

NORTH CAROLINA  
ORANGE COUNTY

1/23/09

NORTH CAROLINA DEPARTMENT  
OF TRANSPORTATION

TIP MUNICIPAL AGREEMENT

AND

TOWN OF CHAPEL HILL

PROJECT: U-0624  
PROJECT: E-2971 G

THIS MUNICIPAL AGREEMENT is made and entered into on the last date executed below, by and between the Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department", and the Town of Chapel Hill, 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 U-0624, Orange 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 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. This project consists of the widening of NC 86 (S. Columbia Street) from US 15-501-NC 54 to SR 1902 (Manning Drive) in Chapel Hill. At the request of the Municipality, additional work is to be included within the scope of the project which shall include sidewalks in Chapel Hill.

**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. 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, without any cost or liability whatsoever to the Department, 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 effect all necessary changes, adjustments, 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) 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 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.

(C) The Department, where necessitated by construction, will make vertical adjustments of two (2) feet or less to the existing manholes, meter boxes, and valve boxes at no expense to the Municipality.

(D) If applicable, the Department shall reimburse the Municipality in accordance with the Municipally Owned Utility Policy of the Department approved by the Board of Transportation.

(E) It is understood that the municipally-owned water and sewer lines are owned by Orange Water and Sewer Authority (OWASA), therefore a separate Utility Agreement will be prepared with the Orange Water and Sewer Authority (OWASA).

**CONSTRUCTION AND MAINTENANCE:**

5. 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.

6. 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.

7. Upon completion of the Project, the roadway shall be a part of the State Highway System and owned and maintained by the Department.

**FUNDING:**

8. Upon completion of the project, the Municipality shall reimburse the Department forty percent (40%), of the actual cost, including administrative costs, of the work associated with the construction of the sidewalks on the west side of the project. The Department shall participate in sixty percent (60%) of the cost of the sidewalks of the actual total project construction cost of that portion of the project within the corporate limits, where new sidewalks are to be installed. The estimated cost of the sidewalks is \$63,249.00. The estimated cost to the Municipality is \$25,300.00. Both parties understand this is an estimated cost and is subject to change. Reimbursement to the Department shall be made in one final payment within sixty days of invoicing by the Department.

(A) 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.

9. The Department, at no expense to the Municipality, shall include in its construction contract for the contractor to relocate an existing 5' brick sidewalk from Mason Farm Road to Manning Drive according to the Department's Pedestrian Policy. There is an asphalt path located on the east side of South Columbia Street from Chase Avenue to Mason Farm Road which will be replaced with concrete sidewalk according to the Department's Pedestrian Policy at no expense to the Municipality. The estimated cost for the installation of the remainder of the pedestrian facility on the east side is \$20,220 which will be paid for by Enhancement funds (E-2971 G).

**ADDITIONAL PROVISIONS:**

10. At the request of the Municipality, and in accordance with the Department's "Guidelines for Planning Pedestrian Facilities", the Department shall include provisions in its construction contract for the construction of sidewalks on the west side of South Columbia Street to Manning Drive in Chapel Hill. Said work shall be performed in accordance with Departmental policies, procedures, standards and specifications, and the following provisions.

(A) It is understood by both parties that all sidewalk work 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 sidewalks, 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.

(B) Upon completion of the project, the Municipality shall reimburse the Department in accordance with Provision #8 stated hereinabove.

(C) The Municipality, at no expense to the Department, shall assume all maintenance responsibilities for the sidewalks and release the Department from all liability relating to such maintenance.

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. The Department shall have the right to abandon the Project at any time before the Municipality has been called upon to perform any part of its agreement. All terms of this Agreement are subject to available departmental funding and fiscal constraints.

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

TOWN OF CHAPEL HILL

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

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

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

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

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

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

Approved by Town Council of the Town of Chapel Hill as attested to by the signature of \_\_\_\_\_, clerk of the Town Council, on \_\_\_\_\_ (date)

(SEAL)

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

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

\_\_\_\_\_  
Federal Tax Identification Number

\_\_\_\_\_  
Town of Chapel Hill

Remittance Address:  
Town of Chapel Hill  
405 Martin Luther King Jr., Blvd  
Chapel Hill, NC 27514-5705

DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_  
STATE HIGHWAY ADMINISTRATOR

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

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