



**CITY OF LOWELL  
COUNCIL MEETING AGENDA  
TUESDAY, JANUARY 12, 2021, 7:00 P.M.**

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- 1. CALL TO ORDER – Mayor Sandy Railey**
- 2. INVOCATION / PLEDGE OF ALLEGIANCE**
- 3. ADOPTION OF AGENDA FOR THIS MEETING**
- 4. PUBLIC COMMENTS**
- 5. APPROVAL OF MINUTES**
  - A. Minutes from Council Meeting Held December 8, 2020 (p. 1-6)
- 6. UNFINISHED BUSINESS**
  - A. Update on Birch Street Status (p.7-8)
  - B. Update on CDBG-I and CDBG-NR Grants (p.9-10)
  - C. CDBG-NR Rehabilitation Inspection Contract Award (p.11-23)
- 7. NEW BUSINESS**
  - A. Public Hearing to consider holding the property at 615 Phillips Street (Parcel id#127737) for Economic Development Purposes (p.24-26)
  - B. Review and Consideration of Proposals Received for Legal Services/City Attorney (p. 27-53)
  - C. Resolution to Authorize the Sale/Disposition of Surplus Personal Property (p. 54-55)
- 8. STAFF REPORTS**
- 9. CITY ATTORNEY REPORT**
- 10. CITY MANAGER REPORT**
- 11. MAYOR AND CITY COUNCIL GENERAL DISCUSSION**
- 12. CLOSED SESSION**
  - A. To Discuss Lease Negotiations Pursuant to NCGS 143-318.11(a)(5)
- 13. ADJOURN**

# MINUTES

Lowell City Council

Regular Meeting

Tuesday, December 8, 2020, 7:00 P.M.

## I. CALL TO ORDER – Mayor Sandy Railey

Mayor Sandy Railey called the meeting to order at 7:00 p.m. Those attending in-person were Councilmember Phil Bonham, Councilmember Ken Ervin, Councilmember Candy Funderburk, Councilmember Thomas Gillespie, Councilmember Shane Robinson, City Manager Scott Attaway, and City Clerk Beverly Harris. There was a limited number of the public present in the Council Chambers due to COVID-19 social distancing guidelines. Face coverings were required inside City Hall due to COVID-19 safety guidelines. The meeting was teleconferenced to the public and the agenda and meeting materials were made available prior on the city's website.

## II. INVOCATION / PLEDGE OF ALLEGIANCE

Councilmember Gillespie gave the invocation and led everyone in the pledge of allegiance.

## III. ADOPTION OF AGENDA FOR THIS MEETING

Mayor Railey asked that Item A under Section 13 Closed Session (Approval of Minutes for Closed Session Held September 12, 2016 Regarding Personnel Matter Pursuant to NCGS 143-318.11) be removed from the agenda.

Councilmember Ervin made a motion to approve the agenda with the noted change, followed by a second from Councilmember Gillespie. The vote was unanimous.

## IV. PUBLIC COMMENTS

There were no public comments.

## V. APPROVAL OF MINUTES

### A. Minutes from Council Meeting Held November 10, 2020

Councilmember Ervin made a motion to approve the minutes from the November 10, 2020 minutes, followed by a second from Councilmember Gillespie. Councilmember Robinson abstained from voting due to being absent from that meeting. The vote was four in favor and the motion passed.

## VI. SPECIAL PRESENTATION

### A. Presentation by Bob Mulholland Neighbors by Ring Program

Bob Mulholland gave a presentation to Council for consideration on the Ring application by Amazon. Mr. Mulholland stated the application can be utilized by the Lowell Police Department for reporting crime. The Lowell Police Department can request video from a specific location, date, and time when a crime has occurred. Mr. Mulholland stated the police do not have access to citizens private cameras and can opt out of the program if they want to do so. Chief Bates and Scott Attaway have reviewed the application with Bob Mulholland. Mr. Mulholland stated this feature would allow citizens an opportunity to help the Lowell Police Department.

Scott Attaway told Council staff will continue to do more research on this tool for possible use in the future and bring it back to Council.

## **VII. UNFINISHED BUSINESS**

### **A. Update on cancellation of Public Hearing scheduled for a portion of Clay Street**

Scott Attaway stated the City of Lowell previously held the required public hearing to close a portion of Clay Street in March of 1997 and it appears that this was not appropriately recorded. Mr. Attaway stated no further action is required from City Council. He provided minutes from the March 18, 1997 Council meeting to Council for validation.

## **VIII. NEW BUSINESS**

### **A. Appointment of Bill Stegall as an ETJ member to the Lowell Planning Board and Board of Adjustment**

Scott Attaway stated the City Clerk had received notification from the Clerk to the Gaston County Board of Commissioners that Bill Stegall's term to the Lowell Planning Board as an ETJ member expired on November 30, 2020. The Gaston County Board of Commissioners are required to hold a public hearing for ETJ appointments and asked the City of Lowell to add Mr. Stegall's reappointment to the December agenda in preparation for their public hearing.

Councilmember Funderburk made a motion to re-appoint Bill Stegall as an ETJ member to the Lowell Planning Board and Board of Adjustment, followed by a second from Councilmember Gillespie. The vote was unanimous.

### **B. Appointment of Council Delegate to Centralina COG**

Councilmember Ervin made a motion to appoint Mayor Railey as the primary and Councilmember Gillespie as the alternate to the Council delegate to Centralina COG, followed by a second from Councilmember Robinson. The vote was unanimous.

C. Appointment of Council Delegate to GCLMPO Board

Councilmember Gillespie made a motion to appoint Councilmember Ervin as primary and Councilmember Bonham as alternate to the GCLMPO Board, followed by a second from Councilmember Funderburk. The vote was unanimous.

D. Appointment of Council Liaison(s) to LCC Committee

Councilmember Ervin made a motion to appoint Councilmember Funderburk and Councilmember Gillespie as Council liaisons to the LCC Committee, followed by a second from Councilmember Robinson. The vote was unanimous.

E. Adoption of 2021 Schedule of Meetings and City Holidays

Councilmember Robinson made a motion to adopt the 2021 schedule of meetings and city holidays as presented, followed by a second from Councilmember Gillespie. The vote was unanimous.

F. Discussion and Consideration to Set Public Hearing for sale/disposal of real estate located at 615 Phillips Street, Parcel ID #127737

Scott Attaway stated the City has been approached to sell the city-owned property located at 615 Phillips Street, Lowell, NC (Parcel ID #127737). Mr. Attaway stated a developer's property surrounds the City of Lowell-owned property and N.C. General Statute 160A-266(a) states that, subject to statutory limitations, a City may sell or dispose of real property to five methods: 1) private negotiation and sale, 2) advertisement for sealed bids, 3) negotiated offer, advertisement, and upset bid, 4) public auction, 5) exchange. Mr. Attaway also stated NC GS 158-7.1 allows for cities and counties to sell or dispose of real property for qualifying economic development. He presented a memo from the interim city attorney John Russell describing those methods and guidance for the City of Lowell on the matter.

Mr. John Russell gave Council more information on their options and requirements for considering this property as a possible economic development agreement sale by the City of Lowell and further explained NCGS 160A-266(a).

Scott Attaway presented to Council a local incentive grant analysis created for this property by Gaston County. Mr. Attaway stated staff is looking for direction from Council on how to proceed.

Councilmember Bonham made a motion to schedule a public hearing at the January 12, 2021 meeting stating parcel ID 127737 to be considered to hold for purposes of economic development, followed by a second from Councilmember Ervin. The vote as three in favor (Councilmembers Bonham, Funderburk, and Ervin) and two opposed (Councilmembers Gillespie & Robinson). The motion passed with the majority being in favor.



G. Personnel Policy Longevity Pay

Scott Attaway stated the city's longevity pay plan specifies a bonus for employees that have been with the city for a minimum of one year. Longevity pay is provided in a lump sum payment to award full-time employees on their service. In December 2019, the City Council amended the policy to allow part-time employees to receive the longevity pay that is capped at the first bracket of 1-5 years/\$250. Mr. Attaway stated staff is proposing to allow those employees that are employed with the City a minimum of 6 months to be eligible for the longevity pay at a lesser amount of \$150. Example given was .5 to 1 year (\$150) and the next level would be 1 to 5 years (\$250). The remainder of the longevity pay scale would remain the same.

Council did not want to make any changes to the longevity pay scales and timing in the Personnel Policy. But they did clarify that part timers need to be with the city one year before receiving their longevity pay of \$250.

H. Request for Proposals for Legal Services as the City Attorney

Scott Attaway stated the City of Lowell is in need of a City Attorney. He stated staff prepared the presented RFP for legal services and will proceed to send out to several law firms after City Council's review. Mr. Attaway stated he will schedule interviews with the City Council and responding candidates for their review and selection in the coming months.

**IX. STAFF REPORTS**

Cristy Cummings gave updates on the mask give away event, tree lighting ceremony, senior drive-thru luncheon, and the reverse Christmas parade.

Scott Attaway gave an update on call logs for the Police Department.

**X. CITY ATTORNEY REPORT**

There was nothing new for the city attorney to report.

**XI. CITY MANAGER REPORT**

Scott Attaway gave updates on the following items:

- Capital purchase financing under way
- Audit underway (1/31/21 extension)
- CDBG-I first monitoring audit
- Water meter project 98% complete
- Pay study to start soon
- Gaston County fire inspections
- Fully staffed police department now
- Planning Director to start soon
- NorthPoint groundbreaking scheduled for January 19<sup>th</sup> at 11:30 am

- Needs direction for City Hall gazebo. Council directed staff to remove it for safety reasons.
- Downtown banners and Christmas decorations

**XII. MAYOR AND CITY COUNCIL GENERAL DISCUSSION**

Councilmember Ervin thanked employees.

Councilmember Funderburk wants a flag to be given in memory for Billie Taylor as a former Councilmember. Also, she would like something done to thank Jim Windham for his service to the city. Mayor Railey thanked employees.

**XIII. CLOSED SESSION**

Councilmember Ervin made a motion to go into closed session, followed by a second from Councilmember Funderburk. The vote was unanimous. The session started at 9:25 pm.

A. Approval of Minutes for Closed Session Held September 12, 2016 Regarding Personnel Matter Pursuant to NCGS 143-318.11

Item removed from agenda.

B. Approval of Minutes for Closed Session Held September 29, 2020 Regarding Personnel Matter Pursuant to NCGS 143-318.11

PB motion, KE 2<sup>nd</sup>. Unanimous.

C. Approval of Minutes for Closed Session Held October 5, 2020 Regarding Personnel Matter Pursuant to NCGS 143-318.11

KE motion, TG 2<sup>nd</sup>. Unanimous.

D. Approval of Minutes for Closed Session Held October 13, 2020 Regarding Personnel Matter Pursuant to NCGS 143-318.11

PB motion, TG 2<sup>nd</sup>. Unanimous.

E. To Discuss Lease Negotiations Pursuant to NCGS 143-318.11(a)(5)

Scott Attaway presented the vacant lot and ground lease agreement between the City of Lowell and Wildlife Partners, LLC (Gary McCord) for six parcels across the street from City Hall. (#127898, #127899, #127900, #127901, #127902, #127903).

