



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY  
GOVERNOR

ANTHONY J. TATA  
SECRETARY

November 18, 2014

PROJECT #: 34915.2.U1 (U-3308)  
COUNTY: Durham  
DESCRIPTION: Durham-NC 55 (Alston Avenue) from NC 147 to North of US 70 Bus-NC 98.  
SUBJECT: Use and Occupancy Agreement – **City of Durham (Water & Sewer)**

Mr. Ed Venable  
Supervisor of Contract Management  
Public Works – 3<sup>rd</sup> Floor City Hall  
101 City Hall Plaza  
Durham, NC 27701

Dear Mr. Venable:

The proposed improvement of U-3308 is scheduled to be let to contract on April, 2015, with construction beginning around June, 2015. The construction of this project will require the relocation and adjustment of certain water and sewer lines owned by the City of Durham. As discussed with you previously, the design for the relocation work will be handled by our engineers and the construction will be included in the Roadway Contract. This work will be done at the expense of the Department of Transportation in accordance with City of Durham's prior rights documentation.

I am sending for your approval, Special Provisions, and Plans showing proposed water and sewer lines relocation. In accordance with State and Federal Regulations, it will be necessary for the City of Durham and the Department of Transportation to agree in writing as to the terms of use and occupancy for the water and sewer lines to remain within the highway right of way. Accordingly, the following conditions will apply with regards to the water and sewer lines:

(1) The water and sewer lines will be located and accommodated in a manner that will not impair the planned highway or the construction or maintenance or interfere with the safe operation in accordance with the attached plans which are made apart hereof.

(2) The City of Durham will be responsible for maintenance and service of the water and sewer lines to be retained within the Department of Transportation's right of way limits in accordance with the mandate of the statutes and such other laws, rules, and regulations that have been or may be validly enacted or adopted now or hereafter.

(3) That upon satisfactory completion of the water and sewer lines work, the City of Durham agrees that it shall release the Department of Transportation from any and all claims for damage in connection with relocation made to the water and sewer lines, and further, that it shall release the Department of Transportation of any further responsibility for the cost of maintenance to the water and

MAILING ADDRESS:  
NC DEPARTMENT OF TRANSPORTATION  
UTILITIES UNIT  
1555 MAIL SERVICE CENTER  
RALEIGH NC 27699-1555

TELEPHONE: 919-707-6890  
FAX: 919-250-4151

WEBSITE: [WWW.NCDOT.ORG/DOH](http://WWW.NCDOT.ORG/DOH)

LOCATION:  
CENTURY CENTER COMPLEX  
BUILDING B  
1020 BIRCH RIDGE DRIVE  
RALEIGH NC 27610

sewer lines. This release shall be deemed to be given by the City of Durham upon completion of construction of the project and its acceptance by the Department of Transportation from the Roadway Contractor unless the City of Durham notifies the Department of Transportation in writing to the contrary prior to the Department's acceptance of the project

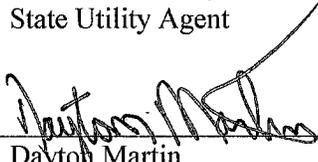
(4) The Department's Special Provisions binds the contractor to guarantee materials and workmanship against latent and patent defects arising from faulty materials, faulty workmanship or negligence for a period of twelve months following the date of final acceptance of the work for maintenance and shall replace such defective materials and workmanship without cost to the Department. The highway contractor will not be responsible for damage due to faulty design, normal wear and tear, for negligence on the part of the Department, and/or for use in excess of the design. Where items of material carry a manufacturer's guarantee for any period in excess of twelve months, then the manufacturer's guarantee shall apply for that particular piece of material. Appropriate provisions of the payment and/or performance bonds shall cover this guarantee for the project. Should any failure result from the conditions found in line item (4) the Department would then enter into a Contract with the City of Durham for reimbursement to be made to the City of Durham for necessary repairs performed by the District and/or its contractor. The Utility Relocation Agreement would be issued by the NCDOT State Utility Agent's office and the repairs would be coordinated between the City of Durham and the Departments assigned Resident Engineer.

Please indicate your concurrence in these conditions and attached plans by signing in the appropriate space provided below and return to our file no later than **January 23, 2015**. If our office has not received this agreement by the due date, the highway project will be delayed by the Department of Transportation.

Sincerely,

J. Robert Memory  
State Utility Agent

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

  
Dayton Martin  
Senior Utility Agent

JRM:  
Attachment

Approved and Accepted For:

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

\_\_\_\_\_  
TITLE

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. REV. 9/14