

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 10, 2026

Item Details

Presenter(s): Russell Dalton, 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 the Apex Peakway widening from Center Street to Old Raleigh Road, 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 to widen Apex Peakway from Center St to Old Raleigh Rd and has applied to CAMPO/NCDOT for federal funds toward right of way and construction. This project includes traffic signal upgrades and widening from a 2-lane divided road with bike lanes and 5' sidewalks to a 4-lane divided road with 10' Side Path on the west side (inside of loop) and 5' sidewalk on the east side. The feasibility design cost estimate was a significantly higher cost compared to the planning-level estimate prepared prior to approval of the Transportation Bond, thus resulting in a need for more funding to continue pursuing the project. 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 for the Town to be eligible for federal reimbursements toward any phase of the project. This project was not recommended by CAMPO in 2026 for reimbursement of right of way costs based on comparative project scores with other competing submittals. However, this Agreement is still required for a future submittal requesting reimbursement of construction costs, and following discussion with CAMPO staff, Town staff expect this project would score better and be more competitive for a construction phase request. In the meantime, Apex will be responsible for 100% of engineering and right of way costs. In the event the project is ultimately not selected for federal reimbursement toward construction phase, the Town would need to convert the project to a 100% local project (non-federal) and submit plans to the NCDOT District Office for final approval.

The Review & Oversight 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 \$10,000, 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 \$10,000. Any expense that exceeds the \$10,000 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

- CN1-A1: Agreement ID 1000027711: Widen Apex Peakway from Center Street to Old Raleigh Road, NCDOT Review and Oversight Agreement