John Russell explained the details on the lease agreement he created for the City of Lowell. Mr. Russell stated this is a basic lease agreement. The City would be responsible for maintenance on the property. City has the right to sub-lease the premises. City responsible for hazardous substances brought onto property. Any liability issues are addressed in the agreement. City of Lowell needs insurance on the

property. This is a one-year term and renewal at the City's option (30 days notice). Then it converts month to month. Scott Attaway asked Council if this is something they are still interested in pursuing for City use/events and asked for direction on how to proceed with the lease agreement.

Direction was given to staff to proceed with presenting the lease agreement to Wildlife Partners, LLC (Gary McCord).

F. To Discuss the Acquisition of Real Property Pursuant to NCGS 143-318.11(a)(5)

State has agreed to allow us to crush any concrete block material of the buildings and leave it on site. This will drastically cut the demolition cost. The State is eager to close out the site and we should expect brown field agreement by the beginning of the year. Next step will be for environmental consultant to give us a plan. They will take samples of buildings to find hazardous concerns. This will give us an idea of how much we can leave on site. The tanks have already been demolished. Then the consultant has to complete an Environmental Management Plan. Update from Scott Attaway, Consultant is also letting the property owner know where we are with this project. Owner expressed in email in October that they want to get rid of the property by the end of the year. Then we have to decide what we want to do with the site as a municipality. Public Works, river access, thread trail connection, etc. He should have another update in January.

Out of Closed Session Motion: KE, TG 2<sup>nd</sup>. Unanimous. 9:50 pm.

**XIV. ADJOURN**

CF, PB 2<sup>nd</sup>. Unanimous. 9:50 pm.

ATTEST:

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Mayor, Sandy Railey

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City Clerk, Beverly Harris

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## AGENDA ITEM INFORMATION

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**AGENDA ITEM #:** 6-A

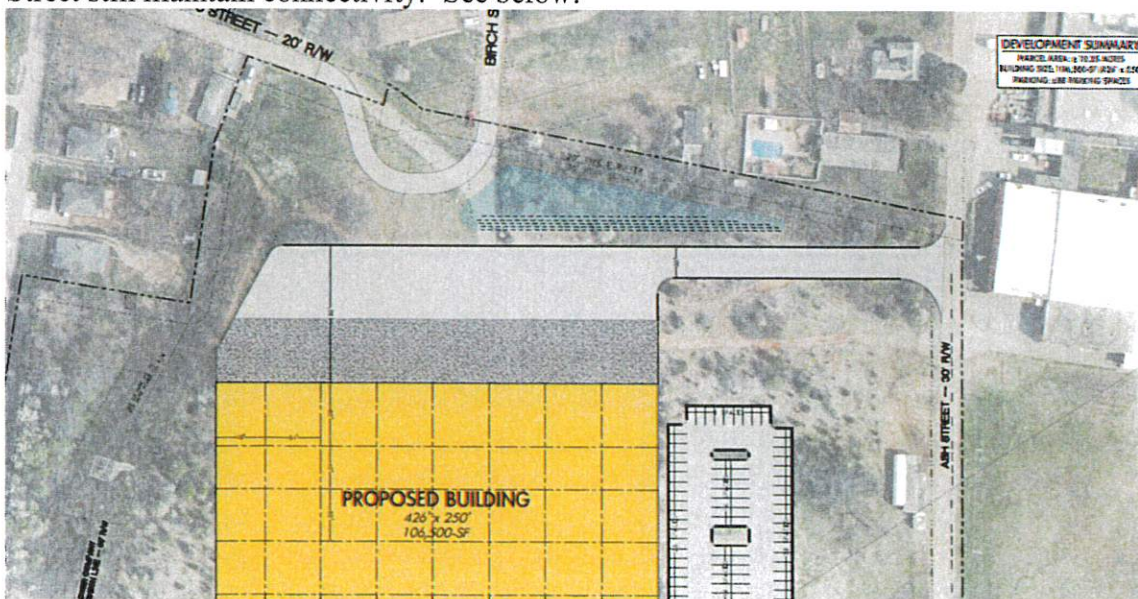
**DESCRIPTION:** BIRCH STREET STATUS

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Concerning the status of Birch Street closure, staff has reviewed prior City Council minutes, consulted the interim City Attorney, and researched with Gaston County Planning and Tax Mapping Department. What we have found is that the portion of Birch Street that passes through the property located at 700 W. First Street has not ever been recorded as a public right of way. Per the plats and documentation that we were able to locate we cannot find record that indicates this as a public right of way. When the tax department moved to the digital mapping environment this area was represented as a public road based on the aerial photography and portions of plat book 7 at 59 but even this document does not have the road in the correct location (attached); I believe the tax department wanted to err on the side of caution and left the area as a right of way and did not tax the area.

In closing I could not locate any record that shows this area to be a public right of way and believe the old tax maps represent this area as it should be, an easement or private drive. The GIS Department has begun the process to remove this portion of the street from the mapping.

It should be noted, that in relation to the proposed development on this property the property owner has agreed to set aside an easement to the City so that Potts Street and Birch Street still maintain connectivity. See below.





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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 6-B

**DESCRIPTION:** CDBG STATUS UPDATE

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Please see that attached memo regarding an update on the CDBG-NR and CDBG-I Grants.



# MEMO

**DATE:** January 6, 2021  
**MEMO TO:** Scott Attaway  
**FROM:** Beverly Harris  
**SUBJECT:** Update on Grants

Please see below a general update on where we are to-date on both grants. Let me know if you have any questions or concerns.

**CDBG-NR (Neighborhood Revitalization) (Grant #17-C-2999)**

- Project Scope changed from 14 houses to 10 (Q3 2020)
- Environmental Review and Citizen Participation Compliance items completed and approved by NC Department of Commerce
- On-going quarterly financial reconciliations and compliance items to be completed by City
- Funding released by NC Department of Commerce 12/21/20
- Meeting scheduled 1/7/21 with Centralina (James Luster) to review next steps in construction phases
- Construction dollars are to be spent May 13 – August 13, 2021
- Close-out of project to-date set for November 13, 2021

**CDBG-I (Infrastructure) (Grant #14-I-3033 & #18-I-3034)**

- Full funding released after audit completion (Q4 2020)
- Engineering Report approved by NCDEQ
- Citizen Participation items completed and approved by NCDEQ. On-going quarterly.
- First audit by NCDEQ completed December 2020
- Section 3, Section 504, and Fair Housing compliance items completed
- On-going quarterly financial reconciliations and compliance items to be completed by City
- Waiting on extension request from NCDEQ for Bid and Design phase before construction can begin



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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 6-C

**DESCRIPTION:** CDBG-NR REHABILITATION INSPECTION CONTRACT  
AWARD

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Please see that attached memo regarding an update on the CDBG-NR Inspection Contract and scoring.



# MEMO

**DATE:** January 8, 2021  
**MEMO TO:** Scott Attaway  
**FROM:** Beverly Harris  
**SUBJECT:** CDBG-NR Rehabilitation Inspection Contract Award

At the January 2020 Council meeting, Council awarded the Rehabilitation Inspection Contract to Centralina COG for the CDBG-Neighborhood Revitalization grant. Staff had received three proposals (attached) (Centralina \$39,276, Marc Bolick/Jerry Norman \$85,000, and City of Gastonia \$92,500). Staff recommended Centralina COG due to their years of experience, familiarity with the CDBG program, and pricing.

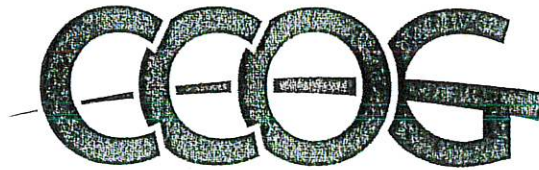
Due to grant rules and procedures, the City of Lowell did not sign the contract with Centralina COG. We had to wait until funding was released by the state.

We received confirmation of release of conditions and funds from NC Department of Commerce for the CDBG-NR grant on December 21, 2020. A meeting was held January 7, 2021 with our grant administrator, Centralina COG, and staff to determine next steps. At this meeting additional project items were requested of Centralina COG by the grant administrator and staff, so Centralina COG has revised their statement of work and pricing. Centralina COG's new pricing is \$50,425 (attached).

Staff feels the previous rating scale used by staff would still apply. Staff would like to make Council aware of this change and have Council re-award the contract to Centralina COG at the amended price of \$50,425 for grant procurement records.

Thanks!





Proposal #1

Centralina Council of Governments

**EXHIBIT A**

**Statement of Work  
City of Lowell Construction Management Services**

This Statement of Work (“SOW”), dated as of the 1<sup>st</sup> day of September, 2019 (the “Effective Date”), is by and between CENTRALINA COUNCIL OF GOVERNMENTS, a North Carolina regional council of governments pursuant to Chapter 160A, Article 20, Part 2 of the General Statutes of North Carolina and having a principal place of business at 9815 David Taylor Drive, Charlotte, North Carolina 28262 (“CCOG”), and the City of Lowell, a local government The City having a principal place of business at 101 W. First St., Lowell, NC 28098 (“The City”), pursuant to which CCOG will provide to The City planning and/or management services (the “Services”). CCOG and The City have simultaneously entered into a Services Agreement (the “Agreement”). The Agreement is incorporated into this SOW by this reference. In the event of any conflicting or additional terms between this SOW and the Agreement, the Agreement will govern, except with respect to price and scope of work or other items expressly permitted by the Agreement.

**I. Introduction**

This document outlines the services, which CCOG (or "we") shall perform under the contract to provide “CDBG” residential inspection, work write-up and construction management services for fifteen (15) housing units requested by the City of Lowell.

**II. CDBG Inspection, Work Write-up and Construction Management Services**

CCOG will perform the following activities:

1. Make initial inspection of the residential property (take before photographs)
2. Prepare a detailed work write-up specifications and floor plans (existing and proposed if necessary)
3. Prepare complete construction rehab cost estimates
4. Assist City with contractor bid review and award process for completion and conformity with cost estimates
5. Monitor work progress and liaison with homeowner
6. Conduct inspections for partial and final payments
7. Conduct final inspection, initial punch list and change orders (furnish after rehab photo and complete close-out forms)
8. Furnish all (initial and final) inspection notes, photos, cost estimates, and field notes to the City for the complete individual rehab final file packages.
9. Follow-up on warranty and callback items

**III. Compensation**

*Centralina Council of Governments*

*9815 David Taylor Drive, Charlotte, North Carolina 28262*

*Phone: 704-372-2416 Fax: 704-347-4710, [www.centralina.org](http://www.centralina.org)*

*Equal Opportunity/Affirmative Action Employer. Auxiliary aids and services available upon request to individuals with disabilities*

Centralina staff will perform the tasks identified in this SOW and as detailed herein for a sum of **\$39,276.00**.

