

f. **Reservation and Dedication of CATS Right-of-Way.**

1. **Right-of-Way Reservation Area Provisions.** The Petitioner shall reserve, for the sole benefit of the City of Charlotte (and, as applicable, of any successor entity that assumes some or all of the City’s responsibilities for providing light-rail service, such as a regional transit authority; the City and all such successor entities collectively are “CATS”), the area (the “Reservation Area”) that is identified on the Rezoning Plan as the “Light Rail Conceptual Right-of-Way Reservation,” which follows parallel to the heavy rail alignment but, subject to written CATS approval, may slightly deviate from this area. The Reservation Area shall not extend more than one hundred (100) feet from the heavy rail right-of-way, as generally depicted on the Rezoning Plan. The Reservation Area shall be seventy (70) feet in width and cannot be any wider.
  - a. **Reservation Area Time Period.** The Petitioner shall maintain the Reservation Area in full compliance with this Section V.f – including, by example only, in full compliance with Sections V.f.1.c and V.f.1.d – until the Reservation Area is acquired by CATS, subject to the provisions in Section V.f.1.e below allowing the requirements of this Section V.f to be partially or fully released under certain circumstances.
  - b. Reserved.
  - c. Only the following construction, installation, and development activities are allowed within the Reservation Area, and no others: grading and the installation and maintenance of pavement; driveways; sidewalks; surface parking areas for bicycles, scooters or similar vehicles but excluding automobiles and trucks; landscaping; and comparable non-vertical improvements. For clarification only, none of the following may be placed, developed, constructed, installed, or maintained anywhere within the Reservation Area: (1) buildings or other vertical structures, (2) utility lines or facilities, (3) detention facilities, or (4) Wi-Fi, telecommunication or similar antennas or transmission devices for use by third parties to provide services to customers.
  - d. Nothing (including, by example only, any pavement, driveways, sidewalks, surface parking areas, landscaping, or other non-vertical improvements) may be placed, developed, constructed, installed, or maintained anywhere within the Reservation Area that, if the same is ever removed, would cause the Site or any part of it to violate any applicable law, ordinance, or regulation, including by example only any zoning or land use regulation or any provision of the approved Rezoning Plan.
  - e. If any portion of the Reservation Area is removed by CATS or the Metropolitan Transit Commission (the Metropolitan Transit Commission and, as applicable, any successor organizations to it are the “MTC”) from the MTC’s adopted plans and is not, within ninety (90) days, restored to an MTC transit plan, the requirements of this Section V shall cease applying

to that portion of the Reservation Area, and this shall be documented by an administrative amendment to the Rezoning Plan.

## **2. Right-of-Way Dedication.**

- a. The Petitioner will have permanently, irrevocably, and unconditionally (for any portion of the Reservation Area to which the requirements of this Section V.f. have not ceased applying per operation of subsection V.f.1.e., above) dedicated the Reservation Area to CATS, without Petitioner being owed any damages or compensation by the City, upon the occurrence of either of the following:
  - i. The Petitioner providing CATS with a writing executed by the Petitioner that dedicates the Reservation Area to CATS; or
  - ii. Upon CATS securing sufficient funding – through a full funding grant agreement from the Federal Transit Administration (FTA) or any other funding source or combination of sources – to commence construction of a light rail project on the Site, as well as CATS obtaining, to the extent applicable, any other approvals from the FTA and any State agencies necessary for CATS to begin developing that light rail project.
- b. If the Reservation Area is dedicated to the City under this Section, at the Petitioner’s request, CATS shall continue good-faith discussions with the Petitioner regarding the aesthetics of the light rail’s alignment through the Site. Prior to finalizing the artistic design of that portion of the light-rail project that is planned for near the Site, CATS shall give the Petitioner a reasonable opportunity to review the design prepared by CATS’s commissioned artist and to provide input and to request modifications. CATS shall give due consideration to any requests from the Petitioner to modify the design of improvements within the Site to the extent that those modifications would not increase the project’s cost and would not conflict with overarching design aesthetics, with applicable laws or regulations, with safety standards or other engineering or designs standards, or with the design of the overall light-rail project. CATS also shall consider the character and history of the Site’s surrounding neighborhood when developing any artist designs or concepts that may be incorporated into the light-rail station.
- c. After the light-rail project is completed and operational, CATS shall review whether it is unnecessary for CATS to retain any portion of the 70-foot corridor dedicated by the Petitioner. If CATS determines, in its sole discretion, that retaining any portion of the 70-foot corridor is unnecessary, CATS shall convey that unnecessary portion back to the Petitioner.