

Town of Rolesville

North Carolina

Public Works Department



REQUEST FOR QUALIFICATIONS

RFQ Name: On-Call Engineering Services

Issue Date: October 31, 2018

Closing Date: November 20, 2018

Town of Rolesville

North Carolina Public Works Department

Issued By: Public Works Department
502 Southtown Circle
Rolesville, NC 27571

RFQ Name: On-Call Engineering Services

Issue Date: October 31, 2018

Pre-Proposal Meeting: N/A

Questions Due Date: November 13, 2018 no later than 2:00 PM EST

Direct Inquiries To: Glenn Sheppard,
(919) 556-3506
glenn.sheppard@rolesville.nc.gov

Proposal Due Date: November 20, 2018 no later than 3:00 EST

Delivery of Submissions:

By Mail:
Town of Rolesville –Public Works
Department

502 Southtown Circle
Rolesville, NC 27571
Attention: Glenn Sheppard
Re: RFQ – On-Call Engineering

Hand-delivery*:
Town of Rolesville-Public Works
Department

502 Southtown Circle
Rolesville, NC 27571
Attention: Glenn Sheppard
Re: RFQ – On-Call Engineering

*FedEx, UPS or similar carrier methods may require this address for delivery. Please verify this information with carrier.

Respondents are cautioned not to make changes to any of the terms and conditions in the draft Professional Services Agreement (Appendix A). Doing so may render a Respondent's proposal unacceptable and unresponsive for award. Question and inquiries must be made in writing as outlined in Section 4.

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Appendix A: Draft Professional Services Agreement

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1. PROJECT PURPOSE AND BACKGROUND

Introduction

The Town of Rolesville (Town) is soliciting proposals through this Request for Qualifications (RFQ) from qualified engineering firms (Consultant) to provide On-Call Engineering services. Services will include design and construction of various transportation projects such as street, sidewalk, storm water and trail projects. The selected firm will serve as the ‘Town Engineer’ and represent the Town in various aspects related to engineering services and working in the best interest of the Town. Additional tasks will include providing professional guidance related to development plan review. The initial task may include developing a Pavement Condition Survey (PCS) based on a neighborhood proximity strategy, preparing construction documents, and providing construction administration for the Street Improvements Projects. Additional projects will include review of Town owned sidewalk and trail facilities and development of condition survey for each. The attached Town of Rolesville Agreement for Professional Services (Appendix A) shall be utilized for the requested services. The level of services will be decided based on the needs of the project and Rolesville does not guarantee a minimum amount of work under this agreement.

The services are on an on-call basis, with initial contract duration of approximately three years, with the option of extending the agreement for an additional two years. Anticipated maximum task orders for On-Call services are under \$90,000. The attached Town of Rolesville **Master Agreement for On- Call Professional Services and Task Order under Master Agreement for On-Call Professional Services** shall be utilized for the requested services.

2. SCOPE OF WORK

The selected Professional(s) may be requested provide the following services as described below:

- Site Visits
- Schematic/Conceptual Design and Cost Estimation;
- In-house or sub Professional services related to surveying; structural; civil engineering/landscape architecture and/or other specialty services that may be required for transportation related projects;
- Other related design services that may arise for site visits;
- Complete Design Services for small capital projects; and
- Construction Administration.

There may be other services related to engineering projects that are requested depending on project need and the above is not intended to be a comprehensive list of these services. Projects may include areas within Town limits as well as its extra territorial jurisdiction.

General Requirements and Deliverables

- Provide all necessary equipment and support personnel for the requested services.
- Professional shall obtain all necessary permits. Copies of such permits shall be provided to the Town of Rolesville. Any permit fees shall be a reimbursable cost included in the Professional’s invoice to Rolesville.
- All technical memoranda, reports, and certifications shall be submitted in

electronic form to Rolesville in MS-Windows compatible format (including both .pdf and Microsoft Office Word formats). All plans shall be delivered to Rolesville in CAD-generated drawings and shall be provided on electronic media downloadable onto an AutoCAD- based system compatible with Rolesville's current AutoCAD version. Development of GIS data related to street, storm water, and other facilities may be required.