**IV. Terms of Compensation**

Notwithstanding any prior estimate or communication given, the City of Lowell hereby agrees to pay the full contract costs outlined by CCOG in this Statement of Work attached as an exhibit to the Services contract. It is expressly agreed and understood that the total amount to be paid by the City under this SOW shall not exceed \$39,276.00. The **Code Enforcement Services** shall be billed in equal increments on a **monthly** basis during the term of the contract period for the **total of \$39,276.00** for said services.

**Payment Schedule for Construction Services:**

FY 2019-2020

Payment 1: September 30, 2019	\$3,276	Payment 7: March 31, 2020	\$3,276
Payment 2: October 31, 2019	\$3,276	Payment 8: April 30, 2020	\$3,276
Payment 3: November 30, 2019	\$3,276	Payment 9: May 30, 2020	\$3,276
Payment 4: December 31, 2019	\$3,276	Payment 10: June 30, 2020	\$3,276
Payment 5: January 31, 2020	\$3,276	Payment 11: July 30, 2020	\$3,276
Payment 6: February 28, 2020	\$3,276	Payment 12: Aug. 30, 2020	\$3,276

If total of requested work approaches 90% of the full contract amount prior to the full-term period of contract, CCOG will notify the City's project manager prior to performing any services in excess of the contract amount. The local government may then choose to approve the additional services cost or reduce the scope of work as they may choose. The additional services if approved will be billed at a fixed rate per hour for the personnel performing the services.

**V. Time of Performance**

The SOW service of Centralina provided for the FY 19-20 HOME Inspection Work Write-up Services shall start on September 1, 2019 and end on August 31, 2020.

[Signatures on following page.]



Submittal For CDBG Neighborhood Revitalization Rehab Services

Proposal #2

Submittal from: Marc Bolick and Jerry Norman  
Mailing Address: 3773 Catawba Creek Dr. Gastonia, N.C. 28056 Phone Number (704) 813-0584

October 1, 2019

**Submit To:**

Mr. Kevin Krouse  
Lowell City Manager  
101 W. 1<sup>st</sup> Street  
Lowell, NC 28098

**Reference:** Request for Bids on Housing Rehabilitation Services for CDBG Revitalization Grant

Dear Mr. Krouse:

We are submitting the following quote to perform Housing Rehabilitation Services for the CDBG Neighborhood Revitalization Grant awarded to the City of Lowell. Included in this submittal are the notation of the services provided and the resumes of Marc Bolick and Jerry Norman.

Please let us know if you have additional instructions or questions.

Sincerely,

Marc Bolick,  
Building Analyst, IDL, RRP  
Licensed NC General Contractor  
Licensed NC Real Estate Broker  
Phone :704-813-0584  
[MarcusBolick@bellsouth.net](mailto:MarcusBolick@bellsouth.net)

CDBG Neighborhood Revitalization Rehab Services  
(Scope of Work)

**Scope of work to perform:**

- 1.) Initial inspection of each home, and determination of what can be done to the home according to grant guidelines.
- 2.) Work-write up that details/specs the work to be done for each home in accordance with grant guidelines.
- 3.) Cost estimate for rehabilitation for each home.
- 4.) Aid in developing local contractor list for bidding.
- 5.) Regular inspections on each home while under construction.
- 6.) Final inspection of home.

**Bid Submittal:**

We are submitting a bid of \$85,000.00 dollars to assist the City of Lowell in the rehabilitation of approximately 14 homes in a defined project area inside the City limits of Lowell. The Rehabilitation services are defined in the scope of work above.



Proposal #3

**Kevin Krouse**

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**From:** Wong, Vincent <vincentw@cityofgastonia.com>  
**Sent:** Thursday, January 9, 2020 3:32 PM  
**To:** Kevin Krouse; Scott Attaway  
**Subject:** RE: RFP

Dear Mr. Krouse:

In response to your RFP for Housing Rehabilitation Services Needed listed below:

1. Initial inspection of each home, and determination of what can be done to the home according to grant guidelines.
2. Work-write up that details/specs the work to be done for each home in accordance with grant guidelines.
3. Cost estimate for rehabilitation for each home.
4. Aid in developing local contractor list for bidding.
5. Regular inspections on each home while under construction.
6. Final inspection of home.

The cost to provide such services would be \$92,500. This would be subject to both approval and agreement from the City Manager and City Council for the City of Gastonia.

Should you have any questions, comments or concerns that require additional response, feel free to contact me at (704) 866-6756 or via email at [vincentw@cityofgastonia.com](mailto:vincentw@cityofgastonia.com).

Respectfully,

Vincent C. Wong  
Director of Community Services

Vincent C. Wong | Director of Community Services | City of Gastonia | p. 704.866.6756 | c. 704.214-9171 | f. 704.866.6067 | [vincentw@cityofgastonia.com](mailto:vincentw@cityofgastonia.com)

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**From:** Kevin Krouse [mailto:kkrouse@lowellinc.com]  
**Sent:** Tuesday, January 7, 2020 1:54 PM  
**To:** Wong, Vincent <vincentw@cityofgastonia.com>; Scott Attaway <sattaway@lowellinc.com>  
**Subject:** RFP

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Vincent,



Revised  
COG Proposal.

**Centralina Services Agreement – EXHIBIT C**

**Initial Statement of Work**

**Lowell Construction Management Services  
(the “Project”)**

This Statement of Work (“SOW”), dated as of the 12th day of January, 2021 (the “Effective Date”), is by and between CENTRALINA COUNCIL OF GOVERNMENTS, d.b.a Centralina Regional Council, a North Carolina regional council of governments pursuant to Chapter 160A, Article 20, Part 2 of the General Statutes of North Carolina and having a principal place of business at 9815 David Taylor Drive, Suite 100, Charlotte, North Carolina 28262 (“Centralina”), and between **the City of Lowell** a local government entity having a principal place of business at 101 West First St., Lowell, NC 28098 (“Client”), pursuant to which Centralina will provide to Client planning and/or management services (the “Services”). Centralina and Client have simultaneously entered into a Centralina Services Agreement (the “Agreement”). The Agreement is incorporated into this SOW by this reference. In the event of any conflicting or additional terms between this SOW and the Agreement, the Agreement will govern, except with respect to price and scope of work, any “Other Terms and Conditions” included below that apply solely to this SOW, or other items expressly permitted by the Agreement.

**I. Introduction**

This document outlines the tasks and deliverable that constitute the Services under this SOW that Centralina shall provide to Client on a fixed fee/retainer] basis in support of the Project, the compensation that Client shall pay to Centralina for the Services, and other Project support to be provided by Client. Primary contacts for the Project are as follows:

	<b>Centralina</b>	<b>Client</b>
Project Manager	James Luster Sr. Community / Economic Development Coordinator	Scott Attaway City Manager
Email Address	jluster@centralina.org	sattaway@lowellinc.com
Telephone Number	(704) 458-3106	704-824-3518

Centralina’s invoices shall be mailed to the Client’s Project Manager named above and to the Client’s Accounts Payables if listed below:

Attn to Name and/or Title	
Dept	
Mailing Address, City, ST ZIP	
Email address	
Telephone Number	

**II. Services**

The Client hereby retains Centralina to provide the following CDBG Construction Management services:

**I. Environmental Procurement Services**

Centralina will assist the City of Lowell with the “procurement” of Environmental Services which include:

- a. Asbestos Assessment / Abatement
- b. Lead Assessment / Abatement
- c. Radon Assessment / Abatement

**II. Contractor Recruitment / Solicitation**

**III. Construction Management Services**

Centralina will perform the following construction management services

- a. Initial inspection of residential properties
- b. Photo documentation
- c. Preparation of work write-up / specifications
- d. Preparation of floor plans (as needed)
- e. Preparation of cost estimates
- f. Bid opening / bid review assistance
- g. Monitor work progress and liaison with homeowner
- h. Conduct inspections for partial/final payment
- i. Conduct final inspections (complete punch lists and change orders)
- j. Follow-up on warranty and call back items

Centralina will perform the tasks and activities, and provide to Client the deliverables as described

Centralina will from time to time during this SOW’s time period respond to Client’s requests for specific Centralina staff services by determining whether such services are within Centralina’s capability and if so, providing a cost estimate for providing them. Upon approval by Client’s designated representative, and subject to the provisions of section IV below concerning work requests exceeding 90% of the total amount of this SOW, Centralina will then perform the requested services.

Centralina’s Project Manager named above will act as Client’s liaison under this SOW and will coordinate Centralina provision of cost estimates and services. Client’s Project manager named above will similarly act as Client’s liaison to Centralina under this SOW.

**III. Time of Performance**

The time of performance shall be from December 1, 2021 to April 1, 2022.



**IV. Compensation**

Centralina will perform the tasks identified in this SOW and as detailed herein for a sum of \$50,425. The amount due to Centralina pursuant to this SOW may not exceed this amount unless proper written justification has been submitted to Client and approved by Client prior to performance of work. Invoices shall be submitted to the Client no later than 30 days after the end of each quarter. Client will be billed for the Services in installments upon execution of the agreement and after the conclusion of key milestones as noted below.

	<b>Payment Amount</b>	<b>Due Date/Upon Completion of Milestone:</b>
A.	\$8,404.00	Due upon execution of contract
B.	\$8,404.00	April 1, 2021
C.	\$8,404.00	July 1, 2021
D.	\$8,404.00	October 1, 2021
E.	\$8,404.00	January 1, 2022
F.	\$8,404.00	April 1, 2022

If total of requested work under this SOW approaches 90% of the full SOW amount prior to the full-term period of this SOW, CCOG will notify Client’s designated liaison prior to performing any services in excess of the contract amount. Client may then choose to approve the additional services cost or reduce the scope of work. The additional services if approved will be billed at a fixed rate per hour for the personnel performing the services.

V. **Other Terms and Conditions**

- A. **Iran Divestment Act Compliance.** Each Party affirms that, as of the date of execution of this SOW, it is not listed on the Iran Divestment Act lists created by the North Carolina State Treasurer pursuant to N.C. G.S. 147-86.58, nor are its subsidiaries or parent companies, if any.
- B. **E-Verify.** The E-Verify requirements of North Carolina state law apply to this SOW. Centralina affirms that it is exempt from the requirements of NCGS Chapter 64 Article 2 concerning its use of E-Verify or other federally-authorized program to check the work authorization of all new employees in the United States, because it is a “governmental body” as defined in that Article. Centralina agrees that it shall not enter into any subcontracts under this SOW unless such subcontractor (a) affirms either its exemption from or compliance with the E-Verify requirements of NCGS Chapter 64 Article 2 and (b) agrees to similarly ensure its subcontractors’ affirmation of exemption from or compliance with those statutes.]

[Signatures on following page.]

Centralina Services Agreement: Statement of Work

This Statement of Work has been executed by each Party's duly authorized representative as of the date below such Party's signature.

**CENTRALINA REGIONAL COUNCIL**

**[CLIENT ORGANIZATION NAME]**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Geraldine Gardner

Name: Sandy Railey

Title: Executive Director

Title: Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

"This instrument has been pre-audited in the manner required by the North Carolina Local Government Finance Act."

