

**If you paid Water or Sewer Capacity Fees to the City of Charlotte from November 5, 2015 through June 30, 2018, you may qualify for benefits from a class action settlement.**

*This Notice may affect your rights, so please read it carefully.*

- A settlement has been reached in a class action lawsuit alleging that the water and sewer capacity fees (“Capacity Fees”) charged and collected by the Defendant City of Charlotte (“Defendant” or the “City”) from November 5, 2015 through June 30, 2018 are unlawful. All persons or organizations who paid Capacity Fees to the City from November 5, 2015 through June 30, 2018 are included in the settlement and are entitled to receive payment pursuant to the settlement terms.
- The Court in charge of this case still has to decide whether to approve the settlement. If it does, and after any appeals are resolved, a settlement fund will be established.
- Your legal rights are affected whether you act or do not act. Read this Notice carefully.
- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>HOW TO GET SETTLEMENT BENEFITS</b>	To get a payment, you do not have to do anything if you are a member of the settlement class. Checks will be mailed to you automatically.
<b>EXCLUDE YOURSELF</b>	Request to be excluded from the settlement class and get no benefits from the settlement. This is the only option that allows you to start or continue a lawsuit against the City about the claims that this settlement resolves.
<b>OBJECT</b>	Write to the Court about why you do not like the settlement.
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the settlement.

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## BASIC INFORMATION

### 1. Why is this Notice being provided?

A Court authorized this Notice because you have a right to know about a proposed class action settlement and about all of your options before the Court decides whether to grant final approval of the settlement. This Notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who may be eligible for those benefits, and how to get them.

The Superior Court Division of Mecklenburg County, North Carolina, is overseeing this lawsuit. The settlement resolves the civil action known as *Daedalus, LLC, et al. v. City of Charlotte* (Mecklenburg County Case No. 18-CVS-21073).

The persons who sued are called the “Plaintiffs,” and the City of Charlotte who was sued is called the “Defendant.”

### 2. What is this lawsuit about?

The City charges Capacity Fees to new development as a condition of the City connecting a property to the City’s water and sewer systems.

Plaintiffs filed a lawsuit on November 5, 2018 alleging that the Capacity Fees charged by the City from November 5, 2015 through June 30, 2018 were unlawful. The City denies these allegations.

On March 18, 2021, the Mecklenburg County Superior Court ruled that the Capacity Fees charged by the City from November 5, 2015 through June 30, 2018 were not authorized by North Carolina law. The City appealed the Superior Court’s ruling to the North Carolina Court of Appeals, and the Court of Appeals ruled in favor of the Plaintiffs on April 5, 2022. The North Carolina Supreme Court denied a request to consider the case on August 19, 2022.

The parties have now agreed to a settlement to resolve all issues relating to the City’s charge and collection of Capacity Fees from November 5, 2015 through June 30, 2018. The parties have agreed to this settlement to end the lawsuit and avoid further risk and costs associated with the issues remaining in the lawsuit.

### 3. Why is there a settlement?

The Court did not decide in favor of Plaintiffs or the City with respect to the issues remaining in the lawsuit. Instead, both sides agreed to settle this case to avoid the cost and risk of litigation. The City denies all legal claims in this case. Plaintiffs and their lawyers think the settlement is best for the class members.

### 4. Why is the settlement a proposed class action settlement?

Proposed class action settlements typically get reviewed by a court twice: once for preliminary approval and once for final approval. As part of approving a class action settlement, courts certify a settlement class. The Court has given the proposed settlement in this lawsuit preliminary approval and has certified a settlement class. But the Court cannot decide whether to finally approve the proposed settlement until the final approval hearing.

## WHO IS IN THE SETTLEMENT

QUESTIONS? CALL (833) 616-1223 OR VISIT [WWW.CHARLOTTECAPACITYFEESSETTLEMENT.COM](http://WWW.CHARLOTTECAPACITYFEESSETTLEMENT.COM)

To see if you will be affected by the settlement you first have to determine if you are a member of the settlement class.

#### 5. How do I know if I am part of the settlement?

The Court has approved the following settlement class:

All natural persons, corporations, or other entities who (a) at any point between November 5, 2015 and June 30, 2018 paid Water and Sewer Capacity Fees to the City of Charlotte pursuant to the schedule of fees and/or Code of Ordinances adopted by the City of Charlotte.

