authorizes the execution of said Contract for Fire Suppression Services under Automatic Aid, as attached, by and between the City of Shelby, a municipal corporation, and the Cleveland Volunteer Fire Department, Inc. (Gardner Fire District), a North Carolina corporation and a duly organized rural fire department.

Section 2. The City Manager and City Clerk of Shelby are hereby authorized and directed to execute the Contract specified in Section 1 of this resolution.

Resolution No. 21-2024
March 4, 2024
Page 2

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

Adopted and approved this the 4th day of March, 2024.

O. Stanhope Anthony, III
Mayor

ATTEST:

Carol Williams
City Clerk

STATE OF NORTH CAROLINA

CONTRACT FOR FIRE
SUPPRESSION SERVICES
UNDER AUTOMATIC AID

COUNTY OF CLEVELAND

THIS CONTRACT is entered into this ____ day of _____, 2024, by and between the City of Shelby (“the City”), a municipal corporation located within North Carolina and the Cleveland County Volunteer Fire Department, Inc. (“Gardner Fire District”), a North Carolina corporation and a duly organized rural fire department.

WITNESSETH:

WHEREAS the State of North Carolina has authorized the City of Shelby to form and operate a fire department for the protection and safety of its residents pursuant to N.C. Gen. Stat. 160A-291; and

WHEREAS the City from time to time requires the assistance of and support of other fire departments through contractual agreements to meet its obligations to its citizens, and;

WHEREAS the City is dully authorized pursuant to N.C. Gen. Stat. § 160A-11 to enter into contracts and pursuant to N.C. Gen. Stat. § 160A-17 to contract for services for ensuing fiscal years; and

WHEREAS the City of Shelby wishes to provide its citizens and businesses with satisfactory fire and rescue protective services consistent with best practices, and

WHEREAS, the area described in Exhibit A (“Service Area”), attached, consists of the contiguous boundaries of the City of Shelby; and

WHEREAS pursuant to N.C. Gen. Stat. §160A-11, the City of Shelby and Cleveland County Volunteer Fire Department, Inc. seek to enter into a contract where the Cleveland County Volunteer Fire Department, Inc. will provide fire protection services within the Service Area.

NOW, THEREFORE, based on the mutual promises and consideration provided, as set forth herein, and for other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the City of Shelby and the Cleveland County Volunteer Fire Department, Inc. hereby agree to this contract for provision of fire protection services to the Service Area, according to the following terms and conditions:

1. SERVICE RESPONSIBILITY – FIRE AND RESCUE RESPONSE

The Cleveland County Volunteer Fire Department, Inc. shall regularly provide public safety services as a responder for structural fire incidents occurring in the service area. The Department shall respond to calls for service with the following:

1. a minimum of three firefighters, who shall be eighteen years of age or older;
2. firefighters shall possess validated minimum competency to comply with the provisions set forth in *NFPA 1403: Standard for Live Fire Training Evolutions*, and
3. a properly equipped fire apparatus capable of pumping at a rate of at least one thousand (1000) gallons per minute carrying at least five hundred (500) gallons of water, with the appropriate compliment of hose, tools, and equipment as outlined in the *North Carolina Response Rating Schedule (NCRRS)*.

The Service Area shall constitute the contiguous boundaries of the city limits as so indicated. The Cleveland County Communication Center shall routinely dispatch the resources of the Cleveland County Volunteer Fire Department, Inc. along with the normal assignment of resources of the City of Shelby *Fire & Rescue Department* to structural fire related incidents, to the service area under the following general protocol:

- a) Residential and multi-family dwelling, where the call for service, upon initial dispatch or other information confirms a fire in a building.
- b) Commercial, where the call for service upon initial dispatch or other information confirms a fire in a building.

EXCEPTION: A call for service from the activation of an automatic fire alarm system in a residential or commercial building.

The first arriving unit at the scene, regardless of department affiliation, shall commence fire suppression, rescue interventions, or other emergency activities as incident conditions warrant and provide the initial management of the incident. The responsibility of incident management shall be that of the City's *Fire & Rescue Department* upon the arrival of its resources. All emergency operations will be conducted in a manner consistent with *the National Incident Management System (NIMS)* including (but not limited to) the assignment of responsibility for divisions, sectors, or other major tasks at the emergency scene.

2. SERVICE RESPONSIBILITY – EMERGENCY MEDICAL RESPONSE

The City of Shelby *Fire & Rescue Department* shall regularly provide public safety services for medical emergencies to the service area consistent with the department's level of certification and service provided in the rest of the city. The Cleveland County Volunteer Fire Department, Inc. assumes no responsibility for the provision of emergency medical services in the Service Area.

3. SERVICE RESPONSIBILITY – MUTUAL AID AND ASSISTANCE In addition to other services provided for herein, the Cleveland County Volunteer Fire Department, Inc. and the City's *Fire & Rescue Department* will provide mutual aid and assistance, including backup equipment and personnel, in those cases where assistance from another department is necessary to adequately control large fires, rescues, or disasters, or to provide water supply for firefighting operations in situations where municipal water supply is not readily accessible in the service area consistent with local and state mutual aid agreements.

4. GENERAL PROVISIONS

It shall be the responsibility of the Cleveland County Volunteer Fire Department, Inc. to equip and train its firefighters in a manner consistent with applicable regulations of the Occupational Safety and Health Administration (OSHA) of the United States Department of Labor.

It shall be the duty of the Cleveland County Volunteer Fire Department, Inc. to maintain adequate communications equipment to allow efficient and professional dispatching of emergency calls. Notwithstanding the obligation of the Cleveland County Volunteer Fire Department, Inc. to initiate fire and emergency services when its units arrive at the scene as provided, the primary emergency service responsibility within the service area shall be that of the City's *Fire & Rescue Department*.

The City of Shelby and the Cleveland County Volunteer Fire Department, Inc. hereby acknowledge that each party may relocate its own vehicles and equipment based on emergency requirements, but that long term or permanent changes of a nature that substantially change the ability to deliver service as intended by the City of Shelby and the Cleveland County Volunteer Fire Department, Inc. are matters on which the *Fire & Rescue Department* and the Cleveland County Volunteer Fire Department, Inc. representatives must confer and reach mutual agreement in writing.

5. COMPENSATION FOR SERVICES

The Cleveland County Volunteer Fire Department, Inc. shall be compensated at an initial rate of \$12,300.00 annually or \$1,025 per month, not to exceed a total compensation of \$61,500.00 for the duration of the term of five (5) years or sixty months (60). The City shall remit the annual payment to the department within thirty days after the close of the City's fiscal year.

The Cleveland County Volunteer Fire Department, Inc. shall provide the City with adequate and verifiable documentation of the incidents the department responded to within the Service Area under the provisions of this agreement by June 30 of the City's fiscal year.

6. MAINTENANCE

The Cleveland County Volunteer Fire Department, Inc. shall be responsible for continuing its customary equipment maintenance activities and shall immediately advise the chief of the *Fire*

& *Rescue Department* if the condition of the equipment or lack of equipment will interfere with the Department's ability to respond to the Service Area.

7. RESPONSE

In providing support to the City's *Fire & Rescue Department*, the Cleveland County Volunteer Fire Department, Inc.'s response shall be in the most professional manner possible. The Cleveland County Volunteer Fire Department, Inc. shall begin its response to the address of the incident upon receiving dispatch notification by the Cleveland County 911 Center, and shall continue its response until arriving at the scene of the emergency, or where cancelled while enroute by an officer or the incident commander from the City's *Fire & Rescue Department* that is at the scene of the emergency.

In the event Cleveland County Volunteer Fire Department, Inc. is unable to continue providing reliable response to emergencies upon dispatch, the chief of the City's *Fire & Rescue Department* shall notify by mail or personal delivery the chief of Cleveland County Volunteer Fire Department, Inc. or its registered process agent, of the need for improvements immediately but in no event more than seven days after the first instance of inadequate response shall be in writing and shall either be mailed by first class mail, postage prepaid, personal delivery or any method of service specified under Rule 4 of the NC Rules of Civil Procedure.

Upon notice by the chief of the City's *Fire & Rescue Department*, the Cleveland County Volunteer Fire Department, Inc. shall institute the recommendations and improvements necessary. Failure to comply or an inability to comply shall result in acceleration of the termination of this contract agreement within thirty (30) days from the date of first notice.

8. TERM

The term of the contract shall be for one year and renewable for up to five-years (sixty months), subject to annual review, and shall commence upon its execution on or before July 1, 2024. The term shall end on June 30, 2029, at midnight. Renewal of this Agreement is dependent on city council and appropriation of taxpayer funds on a yearly basis.

9. NON-APPROPRIATION CLAUSE

The Cleveland County Volunteer Fire Department, Inc acknowledges that the City of Shelby and as an extension of the City, the City's *Fire & Rescue Department* is a governmental entity, and this Agreement's validity is based upon the availability of public funding under the authority of its statutory mandate. In the event that public funds are unavailable and not appropriated for the performance of the City's *Fire & Rescue Department* obligations under this Agreement, then this Agreement shall automatically expire without penalty to the City thirty (30) days after written notice to the Cleveland County Volunteer Fire Department, Inc of the unavailability and non-appropriation of public funds. It is expressly agreed that the City's *Fire & Rescue Department* shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Agreement, but only as an emergency fiscal measure during a substantial fiscal crisis under the requirements of State law, and such emergency affecting the City's

governmental operations. In the event of a change in the City's *Fire & Rescue Department* statutory authority, mandate, and mandated functions, by state and federal legislative or regulatory action, which adversely affects the City's *Fire & Rescue Department's* authority to continue its obligations under this contract, then this contract shall automatically terminate without penalty to City's *Fire & Rescue Department* upon written notice to the Cleveland County Volunteer Fire Department, Inc of such limitation or change in the City's *Fire & Rescue Department's* legal authority.

