

NORTH CAROLINA

**TRANSPORTATION IMPROVEMENT PROJECT –
MUNICIPAL AGREEMENT**

DURHAM COUNTY

DATE: 2/2/2012

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

TIP #: B-3638

AND

WBS Elements: 33186.3.1

CITY OF DURHAM

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 Durham, 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 within the Municipality under Project B-3638, in Durham 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, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly, including but not limited to, the following applicable legislation: General Statutes of North Carolina, 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 construction of said Project with cost participation and responsibilities for the Project as hereinafter set out.

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 the replacement of Bridge No. 316 over Campus Drive on US 70 Business in Durham.

PLANNING, DESIGN AND RIGHT OF WAY

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.
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.

UTILITIES

4. The Municipality shall relocate and adjust all municipally-owned utilities in conflict with the Project and shall exercise any rights which it may have under any franchise to and relocations of telephone, telegraph, and electric power lines; underground cables, gas lines, and other pipelines or conduits; or any privately- or publicly- owned utilities. A separate Utility Relocation Agreement will be prepared at the appropriate time.
5. 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.

CONSTRUCTION AND MAINTENANCE

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.
7. It is further agreed that upon completion of the Project, the Department shall be responsible for all traffic operating controls and devices which shall be established, enforced, and installed and maintained in accordance with the North Carolina General Statutes, the latest edition of the

Manual on Uniform Traffic Control Devices for Streets and Highways, the latest edition of the “Policy on Street and Driveway Access to North Carolina Highways”, and departmental criteria.

8. Upon completion of the Project, the improvement(s) shall be a part of the State Highway System and owned and maintained by the Department.

ADDITIONAL PROVISIONS

9. 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.
10. 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.
11. All terms of this Agreement are subject to available departmental funding and fiscal constraints.
12. 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).

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 DURHAM

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 _____ of the local governing body of the City of Durham as

attested to by the signature of Clerk _____ of said governing body on

_____ (Date)

(SEAL)

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

BY: _____

(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:

City of Durham

DEPARTMENT OF TRANSPORTATION

BY: _____

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (Date)