- Work to be performed will be authorized by task orders issued by the Town of Rolesville specific to the applicable project, and shall be invoiced accordingly, such that it can be tied to a specific Town of Rolesville project. The contract will not guarantee the amount of work, if any, available under this agreement.

Rolesville requires that all work conducted for and on behalf of its residents be performed in a courteous and professional manner.

Rolesville seeks to design projects that are high performing in energy use and water use, examining options for increasing efficiency during the design phase, using lifecycle cost analysis. The outcome should be a building and/or areas that are functional for the intended use, is durable, has added value for occupants and citizens, and utilizes cost-effective techniques and equipment. The selected design firm (Professional(s)) should be prepared to assist Rolesville in making decisions that deliver the best results for the life of the building/structure/equipment and the systems in place. All facilities are to be designed and constructed with attention to energy efficiency, water efficiency, and durability of materials.

Most importantly, Rolesville is in process of completing ADA Transition Plan that prioritizes the removal of accessible barriers identified at each Town facility. The selected consultant shall be experienced with current state and federal accessibility code requirements and have the ability to implement design solutions to resolve the various types of barriers from these facilities.

Term of Proposed Professional Service Agreement

It is the intent of Rolesville to select one or more Professionals as a result of this RFP that are currently licensed to perform consulting architectural services in the State of North Carolina. Interested firms must employ personnel who meet the qualifications and have experience in professional architectural services.

The initial term of the Professional Service Agreement will be three (3) years with an option to extend by two (2) year at the sole discretion of Rolesville and as mutually agreed.

Task Order Procedures

When the services of the Professional are required, Rolesville will provide a statement of services and the goals to be accomplished (Task Order Request) for a specific project and the time allotted for the completion of the specific scope of work. The Task Order will request that the Professional submit pricing including itemized hours for labor categories and tasks required to complete the task order scope of work. The Professional shall also include a maximum total price offered to Rolesville's task order request. All other costs associated with the task order shall be included in the price proposal.

The Professional shall include a written response addressing the requirements for the task order request and assigned Project Manager and staff corresponding to the labor categories in the price proposal. The task order shall include the description of the work to be completed, schedule for completing the work, and the price to complete the work. Once the task order is received Rolesville will review, negotiate, and authorize the Professional to begin the requested work.

Rolesville's contract administrator and point of contact will be the project manager assigned to each project. Any requests for information or clarification on technical matters after award of contract shall be referred to the contract administrator.

Project Schedule

The schedule for initial tasks will be reviewed with selected firm and will be set when Task Order is issued for each. The Town typically takes the proposed improvement list and construction bid award recommendation to Town Council for approval.

1. PROPOSAL SUBMITTAL REQUIREMENTS

The Respondent shall submit four (4) copies of their proposal in a sealed envelope/box along with one digital version of the proposal (in PDF format) in the submission to the Town. No facsimile or email responses will be accepted or considered. The electronic copy shall be included in the proposal package as a CD, DVD, or USB flash drive with the Respondent's name and RFQ name clearly marked. **Responses must be received no later than 3:00 P.M., Eastern Standard Time (EST) on November 20, 2018.** Submittals may be mailed or hand-delivered, see specific addresses below and any submittal received after the deadline by any delivery method will not be considered or evaluated.

The proposal packages should be enclosed in a sealed envelope/box marked: **REQUEST FOR QUALIFICATIONS –On-Call Engineering Services** and delivered via either of the following methods:

By Mail:	Hand-delivery*:
Town of Rolesville Public Works Department	Town of Rolesville Public Works Department
P.O. Box 8005	502 Southtown Circle
Rolesville, NC 27571	Rolesville, NC 27571
Attention: Glenn Sheppard	Attention: Glenn Sheppard
Re: RFQ – On-Call Engineering Services	Re: RFQ – On-Call Engineering Services

*FedEx, UPS or similar carrier methods may require this address for delivery. Please verify this information with carrier.