10. WAIVER OF LIABILITY

The Cleveland County Volunteer Fire Department, Inc. agrees to assume full responsibility of the provision of fire suppression services and emergency response services to the service area as required hereunder. Each party to this contract shall assume any and all liability and responsibility for the death or injury to any personnel of their own command providing services hereunder. Neither party hereto shall assume responsibility or liability for property damaged or destroyed at the actual scene of any incident arising out of or related to firefighting and rescue operations, fire control tactics and strategy, emergency response actions or other operations as may be required due to the nature of the incident. Each party to this contract shall assume all liability and responsibility for damage to its own apparatus and equipment. The execution of this contract shall not be construed to be an assumption of any liability by either party hereto not otherwise imposed by law.

11. FIRE CODE ENFORCEMENT AND FIRE INVESTIGATION

For purposes of enforcement of the North Carolina Fire Code, the Shelby Fire Marshal's Office will enforce all fire code ordinances and perform all fire cause investigations in the service area.

12. NONDISCRIMINATION GUARANTEES

In consideration of the signing of this contract, the parties hereto for themselves, their agents, officials, employees, and servants agree not to discriminate in any manner on the basis of race, color, creed, age, or national origin with reference to the subject matter of this Contract, no matter how remote.

13. DRUG FREE WORKPLACE

The Cleveland County Volunteer Fire Department, Inc. acknowledges receipt of a copy of the City of Shelby's Drug Free Workplace policy and agrees to its terms. Specifically, the Cleveland County Volunteer Fire Department, Inc. acknowledges and agrees that its employees and any volunteers are safety-sensitive employees for purposes of said policy and are subject to testing as described therein.

14. TERMINATION

With the exception provided for in Section 7, Response, either party at the expiration of any contract year may terminate this contract unilaterally, provided that written notice is given to the non-terminating party not less than ninety (90) days in advance of the termination date.

Upon notice of termination, the Cleveland County Volunteer Fire Department, Inc. shall receive compensation pro rata for the term in which services were performed at the contracted rate of \$1,025 per month.

For purposes of giving said notice, the Cleveland County Volunteer Fire Department, Inc. shall notify the chief of the *Fire & Rescue Department*; the City shall notify the chief of the Cleveland County Volunteer Fire Department, Inc., or its registered process agent.

15. AMENDMENT

This Contract may be amended by the agreement of both parties, reduced to writing and annexed hereto.

16. AGENT

The Cleveland County Volunteer Fire Department, Inc. shall at all times comply with the laws of North Carolina regarding corporations and shall at all times keep the City of Shelby advised of the name and address of its registered agent for the service of process.

17. NOTICES

All notices, reports, and other communications (“Notice”) given pursuant to this Contract shall be in writing and shall either be mailed by first class mail, postage prepaid, personal delivery or any method of service specified under Rule 4 of the NC Rules of Civil Procedure. Notice sent by mail shall be effective three days after the date of mailing. Notice given in any other manner shall be effective upon actual receipt by the addressee.

The Notice address for the Cleveland County Volunteer Fire Department, Inc. is:

Cleveland County Volunteer Fire Department, Inc.
117 E. Graham St.
Shelby, NC 28150

The Notice Address for the City is:

City of Shelby
300 Washington St.
P.O. Box 207
Shelby, NC 28151

Each party is responsible for notifying the other in writing in the event of an address change.

18. ELECTRONIC VERSION OF CONTRACT

The City may convert a signed original of the Contract to an electronic record pursuant to a North Carolina Department of Natural and Cultural Resources approved procedure and process for converting paper records to electronic records for record retention purposes. Such electronic record of the Agreement shall be deemed for all purposes to be an original signed Contract.

19. ENTIRE AGREEMENT

This Contract contains the entire agreement of the parties and there are no representations, inducements or other provisions other than those expressed in writing.

20. PERFORMANCE OF GOVERNMENT FUNCTIONS

Nothing contained in this Contract shall be deemed or construed in any way stop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental or other powers or functions, or shall limit the City's discretion in the exercise of such powers and functions.

21. ALTERNATIVE DISPUTE RESOLUTION

In the event either party to this Contract raises a dispute, such dispute may be settled through mediation as prescribed by the rules and requirements of the Superior Court Civil Division of Cleveland County and the North Carolina Dispute Resolution Commission pursuant to N.C. Gen. Stat. § 7A-38.3. The parties may, by agreement, select a certified mediator to conduct its mediated settlement conference within 21 days of providing written notice of a dispute to this contract. Preference is for remote mediation based upon the mutual agreement and selection of a certified mediator by the parties utilizing the directory of certified mediators maintained by the NC Dispute Resolution Commission located at www.NCDRC.gov. Once selected, the mediator shall schedule the date, time and location of the conference and timely notify all attorneys.

22. VENUE

All matters relating to this Contract shall be governed by the laws of the State of North Carolina, without regard to its choice of law provisions, and venue for any action related to the Agreement shall be Cleveland County Superior Court or the United States District Court for the Western District of North Carolina, Asheville Division.

23. NO THIRD PARTY BENEFICIARIES

There are no third party beneficiaries to this Contract.

24. PRINCIPLES OF INTERPRETATION AND DEFINITIONS

In this Contract, (1) The singular includes the plural and the plural the singular. The pronouns "it" and "its" include the masculine and feminine. (2) References to statutes or

regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The words “include,” “including,” etc. mean include, including, etc. without limitation. (3) References to a “Section” or “section” or “paragraph” shall mean a section or paragraph of this Contract. (4) “Contract” and “Agreement,” whether or not capitalized, refer to this instrument. (5) Titles of sections, paragraphs, and articles are for convenience only, and shall not be construed to affect the meaning of this Contract (6) “Duties” includes obligations. (7) The word “person” includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities. (8) The word “shall” is mandatory. (9) The word “day” means calendar day.

25. PRE-AUDIT REQUIREMENT

This Contract has not been fully executed and is not effective until the Preaudit Certificate (if required by NCGS § 159-28) has been affixed and signed by the City of Shelby finance officer or deputy finance officer.

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

Beth Beam, Finance Director

IN WITNESS WHEREOF, each party has caused this contract to be executed by its duly authorized official as of the day and year first above written.

ATTEST:

CITY OF SHELBY

City Clerk
(Official Seal)

By: _____
City Manager

NORTH CAROLINA
_____ COUNTY

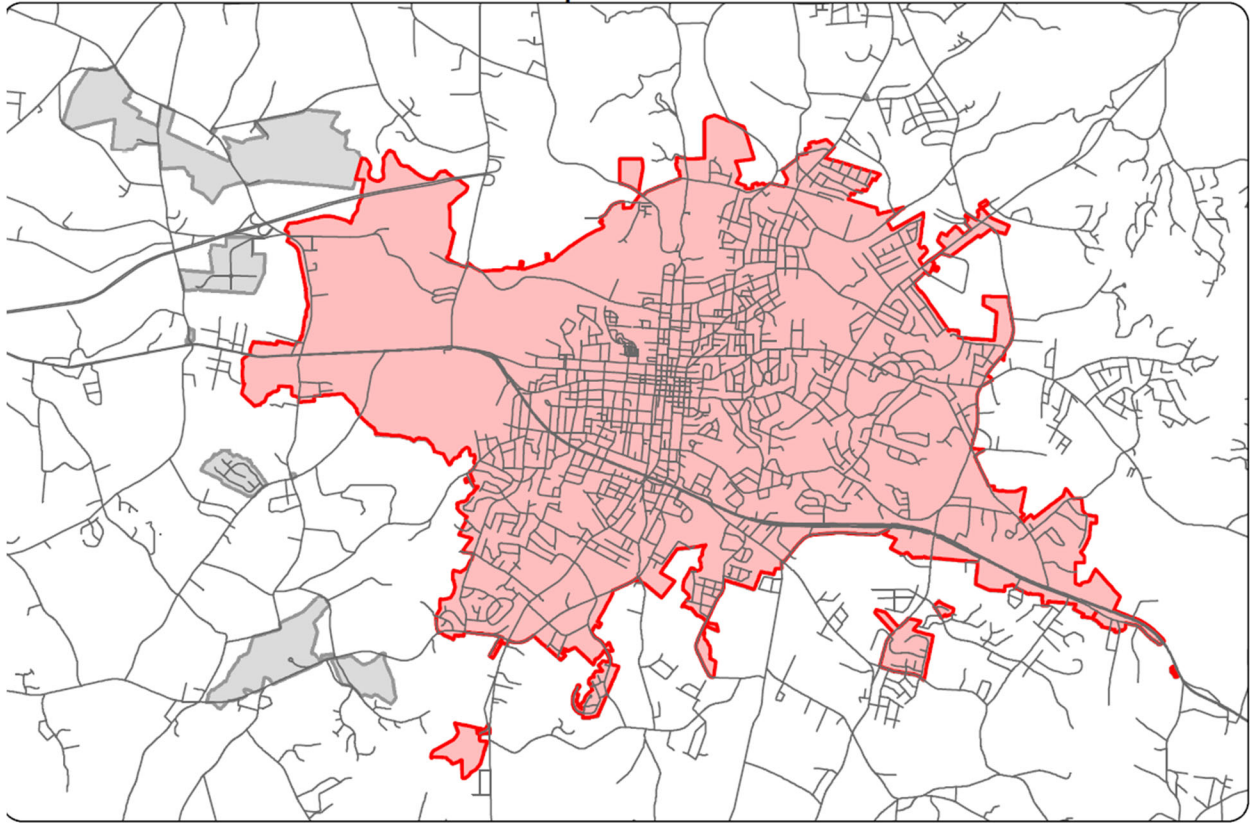
Personally appeared before me this _____ day of _____, 2024, _____, who, being first duly sworn, acknowledged the execution of the foregoing agreement for the purposes and considerations therein expressed.

Notary Public
My Commission Expires: _____

Clint Beam
Authorized Agent

Appendix: Service Area

Cleveland Fire Department - Automatic Aid



Legend

-  Cleveland Fire Department Mutual Aid
-  Shelby City Limits



0 0.25 0.5 1 1.5 2 Miles

The City of Shelby makes no representations, warranties or guarantees as to the accuracy and completeness of the enclosed 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.