\_\_\_\_\_, Finance Director  
[Client]'s Finance Officer

## Rating Scale

Point system: 1-5 with 5 being the highest rating to receive and 1 the lowest.

### Project: CDBG - Neighborhood Revitalization Grant

	Proposed Amount	Years of Service	CDBG Familiarity	Pricing	TOTAL SUM
Mark Bolick	\$ 85,000.00	3	3	4	10
City of Gastonia	\$ 92,500.00	4	4	3	11
Centralina COG	\$ 50,425.00	5	5	5	15

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## AGENDA ITEM INFORMATION

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**AGENDA ITEM #:** 7-A

**DESCRIPTION:** PUBLIC HEARING TO CONSIDER HOLDING CITY-OWNED PROPERTY FOR ECONOMIC DEVELOPMENT PURPOSES

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Action Item: To consider holding Property Parcel id#127737 for purposes of Economic Development.

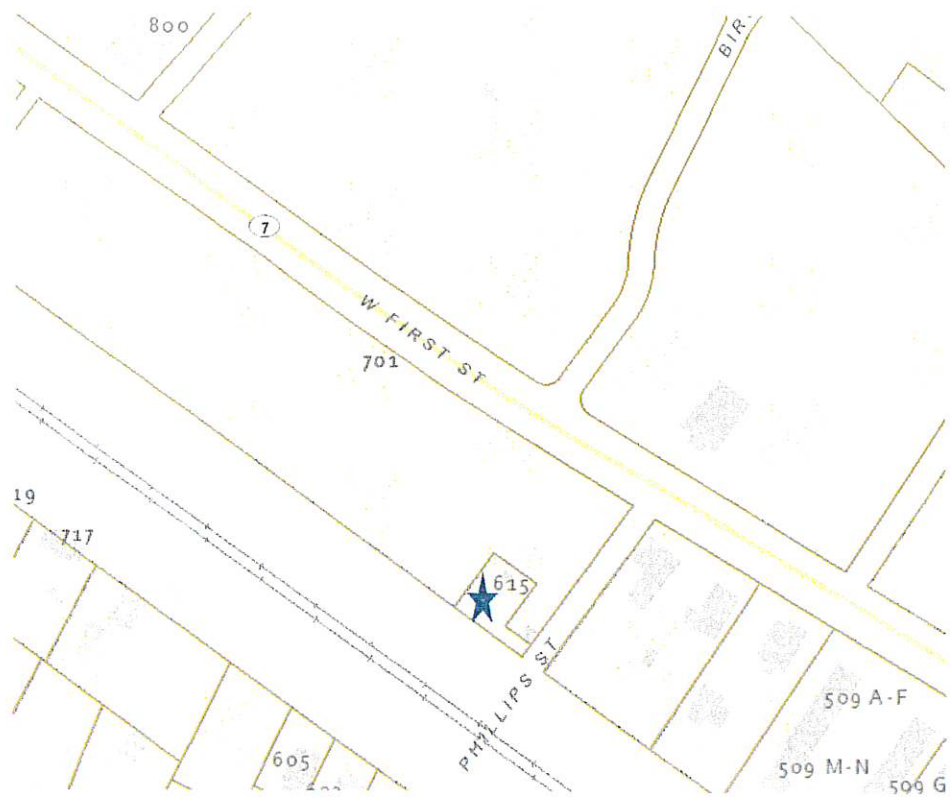
See a reference to the NC General Statutes below as it related to this item.

**§ 158-7.1. (2) Local development**

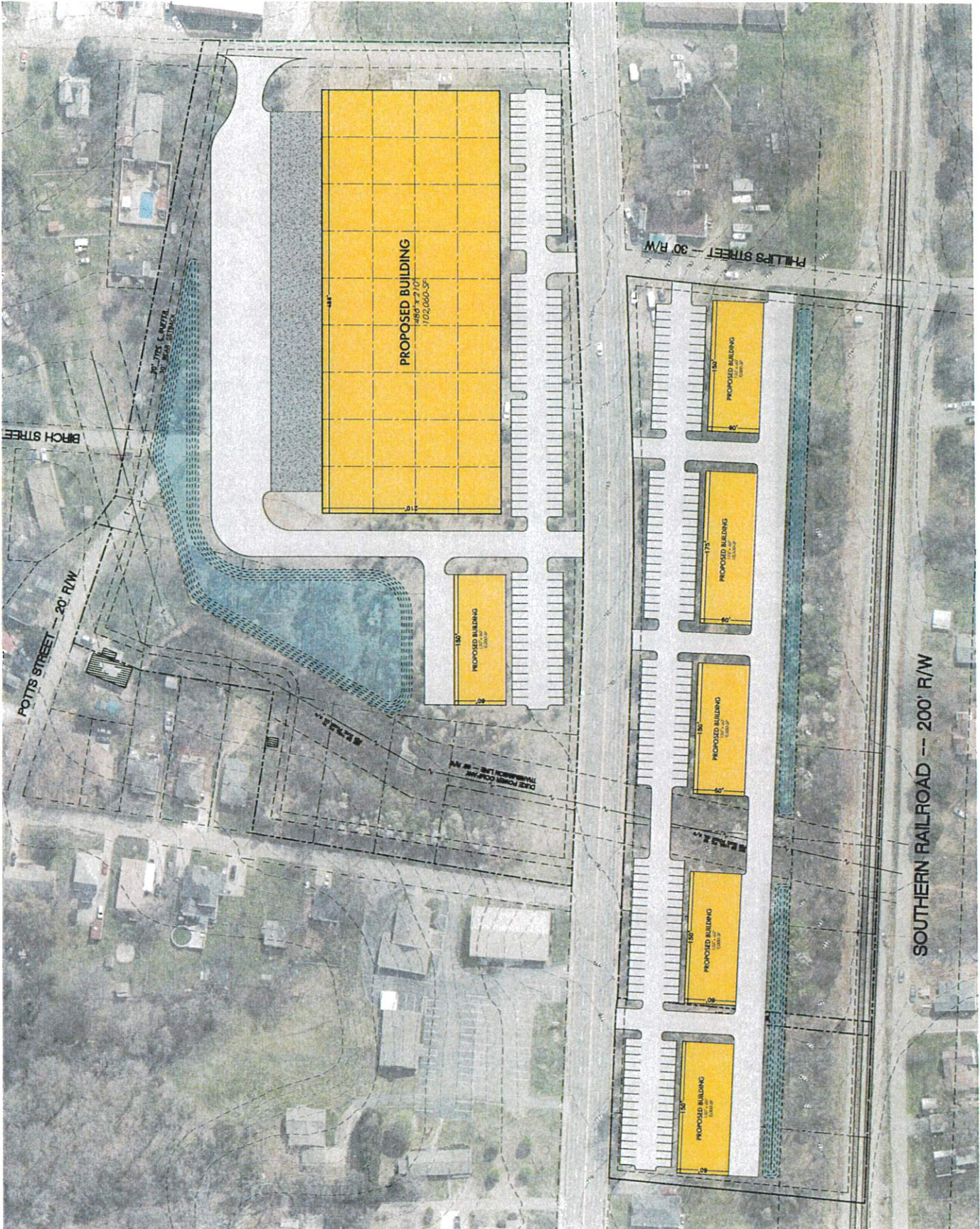
A county or city may acquire, assemble, and hold for resale property that is suitable for industrial or commercial use. A county may acquire such property anywhere in the county, including inside of cities, while a city may acquire such property inside the city or, if the property will be used by a business that will provide jobs to city residents, anywhere in the county or counties in which it is located. A county or city may convey property acquired or assembled under this subdivision pursuant to subsection (d) of this section.

**(d) Interests in Real Property**

A county or city may lease or convey interests in real property held or acquired pursuant to subsection (b) of this section in accordance with the procedures of this subsection. A county or city may convey or lease interests in property by private negotiation and may subject the property to such covenants, conditions, and restrictions as the county or city deems to be in the public interest or necessary to carry out the purposes of this section. Any such conveyance or lease must be approved by the county or city governing body, after a public hearing. The county or city shall publish notice of the public hearing at least 10 days before the hearing is held; the notice shall describe the interest to be conveyed or leased, the value of the interest, the proposed consideration for the conveyance or lease, and the governing body's intention to approve the conveyance or lease. Before such an interest may be conveyed, the county or city governing body shall determine the probable average hourly wage to be paid to workers by the business to be located at the property to be conveyed and the fair market value of the interest, subject to whatever covenants, conditions, and restrictions the county or city proposes to subject it to. The consideration for the conveyance may not be less than the value so determined.







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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 7-B

**DESCRIPTION:** CONSIDERATION OF PROPOSALS FOR LEGAL SERVICES

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The City Manager has received three proposals for legal services. The proposals are attached for your review. After a discussion of the proposals, the City Manager would like direction from the Council of how they would like to proceed.

Proposal #1

Bringewatt, Wolter, & Snover PLLC

Point of Contact: Karen Wolter

Proposal #2

Parker Poe

Point of Contact: Anthony Fox

Proposal #3

Mullen, Holland, & Cooper

Point of Contact: John H. Russell, Jr.





December 30, 2020

City of Lowell  
Attn: Scott Attaway, City Manager  
101 W. First Street  
Lowell, NC 28098

VIA EMAIL TO: [sattaway@lowellnc.com](mailto:sattaway@lowellnc.com)

RE: City of Lowell: Proposal to Provide Legal Services

Dear Mr. Attaway:

In response to the City of Lowell's Request for Proposal for the provision of legal services as the City Attorney ("Request for Proposal"), Bringewatt, Wolter & Snover, PLLC hereby submits the following:

- Background; Scope. We understand the City seeks to retain legal counsel to supervise the legal affairs of the City and to represent the City on an ongoing basis. Specifically, the City anticipates requiring legal assistance in various areas, including but not limited to: (i) planning, zoning and land use; (ii) procurement and contracting; (iii) code enforcement; (iv) litigation management; (v) human resources; (vi) general governance; and related municipal legal requirements as set forth in the Request for Proposal. We understand that legal counsel will directly report to the City Council and that ongoing work will routinely include attendance at the Council's regular meetings, the occasional special meeting, and when appropriate, meetings/hearings of the planning board and board of adjustments.
- Attorneys Handling Your Work. Bringewatt, Wolter & Snover, PLLC has specialized in, among other areas, municipal law since its founding in 1999. The firm is currently legal counsel to five, fast-growing Towns and represents several public school systems. A list of our current public – entity clients is attached hereto. In its role as City Attorney, the firm has handled the various and diverse legal needs of Towns surrounding Charlotte and has assisted with and experienced the unique challenges related to growth, increased population and development confronting the Towns in the Charlotte MSA.

We propose a team approach with all attorneys in our firm working together to meet the City's legal needs in a timely, practical and cost-effective manner – with of-counsel Jennifer Nancarrow serving as your primary contact. We anticipate that Karen Wolter will work closely with Jennifer to stay current on all legal matters affecting the City. Kevin Bringewatt will further assist the City in handling zoning/land use matters and procurement/contracting matters. We will also involve our partners, Beth Snover and Erin Henegar, as needed – likely in connection with real estate acquisitions. We will also involve legal assistant(s) as appropriate, including for example, when a title search may be needed. Of course, as we learn more about the specifics of the City's legal needs we have the flexibility to revise and modify individual "job descriptions" as appropriate in order to optimize our partnership with the City.