The City has furnished a list of all natural persons, corporation, or other entities who have paid Capacity Fees to the City from November 5, 2015 through June 30, 2018. You have received this notice because you have been identified from those records as having paid Capacity Fees to the City during this period, and therefore have the right to a refund pursuant to N.C.G.S. § 160D-106.

#### 6. What if I am not sure whether I am included in the settlement?

If you are not sure whether you are a member of the Settlement Class, or have any other questions about the settlement, visit the settlement website at [www.charlottecacityfeesettlement.com](http://www.charlottecacityfeesettlement.com) or call the toll-free number, (833) 616-1223. You may also write with questions to *Daedalus, LLC v. City of Charlotte* Settlement Administrator, P.O. Box 10269, Tallahassee, FL 32302-2269, or send an e-mail to [claims@ssiclaims.com](mailto:claims@ssiclaims.com).

### THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

#### 7. How much money is available under the settlement?

A settlement fund in the amount of \$89,148,755.88 will be established by the City to pay the claims of class members for Capacity Fees paid from November 5, 2015 through June 30, 2018. This amount is in excess of 100% of all Capacity Fee payments collected by the City from November 5, 2015 through June 30, 2018, plus interest at the rate of 6% per annum from the date of each Capacity Fee payment through December 31, 2022. Settlement administration costs, attorneys' fees and expenses, and class representative service awards will be paid from the fund.

Each member of the settlement class will receive a refund of 100% of their Capacity Fee payments made to the City from November 5, 2015 through June 30, 2018, plus interest at the rate of 6% per annum from the date of each Capacity Fee payment through December 31, 2022, less a pro-rata share of settlement administration costs, attorneys' fees and expenses, and class representative service awards.

### HOW TO GET BENEFITS FROM THE SETTLEMENT

#### 8. How and when can I get a payment?

To get a payment, you do not have to do anything if you are a member of the settlement class. A check will be mailed to you automatically, if and when the settlement is approved. The City has maintained records of the addresses of all settlement class members, and your payment will be mailed to the same address as this Notice. **If your address has changed, please submit a change**

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of address form available at [www.charlottecapacityfeesettlement.com](http://www.charlottecapacityfeesettlement.com), or contact Class Counsel.

Payments will be made to settlement class members as follows: 84.9% of the total payment will be made in July 2023, and the remaining 15.1% of the total payment will be made in July 2024.

#### 9. What am I giving up to receive benefits under the settlement?

Unless you exclude yourself, you are staying in the settlement class and will receive your payment. You can no longer sue, continue to sue, or be a part of any lawsuit against the City about the issues in this case. It also means that the Court's orders will apply to you and will legally bind you.

The Settlement Agreement is available at [www.charlottecapacityfeesettlement.com](http://www.charlottecapacityfeesettlement.com). The Settlement Agreement provides more detail regarding the release and describes the released claims with specific descriptions in necessary, accurate, legal terminology, so read it carefully. You can talk to the law firms representing the settlement class listed in the section "The Lawyers Representing You" for free or you can, at your own expense, talk to your own lawyer if you have any questions about the released claims or what they mean.

### EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want to participate in this proposed settlement and you want to keep the right to sue the City about the legal issues in this case, then you must take steps to get out of the settlement. This is sometimes called "opting out" of the settlement class.

#### 10. If I exclude myself, can I get anything from this settlement?

No, if you exclude yourself, you will give up your right to receive any payment from the settlement. If you ask to be excluded, however, you may sue or be part of your own lawsuit against the City concerning the legal claims in this case. You will not be bound by anything that happens in this settlement.

#### 11. If I do not exclude myself, can I sue later?

Unless you exclude yourself, you give up the right to sue the City for all of the claims that this settlement resolves. You must exclude yourself from the settlement class to start or continue your own lawsuit relating to the claims in this case. The full release is stated in the Settlement Agreement and can be viewed at [www.charlottecapacityfeesettlement.com](http://www.charlottecapacityfeesettlement.com).

