

NORTH CAROLINA
DURHAM COUNTY

DOT CONSTRUCTION WITH BETTERMENTS

DATE: 12/3/2014

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

Project: SS-4905BI

AND

WBS Element: 43567.3.1

CITY OF DURHAM

THIS 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, hereinafter referred to as the "Municipality";

W I T N E S S E T H:

WHEREAS, the Department has prepared and adopted plans to make certain street and highway improvements under Project SS-4905BI, in Durham County, in accordance with plans and specification approved by the Department; 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 (NCGS) Section 136-66.1, Section 136-66.3, Section 136-18 (24) and (27), Section 20-169, Section 160A-296 and Section 297, to participate in the planning and construction of the Project approved by the Board of Transportation for the safe and efficient utilization of transportation systems for the public good; and,

WHEREAS, the Department and the Municipality have agreed that the jurisdictional limits of the Parties, 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 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 widening for left-turn lanes on SR 1004 (Old Oxford Road) at SR 1648 (Danube Lane) and installation of a traffic signal. At the request of the Municipality, the scope of the Project shall also include the following Betterments: Adjustment and relocation of water lines and the installation of new sidewalk on the north side of Old Oxford Road (Sta. 12+90 and 16+90).

PHASES OF THE WORK

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. All work shall be contained within the existing right of way. If additional right of way is required it shall be acquired by the Department in accordance with policies and procedures set forth in the North Carolina Right of Way Manual.

CONSTRUCTION AND MAINTENANCE

4. The Department shall advertise and award a contract for the construction of the project in accordance with the project plans and with Departmental policies and procedures. The Department, and/or its agent, shall administer the contract for construction of the project.
5. Upon completion of the Project:
 - A. 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.
 - B. The improvement(s) shall be a part of the State Highway System and owned and maintained by the Department.
 - C. The Municipality, at no expense to the Department, shall assume all maintenance responsibilities for the Betterments and release the Department from all liability relating to such maintenance.

BETTERMENTS COST AND FUNDING

6. The Municipality shall participate in funding the adjustment and relocation of water lines and the installation of new sidewalk on the north side of Old Oxford Road (Sta. 12+90 and 16+90). The Municipality shall participate in the costs as follows:
 - A. The estimated cost of the adjustment and relocation of water lines is \$31,000 (see Attachment A). Both parties understand that this is an estimated cost and subject to change.
 - B. .The estimated cost of the installation of new sidewalk on the north side of Old Oxford Road sidewalk is \$11,500. The Municipality will be responsible for 50% of the cost (see Attachment B). Both parties understand that this is an estimated cost and subject to change.
 - C. Upon completion of the Project the Department will invoice the Municipality for their share of the actual costs of the Betterments. Reimbursement to the Department shall be made in one final payment within sixty days of invoicing by the Department. A late payment penalty and interest shall be charged on any unpaid balance due in accordance with NCGS §147-86.23.
 - D. In the event the Municipality fails for any reason to pay the Department in accordance with the provisions for payment herein above provided, North Carolina General Statute 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to said Municipality by the General Statutes of North Carolina, Section 136-41.1 until such time as the Department has received payment in full under the reimbursement terms set forth in this Agreement. A late payment penalty and interest shall be charged on any unpaid balance due in accordance with G.S. 147-86.23.

ADDITIONAL PROVISIONS

7. 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.

8. 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.
9. All terms of this Agreement are subject to available departmental funding and fiscal constraints.
10. 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.
11. This Agreement is intended for the benefit of the Department and the Municipality and not any other person.
12. 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.
13. A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the Agreement as binding as an original, and the parties agree that this Agreement can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the Agreement.
14. 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).

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: _____

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)

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

(SEAL)

(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:

City of Durham

DEPARTMENT OF TRANSPORTATION

BY: _____
(CHIEF ENGINEER)

DATE: _____

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

Attachment A

SS4905-BI

Old Oxford Road WL Relocation

10/3/2004

Opinion of Probable Cost

Relocation of 20" changed to only relocation of 8" by realigning storm conflicts

<u>Item</u>	<u>Amount</u>	<u>Unit</u>	<u>Cost/Unit</u>	<u>Cost</u>
8" RJ DIP Water Line	30	LF		
6" RJ DIP Water Line	8	LF		
Fittings	6	Ea		
8" Valve	1	Ea		
Conc. Collar	3	Ea		
Mobilization			10%	
Engineering & Contingency			15%	
Construction Total				\$31,000

Attachment B

SS4905-BI

Old Oxford Road Sidewalk Construction

10/3/2004

Opinion of Probable Cost

Construction of new sidewalk along the north side of Old Oxford Road

<u>Item</u>	<u>Amount</u>	<u>Unit</u>	<u>Cost/Unit</u>	<u>Cost</u>
Concrete sidewalk	225 SY			
Mobilization			10%	
Engineering & Contingency			15%	

Construction Total \$11,500.00

50% Cost Share \$ 5,750.00