Agenda Item: C-6

- 6) Adoption of a Grant Project Ordinance for American Rescue Plan Act of 2021: Coronavirus State and Local Fiscal Recovery Funds: Ordinance No. 18-2024

Consent Agenda Item: (Rick Howell, City Manager and Beth Beam, Finance Director)

- Memorandum dated February 28, 2024 from Beth Beam, Director of Finance to Rick Howell, City Manager
- Ordinance No. 18-2024

City Manager's Recommendation / Comments

Ordinance No. 18-2024 is presented for City Council consideration via the Consent Agenda. If approved this resolution sets forth the manner in which the noted funds may be spent and further establishes a budget for a project to be funded by the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF). The City of Shelby's total allocation is \$6,382,235.01. These funds may be used for the following categories of expenditures, to the extent authorized by state law. Adoption of this ordinance is a required aspect of the reporting required by the US Department of Treasury. City Council has previously approved a resolution directing management to spend these funds accordingly. Eligible expenditures include the following.

1. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

It is my recommendation that Ordinance No. 18-2024 be adopted and approved by City Council via the Consent Agenda.



To: Rick Howell, City Manager
From: Beth B. Beam, Director of Finance
Date: February 28, 2024
Subject: American Rescue Plan Grant Project Ordinance

Background:

The City of Shelby received grant funding in the amount of \$6,382,235.01 through the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021.

Review and Comments:

In the annual report that is due April 30, 2024, the City will be reporting the use of the funds as revenue replacement and submitting salary documentation. The City needs to adopt a Grant Project Ordinance stating that we have identified the salaries from January 1, 2023 to April 30, 2023 as the substantiation of the appropriation.

Recommendation:

The recommendation from staff is to approve the attached ARP Grant Project Ordinance.

ORDINANCE NO. 18-2024

**CITY OF SHELBY
GRANT PROJECT ORDINANCE FOR AMERICAN RESCUE PLAN ACT OF 2021:
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS**

BE IT ORDAINED by the Governing Board of Shelby North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

Section 1: This ordinance is to establish a budget for a project to be funded by the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF). The City of Shelby’s total allocation is \$6,382,235.01. These funds may be used for the following categories of expenditures, to the extent authorized by state law.

1. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

Section 2: The following amounts are appropriated for the project(s) and authorized for expenditure:

Internal Project Code	Project Description	Expenditure Category (EC)	Appropriation of ARP/CSLFRF Funds
	General Fund Salary & Benefit Expense from January 1, 2023-April 30, 2023	6.1	\$5,482,758.01
	Water Fund Salary & Benefit Expense from January 1, 2023-April 30, 2023	6.1	\$388,995
	Sewer Fund Salary & Benefit Expense from January 1, 2023-April 30, 2023	6.1	\$510,482
	Total		\$6,382,235.01

Section 3: The following revenues are anticipated to be available to complete the project(s):

ARP/CSLFRF Funds: \$6,382,235.01
Total: \$6,382,235.01

Ordinance No. 18-2024
March 4, 2024
Page 2

Section 4: The Finance Officer is hereby directed to maintain sufficient specific detailed accounting records to satisfy the requirements of the grantor agency and the grant agreements.

Section 5: The Finance Officer is hereby directed to report the financial status of the project to the Shelby City Council on an annual basis.

Section 6: Copies of this grant project ordinance shall be furnished to the Budget Officer, the Finance Officer and to the Clerk to the Shelby City Council.

Section 7: This grant project ordinance is effective as of March 3, 2021, and expires on December 31, 2026, or when all the ARP/CSLFRF funds have been obligated and expended by the City of Shelby, whichever occurs sooner.

Adopted and approved this the 4th day of March A.D. 2024.

O. Stanhope Anthony, III
Mayor

ATTEST:

Carol Williams
City Clerk

APPROVED AS TO FORM:

Jason Lunsford
City Attorney

Agenda Item: C-7

- 7) Adoption of a budget ordinance amendment for the City of Shelby's Highway 74 Bypass Section D&E Natural Gas Line Relocation Project: Ordinance No. 19-2024

Consent Agenda Item: (Rick Howell, City Manager)

- Memorandum dated February 27, 2024 from Ronnie Davis, Energy Services Operations Manager to Beth Beam, Director of Finance and copied to Ben Yarboro, Assistant City Manager
- Supporting Documents
- Ordinance No. 19-2024

City Manager's Recommendation / Comments

Ordinance No. 19-2024 is presented for City Council consideration via the Consent Agenda. City Council previously adopted Ordinance No. 51-2017 establishing a project budget for the engineering, design and construction for the relocation of city owned natural gas lines on the D and E sections of the new US Hwy 74 bypass. This ordinance would appropriate an additional \$41,500 to account for costs overage on this \$1,760,388 project. This project involved the construction of 15,000 linear feet of natural gas line required to be relocated within the NCDOT right of way.

Costs for this relocation project fall 100% on the City because "city owned" natural gas lines are not covered NCGS 136.27.1 which would require the city to pay only 25% for water and sewer relocations.

It is my recommendation that Ordinance No. 19-2024 be adopted and approved by City Council via the Consent Agenda.



Memorandum

To: Beth Beam, Director of Finance

From: Ronnie Davis, Energy Services Operations Manager

CC: Ben Yarboro, Assistant City Manager

Date: February 27, 2024

Subject: Highway 74 Bypass Sections D&E Natural Gas Line Relocation - Project Budget Ordinance Amendment

Background

The City of Shelby Energy Services Department received information from NCDOT in 2018 of their initial timeline for proceeding with Highway 74 Bypass Sections D&E. These sections of the Bypass include the area east of Cherryville Road to the current US Highway 74 located near Buffalo Creek. It was determined that the City of Shelby would need to relocate natural gas infrastructure in these areas as part of this project. A Project Budget Ordinance was established through Ordinance 51-2018 for the City of Shelby to contract with Heath and Associates for the design of the natural gas lines relocation project. Upon completion of the design, a bid opening was held in March 2023 for the relocation project. Classic City Mechanical was awarded the contract through Resolution 17-2023. Ordinance 17-2023 for the Project Budget Ordinance Amendment to include the construction of the project was approved by City Council in March 2023.

Review

Over the course of the project, it was determined that there would be a need for some additional 6" taps to be made that were not a part of the original scope of work. The purpose of these taps was to provide additional flow and pressure with construction occurring during the colder winter months. A change order was submitted in January 2024 in the amount of \$51,060.00 to cover the additional taps.

Recommendation

City staff recommend a Project Budget Ordinance Amendment in the amount of \$41,500 from Natural Gas Fund Balance to allow for the additional tasks stated earlier. These

funds will be transferred from the Natural Gas Fund Balance to the Highway 74 Bypass Sections D&E Natural Gas Line Relocation Project account.

Please let me know if additional information is needed.

Attachments:

- Ordinance 17-2023
- Ordinance 51-2018
- Change Order 2

CHANGE ORDER
HEATH AND ASSOCIATES, INC.
SHELBY, NORTH CAROLINA

Tuesday, January 23, 2024
 (Date of Order)

Order No 2 Contract No 21722 Job No. 21722
 To CLASSIC CITY MECHANICAL, INC (Contractor)
 of WINTERVILLE, GEORGIA
 GENTLEMEN: CITY OF SHELBY (Owner) of SHELBY, NORTH CAROLINA
 Authorizes you to make the following changes in the work you are doing for said owners on the Hwy 74 Phase III project.

This change order modifies the project known as 21722 Hwy 74 Phase III. This change order is to authorize the payment of \$51,060 to Classic City Mechanical, Inc. for the additional costs of the two extra 6" taps that were performed.

CHANGE ORDER ADDITIONS

<u>ITEM</u>	<u>QTY</u>	<u>UNIT PRICE</u>	<u>Total</u>
25 Additional 6" taps	2 EA @	\$25,530.00 /ea	\$ 51,060.00
TOTAL			\$ 51,060.00


Amount of Original Contract	\$	1,543,888.00	
Previous Change Orders	\$	(1,448.00)	
This Change Order	\$	51,060.00	
TOTAL AUTHORIZED			\$ 1,593,500.00

Accepted: CLASSIC CITY MECHANICAL, INC.
 (Contractor)

By: 
 Date Accepted: 1/23/24

HEATH AND ASSOCIATES, INC.
 (Duly Authorized Agents of Owner)

OWNER: CITY OF SHELBY
SHELBY, NORTH CAROLINA

By: 
 Date: 1/25/24

By: 
 Date: 1/30/24

ORDINANCE NO. 17-2023
 BUDGET ORDINANCE AMENDMENT FOR THE CITY OF SHELBY'S HIGHWAY 74
 BYPASS SECTION D&E NATURAL GAS LINE RELOCATION PROJECT.

WHEREAS, in accordance with applicable provisions of the North Carolina Budget and Fiscal Control Act, the City of Shelby finds it advisable and necessary to revise and amend its capital project ordinance and budgets for the City of Shelby's Highway 74 Bypass Section D&E Natural Gas Line Relocation Project; and

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

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

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

Section 1. Ordinance No. 51-2018, the City's Highway 74 Bypass Section D&E Natural Gas Line Relocation Project, is hereby amended as follows to provide for Budget Amendment No. 1 for said project:

Appropriating Natural Gas Fund Balance:

Fund Balance Appropriated	64006000-39900	\$1,543,888
Transfer to Natural Gas Cap. Projects	640741-49641	\$1,543,888

Highway 74 Bypass Section D&E Natural Gas Line Relocation Project

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

Transfer from Natural Gas Fund	64106000-39640-64885	\$1,543,888
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(2) The following Natural Gas Fund Cap. Project Expenditures are amended by the City:

Construction	641746-53000-64885	\$1,543,888
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Section 2. That the revenues, expenditures, and amendments set forth in Section 1 of this ordinance are hereby summarized as follows:

Highway 74 Bypass Section D&E Natural Gas Line Relocation Project

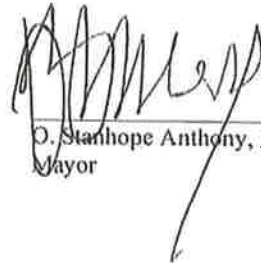
	<u>Current Budget</u>	<u>Amendment No. 1</u>
Revenues		
Transfer from Natural Gas Fund	\$175,000	\$1,718,888
Expenditures		
Engineering	\$175,000	\$ 175,000
Construction	\$ -0-	\$1,543,888

Ordinance No. 17-2023
March 20, 2023
Page 2

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

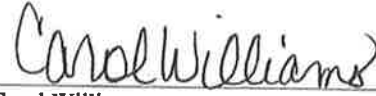
Section 4. This ordinance shall become effective upon its adoption and approval.

