

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: August 12, 2025

## Item Details

Presenter(s): Jenna Shouse, Senior Planner

Department(s): Planning

### Requested Motion

Motion to approve a Review and Oversight Agreement with North Carolina Department of Transportation (NCDOT) for BO-2422 South Salem Street Bicycle Lanes, 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 beginning the design phase of BO-2422 S Salem Street Bicycle Lanes. This project includes shared lane markings along S Salem Street from Chatham Street to Apex Peakway and bicycle lanes from Apex Peakway to Pleasant Plains Road. Given future phases of this project are anticipated to receive federal funding, and the majority of S Salem Street is an NCDOT-maintained roadway, a Review and Oversight Agreement is needed for NCDOT to review the design plans and documents and provide comments and/or approval.

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 \$10,000, the **Department** will reimburse the **Municipality** any overpayment.”

The Town asked NCDOT to modify the Adjustment of Funding section 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 \$10,000, the **Department** will reimburse the **Municipality** any overpayment.”

NCDOT declined to revise the Adjustment of Funding section in the agreement and maintained the original language. Initially, NCDOT proposed a \$5,000 agreement and Town staff proposed increasing the estimated cost to \$10,000, in the event expenses are higher than anticipated and due to the fact that NCDOT would not agree to revise the language as requested above. NCDOT staff shared they 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, the unrevised Agreement is being presented to Town Council.

#### Attachments

- CN2-A1: Review and Oversight Agreement - BO-2422 NCDOT