Karen Wolter  
Managing Partner

PO Box 453 | 704.778.1146  
Davidson, NC 28036 | [karen@bwsnclaw.com](mailto:karen@bwsnclaw.com)



- Office Hours. As part of our service to the City and in addition to our general availability, we offer to hold office hours at City Hall once each week. During those hours, we will work exclusively on Lowell legal matters and prepare for Council meetings. We have found that dedicating specific blocks of time to our municipal clients serves many purposes. First, legal work is completed more efficiently and cost-effectively when we commit a specific block of time to a specific client. Second, communication with City administration and Council members is maximized, reducing potential problems and surprises and ensuring everyone is on the same page with respect to legal issues facing the City. Third, we have found that face to face interaction on a regular basis increases trust and helps create the "team" we hope to be part of for the long-haul.

Please know that regardless of the specific scope of assignments, our firm prides itself on our prompt responsiveness to our clients. Our practice is to respond to e-mails and messages within 24 hours and typically quicker than that. We are flexible with scheduling and will work closely with City staff to optimize efficient communication and will work diligently to exceed your expectations for client service.

- Fees; Other Expenses. We are pleased to offer the City of Lowell a creative, hybrid fee arrangement as follows:
  - Annual Fixed Fee of \$60,000 (payable monthly) to include:
    - attendance at all regular, special and emergency meetings of the City Council (regardless of number of or duration of meetings);
    - attendance as necessary at planning board meetings (regardless of number of or duration of meetings);
    - up to 16 hours per month of legal services (including 4 office hours each week at City Hall)
    - all travel time.
  - Hourly Fees (\$220/partner, \$185/of counsel, and \$125 legal assistant)
    - Additional legal services (if any) in excess of the meetings and hours included in the Fixed Fee, invoiced at the applicable hourly rate.
  - Expenses
    - Unlike most firms, generally there is no charge for long distance phone calls, routine copies or postage. However, we do need to reserve the right to charge actual costs for any major copy jobs (e.g. title work) or "non-routine" expenses of this type.
  - Work Referred to Other Firms
    - Legal matters that are better served by specialists in their field, including things like bond work, litigation, complex personnel matters, and complex



policing matters are excluded from the fee and would be billed directly to the City by the outside counsel firm engaged on that particular matter.

- Retainer; Billing. No retainer necessary. We will bill on a monthly basis to include \$5000 per month as the Fixed Fee and hours in excess of the Fixed Fee allotment based on services actually performed. Payment is due within 30 days of receipt of invoice.
- At Will. Of course, an attorney-client engagement is "at-will" and either one of us may terminate this engagement by giving notice to the other. That said, we typically have very long-term clients and plan to work continually to earn your business. Our goal is to be your valued legal partner for many years to come.

Thank you for the opportunity to submit this proposal.

Sincerely yours,

A handwritten signature in blue ink that reads "Karen Wolter". The signature is written in a cursive, flowing style.

Karen Wolter

Cc: Kevin Bringewatt

Enclosures



**Anthony Fox**  
*Partner*  
t: 704.335.9841  
f: 704.335.9565  
anthonyfox@parkerpoe.com

Atlanta, GA  
Charleston, SC  
Charlotte, NC  
Columbia, SC  
Greenville, SC  
Raleigh, NC  
Spartanburg, SC  
Washington, DC

January 5, 2021

Via Email Delivery

Scott Attaway  
City Manager  
101 W. First Street  
Lowell, NC 28098

**Re: Proposal for Legal Services for the City of Lowell, NC**

Dear Scott:

It is my pleasure to submit this proposal for Parker Poe to provide legal services to the City of Lowell. Parker Poe has represented local governments for decades and is very interested in serving as the City Attorney for Lowell.

**Statement of Qualifications and Name of Lead Attorney**

Our work as outside counsel for cities and towns is extremely broad and varied. We frequently represent municipalities across the state, from small towns to large cities. For instance, we have recently done work for the City of Charlotte, the Town of Huntersville, the Town of Midland, the City of Fayetteville, the City of Wilmington, and the City of Asheville. We help these municipal clients on projects like planning, development, drafting ordinances, and executing transactions.

As municipal lawyers, we defend towns and cities in litigation, and we have an excellent track record of successfully representing municipal clients at every level of state and federal court, including the United States Supreme Court. Because we frequently represent municipal interests, we know the tactics used by those who challenge municipal decisions. Knowing these tactics allows us to better advise towns and cities and help them make decisions that will stand up in court.

Parker Poe believes that under the lead of Daniel Peterson with the assistance of Anthony Fox, our firm has the professional and administrative capabilities to provide the required services. If we are awarded this appointment, the City of Lowell will have full access to the support and resources of the entire firm. Attorneys across our industry teams and practice areas work on matters every day related to municipal and government issues, financing structures, regulatory matters, and more.

Daniel Peterson holds both his undergraduate Bachelor of Arts degree and his juris doctor (JD) degree from the University of North Carolina at Chapel Hill. He graduated in 2007 and 2010 respectively. In addition to his collegiate education, Daniel is a member of the Defense Research Institute, North Carolina Association of Defense Attorneys, American Bar Association, North Carolina Association of Municipal Attorneys, the North Carolina Bar Association, and the Mecklenburg County Bar. He was a member of the class of 2015 of the Mecklenburg County Bar Leadership Institute and was recognized as a Rising Star in 2019 by *North Carolina Super Lawyers*.

Further, our proposed team serving the City of Lowell includes seasoned municipal attorneys Anthony Fox and Mac McCarley who individually have more than three decades of experience serving local municipalities and governments across the state. Full biographies, as well as information about our government teams which include more of this experience, are included as supplements to this proposal.

**Indication of ability to provide timely and efficient service to the City, including a specification of how many hours per week could be devoted solely to City business.**

Our government team understands that elected officials and others within a municipality have times when they need to talk immediately, and need answers quickly and accurately. Parker Poe prides itself on being accessible to its municipal clients and provides personal mobile phone numbers in addition to all office contact information to ensure connectivity. We commit to respond timely and efficiently in all communications. As a team, we coordinate so each attorney is aware of the needs concerning our municipal clients. Our municipal law team all engage in litigation, so Daniel, Anthony, and Mack will communicate and coordinate availability so that Parker Poe is able to quickly respond to the Lowell's needs.

**Suggested contractual Terms to include hourly rates for Attorney and/or legal staff**

We propose our services for the City of Lowell, providing general representation including attendance at council meetings, general advice and counsel for the rate of \$260/hour. For litigation matters, the rate will be \$325/hour.

For any matters that have not yet been discussed or otherwise explained in this proposal, we will meet with you to determine a proper and reasonable payment and plan for those services.

Parker Poe does not charge its clients for copies, faxes, travel, or standard legal research as those are general costs of doing business. We do, however, charge fees for specific types of research as they may relate to projects/issues or litigation. Those would be discussed at the outset with the City before incurring costs.

**Other factors or information thought to be important to the City in considering the proposal**

As stated previously, we are a firm that prides itself in serving municipal interests. The members of our government and municipalities team are skilled in aspects of municipal law – public records, open meetings, land use and zoning issues, coordinating virtual needs during the pandemic, and more. Further, as part of a full service law firm we are equipped to handle other disciplines for the City including employment law, tax, and litigation. Members of our team have

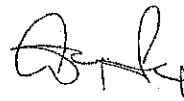


served as presidents on the Municipal Lawyers Association and have presented numerous programs with the North Carolina School of Government, as well as serving as guest lecturers with the International Municipal Lawyers Association.

Our firm's primary goals are to provide innovative solutions to problems and to find ways to turn problems into opportunities for its clients. We believe those goals to be particularly evident in our work as counsel to local governments and municipalities over the years. We welcome your discussing the quality of our work with officials from any of the representative clients we have listed in this proposal.

Thank you again for the opportunity to propose our municipal services to the City of Lowell. We'd be happy to meet with you and other City officials to talk in more detail about how Parker Poe could help Lowell. If you would like to meet, or if you have any questions, please feel free to contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anthony Fox', with a stylized, cursive script.

Anthony Fox

SUPPLEMENTAL MATERIALS



***To see how our team is helping government clients navigate the impacts and potential impacts of COVID-19, please click here.***

Parker Poe has been counsel to governments and municipalities since the 1950s. Today, our team is composed of seasoned attorneys with more than 215 years of combined experience in advising state and local governments, lawmakers, municipal and county boards, councils, commissions, managers, and staff.

Our attorneys serve as town attorneys for several municipalities in addition to providing lead or co-counsel assistance to city, town, and county attorneys and their staff throughout the Southeast. We offer innovative advice in addressing the complex problems and opportunities facing today's local governments.

Our experience in public policy allows us to equip clients with the knowledge they need to traverse the political system. Parker Poe provides counseling, transactional, and litigation services for governmental entities, companies, and individuals who have business before public bodies. Whether it's development, finance, litigation, administrative proceedings, criminal investigations, or lobbying, our team can help you adapt innovative strategies to address your needs at each level of government.

We provide across-the-board representation with experience in the following areas:

- Structuring economic and community development projects.
- Representing cities and counties on the issuance of municipal bonds.
- Negotiating and drafting annexation agreements, interlocal agreements, and development agreements.
- Negotiating sports facility deals.
- Negotiating federal, state, and local tax credits.
- Trying property tax appeals throughout the United States.
- Defending cities and counties against alleged police misconduct and other high-stakes litigation at the trial and appellate levels.
- Drafting and revising land use codes and sign ordinances.
- Advising on construction, contracting, and related litigation.
- Advising on and structuring public-private partnerships (P3).
- Developing administrative enforcement procedures and code enforcement.
- Trying condemnation cases.
- Advising on procurement, purchasing, and public bidding requirements.
- Handling zoning, subdivision, and other planning matters.
- Assisting in incorporation efforts.





- Advising on utility and municipal service provisions.
- Counseling on environmental issues.
- Conducting internal investigations and counseling on employment matters and related litigation.
- Handling motions and trials for local governments on land use and zoning, open meetings, and other key issues.

## REPRESENTATIVE EXPERIENCE

- Represented hundreds of cities and counties large and small across the Southeast and around the country.
- Participated as bond counsel or underwriter's counsel in most of the significant water and sewer revenue bond financings in North Carolina and South Carolina.
- Developed the concept of Certificate of Participation (COP) financing in conjunction with lease/purchases and installment/purchases, and served as bond counsel or underwriter's counsel in more than \$2 billion of COP financing.
- Directed the first financing for a solid waste authority under new North Carolina legislation allowing counties to create solid waste authorities.
- Assisted a South Carolina county with reimposing a capital project sales tax expected to generate more than \$70 million for capital projects throughout the county, including infrastructure improvements and the construction of recreation and municipal facilities.
- Advised a South Carolina city on the development of its first downtown hotel project, which included retail, public space, and the city's first parking garage. We assisted with the development agreement, incentives, environmental issues, and public financing, including grant funding.
- Assisted a North Carolina city with the redevelopment of its downtown through a minor league baseball facility and a mixed-use development. We secured a development agreement to construct a public parking garage with a private 256-unit residential development above it, and we prepared cross easements and air rights.
- Advised a South Carolina county on how to better compete for economic development projects. Our consulting subsidiary identified \$17 million worth of needed infrastructure improvements, and our firm worked with the county to close a creative bond deal to finance the improvements.
- Represented a North Carolina town in the development of a regional wastewater pre-treatment facility to serve biopharmaceutical companies. Our work included negotiation of development agreements, involvement with obtaining state and federal grants, preparation of construction bids, and negotiation of treatment rates and terms.





