

NORTH CAROLINA  
GUILFORD COUNTY

**TRANSPORTATION IMPROVEMENT PROJECT –  
MUNICIPAL AGREEMENT**

DATE: 5/10/2016

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

TIP #: U-5842

AND

WBS Elements: PE: 54042.1.1

ROW: 54042.2.FD1

CITY OF GREENSBORO

CON: 54042.3.FD1

THIS MUNICIPAL AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the City of Greensboro, a local government entity, hereinafter referred to as the "Municipality".

**WITNESSETH:**

WHEREAS, the Department has plans to make certain street and highway constructions and improvements at the intersection of Pisgah Church Road and North Elm Street within the Municipality under Project U-5842, in Guilford County; and,

WHEREAS, the Department and the Municipality have agreed that the municipal limits, as of the date of the awarding of the contract for the construction of the above-mentioned project, are to be used in determining the duties, responsibilities, rights and legal obligations of the parties hereto for the purposes of this Agreement; and,

WHEREAS, the Project is located on roads functionally classified as a Minor Arterial and Federal funding can be applied to the Project; and,

WHEREAS, the Municipality has agreed to provide a twenty percent (20%) match on the total cost of the Project because neither Pisgah Church Road nor North Elm Street are included on the State Highway System; and,

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly, including but not limited to, the following legislation: General Statutes of North Carolina (NCGS), Section 136-66.1, Section 160A-296 and 297, Section 136-18, and Section 20-169, to participate in the planning and construction of a Project approved by the Board of Transportation for the safe and efficient utilization of transportation systems for the public good; and,

WHEREAS, the parties to this Agreement have approved the preliminary engineering phase of said Project with cost participation and responsibilities for the Project as hereinafter set out; and,

WHEREAS, this Agreement will be supplemented prior to the project proceeding to the right of way and/or construction phase of the Project;

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

### **SCOPE OF THE PROJECT**

1. The Project consists of improvements by constructing turn lanes and sidewalks at the intersection of Pisgah Church Road (non-system) at North Elm Street (non-system) in Greensboro.

### **PLANNING AND DESIGN**

2. The Department shall prepare the environmental and/or planning document, and obtain any environmental permits needed to construct the Project, and prepare the Project plans and specifications needed to construct the Project. All work shall be done in accordance with departmental standards, specifications, policies and procedures.

### **RIGHT OF WAY**

3. The Department shall be responsible for acquiring any needed right of way required for the Project. Acquisition of right of way shall be accomplished in accordance with the policies and procedures set forth in the North Carolina Right of Way Manual.
4. It is understood by both parties that all work for the betterments shall be performed within the existing right of way. However, should it become necessary, the Municipality, at no expense or liability whatsoever to the Department, shall provide any needed right of way and or construction easements for the construction of the betterments, and remove from said rights of way all obstructions and encroachments of any kind or character. Acquisition of any needed right of way shall be performed in accordance with the following state and federal policies and procedures, "Right of Way Acquisition Policy and Land Acquisition Policy, contained in the Federal-Aid Policy Guide, Part 712, Subpart B", and the North Carolina Right of Way Manual (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970). The Department shall be indemnified and held harmless from any and all damages and claims for damages associated with the acquisition of any construction easements and/or right of way.

## **UTILITIES**

5. The Municipality, without any cost or liability whatsoever to the Department, shall be responsible for all overhead and underground utility relocation costs when the owner has prior rights. The Municipality, without any cost or liability whatsoever to the Department shall be responsible for all municipally-owned water and sewer relocation costs. For those utilities installed in the right of way of said roads, the Municipality shall exercise any rights it may have under a Franchise Agreement, Encroachment Agreement, or other type of Agreement to effect all necessary changes, adjustments and relocation of the utilities in conflict on the project without any cost to the Department.
  - A. Said work shall be performed in a manner satisfactory to the Department prior to the Department beginning construction of the Project. The Municipality shall make every effort to promptly relocate said utilities in order that the Department will not be delayed in the construction of the Project.
  - B. The Municipality, at no cost to the Department, shall make all necessary adjustments to house or lot connections or services lying within the right of way or construction limits, whichever is greater, of the Project.

## **CONSTRUCTION**

6. The Department shall construct, or cause to be constructed, the Project in accordance with the plans and specifications of said Project as filed with, and approved by, the Department. The Department shall administer the construction contract for said Project.

## **MAINTENANCE**

7. Upon completion of the Project the sidewalks and intersection improvements of Pisgah Church Road (non-system) and North Elm Street (non-system) shall be owned and maintained by the Municipality.

## **FUNDING**

8. The Municipality shall participate in the costs of the Project as follows:
  - A. Subject to compliance by the Municipality with the provisions set forth in this Agreement and the availability of federal funds for preliminary engineering, the Department shall participate up to a maximum amount of Eighty Thousand Dollars (\$80,000), as detailed below. The Municipality shall provide a local match, as detailed in the FUNDING TABLE

below, and all costs that exceed the total estimated cost.

#### FUNDING TABLE

Fund Source	Federal Funds Amount	Reimbursement Rate	Non-Federal Local Match \$	Non-Federal Local Match Rate
STP	\$80,000	80 %	\$20,000	20%
Total Estimated Cost		\$100,000		

- B. Upon execution of this Agreement, the Municipality shall submit a check for Twenty Thousand Dollars, (\$20,000.00) to the Department's Division 7 Engineer to cover the local match for the Preliminary Engineering phase. Should additional funds be needed later to complete the Preliminary Engineering phase, the Department shall request a check from the Municipality to cover the local match.
- C. In the event the Municipality fails for any reason to pay the Department in accordance with the provisions for payment herein above provided, NCGS § 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to said Municipality by NCGS § 136-41.1 until such time as the Department has received payment in full under the reimbursement terms set forth in this Agreement.