Adopted and Approved this the 20th day of March, 2023.




O. Stanhope Anthony, III
Mayor

ATTEST:



Carol Williams
City Clerk

APPROVED AS TO FORM:



Julie Hooten
Interim City Attorney

ORDINANCE NO. 51-2018

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

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

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

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

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

Section 1. Appropriating Fund Balance:

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

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

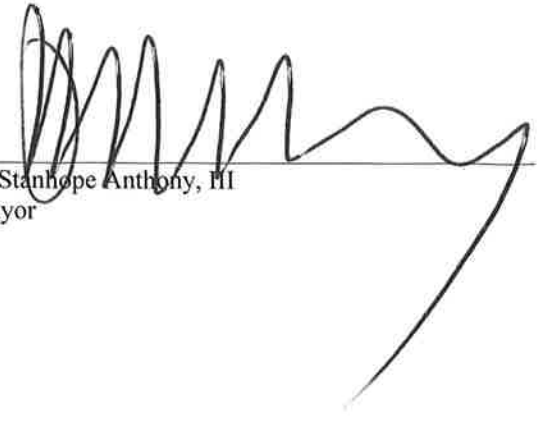
Revenues:		
Transferred from Gas Fund	64106000-39640-64885	\$175,000
Appropriation:		
Construction	641746-42004-64885	\$175,000

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

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

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

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




O. Stanhope Anthony, III
Mayor

ATTEST:



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

APPROVED AS TO FORM:



Robert W. Yelton
City Attorney

ORDINANCE NO. 19-2024
 BUDGET ORDINANCE AMENDMENT FOR THE CITY OF SHELBY'S HIGHWAY 74
 BYPASS SECTION D&E NATURAL GAS LINE RELOCATION PROJECT

WHEREAS, in accordance with applicable provisions of the North Carolina Budget and Fiscal Control Act, the City of Shelby finds it advisable and necessary to revise and amend its capital project ordinance and budgets for the City of Shelby's Highway 74 Bypass Section D&E Natural Gas Line Relocation Project; and

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

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

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

Section 1. Ordinance No. 51-2018, the City's Highway 74 Bypass Section D&E Natural Gas Line Relocation Project, is hereby amended as follows to provide for Budget Amendment No. 2 for said project:

Appropriating Natural Gas Fund Balance:

Fund Balance Appropriated	64006000-39900	\$41,500
Transfer to Natural Gas Cap. Projects	640741-49641	\$41,500

Highway 74 Bypass Section D&E Natural Gas Line Relocation Project

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

Transfer from Natural Gas Fund	64106000-39640-64885	\$41,500
--------------------------------	----------------------	----------

(2) The following Natural Gas Fund Cap. Project Expenditures are amended by the City:

Construction	641746-53000-64885	\$41,500
--------------	--------------------	----------

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

Highway 74 Bypass Section D&E Natural Gas Line Relocation Project

	<u>Current Budget</u>	<u>Amendment No. 2</u>
Revenues		
Transfer from Natural Gas Fund	\$1,718,888	\$1,760,388
Expenditures		
Engineering	\$175,000	\$ 175,000
Construction	\$1,543,888	\$1,585,388

Ordinance No. 19-2024
March 4, 2024
Page 2

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

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

Adopted and Approved this the 4th day of March, 2024.

O. Stanhope Anthony, III
Mayor

ATTEST:

Carol Williams
City Clerk

APPROVED AS TO FORM:

Jason Lunsford
City Attorney

Agenda Item: C-8

- 8) Acceptance of the Certificate of Sufficiency regarding Petition of Annexation of applicant, Caleb Peeler, Eaves Road

Consent Agenda Item: (Carol Williams, City Clerk)

- Memorandum dated February 27, 2024 from Carol Williams, City Clerk to Rick Howell, City Manager
- Resolution No. 15-2024
- Cleveland County Property Card
- Recorded Deed
- Petition for Annexation
- Supporting Documents

City Manager's Recommendation / Comments

Acceptance and acknowledgement of the Certificate of Sufficiency by the City Clerk is all that is required of City Council at this time. A public hearing will be advertised and held at an upcoming meeting of City Council. This will likely be either the March 18 or April 1 meeting. It is my recommendation that this be done via the Consent Agenda.

**OFFICE OF THE CITY CLERK
SHELBY, NORTH CAROLINA**

MEMO

To: Rick Howell, City Manager
From: Carol Williams, City Clerk
Date: February 27, 2024
Re: Caleb Peeler – Petition for Voluntary Annexation

BACKGROUND:

Caleb Peeler submitted a Petition of Contiguous Annexation for parcel #5420 located on Eaves Road, Shelby, North Carolina. City Council adopted and approved Resolution No. 15-2024 on February 19, 2024 directing the City Clerk to determine sufficiency of the contiguous annexation petition from Caleb Peeler.

REVIEW:

In accordance with the North Carolina General Statute 160A-31, staff has investigated the petition submitted by Caleb Peeler. and prepared a certificate in this matter, finding the petition sufficient for further annexation proceedings.

RECOMMENDATION:

Staff recommends proceeding with the annexation process for this property. A public hearing is scheduled to receive public comment on said petition at an upcoming City Council meeting.

DATE 2/05/24
TIME 9:28:05
USER SHERRYL

CLEVELAND COUNTY
PROPERTY CARD
FOR YEAR 2024

PAGE 1
PROG# AS2006

ALLEN KENNETH WAYNE PARCEL ID.. 5430 PIN... 3184 1 1
LOCATION... EAVES RD
DEED YEAR/BOOK/PAGE.. 2000 1264 0800 ASSESSMENT NONE .00 .00 .00
C/O ALLEN PROPERTIES PLAT BOOK/PAGE.. OWNER ID.. 257046
305 S DEKALB ST LEGAL DESC:70 AC RD 1102 DISTRICT.. 51 COUNTY SCH DIST
(WATER)

TOWNSHIP... 3 RIPPY
SHELBY NC 28150-8876 NBRHOOD... SULPH SULPHUR SPRINGS RD-03
DESCRIPTION RESIDENTIAL

MAINTAINED.. 5/15/2023 BY SHERRYL VALUED.. 7/21/2021 BY MAYES
VISITED..... 4/29/1998 BY TYPE OF REVIEW ROUTING#..
PARCEL STATUS... ACTIVE CATEGORY.. GROUP 100

----- SALES HISTORY -----

DEED BK/PAGE	SALE DATE	SALES INSTRUMENT	DISQUALIFIED	SALE AMOUNT	STAMP AMOUNT	DEED NAME
1264 0800	1/14/2000	PARENT PARCEL	COMBINE/NO SALE			ALLEN KENNETH WAYNE
1264 0800	1/14/2000	DEED	QUALIFIED	135,000	270.00	ALLEN KENNETH WAYNE
18L 668	1/01/1984	SALE	QUALIFIED	87.50		

----- LAND SEGMENTS -----

LND #	ZONE	STRAT CODE	LAND TYPE/CODE	LAND QTY	LAND RATE	DPT%	SHP%	LOC%	SIZ%	OTH%	TOP%	TOT CURRENT
2	13	AC OPEN	15.000	3,875.00	.00	.00	.00	100.00	.00	85.00	85.00	49,406
3	13	AC WOODS	15.000	3,875.00	.00	.00	.00	100.00	.00	85.00	85.00	49,406
6	13	AC UND	40.000	3,875.00	.00	.00	.00	100.00	.00	85.00	85.00	131,750
TOTAL ACRES..			70.000	TOTAL LAND FMV..			230,562					

----- IMPROVEMENT # 1 MISC IMPR-Y -----

MAIN FIN AREA.. ACT/EFF YR/AGE.. 1970 1991 30 VISITED.. BY
 STRAT..... 13 DESCRIPT.... TANK MAINTAINED.. 5/15/2023 BY SHERRYL
 LOCATION #..... EAVES RD #BED: #BTH: #HBTH:

COMPONENT	TYPE/CODE/DESC	PCT	UNITS	RATE	STR#	STR%	SIZ%	HGT%	PER%	CDS%
MS 99	MISC BUILDING	1000.00								
	QUAL.. QG 100 MISC IMPR QUALITY 10			100.00	x			0		
	DEPR.. DX NO DEPRECIATION			.00	-	0		0	T	
	PCT COMPLETE	100								
	--FMV...			1,500						

----- IMPROVEMENT # 2 MISC IMPR-Y -----

MAIN FIN AREA.. ACT/EFF YR/AGE.. 1984 2002 19 VISITED.. BY
 STRAT..... 13 DESCRIPT... NV MAINTAINED.. 5/15/2023 BY SHERRYL
 LOCATION #..... EAVES RD #BED: #BTH: #HBTH:

COMPONENT TYPE/CODE/DESC PCT UNITS RATE STR# STR% SIZ% HGT% PER% CDS%
 COST %CMPL

 MS 99 MISC BUILDING 1.00

DATE 2/05/24 CLEVELAND COUNTY PAGE 2
 TIME 9:28:05 PROPERTY CARD PROG# AS2006
 USER SHERRYL FOR YEAR 2024

ALLEN KENNETH WAYNE PARCEL ID.. 5430 PIN... 3184 1 1

----- IMPROVEMENT # 2 MISC IMPR-Y -----

COMPONENT TYPE/CODE/DESC PCT UNITS RATE STR# STR% SIZ% HGT% PER% CDS%
 COST %CMPL

 QUAL.. QG 100 MISC IMPR QUALITY 10 100.00 x 0
 DEPR.. DX NO DEPRECIATION .00 - 0 0 T
 PCT COMPLETE 100
 --FMV... 0

----- IMPROVEMENT # 3 MISC IMPR-Y -----

MAIN FIN AREA.. ACT/EFF YR/AGE.. 1970 1991 30 VISITED.. BY
 STRAT..... 13 DESCRIPT... TANK MAINTAINED.. 5/15/2023 BY SHERRYL
 LOCATION #..... EAVES RD #BED: #BTH: #HBTH:

COMPONENT TYPE/CODE/DESC PCT UNITS RATE STR# STR% SIZ% HGT% PER% CDS%
 COST %CMPL

 MS 99 MISC BUILDING 1000.00
 QUAL.. QG 100 MISC IMPR QUALITY 10 100.00 x 0
 DEPR.. DX NO DEPRECIATION .00 - 0 0 T
 PCT COMPLETE 100
 --FMV... 1,500

----- IMPROVEMENT # 4 MISC IMPR-Y -----

MAIN FIN AREA.. ACT/EFF YR/AGE.. 1984 2002 19 VISITED.. BY
 STRAT..... 13 DESCRIPT... NV MAINTAINED.. 5/15/2023 BY SHERRYL
 LOCATION #..... EAVES RD #BED: #BTH: #HBTH:

COMPONENT TYPE/CODE/DESC PCT UNITS RATE STR# STR% SIZ% HGT% PER% CDS%
 COST %CMPL

MS 99 MISC BUILDING 1.00
 QUAL.. QG 100 MISC IMPR QUALITY 10 100.00 x 0
 DEPR.. DX NO DEPRECIATION .00 - 0 0 T
 PCT COMPLETE 100
 --FMV... 0

TOTAL PARCEL VALUES----	LAND /	OVR	IMPROVEMENTS /	OVR	TOTAL LAND/IMPROVE
2023 VALUE					
FMV.....	230,562	3,000	233,562	233,562	
APV.....	230,562	3,000	233,562	233,562	



City of Shelby
Planning and Development Services Department

Petition for Annexation
(Satellite or Contiguous)

The undersigned Petitioner(s) requests annexation of the property described in accordance with the provision of NCGS 160A-58 (Satellite Annexations) or NCGS 160A-29 (Contiguous Annexations):

Address of Subject Property:

EAVES ROAD (SR 1102)

Applicant(s) Name: Caleb Peeler

Address: 211 Patton Drive

Email: caleb.peeler@protonmail.com

Phone: 704-692-4212

Owner(s) Name: Don Peeler

Email: donpeelernc@aol.com

Phone: 704-913-1033

* If more than one individual owner, attach additional pages with owners' information. *

Provide a brief description of the subject property. Attach additional pages or documentation if necessary.
75.42 acres of vacant property located off Eaves Road. The property is bounded by Little Hickory Creek and the rail-to-trail right-of-way.

Signature of Owners:

Signatures of all Individual Property Owner(s) and Spouses, if any

Signature of Owner

Signature of Owner

If Owner is a Partnership, signature(s) of at least one General Partner

Signature of Owner

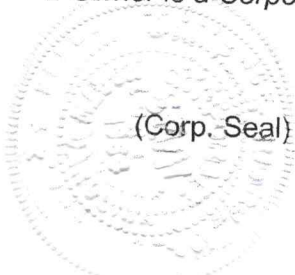
Signature of Owner

If Owner is a Corporation:

DON PEELER REALTY, INC.
Registered Name of Corporation

[Signature]
Signature of President/Vice President

Attested by: [Signature]
Signature of Secretary/Assistant Secretary



(Corp. Seal)

(If additional signatures are necessary, continue on separate sheet and attach to the Petition.)

STATE OF NORTH CAROLINA
COUNTY OF CLEVELAND

I, _____, a Notary Public for said County and State, do hereby certify that ~~_____~~, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the _____ day of _____, _____.

(SEAL)

Notary Public

My Commission Expires: _____

If Owner is a Partnership:

I, _____, a Notary Public for said County and State, do hereby certify that _____, being one/all of the partners of the General Partnership known as _____, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the _____ day of _____, _____.

(SEAL)

Notary Public

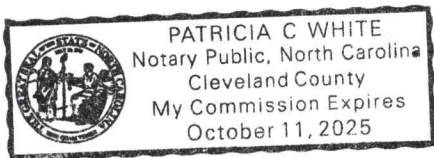
My Commission Expires: _____

If Owner is a Corporation:

I, PATRICIA C. WHITE, a Notary Public for said County and State, do hereby certify that DON PEELER, ^{OWNER} ~~MANAGER~~ PEELER, personally appeared before me this day and acknowledged he (or she) is PRESIDENT of DON PEELER REALTY, INC., a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its PRESIDENT, sealed with its Corporate Seal and attested by UNIVERSAL PEELER as its SECRETARY.

Witness my hand and official seal, this the 26 day of JANUARY, 2024

(SEAL)

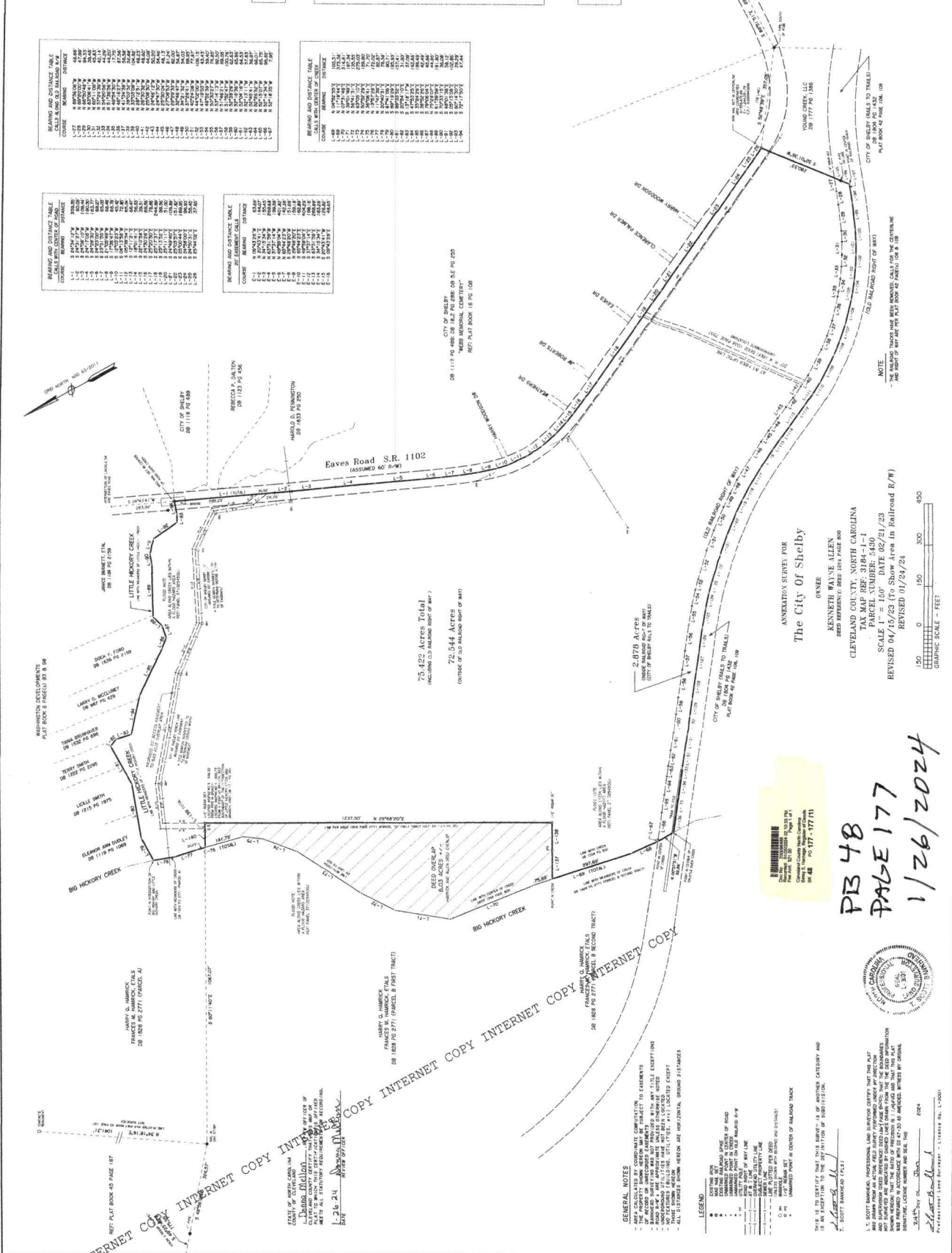
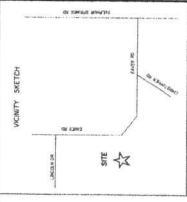


Patricia

Notary Public

My Commission Expires: 10/11/2025

SURVEY BY
BANKHEAD SURVEYING, PA
407 EAST MARION STREET
SHELBY, N. C. 28150
FIRM LICENSE NUMBER: C-0972



BEARING AND DISTANCE TABLE
CALL WITH CENTER OF TRIANGULATION

COURSE	BEARING	DISTANCE
L-1	S 89° 34' 00" W	1.188
L-2	N 89° 34' 00" E	1.188
L-3	S 89° 34' 00" W	1.188

BEARING AND DISTANCE TABLE
CALLED TO CENTER OF TRIANGULATION

COURSE	BEARING	DISTANCE
L-1	S 89° 34' 00" W	1.188
L-2	N 89° 34' 00" E	1.188
L-3	S 89° 34' 00" W	1.188

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CALLED TO CENTER OF TRIANGULATION

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BEARING AND DISTANCE TABLE
CALLED TO CENTER OF TRIANGULATION

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BEARING AND DISTANCE TABLE
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BEARING AND DISTANCE TABLE
CALLED TO CENTER OF TRIANGULATION

