



**Resolution 2019-10
APPROVING SOLICITATION OF OFFERS TO
PURCHASE CONTINUUM**

Be it ordained by the Board of Commissioners of the Town of Davidson:

WHEREAS, the Town of Mooresville ("Mooresville"), the Town of Davidson ("Davidson"), the Town of Cornelius ("Cornelius") and Mecklenburg County, North Carolina entered into a Cable Television System Interlocal Agreement for the Joint Operation of a Cable Television System effective August 14, 2007, the title of which was subsequently amended to An Interlocal Agreement for the Joint Operation of a Communications System (the "Interlocal Agreement"), providing for the purchase and operation of the communications system now known as Continuum ("the System");

WHEREAS, the parties entered into the Interlocal Agreement pursuant to authority granted by Article 20 of Chapter 160A and section 153A-445 of the General Statutes of North Carolina;

WHEREAS, as authorized by the foregoing statutes, in the Interlocal Agreement the parties created a joint agency known as MI Connection Communication System (the "Joint Agency") to own and operate the System;

WHEREAS the Town of Cornelius and Mecklenburg County immediately transferred and ceded to Mooresville and Davidson, as the Operating Parties, all rights and duties to share in the management of the System;

WHEREAS, pursuant to the Interlocal Agreement, as amended, the System is deemed owned in its entirety by the Joint Agency, save for real estate which is owned by Mooresville and held in trust for and leased to the Joint Agency;

WHEREAS, the Interlocal Agreement confers on Mooresville and Davidson, as the Operating Parties, the right to authorize the sale of the entire System without the concurrence of the other parties to the Interlocal Agreement, while requiring certain payments be paid from sale proceeds to Cornelius and Mecklenburg County upon certain conditions;

WHEREAS, Mooresville and Davidson agreed by amendment to the Interlocal Agreement that their respective financial interests in respect of the System are divided seventy percent (70%) to Mooresville and thirty percent (30%) to Davidson;

WHEREAS, Mooresville is the sole obligor on the installment financing obtained in connection with the purchase of the System, and Davidson makes a proportionate annual contribution to debt service;

WHEREAS, debt service on the installment financing exceeds the net revenues of the System;

WHEREAS, in light of the financial obligations for Davidson from the System, including from the installment financing, the Town Board believes that it is in the best interest of Davidson, the citizens of Davidson, and the customers of the System to review its strategic alternatives with respect to the System, including to seek a buyer of the System which would offer favorable financial terms and which could continue to operate the System and provide services to the public;

WHEREAS, pursuant to N.C. Gen. Stat. § 160A-321, Davidson is authorized to sell any city-owned public enterprise on such terms as the Town Board deems best, subject to public approval by referendum;

WHEREAS, if the Town Board determines to pursue a sale of the System, in order carry out such sale in compliance with the law and to achieve the most favorable terms, the Town Board deems it advisable to retain, and to consent to its co-Operating Party Mooresville's retention, of experienced communications capital market and legal representation;

WHEREAS, in order to pursue a sale of the System the Town Board must communicate, or authorize the communications consultant to communicate, its desire to sell together with critical facts regarding the System to potential buyers, and then receive proposals from such interested parties, evaluate offers, and, if deemed to be in the best interest of Davidson and its citizens, authorize the sale, subject to approval of the public in a referendum;

NOW, THEREFORE, BE IT RESOLVED by the Town Board as follows:

1. The Town Board hereby authorizes and directs the Town Manager: to finalize a Confidential Information Memorandum regarding the System ("CIM") in a form that the Town Manager, with the advice of the capital market consultant and counsel, shall deem appropriate and not inconsistent with these resolutions; to consent to the capital markets consultant's mailing the CIM to each entity or individual that the consultant has identified as a potential purchaser and to such other persons as the Town Manager deems appropriate; to provide a mechanism for persons not so identified to be made aware of the possible sale of the System and the identity of the communications capital markets consultant; to receive, review, obtain further information with respect to, and evaluate responses to the CIM; to negotiate with one or more respondents; to take any and all other actions and enter into such nondisclosure agreements and other contracts in furtherance of the process as the Town Manager deems appropriate and not inconsistent with these resolutions; provided, however, that the CIM and such other actions and agreements shall not create or result in any binding contractual commitment or undertaking on the part of the Town to sell the System except as required to be undertaken in furtherance of the process, or otherwise constitute an offer, solicitation, or action by which the Town or any division thereof may become bound in contract or by law to sell or convey any assets of the Town or any interest therein, all such undertaking and contracts to be subject to final review and approval by this Board.

2. The Town Manager be and hereby is authorized to engage the services of the following law firms to provide services jointly to Davidson and Mooresville in connection with the strategic review process and prospectively in connection with any sale or other transaction, including a public referendum process, that may ensue, and to execute engagement letters with the said firms in the forms presented to the Board: Troutman Sanders, LLP, Robinson Bradshaw & Hinson, P.A., and Parker Poe, Adams & Bernstein, LLP.

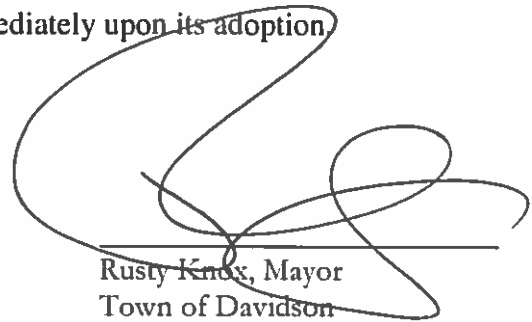
3. Mooresville's engagement of RBC Capital Markets, LLC ("RBCCM"), as the communications capital market advisor and consultant on the terms of their confidential engagement letter with Mooresville is hereby approved, consistent with and pursuant to the Fifth Amendment to the Interlocal Agreement. The Town Manager is hereby authorized to enter into on behalf of Davidson an engagement agreement with RBCCM on the same terms as those in the confidential engagement letter with Mooresville.

4. The Town Manager be and hereby is authorized to carry out such functions and actions as are necessary and appropriate under the Interlocal Agreement with the Town of Mooresville to effectuate the sale of the System, and to bring back to the Town Board such proposed amendments to the Interlocal Agreement as are deemed appropriate.

5. This Resolution shall become effective immediately upon its adoption

Approved this 18th day of March, 2019.

Attest:



Rusty Knox, Mayor
Town of Davidson



Elizabeth K. Shores, Town Clerk

Approved as to form: 
Cindy Reid, Town Attorney