#### 12. How do I get out of the settlement?

To exclude yourself from the settlement and settlement class, you must send the Settlement Administrator a written "Request for Exclusion," which must include the following:

- (1) Contain a caption or title that identifies it as "Request for Exclusion in *Daedalus, LLC, et al. v. City of Charlotte*;"
- (2) Includes your name, address, and telephone number;
- (3) Specifies that you want to be excluded from the settlement class; and
- (4) Be personally signed by you.

You must mail your completed Request for Exclusion, postmarked by **April 10, 2023** to:

**QUESTIONS? CALL (833) 616-1223 OR VISIT [WWW.CHARLOTTECAPACITYFEESSETTLEMENT.COM](http://WWW.CHARLOTTECAPACITYFEESSETTLEMENT.COM)**

Daedalus, LLC v. City of Charlotte Settlement Administrator  
c/o Settlement Services, Inc.  
P.O. Box 10269  
Tallahassee, FL 32302-2269

A copy of your completed Request for Exclusion should also be sent to:

<b>Class Counsel</b>	<b>Defense Counsel</b>
Daniel K. Bryson James R. DeMay J. Hunter Bryson Milberg Coleman Bryson Phillips Grossman PLLC 900 W. Morgan Street Raleigh, NC 27603	Patrick H. Flanagan Ariella Zulman Cranfill Sumner LLP P.O. Box 30787 Charlotte, NC 28230
James E. Scarbrough John F. Scarbrough Madeline J. Trilling Scarbrough Scarbrough & Trilling PLLC 137 Union Street South Concord, NC 28025	Sean Perrin Womble Bond Dickinson (US) LLP One Wells Fargo Center Suite 3500 301 South College Street Charlotte, NC 28202-6037
William G. Wright Gary K. Shipman Shipman & Wright, L.L.P. 575 Military Cutoff Road, Suite 106 Wilmington, NC 28405	

**If you do not want to be a part of the settlement, but do not send in a Request for Exclusion, you will remain a member of the settlement class and lose any opportunity to exclude yourself from the settlement, and your rights in this lawsuit will be determined by the settlement.**

You cannot ask to be excluded/opt-out by phone, email, or on the website.

## **THE LAWYERS REPRESENTING YOU**

### **13. Do I have a lawyer in the case?**

The Court has designated Daniel K. Bryson, James R. DeMay, and J. Hunter Bryson of Milberg Coleman Bryson Phillips Grossman, PLLC; James E. Scarbrough, John F. Scarbrough, and Madeline J. Trilling of Scarbrough Scarbrough & Trilling PLLC; and William G. Wright and Gary K. Shipman of Shipman & Wright, LLP as Class Counsel for members of the settlement class.

### **14. Why is Class Counsel recommending the settlement?**

Class Counsel reached this settlement after weighing the benefits of the settlement against the risks involved in continuing the litigation, as well as the delay resulting from further litigation. Class Counsel balanced these and other substantial risks in determining that the settlement is fair, reasonable, and adequate, and in the best interests of members of the settlement class.

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## 15. How will the Lawyers be paid?

At the final approval hearing, Class Counsel will ask the Court for an award of attorneys' fees and expenses in an amount not to exceed one-third of the value of the settlement fund. Any award of attorneys' fees and expenses ordered by the Court will be paid from the settlement fund.

## OBJECTING TO THE SETTLEMENT

## 16. How do I tell the Court if I do not like the settlement?

If you do not exclude yourself from the settlement class, you may, if you wish, object to the proposed settlement, or to any aspect or effect of the settlement. All objections must contain the following:

- (1) Contain a caption or title that identifies it as "Objection to Class Settlement in *Daedalus, LLC, et al. v. City of Charlotte*, Mecklenburg County No. 18-CVS-21073;"
- (2) Identify whether the objection is to the settlement class;
- (3) Set forth the specific reason(s), if any, for each objection, including all legal support the settlement class member wishes to bring to the Court's attention and all factual evidence the settlement class member wishes to offer in support of the objection;
- (4) Include the name and address of the settlement class member;
- (5) Be personally signed by the settlement class member or an officer or director thereof with actual authority to bind the entity;
- (6) Include an identification, by case style and number, of any other class settlements in which the objector or the objector's attorney(s) have asserted an objection;
- (7) Include an identification of all attorneys having a financial interest or stake in the objection; and
- (8) Include three dates within the calendar month they are submitting the objection in which they can be available for a deposition taken by counsel for Plaintiffs and/or the City.