COURSE	BEARING	DISTANCE
L-1	S 89° 34' 00" W	1.188
L-2	N 89° 34' 00" E	1.188
L-3	S 89° 34' 00" W	1.188

BEARING AND DISTANCE TABLE
CALLED TO CENTER OF TRIANGULATION

COURSE	BEARING	DISTANCE
L-1	S 89° 34' 00" W	1.188
L-2	N 89° 34' 00" E	1.188
L-3	S 89° 34' 00" W	1.188

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BEARING AND DISTANCE TABLE
CALLED TO CENTER OF TRIANGULATION

COURSE	BEARING	DISTANCE
L-1	S 89° 34' 00" W	1.188
L-2	N 89° 34' 00" E	1.188
L-3	S 89° 34' 00" W	1.188

ANNEXATION SURVEY FOR
The City of Shelby
OWNER:
KENNETH WAYNE ALLEN
DEED REFERENCE: DEED 1091 PAGE 608
CLEVELAND COUNTY, NORTH CAROLINA
TAX MAP REF: 3184-1-1
PARCEL NUMBER: 430
SCALE 1" = 150'
DATE 02/21/23
REVISED 04/19/23 (To Show Area in Railroad R/W)
REVISED 01/24/24

75,544 Acres Tract
75,544 Acres
CENTER OF U.S. RAILROAD RIGHT OF WAY

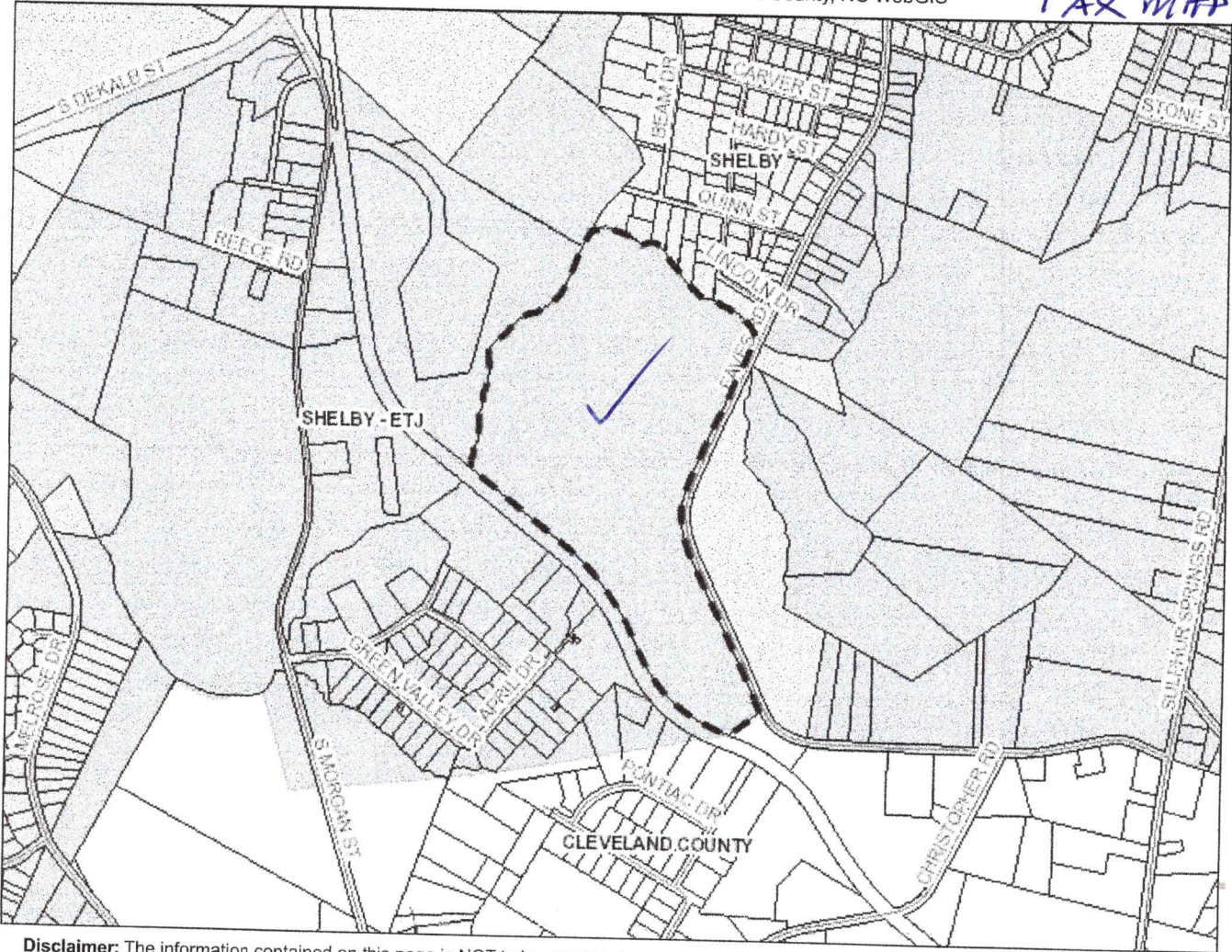
2,878 ACRES
CITY OF SHELBY (SHELLS TO TRAILS)
CITY OF SHELBY (SHELLS TO TRAILS)
ART BOOK # 450 109

LEGEND:
• DOTTED LINE: CENTER LINE OF ROAD
• DASHED LINE: BOUNDARY OF ROAD
• SOLID LINE: BOUNDARY OF BAY LINE
• THIN SOLID LINE: BOUNDARY OF PROPERTY LINE
• THICK SOLID LINE: BOUNDARY OF PROPERTY LINE
○ POINT: BOUNDARY POINT OR SURVEY POINT
+ MARKED POINT IN CENTER OF RAILROAD TRACK

STATE OF NORTH CAROLINA
COUNTY OF CLEVELAND
I, Ken Allen
DATE 1-26-24
1/26/2024

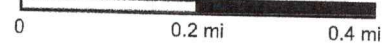
KEN ALLEN / DON PEELER REALTY, INC / EAVES ROAD SURVEY

1/24/2024
85



Disclaimer: The information contained on this page is NOT to be construed or used as a survey or legal description. Map information is believed to be accurate but accuracy is not guaranteed.

Approx. Scale 1:12959



Layer: Parcels

SEQNUM: 5430
Owner1: ALLEN KENNETH WAYNE
PIN: 2545380567
ParcelNo: 5430
OwnerName1: ALLEN KENNETH WAYNE
OwnerAddr1: C/O ALLEN PROPERTIES
OwnerAddr2: SHELBY NC 28150-8876
OwnerCity: SHELBY
OwnerState: NC
OwnerZip: 28150-8876
ParcelAddr: EAVES RD
DeedBook: 1264
DeedPage: 0800
MapNo: 3184
Block: 1

Lot: 1
LandArea: 70
LandValue: 230562
BldgValue: 3000
AdjValue: 233562
TaxYear: 2024
TaxCode2: R
ParRdName: EAVES
ParRdType: RD
Use_Code: R
Tax_District: 51
DeedBook_Page: 1264 0800
Deeded_Acres: 70
SUM_Calculated_Acres: 76.9611545
Neighborhood Code: SULPH

Layer: Shelby Zoning ZoneType: R20 Municipality: City of Shelby	Layer: 2000 Census Tracts Census Tract: 951600
Layer: NC House and Senate Districts Senate: 44th	Layer: Cleveland County School Districts Elementary: TOWNSHIP 3 ELEMENTARY Middle: CREST MIDDLE SCHOOL High: CREST HIGH SCHOOL
Layer: Flood Zones GRID: 2545 PANEL : 3710254500J	Layer: Voting Precincts Precinct: Shelby South Voting Site: HOLLY OAK PARK
Layer: Fire Districts DISTRICT: Gardner	Layer: Watersheds ZONE: NONE
Layer: Jurisdictional Limits Name: SHELBY - ETJ	



City of Shelby
Planning and Development Services

Appointed Agent Form

Address of Subject Property:

EAVES ROAD (SR 1102)

I, DON PEELER, owner of the property located at said address and identified by the Cleveland County Tax Assessor's Office as PIN: 2545380567, located in Cleveland County, North Carolina, do hereby appoint CALEB PEELER to represent me in filing an application for a permit with the City of Shelby Planning and Development Services Department.

I further authorize CALEB PEELER to act as my agent in all matters, formal and informal, and to receive all official correspondence as it relates to the ZONING PERMIT REVIEW and APPROVAL PROCESS.

[Signature]
Signature of Property Owner

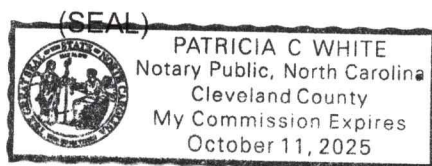
1/26/2024
Date

Applicant(s) Name: CALEB PEELER
Address: 211 PATTON DRIVE
SHELBY, NC 28150
Email: CALEB.PEELER@PROTONMAIL.COM
Phone: 704-692-4212

STATE OF NORTH CAROLINA
COUNTY OF CLEVELAND

I, Patricia C. White, a Notary Public for said County and State, do hereby certify that DON L. PEELER, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the 26 day of JANUARY, 2024.



[Signature]
Notary Public
My Commission Expires: 10/11/2025

BK 1914 PG 472 - 474 (3)
This Document eRecorded:
Fee: \$26.00
Cleveland County, North Carolina
Betsy S. Harnage, Register of Deeds

DOC# 200096490
01/26/2024 02:38:58 PM
Tax: \$1,860.00

INTERNET COPY

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$1,860.00

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

Mail/Box to: Terry L Pack, Horn, Pack & Brown, P.A., 211 South Dekalb Street, Shelby, NC 28150

This instrument was prepared by: Horn, Pack & Brown, P.A., 211 South Dekalb Street, Shelby, NC 28150 (13310)

Brief description for the Index: _____

THIS DEED made this 26th day of January, 2024, by and between

GRANTOR

GRANTEE

Kenneth Wayne Allen and wife,
Sheila Allen
305 S. DeKalb Street
Shelby, NC 28150

Don Peeler Realty Inc.
101 Apple Hill Drive
Shelby, NC 28152

Enter in appropriate block for each Grantor and Grantee: name, mailing address, and, if appropriate, character of entity, e.g. corporation or partnership.