## Daniel E. Peterson

Partner

danielpeterson@parkerpoe.com

t 704.335.9874



Daniel Peterson focuses on local government counsel, professional negligence, and insurance disputes.

Daniel helps local governments achieve their public policy objectives. He has experience analyzing potential constitutional issues, tailoring policy recommendations, and resolving disputes for cities and towns. He has advised on a range of discrete constitutional issues, including policing litigation and policies, public purpose and emolument issues in economic development, and public participation ordinances.

Daniel also defends professionals and businesses against claims of negligence, wrongful death, and personal and property damage. He has defended professionals and businesses in the insurance and real estate industries.

In addition, Daniel advises insurance companies on policy coverage determinations and defends them in litigation. He has advised and defended international and domestic insurers in various coverage issues.

Prior to joining Parker Poe, Daniel served as an assistant city attorney in the Charlotte City Attorney's Office. He served as sole or lead defense attorney for the city on nearly 80 lawsuits in federal and state courts, on a variety of municipal issues, including appearances before the U.S. Court of Appeals for the Fourth Circuit and the N.C. Court of Appeals.


### REPRESENTATIVE EXPERIENCE

- Obtained summary judgment in favor of a municipality in a challenge to an approved rezoning petition for a proposed mixed-use development. Successfully argued in the North Carolina Court of Appeals that the plaintiff lacked standing to file suit and that the appeal should be dismissed. *Cherry Community Org. v. City of Charlotte*, 2018 WL 708654 (N.C. App. 2018).
- Obtained summary judgment on all federal constitutional and state tort claims asserted against a municipality and police chief in a case involving an alleged unlawful search and seizure during an encounter with plaintiffs. *Barideaux v. City of Charlotte*, 2017 WL 2177977 (W.D.N.C., May 17, 2017).
- Obtained summary judgment in favor of a municipality on all claims brought by a former employee, including gender discrimination under Title VII, age discrimination under the ADEA, retaliation under both Title VII and the ADEA, and § 1983 violation of 14th Amendment rights. *Evans v.*

  
**CHARLOTTE OFFICE**

  
**PRACTICE AREAS**  
Professional Negligence Defense  
Product Liability & Mass Tort  
Litigation  
Government & Public Policy

  
**EDUCATION**  
University of North Carolina at  
Chapel Hill  
JD, 2010  
University of North Carolina at  
Chapel Hill  
BA, 2007

  
**ADMISSIONS**  
North Carolina  
U.S. Court of Appeals for the  
Fourth Circuit  
U.S. District Court – Western  
District of North Carolina  
U.S. District Court – Middle District  
of North Carolina  
U.S. District Court – Eastern  
District of North Carolina





## Daniel E. Peterson

Partner

danielpeterson@parkerpoe.com

t 704.335.9874



*City of Charlotte*, 2016 WL 2637800 (W.D.N.C., May 9, 2016).

- Obtained summary judgment in favor of a municipality on all claims brought in a wrongful death action alleging that the police department's policies and procedures were constitutionally inadequate as it related to use of force and, specifically, electronic control devices. *Estate of Williams v. Forbes*, 3:12-CV-838-MOC-DSC (W.D.N.C., July 18, 2014).
- Obtained judgment on behalf of a detective in an alleged wrongful conviction action claiming that the detective participated in a conspiracy to violate the plaintiff's constitutional rights. Successfully argued in the Fourth Circuit Court of Appeals that the resulting appeal taken by the plaintiff should be dismissed. *Massey v. Ojaniit*, 759 F.3d 343 (4th Cir. 2014).
- Obtained complete defense verdict on behalf of a police officer accused of using excessive force on the plaintiff in the course of an investigation into child abuse, summary judgment in favor of the supervising sergeant accused of condoning and failing to supervise the officer, and a pre-discovery dismissal in favor of the municipality alleged of failing to train the officer. *LaMarre v. Turner*, 12-CVS-19744 (Meck. Co. 2014).
- Obtained summary judgment on behalf of a police officer and a municipality in an action alleging that the officer used excessive force securing the perimeter in a drug raid. *Gillis v. City of Charlotte*, 2014 WL 1333988 (W.D.N.C., April 2, 2014).

## PUBLICATIONS

- "The Eminent Domain Consequences of a U.S. Supreme Court Ruling," Law360, August 2019
- "The Intersection of Safety and Expression: Injunctive Relief in Crowd Control Measures," Municipal Lawyer, July 2019
- "Insurance Can Mitigate Costs of Government Investigations," Law360, August 2018
- "Injunctive Relief in Public Participation Litigation," N.C. Association of Municipal Attorneys, August 2017
- "Mass Demonstrations and Preliminary Injunctions: Rapidly Responding With Narrative and Case Law," International Municipal Lawyers Association, April 2017





## Daniel E. Peterson

Partner

danielpeterson@parkerpoe.com

t 704.335.9874



- "Reasonable Mistakes: A Brief Overview of Qualified Immunity From Use of Force Claims Under § 1983," Mecklenburg County Bar, February 2015
- "Balancing Act: Regulation of Expression by Cities in the 21st Century," Mecklenburg County Bar, February 2014

### SPEAKING ENGAGEMENTS

- "For What It's Worth, Stop, Hey, What's That Sound: Injunctive Relief in Public Participation Litigation," N.C. Bar Association Constitutional Rights & Responsibilities and Government & Public Sector Annual Meetings, February 2019
- "Police Excessive Force Trials Post-Ferguson: What's Different and What's Not," International Municipal Lawyers Association, Mid-Year Seminar, April 2018
- "Panel Discussion on Governmental Immunity," N.C. Association of Defense Attorneys, September 2017

### HONORS

- *North Carolina Super Lawyers* Rising Star, 2019-2020
- North Carolina Pro Bono Honor Society, 2019
- Mecklenburg County Bar Leadership Institute, Class of 2015

### MEMBERSHIPS

- North Carolina Association of Defense Attorneys, Government Practice Group, Chair, 2020-2021, Vice Chair, 2019-2020
- Mecklenburg County Bar, Litigation Section, Chair, 2014-2015, Vice-Chair, 2013-2014
- Rotary Club of Charlotte, Invocation Committee, 2020-present
- North Carolina Bar Association
- American Bar Association
- Defense Research Institute





## Anthony Fox

Partner

anthonyfox@parkerpoe.com

t 704.335.9841



Anthony Fox's clients derive direct benefit from his vast knowledge of North Carolina's state, municipal, and public-private partnership legal landscape. With more than 30 years' experience representing municipalities in North Carolina – both as an assistant city attorney and as a town attorney – from Wilmington to Asheville and from his vast experience on state boards and commissions, Anthony knows how to solve his clients' business problems. He advises municipalities, school boards, public sector clients, regulated industries, and corporate clients before administrative bodies and all levels of the North Carolina state court system, federal district courts, and the Fourth Circuit Court of Appeals. He is also admitted to practice in the United States Supreme Court.

As a former assistant city attorney, current town attorney, and as an attorney who handles municipalities' overflow work, Anthony is actively involved in the issues facing cities and towns today, from defending their positions on complex legal matters like annexation, zoning, construction, and land use disputes, to shaping public-private developments or structuring municipal acquisitions. This work includes acquiring facilities, developing agreements and loan documents, getting environmental and engineering approvals, and securing funding. He also assists municipalities and regulated industries with eminent domain and land condemnation actions. Clients trust Anthony to handle their most sensitive internal investigations too. He is adept at shaping strategy to achieve positive results and skilled at effective messaging.

Because of his experience in the public sector, Anthony provides companies involved in public-private partnerships with unparalleled legal representation – both for transactional matters and litigation. Anthony assists companies in structuring complex public-private deals that include elements of land use, zoning, and annexations. He also provides advice on economic development matters and incentives. His clients include corporations, developers, municipalities, and regulated industries. Anthony provides his clients with a sense of being connected by giving them access to his 30 years of vast experience and to key individuals at the local and state levels. In this way, he is often able to use creative strategies to help the public and private sectors come together to achieve their desired results.

Anthony is active in his community, having had local and state appointments from governors and mayors of both major political parties. He is a past president of the North Carolina Association of Municipal Attorneys and remains an active member in this organization. He also served as the sole attorney on the Federal Communication Commission's Intergovernmental Advisory Committee and was appointed to the City of Charlotte Airport Commission.



### CHARLOTTE OFFICE



### PRACTICE AREAS

Government & Public Policy  
 Land Use & Zoning  
 Litigation  
 Eminent Domain &  
 Condemnation  
 Economic Development  
 Navigating the Coronavirus  
 Pandemic



### EDUCATION

North Carolina Central University  
 JD, 1982  
 University of North Carolina at  
 Chapel Hill  
 MPA, 1982  
 North Carolina A&T State  
 University  
 BA, *cum laude*, 1977



### ADMISSIONS

North Carolina, 1983





## Anthony Fox

Partner

anthonyfox@parkerpoe.com

t 704.335.9841



### REPRESENTATIVE EXPERIENCE

- Represented municipal interests in the development of a convention center hotel and the relocation of a minor league baseball franchise, including site acquisition and operating agreements.
- Represented private sector clients in zoning, land use, economic development, and expansion and relocation projects.
- Challenged a statewide legislative enactment and succeeded in having it declared unconstitutional.
- Successfully defended the largest involuntary annexation in North Carolina history.
- Extensive experience in all aspects of municipal and governmental transactions and frequent work with clients on:
  - Public-private partnerships
  - Annexation, telecommunications, public finance, land use, transportation, and administrative law
  - Economic development and incentives
  - Litigation of matters on behalf of North Carolina cities, counties, schools, and governmental agencies and litigation of various regulatory matters
- Represented the cable industry and is a former member of the FCC Intergovernmental Advisory Committee (IAC) where he advised the Federal Communications Commission on a range of telecommunications issues, particularly the country's transition to digital television. He is the sole attorney representative on the IAC, which included a governor, a utility commission representative and legislative, county, tribal, and municipal representatives.