Your Objection must be filed with the Clerk of Superior Court for Mecklenburg County, North Carolina and delivered to Class Counsel and to City Counsel, no later than **April 10, 2023**, at the following addresses:

Court	Class Counsel	Defense Counsel
Clerk of Superior Court Mecklenburg County Superior Court P.O. Box 37971 Charlotte, NC 28273-7971	Daniel K. Bryson James R. DeMay J. Hunter Bryson Milberg Coleman Bryson Phillips Grossman PLLC 900 W. Morgan Street Raleigh, NC 27603  James E. Scarbrough John F. Scarbrough Madeline J. Trilling	Patrick H. Flanagan Ariella Zulman Cranfill Sumner LLP P.O. Box 30787 Charlotte, NC 28230  Sean Perrin Womble Bond Dickinson (US) LLP One Wells Fargo Center Suite 3500 301 South College Street

QUESTIONS? CALL (833) 616-1223 OR VISIT [WWW.CHARLOTTECAPACITYFEESSETTLEMENT.COM](http://WWW.CHARLOTTECAPACITYFEESSETTLEMENT.COM)

	Scarbrough Scarbrough & Trilling PLLC 137 Union Street South Concord, NC 28025  William G. Wright Gary K. Shipman Shipman & Wright, L.L.P. 575 Military Cutoff Road Suite 106 Wilmington, NC 28405	Charlotte, NC 28202-6037
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**If you do not comply with these procedures and the deadline for objections, you will lose any opportunity to have your objection considered at the final approval hearing or otherwise to contest the approval of the settlement or to appeal from any order or judgment entered by the Court in connection with the settlement.**

**17. What is the difference between objecting and asking to be excluded?**

Objecting is simply telling the Court that you do not like something about the settlement. You can object only if you stay in the settlement class. Excluding yourself (opting out) is telling the Court that you do not want to be part of the settlement class. If you exclude yourself, you cannot object to the settlement, and you will not be eligible to apply for any benefits under the settlement because the case no longer affects you.

**THE COURT'S FINAL APPROVAL HEARING**

**18. When and where will the Court decide whether to approve the settlement?**

On April 24, 2023, at 10:00 a.m., the Court will hold a public hearing in Courtroom No. 6110, Superior Court Division of Mecklenburg County, North Carolina, located at 832 East 4<sup>th</sup> Street, Charlotte, North Carolina 28202, to determine whether the settlement is fair, adequate, and reasonable and should be finally approved, with judgment entered accordingly. The Court also will consider the application for an award of settlement administration costs, attorneys' fees and expenses, and service awards. This hearing may be continued or rescheduled by the Court without further notice to the settlement class so you should check the website for updates. If there are objections, the Court will consider them at that time. After the hearing, the Court will decide whether to approve the settlement.

**19. Do I have to come to the hearing?**

No, Class Counsel will answer any questions the Court has. However, you are welcome to attend the hearing.

**IF YOU DO NOTHING**

**20. What happens if I do nothing at all?**

If you are a Class Member and do nothing, you are staying in the settlement class and will be eligible to receive your payment. You can no longer sue, continue to sue, or be a part of any other

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lawsuit against the City about the legal issues in this case. It also means that the Court's orders will apply to you and will legally bind you.

## **GETTING MORE INFORMATION**

### **21. How do I get more information?**

This Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can view a copy of the Settlement Agreement and read a list of Frequently Asked Questions and Answers at the website. You may also write with questions to Daedalus, LLC, et al. v. City of Charlotte Settlement Administrator, P.O. Box 10269, Tallahassee, FL, 32302-2269 or send an e-mail to [claims@ssiclaims.com](mailto:claims@ssiclaims.com). If you wish to communicate directly with Class Counsel, you may contact them at the addresses listed above, or by e-mail at [jdemay@milberg.com](mailto:jdemay@milberg.com), [hbryson@milberg.com](mailto:hbryson@milberg.com), [jfs@sandslegal.net](mailto:jfs@sandslegal.net), and [wwright@shipmanlaw.com](mailto:wwright@shipmanlaw.com). You may also seek advice and guidance from your own private attorney at your own expense.