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

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

See attached Exhibit "A"

The property hereinabove described was acquired by Grantor by instrument recorded in Book _____ page _____.
All or a portion of the property herein conveyed ___ includes or does not include the primary residence of a Grantor.

A map showing the above described property is recorded in Plat Book _____ page _____.

INTERNET COPY

INTERNET COPY

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

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

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

By: _____ (Entity Name) Print/Type Name: Kenneth Wayne Allen (SEAL)
By: _____ Print/Type Name: Sheila Allen (SEAL)
By: _____ Print/Type Name: _____ (SEAL)
By: _____ Print/Type Name: _____ (SEAL)

State of North Carolina - County or City of Cleveland
I, the undersigned Notary Public of the County or City of Cleveland and State aforesaid, certify that Kenneth Wayne Allen and wife, Sheila Allen personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 26th day of January, 20 24.

My Commission Expires: 10/30/24 (Affix Seal)
Linney M. Tyree Notary Public
Notary's Printed or Typed Name

State of _____ - County or City of _____
I, the undersigned Notary Public of the County or City of _____ and State aforesaid, certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this _____ day of _____, 20____.

My Commission Expires: _____ (Affix Seal)
Notary's Printed or Typed Name

State of _____ - County or City of _____
I, the undersigned Notary Public of the County or City of _____ and State aforesaid, certify that _____ personally came before me this day and acknowledged that _____ he is the _____ of _____, a North Carolina or _____ corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, _____ he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this _____ day of _____, 20____.

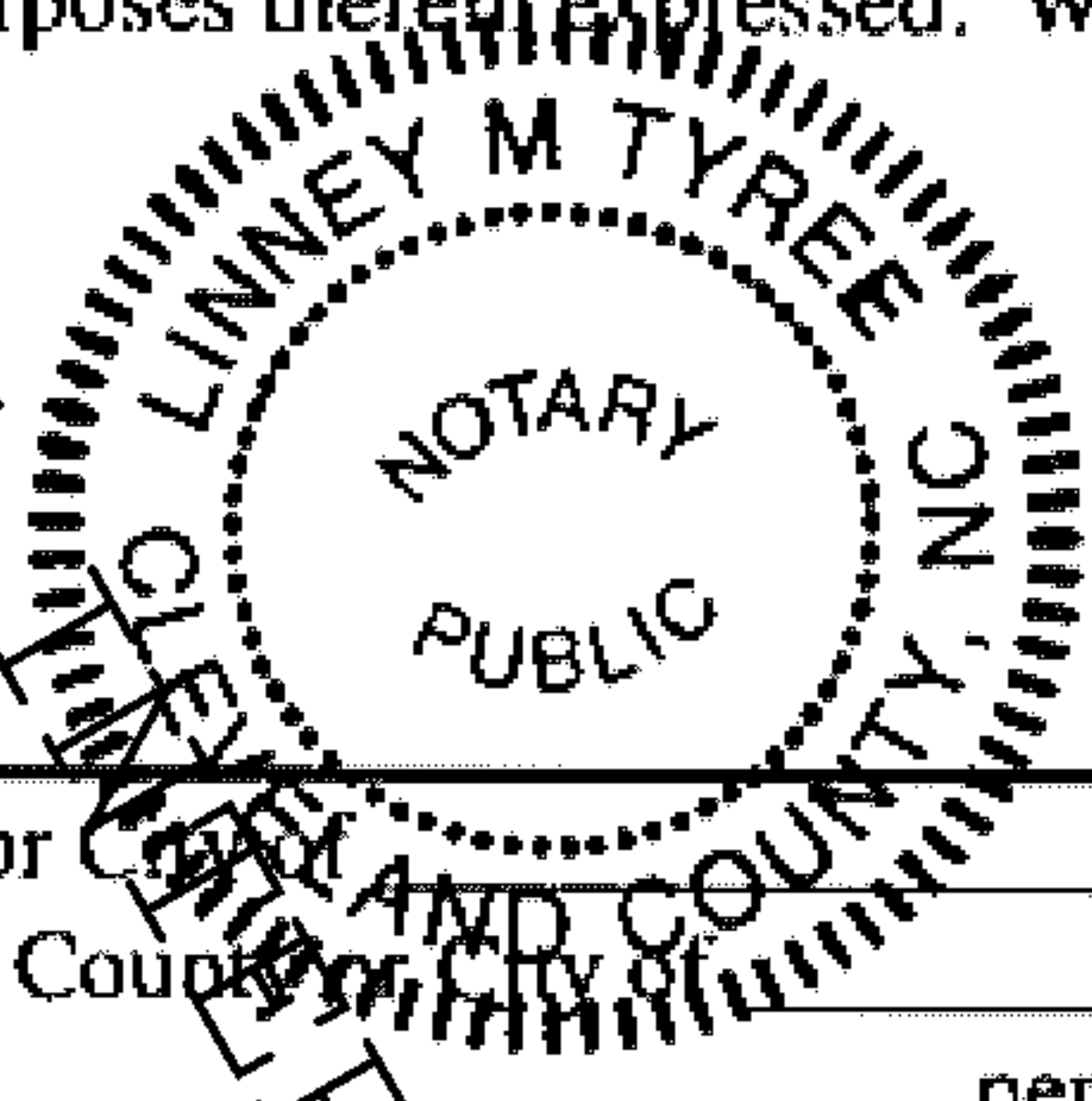
My Commission Expires: _____ (Affix Seal)
Notary's Printed or Typed Name

INTERNET COPY

COPY

INTERNET COPY

COPY



COPY

INTERNET COPY

COPY

INTERNET

EXHIBIT "A"

Being the full contents of the 75.422 acre tract of the Kenneth Wayne Allen property as shown on a plat as recorded in Plat Book 48, Page 77 of the Cleveland County Registry and reference is hereby made to said plat for a full metes and bounds description as if fully set out herein.

TITLE REFERENCE: See Deed at Book 1264, Page 800 of the Cleveland County Registry.

Parcel #5430

INTERNET COPY

COPY

INTERNET COPY INTERNET COPY INTERNET COPY INTERNET COPY

Agenda Item: D

Unfinished Business

None

E. New Business

Agenda Item: E-1

- 1) Request for Qualifications (RFQ) for a Comprehensive Land Use Plan for the City of Shelby, North Carolina

New Business Item: (Rick Howell, City Manager and Justin Longino, Assistant City Manager)

- Memorandum dated February 28, 2024 from Justin Longino, Assistant City Manager to Rick Howell, City Manager
- Request for Qualifications

City Manager's Recommendation / Comments

This time is scheduled on City Council agenda to allow Mr. Longino to present a request for qualification document that has been prepared to begin the process of updating the City's Comprehensive Land Use Plan. This is the first step in securing a third party outside consultant to assist City Council, city staff and our community with the development of a new comprehensive land use plan. You all are aware that the City has changed significantly since adoption of the current plan in 2009. It will continue to change and with that change arises a need to make sure that the City has the tools necessary in its land use planning toolbox to formulate sound public policy to regulate growth so that it happens in a beneficial manner and at a pace that can be managed.

No action is necessary at this time except for Council to agree that the RFQ may be issued at this time. If agreed, then subsequent responses will be evaluated and a recommendation will be brought forward for your consideration.

MEMORANDUM

To: Rick Howell – City Manager

From: Justin Longino – Assistant City Manager

Date: February 28, 2024

Subject: Comprehensive Land Use Plan Request for Qualifications (RFQ)

Background

[NCGS 160D-501](#) states that “as a condition of adopting and applying zoning regulations under this Chapter, a local government shall adopt and reasonably maintain a comprehensive plan or land-use plan.” It goes on to discuss the contents of that plan more specifically, but in general terms this document should “set forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction.”

The City’s [current comprehensive land use plan](#) was adopted in 2009 and reflects the land use goals and needs of the City at the time of creation.

Review and Comments

Staff as formulated a request for qualifications (RFQ) to solicit proposals from qualified firms. It is included herein. This is a somewhat broad document that includes standard practices for this type of process. Our aim is to receive proposals from firms and have a preview of the similar work they have done in other communities, the innovative processes they have used to collect community feedback, and the overall approach they would for such a large and comprehensive plan.

Further details are expected to be negotiated and finalized within a formal agreement.

Recommendation

Staff recommends presentation of the RFQ to City Council on March 4th. With their approval, staff will:

1. Send out the RFQ,
2. Collect proposals,
3. Make a recommendation to Council for final approval.

Request for Qualifications (RFQ)

for a

**COMPREHENSIVE
LAND USE PLAN**

for the

**CITY OF SHELBY
NORTH CAROLINA**

Date issued: March 4, 2024

Proposals due: April 5, 2024 by 5:00pm

INTRODUCTION & PROJECT DESCRIPTION

The City of Shelby is seeking submittals from a qualified planning or consulting team who will conduct a comprehensive land use planning process for the City.

The city desires a workable, creative, and dynamic plan to guide future long-term growth and development throughout the next fifteen to twenty years. The intent of this project is to draft a plan that will serve as a strong foundational document and be the primary policy guide for short and long-range planning, zoning, and development decision-making within the City's planning boundaries. The Land Use Plan shall also serve as a necessary first step and guide toward the systematic revision of the City's existing land development regulations.

The new plan will provide clear and predictable guidance to developers, stakeholders, and citizens. It will help maintain collaborative and respectful relationships within the community and establish policies and priorities for controlled and coordinated development, infill, and revitalization. Furthermore, it is essential that the land use plan align with all the City's goals and plans such as transportation, parks, and economic development.

