TRANSPORTATION IMPROVEMENT PROJECT
MAINTENANCE ONLY
MUNICIPAL AGREEMENT
AGREEMENT ID # 13170

AGREEMENT OVERVIEW

NORTH CAROLINA
BUNCOMBE COUNTY

DATE: 4/29/2025

PARTIES TO THE AGREEMENT:

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

AND

BUNCOMBE COUNTY

PROJECT NUMBERS:

TIP #: HB-0001B

WBS ELEMENTS: 49742.1.3

The purpose of this Agreement is to identify the participation in project costs, project delivery and/or maintenance, by the other party to this Agreement, as further defined in this Agreement.

SCOPE OF PROJECT ("Project"): The Project consists of a new connector road from existing roundabout on E. Frederick Law Olmsted Way to proposed new interchange on I-26 in Buncombe County.

ADDITIONAL WORK: The Department will install a sidewalk on the north side of the proposed new interchange and road to I-26. See stations 2900+00 to 4800+00 on attached plans. The County will maintain the sidewalk maintenance of E. Frederick Law Olmsted Way to the proposed new interchange on I-26 in Buncombe County.

EFFECTIVE DATES OF AGREEMENT:
START: Upon Full Execution of this Agreement
END: When work is complete and all terms are met.

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 **Buncombe County**, hereinafter referred to as the **County**; and collectively referred to as the **Parties**.

The **Parties** to this Agreement, listed above, intend that this Agreement, together with all attachments, schedules, exhibits, and other documents that both are referenced in this Agreement and refer to this Agreement, represents the entire understanding between the **Parties** with respect to its subject matter and supersedes any previous communication or agreements that may exist.

I. WHEREAS STATEMENTS

WHEREAS, the **Department** has plans to make certain street and highway constructions and improvements within the **County** under Project HE-0001B, in Buncombe County; and,

WHEREAS, the **Department** and the **County** 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 Private Entity, Pratt & Whitney built a connecting road (E. Frederick Law Olmsted Way) and sidewalk to NC 191/Brevard Road; and,

WHEREAS, the sidewalk built by the private entity will be included in the maintenance section of this agreement; and,

WHEREAS, the Department and the County have approved the construction of the Project with responsibilities for the Project as hereinafter set out; and,

WHEREAS, the County has agreed to participate in the maintenance of said sidewalks subject to the conditions hereinafter set forth;

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:

II. PLANNING AND DESIGN

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.

III. RIGHT OF WAY

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.

IV. UTILITIES

A. RESPONSIBILITIES

The **County** shall be responsible for the relocation and adjustment of all municipally-owned utilities in conflict with the Project and shall exercise any rights that it may have under any franchise to effect all necessary changes, adjustments, and relocations of communications and electric power lines; underground cables, gas lines, and other pipelines or conduits; or any privately- or publicly-owned utilities.

i. Said work shall be performed in a manner satisfactory to the **Department** prior to the **Department** beginning construction of the Project. The **County** shall make every effort to promptly relocate said utilities in order that the **Department** will not be delayed in the construction of the Project.

ii. The **County** 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.

iii. 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 **County**.

iv. The **Department** shall not be liable for any work that the **County** undertakes with respect to said utility relocation.

B. COSTS AND FUNDING

If applicable, the **Department** will reimburse the **County** in accordance with NCGS 136-27.1. A separate utility agreement may be prepared to address these costs and payment terms.

If the **County** relocates the utilities, then the **Department** shall reimburse the **County** in accordance with NCGS 136.27-1. A separate utility agreement will be prepared to address these costs and payment terms.

C. UTILITY RELOCATION BY DEPARTMENT

If the **County** requests the **Department** to include the relocation and/or adjustment of municipally owned utilities in its construction contract provisions, and the **Department** agrees, then a separate utility agreement will be prepared to state the cost estimate and the reimbursement terms. The **County** shall reimburse the **Department** all or a portion of the costs associated with said relocation, in accordance with NCGS 136-27.1. Reimbursement will be based on final project plans and actual costs of relocation.

V. CONSTRUCTION

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.

VI. MAINTENANCE

Upon completion of the Project:

i. 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.

ii. The roadway improvement(s) shall be a part of the State Highway System and owned and maintained by the **Department**.

iii. The **County**, at its own expense, shall be responsible for all liability and maintenance responsibilities for the sidewalk(s) and multi-use path(s), including the sidewalk along E. Frederick Law Olmsted, upon completion of Project.