### CLIENT ALERTS

- "Families First Coronavirus Response Act: Implications for Public Employers and First Responders," March 2020





## Anthony Fox

Partner

anthonyfox@parkerpoe.com

t 704.335.9841



### HONORS

- *The Best Lawyers in America* in Land Use and Zoning Law, 2007-2021; Land Use and Zoning Litigation, 2011-2021; Municipal Law, 2018-2021
- *North Carolina Super Lawyers*, 2009-2010
- Martindale-Hubbell AV® Preeminent™ in Municipalities & Counties; Government & Public Policy; Land Use & Zoning; Litigation; Eminent Domain & Condemnation

### MEMBERSHIPS

- Charlotte Airport Commission, Board Member, 2013-present
- Novant Health Presbyterian Medical Center, Chairman, Board of Directors, 2013-2015
- North Carolina Association of Municipal Attorneys, Member, 1983-present; President, 2009-2010; Director, 2005-present
- Charlotte Chamber of Commerce, Director, 2004-present; General Counsel, 2005-2007
- Belk Foundation, Board of Directors, 2017
- Charlotte Citizens Review Board, Vice-Chair, 1997-2000
- Charlotte City Partners, Director, 2001-2006
- Queens University, Trustee, 2013-present
- Mecklenburg County Bar Foundation, Director, 2004-2006
- Charlotte Regional Visitors Authority, Vice Chair, 2002-2010; Chair, 2010
- National School Boards Association, Member, 2008-2012
- New Arena Committee, Member, 1998-1999
- North Carolina Banking Commission, Chair, Appellate Hearing Panel, 2005; Member, 2004-2006
- Presbyterian Hospital, Board of Trustees, 2006-2015
- North Carolina Central University, Board of Visitors, School of Law, 2006-present
- North Carolina State Bar, Board of Continuing Legal Education, 1992-1999
- North Carolina Turnpike Authority, Board of Directors, 2004-2013



**Anthony Fox**

*Partner*

anthonyfox@parkerpoe.com

t 704.335.9841



**Parker Poe**

Attorneys & Counselors at Law

- United Way, Chairman, Board of Directors, Central Carolinas, 2002
- Mecklenburg County Bar, Secretary, 1994-1995







## DeWitt F. McCarley

Partner

macmccarley@parkerpoe.com

t 704.335.9519



Mac McCarley concentrates his practice in advising local governments and private sector clients in regulatory and public policy matters.

Prior to joining Parker Poe, he served as city attorney for the City of Charlotte for 17 years. Before his employment with the City of Charlotte, he held the position of city attorney with the City of Greenville, N.C., for 14 years and served as the assistant general counsel for the North Carolina League of Municipalities in Raleigh. He is admitted to practice before the United States Supreme Court. He is also certified as a mediator by the North Carolina Dispute Resolution Commission.

Mac was a member of the 1995 and 2010 North Carolina Legislative Study Commissions on Annexation where he represented municipal interests.

Additionally, he is a frequent speaker at professional conferences on media relations and general negotiation skills.

### REPRESENTATIVE EXPERIENCE

- Negotiated the return of an NBA franchise to Charlotte and the arena construction and operating agreements between the team and the city.
- Led the city negotiation team working with NASCAR on agreement to construct and operate the NASCAR Hall of Fame.
- Represented the city on railroad operating and construction agreements for initial Charlotte area transit system light rail project.
- Negotiated the contract between the city and the Democratic National Committee for the 2012 Democratic National Convention to be held in Charlotte.
- Represented the City of Charlotte in intervention motions in *South Carolina v. North Carolina*, 130 S.Ct. 854 (2010), an original jurisdiction water rights case in the U. S. Supreme Court.
- Represented the City of Wilmington, N.C., in minor league baseball negotiations.
- Represented the City of Las Vegas in major league soccer negotiations.
- Negotiated arena use agreements for the Charlotte Checkers of the American Hockey League (AHL).
- Represented the Town of Chapel Hill in negotiating the development agreement for the redevelopment of the 72-acre Glen Lennox complex.
- Represented the City of High Point in negotiating and drafting the use and



### CHARLOTTE OFFICE



### PRACTICE AREAS

Government & Public Policy



### EDUCATION

University of North Carolina at Chapel Hill

JD, 1977

University of North Carolina at Chapel Hill

BA, 1974



### ADMISSIONS

North Carolina, 1977





## DeWitt F. McCarley

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operating agreement for the BB&T Point minor league baseball stadium, home of the High Point Rockers.

- Represented the City of Sanford in negotiating and drafting an interlocal agreement to provide sewer service to the Moncure Megasite.

### PUBLICATIONS

- "The Federal Government's Coronavirus Response: Implications for Emergency Responders," PoliceOne, EfficientGov, April 2020
- "Opportunity Zones Are Latest Reason for Local Governments & Developers to Take a Look at Abandoned Mills," Charlotte Business Journal, August 2019
- "The Intersection of Safety and Expression: Injunctive Relief in Crowd Control Measures," Municipal Lawyer, July 2019
- "The Content Challenge: A Practitioner's Guide to Sign Ordinances After Reed," Municipal Lawyer, November 2018

### SPEAKING ENGAGEMENTS

- "COVID-19: Employment Issues for North Carolina Cities & Towns," Parker Poe Webinar, April 2020
- "Public-Private Partnerships in Economic Development, Sports and Entertainment: A Municipal Practitioner's View," International Municipal Lawyers Association (IMLA) Annual Conference, September 2019
- "Best Practices in Negotiations," International Municipal Lawyers Association (IMLA) Annual Conference, September 2019
- "Sign Ordinance Revision After Reed v. Gilbert: What You Need to Know," Arkansas Municipal League Annual Convention, June 2019
- "How to Get What You Want and Have Fun Doing It," Commercial Real Estate Women (CREW) Charlotte, March 2019
- "City Perspectives on Sports Facility Deals," North Carolina Bar Association, May 2016
- "Negotiated Resignations," Public Employment Law Update at the UNC School of Government, May 2016





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- "Negotiation Principles and Practice," IMLA in Las Vegas, NV, October 2015
- "Dealing with the Press," IMLA in Baltimore, MD, 2014
- "United Way of Central Carolinas Young Leaders Speaker Series," August 2013
- "Municipal Annexation Best Practices," North Carolina League of Municipalities Annual Conference, 2010
- "View from the Other End of the Hall: Mayors, Managers & Attorneys," IMLA Annual Conference, 2009
- "Practical & Legal Guide for Internal Investigations," Organization of Municipal Personnel Officers Annual Conference, 2009

### HONORS

- *The Best Lawyers in America* in Municipal Law, 2016-2021
- North Carolina Pro Bono Honor Society, 2018, 2019
- University of North Carolina School of Law Distinguished Alumni Award, 2012
- International Municipal Lawyers Association (IMLA) Charles S. Rhyne Lifetime Achievement Award, 2011
- North Carolina Association of Municipal Attorneys Ernest H. Ball Award, 2010
- Florence Crittenton Services, Inc. Lucille P. Giles Community Award, 2008
- Leadership Charlotte Schley Lyons Circle of Excellence Award, 2002
- Martindale-Hubbell AV® Preeminent™ in Government & Public Policy; Municipalities & Counties

### MEMBERSHIPS

- 26th Judicial District, North Carolina State Bar Councilor, 2012-present; Chair, Grievance Committee, 2016-2018
- University of North Carolina School of Government Foundation, Board of Directors, Chair, 2009-2011; Member, 2014-2019





## DeWitt F. McCarley

*Partner*

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† 704.335.9519



- Rotary Club of Charlotte, President 2008-2009; Chair of Program Committee, 2006, 2019, 2020; Member, 1995-present
- Mecklenburg County Bar Foundation, Board of Directors, Chair, 2010-2011; Member, 2003-2012; Patrons' Fund Campaign, Chair, 2005-2007; Naming Rights Campaign Co- Chair, 2014
- Florence Crittenton Services, Inc., Advisory Board (Chair, 2004-2008; Member, 2002-present); Board of Directors (Chair, 2000-2002; Member, 1996-2002)
- International Municipal Lawyers Association, Board of Directors (President, 2009-2010; Member, 2000-2011)
- Mecklenburg County United Way Annual Campaign, Chair, 2003
- Governor's Email Policy Review Committee, Member, 2008

H. Randolph Sumner <sup>1</sup>  
Nancy Borders Paschall <sup>1</sup>  
J. Reid McGraw, Jr. <sup>1</sup>  
James R. Martin <sup>1,2</sup>  
John H. Russell, Jr. <sup>1</sup>  
Jason R. Shoemaker  
Justin N. Davis <sup>1</sup>  
Gerald L. Liska  
Jane Foy Painter  
William H. Sain  
Amelia E. Lowe  
Michael A. Cannon

<sup>1</sup> Certified Mediator

<sup>2</sup> Also Admitted in South Carolina

# MHC

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January 6, 2021

Via email to: [sattaway@lowellnc.com](mailto:sattaway@lowellnc.com)

Scott Attaway  
City Manager, City of Lowell  
101 W. 1<sup>st</sup> Street  
Lowell, NC 28098

**Re: Response to RFP for legal services from Mullen Holland & Cooper, P.A.**

Dear Scott:

Thank you for contacting me with respect to the City of Lowell's RFP for legal services and service as City Attorney. I have really enjoyed the time working with you, City Staff, and the Council over the past two months, as well as the opportunity to be involved in such a wide range of interesting projects, and I sincerely appreciate the invitation to respond. Enclosed please find a Proposal to Provide Legal Services for the City of Lowell from my firm, Mullen Holland & Cooper, P.A.. MHC has provided a broad range of legal services to municipalities, businesses, and individuals for over 70 years, with expertise among our seventeen attorneys across a wide variety of fields. All of our partners live in Gaston County, and in addition to our professional work, our attorneys are involved in a variety of civic activities across the County and the region. We believe that our unique size and location, along with the experience of our lawyers, allow us the ability to provide responsive and high quality legal services tailored to the specific needs of our clients. We welcome the opportunity to discuss these with you and are pleased to respond to your RFP.

I would be the responsible partner and primary attorney providing legal services to the City in the event this proposal is accepted. I have over 25 years of legal experience, including the last nineteen in private practice with MHC. My practice focuses primarily on real estate issues and litigation, including land use and zoning, housing, and representation of residential and commercial landlords; however, a portion of my practice is also dedicated to workers compensation defense and insurance disputes, and to advising clients in connection with various related employment issues. Since 2010, I have been named to the North Carolina Super Lawyers annual list of top attorneys in the field of workers compensation, a distinction recognizing the top 5% of North Carolina attorneys based on peer review and professional achievement. Like my



colleagues at Mullen Holland & Cooper, I also have a broad record of community involvement, providing both volunteer board work and professional legal representation for the Schiele Museum and the non-profit Gaston Residential Services, Inc., and have served as the Chairman of the Gaston County Historic Preservation Commission since 2007.