The City desires to complete and adopt the plan twelve (12) to eighteen (18) months from the date of this RFQ and the proposed timeline submitted should reflect that adoption date.

GENERAL BACKGROUND

Shelby, North Carolina is located in the foothills of the Blue Ridge Mountains in western North Carolina. It is centered between three large metropolitan areas of Charlotte, NC, Asheville, NC and Greenville/Spartanburg, SC. Shelby is the official county seat of Cleveland County. Shelby's certified estimated 2021 population is 21,947, and the City is approximately 22.5 square miles in size. Significant annexations completed during the 1990's allowed the City to increase its population at a time that otherwise would have shown significant decline. The City is beginning to see similar trends in growth and development during recent years.

The City of Shelby's last Comprehensive Land Use Plan was completed and adopted in April 2009. A summary of other plans adopted over the last two decades is included as an Appendix. Most of these plans can be found on the City's website.

SCOPE OF WORK

The consulting team shall provide the full range of planning services necessary for completion of the project. Although there is an existing Comprehensive Land Use Plan, it was last updated over 15 years ago. Much of Shelby has changed in that timeframe and the City continues to grow and develop. This should be viewed as more than an update to an existing plan and the level of detail in proposals should reflect that.

Interested consulting teams will involve a multi-disciplinary group within their own firm or by cooperating with other firms to form a consulting team. The consulting team shall have the following skills and abilities:

- **Advanced Comprehensive Planning:** Experience and skills in preparation of comprehensive plans for growing communities.
- **Public Participation:** Experience and skills in meaningful public participation to

ensure that the community's vision is included within the Comprehensive Plan for urbanized areas.

- **Economic Vitality:** Experience and skills in strategies and programs for improving the economic vitality of the City and making it attractive for new development (business and residential) and job creation.

The consulting firm will be required to present, at a minimum, a draft and final plan to the Planning and Zoning Board and City Council. Public workshops are an expected part of the input process. These should allow for multiple channels of engagement to maximize the reach and input received. Regular progress reports are also anticipated. The resulting plan should be presented in a format that is user-friendly, easily comprehended and accessible to the general public. The extensive use of maps, graphics, and other devices that enhance the readability and ease of use of the Plan are highly desirable.

COMPLETION SCHEDULE

It is expected that the consultant or consulting team will complete its tasks and present the Comprehensive Plan ready for adoption within 12 to 18 months of issuance of this RFQ.

SELECTION CRITERIA

All submittals shall be reviewed on the following set of criteria:

- The qualifications and experience of the consultant(s) in performing comprehensive land use plans of a similar scope and scale, meeting the objectives outlined herein.
- The proposed cost to provide the services requested.
- The ability of the consultant(s) to meet the expected project completion schedule.
- The qualifications and experience of the personnel to be assigned by the consultant(s) to the project.
- The location of an office within the State of North Carolina, relative to Shelby.

CONTENT

Submittals shall include the following:

- A cover letter signed by a member of the consulting firm empowered to commit the firm to a contractual arrangement with the City. The cover letter should also include the name, address, and telephone number of the person who will be responsible for regular communication with the City.
- A brief history of the consulting firm(s) including:
 - ✓ Organization, size, and office locations; and
 - ✓ The office location where the work associated with the project would be performed.
- Description of the range of services provided, relevant work experience, capabilities and expertise which qualify the consultant(s) to undertake the project. Relevant work experience should include projects with similar sized cities undertaken within the last

five years. For each project, include the name, title and telephone number of a representative that the City may contact to discuss their experience.

- Identify the individual or individuals who would be providing services to the City, listing his or her individual work experience with similar cities.
- Identify the primary project contact with the consulting firm that will be the lead person from the firm with the City.
- A scope of services that provides the consultant's approach and methodology to execute the attached work program. The proposal may be creative and suggest alteration to or enhancement of the work program. Project approach might include data sources, public participation, goal and policy directions, suggesting optional elements, etc.
- Indicate the format of the monthly reporting procedure to which the project team will adhere.
- Costs per work element and a not-to-exceed cost proposal to provide the services described herein. The proposal should also include billing options.
- A timeline for the preparation and implementation of the tasks/activities being proposed per the Scope of Work detailed in this RFQ.

SELECTION PROCEDURES

Proposals must be received **no later than 5:00 PM (EST)** on **April 5, 2024** to be eligible for consideration. No late, incomplete, email or fax submissions shall be accepted. Any questions on the request should be directed to Justin Longino at 704-484-6834 or justin.longino@cityofshelby.com. Failure to follow these procedures may result in disqualification of the consultant from the RFQ process.

Electronic copies of the submittal (preferred) may be directed to:
Justin Longino, Assistant City Manager, justin.longino@cityofshelby.com

Alternatively, submissions can be sent to:
City of Shelby, Attn: Justin Longino
300 South Washington Street, Shelby, NC 28150
PO Box 207, Shelby, NC 28151

Selection of a consultant will be made at the discretion of the City, which reserves the right to accept or reject any and all proposals. All submissions or parts thereof become the property of the City.

A short list of consultants may be asked to make presentations to a consultant selection committee. It is anticipated that consultant selection will occur within 30 days of either the proposal submission deadline or the date of presentation.

The City of Shelby is an equal opportunity employer and does not discriminate on the basis of race, color, sex, national origin, religion, age, or disability in employment or provisions of service.

APPENDIX – SUMMARY OF ADOPTED PLANS

- The City of Shelby adopted its **Unified Development Ordinance (UDO)** in November 2001 and has amended it a number of times over the years. *Note: the City expects to undertake a UDO rewrite following the completion of the Comprehensive Land Use Plan, but writing a new UDO is not part of the scope of work of this RFQ.*
- In November 2005 the City adopted the **Strategic Growth Plan**. These policies are designed to be used primarily as a foundation for future decisions on City facilities and services primarily related to the management of growth and development.
- In 2006 the City developed a **Neighborhood Action Plan** whose purpose was to begin the process of organization and coordination of current city programs and to begin to plan for the future of Shelby’s neighborhoods in a thoughtful and purposeful way.
- The 2008 **Urban Forest Management Plan** provided the City of Shelby with a review of the existing city tree resource in the center city, and presented a cost-effective framework of tree maintenance and replacement options to allow the City to maximize the benefits of its urban forest in the next decade.
- **US 74 Bypass Small Area Plans:**
 - 2014 - Washburn Switch Road
 - 2015 - Polkville Road/NC Highway 226
- In 2016, the City adopted an updated **Center City Master Plan** designed to evaluate the market conditions of Center City Shelby, look at recent investment through the lens of current successes and opportunities, and make recommendations for the community to take Uptown Shelby and its surrounding neighborhoods to the next level.
- **Gaston-Cleveland-Lincoln Comprehensive Transportation Plan (CTP – adopted 2019, revised 2020, <https://gclmpo.org/projects-plans-programs/gclmpo-plans-programs/comprehensive-transportation-plan-ctp/>)**
 - The CTP serves the present and anticipated travel demand in and around the MPO region. The plan is based on population growth, economic conditions and prospects, and patterns of land development in and around the region and shall provide for the safe and effective use of the transportation system.
- In 2018, the **Rail Trail Master Plan** was completed to advance the conversion of a historic 10+ mile rail corridor into a rail trail through analysis, public input, recommendations, and use/benefit projections.
- The 2018 **City of Shelby Economic Development Strategic Plan** outlines strategies in population growth, business recruitment and retention, sites and buildings, entrepreneurial development, place-making, marketing, and education. These strategies seek to complement and build upon the city’s long-range plans.
- In 2020, **Shelby Parks & Recreation Master Plan** serves as a guide for park and recreation facility development. The Plan considers past planning efforts, existing

recreational assets, community recreation preferences, and public input to guide recommendations for future facility enhancements and development. Plan recommendations focus on capital infrastructure development and connectivity between existing and new parks.

- Also in 2020, the City adopted the **Shelby Bicycle + Pedestrian Plan**, which focuses on improving walking and cycling conditions. The plan provides a comprehensive approach to identifying needs and deficiencies in the City's bike & pedestrian infrastructure, examining possible improvements, and prioritizing implementation strategies with viable funding sources.
- The City completed its most recent **Transportation Asset Management Plan** in 2021, which served to grade and rank City-maintained streets in order to appropriately plan for future transportation asset improvement projects.
- The **Public Art Plan** was adopted in 2021 to help enhance public spaces through art, involve artists in the planning process, establish a funding plan, and create a framework for the new Public Art Advisory Board.

Agenda Item: E-2

- 2) Consideration of appointment to the North Carolina Municipal Power Agency 1 (NCMPA1) Board of Commissioners as First and Second Alternates:

Currently: Commissioner: Rick Howell
1st Alternate: Justin Merritt
2nd Alternate: Ben Yarboro

Proposed: Commissioner: Rick Howell
1st Alternate: Ben Yarboro
2nd Alternate: Justin Longino

New Business Item: (Rick Howell, City Manager)

- No documentation provided

City Manager's Recommendation / Comments

City Council periodically appoints representatives and alternates to the NC Municipal Power Agency Number 1 Board of Commissioners. This includes a primary voting Commissioner and two alternates who are empowered to act on the City's behalf when action is required to be taken by the NCMPA1 Board of Commissioners.

With the resignation of former Assistant City Manager Justin Merritt, a vacancy occurred. It is my recommendation to City Council that Ben Yarboro, Assistant City Manager be appointed to the 1st alternate position, and Assistant City Manager Justin Longino be appointed to the 2nd alternate position.

Proposed motion:

Motion to nominate and appoint Mr. Ben Yarboro by acclamation as the 1st alternate representing the City of Shelby on the NCMPA1 Board of Commissioners and nominate and appoint Mr. Justin Longino as the 2nd alternate representing the City of Shelby on the NCMPA1 Board of Commissioners.

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 discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including on a tentative list of economic development incentives that may be offered by the public body in negotiations pursuant to North Carolina General Statute 143-318.11(a)(4).
- 2) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body 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).
- 3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged pursuant to North Carolina General Statute 143-318.11(a)(3).

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