#### FUTURE AGREEMENTS

9. Prior to the Department proceeding with the work for the Right of Way and/or Construction phase, the Municipality and the Department will enter into a Supplemental Municipal Agreement to address responsibilities and funding for these phases.
10. The inclusion and payment for any work included in this Project that is determined to be betterment will be addressed under a Supplemental Municipal Agreement, as needed.

#### ADDITIONAL PROVISIONS

11. It is the policy of the Department not to enter into any agreement with another party that has been debarred by any government agency (Federal or State). The Municipality certifies, by signature of this agreement, that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Department or Agency.

12. To the extent authorized by state and federal claims statutes, each party shall be responsible for its respective actions under the terms of this agreement and save harmless the other party from any claims arising as a result of such actions.
13. All terms of this Agreement are subject to available departmental funding and fiscal constraints.
14. This Agreement contains the entire agreement between the parties and there are no understandings or agreements, verbal or otherwise, regarding this Agreement except as expressly set forth herein.
15. The parties hereby acknowledge that the individual executing the Agreement on their behalf is authorized to execute this Agreement on their behalf and to bind the respective entities to the terms contained herein and that he has read this Agreement, conferred with his attorney, and fully understands its contents.
16. By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor ( i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).
17. Pursuant to G.S. 147-86.59, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, is ineligible to contract with the State of North Carolina or any political subdivision of the State. The Iran Divestment Act of 2015, G.S. 147-55 *et seq.* requires that each vendor, prior to contracting with the State, certify that the contracting party meets the requirements of the Iran Disinvestment Act. The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address [www.nctreasurer.com/Iran](http://www.nctreasurer.com/Iran) and will be updated every 180 days.

By execution of this Agreement each Party certifies that neither it nor its Agents or Contactors/Subcontractors 1) are on the Final Divestment List of entities that the State Treasurer has determined engages in investment activities in Iran; 2) shall not utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List; and 3) that the undersigned are authorized by the Parties to make this Certification.

During the term of this Agreement, should the Parties receive information that a person is in violation of the Act as stated above, the Department will offer the person an opportunity to respond and the Department will take action as appropriate and provided for by law, rule, or contract. Should this Act be voided by NC General Statute, this Agreement will remain valid; however this certification will no longer be required.

IT IS UNDERSTOOD AND AGREED upon that the approval of the Project by the Department is subject to the conditions of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:

CITY OF GREENSBORO

BY: \_\_\_\_\_ BY: \_\_\_\_\_

TITLE: \_\_\_\_\_ TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_ DATE: \_\_\_\_\_

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Approved by the \_\_\_\_\_ (local governing body) of the City of Greensboro

as attested to by the signature of Clerk of said governing body on \_\_\_\_\_ (Date)

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

(SEAL)

BY: \_\_\_\_\_  
(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:

City of Greensboro

DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_  
(CHIEF ENGINEER)

DATE: \_\_\_\_\_

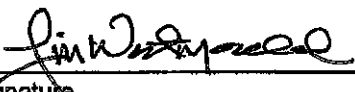
APPROVED BY BOARD OF TRANSPORTATION ITEM O: \_\_\_\_\_ (Date)

**CERTIFICATION OF ELIGIBILITY**  
**Under the Iran Divestment Act**

Pursuant to G.S. 147-86.59, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, is ineligible to contract with the State of North Carolina or any political subdivision of the State. The Iran Divestment Act of 2015, G.S. 147-55 *et seq.*\* requires that each contracting party, prior to contracting with the State certify on the date the Contract was entered into and today's date signed below; and the undersigned on behalf of the Contracting Party does hereby certify, to the following:

1. that the contracting party is not identified on the Final Divestment List of entities that the State Treasurer has determined engages in investment activities in Iran;
2. that the contracting party shall not utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List; and
3. that the undersigned is authorized by the contracting party to make this Certification.

Contracting Party: City of Greensboro

By:   
Signature  
Jim Westmoreland  
Printed Name

4/4/16  
Date  
City Manager  
Title

The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address [www.nctreasurer.com/Iran](http://www.nctreasurer.com/Iran) and will be updated every 180 days. For questions about the Department of State Treasurer's Iran Divestment Policy, please contact Meryl Murtagh at [Meryl.Murtagh@nctreasurer.com](mailto:Meryl.Murtagh@nctreasurer.com) or (919) 814-3852.

\* Note: Enacted by Session Law 2015-118 as G.S. 143C-55 *et seq.*, but has been renumbered for codification at the direction of the Revisor of Statutes.

## CONTRACT SIGNATURE SHEET

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**Recommended by:**

\_\_\_\_\_  
Director of Transportation

\_\_\_\_\_  
Date

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**Approved by:**

\_\_\_\_\_  
Deputy Finance Officer

\_\_\_\_\_  
Date

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

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**Approved as to Form:**

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Date

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**Approved by:**

\_\_\_\_\_  
City Manager, Deputy

\_\_\_\_\_  
Date

**Attest:**

\_\_\_\_\_  
Deputy City Clerk

\_\_\_\_\_  
Date

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