

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: December 09, 2025

## Item Details

Presenter(s): Russell Dalton, P.E. Traffic Engineering Manager

Department(s): Transportation and Infrastructure Development

### Requested Motion

Motion to approve a Review and Oversight Agreement with the North Carolina Department of Transportation (NCDOT) for BL-0173, Tunstall Ave and Center St Sidewalks, and to authorize the Town Manager, or their designee, to execute the agreement on behalf of the Town.

### Approval Recommended?

Yes

### Item Details

The Town is in the design phase of BL-0173, Tunstall Ave and Center St Sidewalks. This project includes adding sidewalks along Center St from N Mason St to Tunstall Ave, Tunstall Ave from Center St to E Williams St, E Williams St from Tunstall Ave to James St, and James St from E Williams St to Wrenn St, and traffic signal upgrades with crosswalks at the intersections of N Mason St at Center St and E Williams St at James St. A Review and Oversight Agreement is needed for NCDOT to review the design plans and project related documents, provide comments, and issue approvals for the project.

The agreement includes the following language under the Adjustment of Funding section:

“Upon completion of the project, if actual costs exceed the amount of payment, the **Municipality** shall reimburse the **Department** any under payment within sixty (60) days of invoicing by the **Department**. The **Department** will charge a late payment penalty and interest on any unpaid balance due in accordance with G. S. 147-86.23. If the actual cost of the work is less than \$20,000, the **Department** will reimburse the **Municipality** any overpayment.”

The Town has previously asked NCDOT to modify the Adjustment of Funding section on prior similar Review & Oversight Agreements to state:

"If actual costs will exceed the amount of payment, the **Parties** will enter into an amendment to this Agreement prior to any such costs being incurred. If the actual cost of the work is less than **[\$amount]**, the **Department** will reimburse the **Municipality** any overpayment."

NCDOT has previously declined to revise the Adjustment of Funding section in this type of agreement and has maintained the original language. NCDOT staff cannot confirm that expenses will not exceed \$20,000. Any expense that exceeds the \$20,000 provided will be billed to the Town for payment. The Agreement also requires that the Town indemnify NCDOT and the State of North Carolina.

Due to the indemnification provision and NCDOT's rejection of the Town's recommended language in prior Review and Oversight Agreements, the unrevised Agreement is being presented to Town Council.

#### Attachments

- CN3-A1: Agreement - North Carolina Department of Transportation (NCDOT) - Review and Oversight Agreement Project No. BL-0173