I am privileged to work at MHC with an experienced and talented group of partners and colleagues. Nancy Paschall is our senior business litigation and transactional attorney. Ms. Paschall is the lead counsel to the Gastonia Housing Authority, the Belmont Housing Authority, and Partners Behavioral Health Management, and has over 35 years of experience addressing local government issues and related transactional and legal concerns for these entities. Randolph "Dolph" Sumner represents Gaston County and the City of Gastonia in connection with its workers compensation claims. Jane Foy Painter represents several established utility providers, including Dominion Energy, as a successor to PSNC Energy, and Duke Energy, in connection with easements and real estate transactions. Finally, two of our senior attorneys, John H. Hasty and Dennis L. Guthrie, are recognized, respectively, for expertise in the fields of First Amendment issues and alcohol/ABC regulation and enforcement. Full biographies for all of our attorneys can be found on our website ([www.mhc-law.com](http://www.mhc-law.com)). All of us are dedicated, hard workers, and we have for many years received the highest possible Martindale-Hubbell rating of "AV," which we invite you to review at <http://www.martindale.com/Mullen-Holland-Cooper-PA/law-firm-1115579.htm>. As a result of the knowledge based and breadth of practice among these lawyers and other attorneys in the firm, MHC has implemented a team-based approach to responding to client needs, allowing us to make use of individual expertise when appropriate while limiting legal costs.

The attached Statement of Qualifications and Resources and the related submittal requirements indicated in the RFP is a Firm-based submission with myself as the lead and responsible attorney. I have also included a copy of my firm bio, which can be found at following link from our website:

<https://www.mhc-law.com/our-attorneys/john-h-russell-jr/#1573624988871-a8238044-a457>

Should you have questions about this Proposal, our practice areas and services, or my personal or professional interest in the RFP, please do not hesitate to contact me.

In closing I wanted to repeat on a personal note that I have truly enjoyed the opportunity to work with you, City Staff, and the Lowell City Council. It has been a privilege to develop new relationships, and renew a few old ones. I have been impressed with the amount of legal work, particularly in the area of development, that has occurred during this period and with the expertise and professionalism the City has shown in handling this. I would be honored to be selected for the role of City Attorney, but regardless wish you and the City the very best in all future endeavors. Thank you for reaching out to me with regard to this RFP, and I certainly appreciate your time and consideration of this submission.

Respectfully,

MULLEN HOLLAND & COOPER P.A.



John H. Russell, Jr.  
N.C. State Bar No. 20115

JHRjr/sw  
Enclosures

{M0299203.1}

**PROPOSAL FOR LEGAL SERVICES  
FOR THE CITY OF LOWELL**

STATEMENT OF QUALIFICATIONS AND RESOURCES OF THE FIRM

- ◆ Mullen Holland & Cooper, P.A. (the “Firm”) was established in 1950. The Firm presently consists of 17 attorneys, plus support staff and Firm administration. The Firm’s eight partners all live in Gaston County.
- ◆ The Firm currently represents Gaston County and the City of Gastonia with respect to workers compensation, insurance issues, and selected distinct projects; Partners Behavioral Health Management; the Gastonia Housing Authority; and the Belmont Housing Authority. The Firm has done work over the years for the Mount Holly Housing Authority and Reinvestment in Communities, a non-profit housing agency affiliated with the City of Gastonia.
- ◆ Two partners in the Firm, John H. Russell, Jr. and Nancy B. Paschall, regularly appear before governmental bodies in Gaston County and surrounding communities in connection with zoning and land use regulation and enforcement. Two other attorneys, William H. Sain and Gerald L. Liska, serve as members of the Planning Boards for Gaston County and the City of Belmont, respectively.
- ◆ Representation of the Housing Authorities and Partners Behavioral Health Management has included reviewing contracts, serving as legal advisor at Board meetings, state and federal legislation reviews, a variety of redevelopment reviews and initiatives, personnel matters, and reviews of policies and procedures.
- ◆ Representation of Gaston County, the City of Gastonia, and all Housing Authorities has included appearances in court and administrative proceedings relating to workers compensation claims, non-payment of taxes and related issues, and lease violations, as well as responding to questions from staff as needed. Two partners in the Firm, John H. Russell, Jr. and Justin N. Davis, have extensive experience in criminal law and procedure and familiarity with rules and regulations governing police departments and personnel.
- ◆ The Firm is the largest firm in Gaston County, and has been recognized as an AV rated Top Law Firm by Martindale–Hubbell legal publications and among the Best Law Firms by U.S. News and World Report. Our website, [www.mhc-law.com](http://www.mhc-law.com), describes the Firm, its attorneys, and areas of practice and expertise in more detail.
- ◆ Additional clients of the Firm include Duke Energy, Parkdale Mills, Dominion Energy (formerly Public Service Company of North Carolina / SCANA), American Airlines, Lowe’s Home Improvement, Bemis Manufacturing Company, and the Chronicle Mill and related entities. The Firm maintains a diverse group of clients and serves a variety of legal needs. We take pride in the fact that our attorneys are very accessible and responsive to clients.
- ◆ The Firm can supply a Certificate of Insurance upon request.



## STATEMENT OF INTEREST

Mullen Holland & Cooper (MHC) has a long history of providing legal services to individuals, businesses and entities in Gaston County. While our statewide insurance defense and litigation work provide familiarity with Courts and contacts throughout the state, the emphasis of our client-centered practice is in Gaston County and surrounding counties. Our lawyers are committed to helping businesses, individuals and organizations, including governmental entities, be successful in all aspects of operations, not only financially but also in the fulfillment of mission statements and the completion of personal goals. As lawyers, we believe we best meet these needs through the combination of our collective legal services, along with individual community involvement and relationships across the County. The role of City Attorney provides a unique opportunity to combine these areas of emphasis, and to utilize the full experience and knowledge base of the firm to contribute to the success of one of the fastest growing communities in the County. The position is of particular interest to Mr. Russell, as the lead attorney on this proposal, as a result of his professional work in the area of land use and development, and his long-standing personal interest in recognizing individual and unique communities and places through historic preservation.

## ABILITY TO PROVIDE TIMELY AND EFFICIENT SERVICE

As a client-centered firm, MHC attorneys expect themselves and each other to respond to client needs in a timely manner. The size of the firm is large enough to provide for some overlap among practice areas and enough attorney and staff resources to respond immediately in the event of a legal emergency, but is still small enough to allow for a general knowledge of firm clients across most attorneys. Thus, in the event of an emergency or the need for back up occurs, the responding lawyer will have a working knowledge of client issues and needs. Mr. Russell should be available to cover most if not all Council and Committee meetings, with Gerald Liska and William Sain available as back up should the need arise.

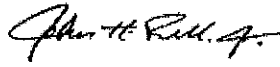
## PROPOSED CONTRACTUAL TERMS

We are willing to provide legal services to the City at the rate of \$175.00 per hour. We do not charge for the cost of legal research subscription services related to North Carolina or Federal sources and authorities; in the event the City's needs require research outside of North Carolina, we will notify and secure approval for any increased subscription charges before incurring them. Paralegal charges for drafting, document preparation, and related activities would be billed at a rate of \$85.00 per hour. Travel time within the County, to the extent necessary to attend Council meetings or to meet with staff to review and advise on legal issues, would not be charged. Should the representation require out of County travel or appearances, we are willing limit travel charges to one-half the hourly rate. Our practice is not to charge for copies or postage unless a task or case requires significant mailing and copying costs, and in that case we will notify the City and secure approval for such charges in advance.

Our practice is to submit invoices monthly and expect payment within 30 days, though this schedule can be modified depending on client needs.

CONFLICT OF INTEREST STATEMENT

By signing below, the undersigned warrants on behalf of the Firm that we know of no conflict that would prohibit undertaking this representation.



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John H. Russell, Jr.  
Partner in the Firm

## John H. Russell Jr.

Attorney At Law

Email me: [jrussell@mhc-law.com](mailto:jrussell@mhc-law.com)

Phone: 704.864.6751

Fax: 704.861.8394



[Education](#) [Role at MHC](#) [Professional Bio](#) [Personal Bio](#)

## Professional Bio

Mr. Russell is a member of the Gaston County and North Carolina Bar Associations, and the North Carolina State Bar. He has been recognized in the Top Attorneys list of North Carolina Super Lawyers for the years 2010 to the present in the field of workers compensation and has been a presenter and speaker on issues of workers' compensation and landlord tenant law before attorney and industry groups.

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**AGENDA ITEM INFORMATION**

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**AGENDA ITEM #:** 7-C

**DESCRIPTION:** SALE AND DISPOSITION OF SURPLUS PROPERTY

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The Public Works Department has received the following new equipment:

- New Jet Vac Sewer Cleaning System
- New Heil DP5000 Rear Loader mounted on a Freightliner MS 106 Tandem Chassis Trash Truck
- New ODB Leaf Loader

The City of Lowell proposes to sell/dispose of personal surplus property described below:

- 2010 Trailer Style Mongoose Sewer Jetter with 700.5 hours in working condition.
- 2004 Durapack Sterling Trash Truck Model 612-3201 with 66,239 miles in working condition.
- 2003 Trailer Style ODB leaf machinewith 28,242 hours in working condition.

Listed below is the relevant NC General Statutes as it relates to disposing of Surplus Property valued at less than \$30,000.

**§ 160A-266**

(b) Private negotiation and sale may be used only with respect to personal property valued at less than thirty thousand dollars (\$30,000) for any one item or group of similar items. Real property, of any value, and personal property valued at thirty thousand dollars (\$30,000) or more for any one item or group of similar items may be exchanged as permitted by G.S. 160A-271, or may be sold by any method permitted in this Article other than private negotiation and sale, except as permitted in G.S. 160A-277 and G.S. 160A-279.

**§ 160A-267. Private sale.**

When the council proposes to dispose of property by private sale, it shall at a regular council meeting adopt a resolution or order authorizing an appropriate city official to dispose of the property by private sale at a negotiated price. The resolution or order shall identify the property to be sold and may, but need not, specify a minimum price. A notice summarizing the contents of the resolution or order shall be published once after its adoption, and no sale shall be consummated thereunder until 10 days after its publication. (1971, c. 698, s. 1; 1979, 2nd Sess., c. 1247, s. 24.)

Action Item Related: Approval of Resolution Authorizing Sale of Personal Property



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## RESOLUTION AUTHORIZING SALE OF PERSONAL PROPERTY

### WORTH LESS THAN \$30,000 (G.S. 160A-266; 267)

**WHEREAS**, the City of Lowell owns certain items of personal property that have become surplus to its current needs; and;

**WHEREAS**, the North Carolina General Statutes G.S. 160A-266 and 267 permit the City to sell such property by private sale, upon authorization by the City Council at a regular meeting and after notice to the public;

Now therefore be it Resolved by the Lowell City Council that:

1. The City Manager is hereby authorized to sell by auction or private sale the following items of surplus personal property:
  - One 2010 trailer style Mongoose Sewer Jetter with 700.5 hours in working condition. ID number 159KU1514AC3819.
  - One 2003 trailer style ODB Brush Company Leaf Machine, model #SCL800TM20 with 28,242 hours in working condition. Serial #0903-3745.
  - One 2004 Durapack Sterling Trash Truck, model 612-3201 with 66,239 miles in working condition. Serial #FP-5017165.
2. The City Clerk shall publish a notice summarizing this resolution, and no sale may be executed pursuant to this resolution until at least 10 days after the day the notice is published.

Adopted this 12<sup>h</sup> day of January, 2021.

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Mayor Sandy Rayley

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City Clerk Beverly Harris