VII. ADDITIONAL PROVISIONS

A. AGREEMENT MODIFICATIONS

Any modification to scope, funding, responsibilities, or time frame will be agreed upon by all **Parties** by means of a written Supplemental Agreement.

B. ASSIGNMENT OF RESPONSIBILITIES

The **Department** must approve any assignment or transfer of the responsibilities of the **County** set forth in this Agreement to other parties or entities.

C. AGREEMENT FOR IDENTIFIED PARTIES ONLY

This Agreement is solely for the benefit of the identified **Parties** to the Agreement and is not intended to give any rights, claims, or benefits to third parties or to the public at large.

D. OTHER AGREEMENTS

The **County** is solely responsible for all agreements, contracts, and work orders entered into or issued by the **County** to meet the terms of this Agreement. The **Department** is not responsible for any expenses or obligations incurred for the terms of this Agreement except

those specifically eligible for the funds and obligations as approved by the **Department** under the terms of this Agreement.

E. TITLE VI

The other party to this Agreement shall comply with Title VI of the Civil Rights Act of 1964 (Title 49 CFR, Subtitle A, Part 21) and related nondiscrimination authorities. Title VI and related authorities prohibit discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

F. FACSIMILE

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.

G. AUTHORIZATION TO EXECUTE

The **Parties** hereby acknowledge that the individual executing this Agreement has read this Agreement, conferred with legal counsel, fully understands its contents, and is authorized to execute this Agreement and to bind the respective **Parties** to the terms contained herein.

H. DEBARMENT POLICY

It is the policy of the **Department** not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, the **County** certifies 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 Agency or **Department** and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

I. INDEMNIFICATION

To the extent authorized by state and federal claims statutes, the **County** shall be responsible for its actions under the terms of this agreement and save harmless the FHWA (if applicable), the **Department**, and the State of North Carolina, their respective officers, directors, principals, employees, agents, successors, and assigns to the extent allowed by law, from and against any and all claim for payment, damages and/or liabilities of any nature, asserted against the **Department** in connection with this Agreement. The **Department** shall not be liable and shall be held harmless from any and all third-party claims that might arise on account of the **County's** negligence and/or responsibilities under the terms of this agreement.

J. AVAILABILITY OF FUNDS

All terms and conditions of this Agreement are dependent upon, and, subject to the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

K. DOCUSIGN

The **Department** and **County** acknowledge and agree that the electronic signature application DocuSign may be used, at the sole election of the **Department** or **County**, to execute this Agreement. By selecting "I Agree", "I Accept", or other similar item, button, or icon via use of a keypad, mouse, or other device, as part of the DocuSign application, the **Department** and **County** consent to be legally bound by the terms and conditions of Agreement and that such act constitutes the **Department's** signature as if actually signed by the **Department** in writing or **County's** signature as if actually signed by **County** in writing. The **Department** and **County** also agree that no certification authority or other third-party verification is necessary to validate its electronic signature and that the lack of such certification or third-party verification will not in any way affect the enforceability of its electronic signature. The **Department** and **County** acknowledge and agree that delivery of a copy of this Agreement or any other document contemplated hereby through the DocuSign application, will have the same effect as physical delivery of the paper document bearing an original written signature.

L. GIFT BAN

By Executive Order 24, issued by Governor Perdue, and NCGS 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, Adult Corrections, Commerce, Environmental Quality, Health and Human Services, Information Technology, Military and Veterans Affairs, Natural and Cultural Resources, Public Safety, Revenue, Transportation, and the Office of the Governor).

SIGNATURE PAGE

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

(DOCUSIGN ONLY)

Authorized Signer: _____

Print Name: _____

Title: _____

Date Signed: _____

If applicable, this Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act:

BUNCOMBE COUNTY

FED TAX ID NO: _____

REMITTANCE ADDRESS:

_____

_____

Finance Officer: _____

Print Name: _____

Date Signed: _____

DEPARTMENT OF TRANSPORTATION

BY: _____

TITLE: _____

DATE: _____

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

SIGNATURE PAGE

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

(INK SIGNATURES ONLY)

ATTEST:

BY: _____

TITLE: _____

Authorized Signer: _____

Print Name: _____

Title: _____

Date Signed: _____

If applicable, this Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act:

BUNCOMBE COUNTY

FED TAX ID NO: _____

REMITTANCE ADDRESS:

_____

_____

Finance Officer: _____

Print Name: _____

Date Signed: _____

DEPARTMENT OF TRANSPORTATION (DocuSign)

BY: _____

TITLE: _____

DATE: _____

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