2. RFQ QUESTIONS

Questions concerning this RFQ shall be submitted in writing to Glenn Sheppard via email to glenn.sheppard@rolesville.nc.gov **no later than 2:00 P.M., EST on November 13, 2018.** Indicate RFQ name and project number (if supplied) in the subject heading of the email. Respondents are strongly advised to monitor this site for any additional information and/or addendums regarding this solicitation.

<http://rolesvillenc.gov/town-departments/finance/bid-opportunities/>

Only emailed questions will be addressed and answered (please type the RFQ name in the subject line of the email). The issuance of such written responses is the only official method by which interpretation, clarification or additional information will be given by the Town. Only requests answered by formal written responses will be binding. Oral and other interpretations or clarifications will be without legal effect. No personal inquiry or marketing meetings will be conducted or allowed.

3. PROPOSAL SUBMITTAL FORMAT AND CONTENTS

The instructions below provides guidance and information to Respondents to prepare and submit concise responses this RFQ. The purpose is to establish the format and contents of the proposal so that responses are complete, contain all essential information, and can be easily evaluated.

Proposal Format

The qualifications proposal should be no longer than 20 pages (10 double-sided sheets) in length. Proposals shall be presented in a well-organized and concise manner and is preferred as a bound booklet. Covers, resumes, Certificate of Insurance, and tabs will not be counted toward the page limit.

Proposal Content

The following items must be addressed in your package:

Introductory Letter: Respondents shall submit a clear concise response identifying the following:

- a. Name of firm,
 - b. Primary contact person working on Project and his/her contact information,
 - c. Firm's contact information (i.e., phone, facsimile, email, etc.),
 - d. Why the Town of Rolesville should select your firm for this work, and
 - e. Acknowledgment of any RFQ Amendments (if any) posted on the Town's website as noted in Section 4 of this solicitation.
2. Qualifications and Experience: Respondents shall submit the following information to demonstrate their experience and qualification:
- a. Provide similar experience illustrating similar projects or work related to the technical aspects and processes described in the scope of work. Include sub-consultant (if any) capabilities as related to the scope of work. Site specific projects of a similar nature to the Project described herein and list a reference with contact information for each project cited.
 - b. Indicate any previous project experience working for the Town, as a Consultant, within the past five (5) years. Please include brief project statement, primary Town department and staff responsible for project, and whether the project was completed within scope, budget, and schedule.
 - c. Provide a minimum of three (3) references related to similar projects. Include name of project, brief description of project, and primary contact information of reference.
3. Project Approach and Schedule: A detailed description of how your firm proposes to approach this Project. Include sufficient discussion of proposed methodologies, techniques, and procedures for each work item. Indicate any new and/or innovative methods that can be applied to this project that the firm has applied in prior projects while performing similar work including innovative techniques for pavement maintenance. Provide a breakdown and description of tasks assigned per project team member. Describe the hierarchy of project management. Provide suggestions for any additional services which may enhance the value and/or affect the overall economy and effectiveness of the Project.
4. Project Team(s): Provide an Organization Chart of the project team specifying the dedicated Project Manager, key personnel, and sub-consultants assigned to the team and the availability of backup personnel that will support this Project. Include resumes with a brief summary identifying roles and responsibilities and general qualifications (i.e., professional registrations, certifications and/or licenses) of the each team member (including sub-consultants) in disciplines appropriate to the Project, as well as education, availability to work on this Project,

experience, years of experience (with current firm and other firms). Please do not list firm staff that is not directly working on the Project team. If more than one Project Manager or team is desired, please include this information and describe why this is necessary and how it is anticipated to work.

5. Insurance and Contract Statement: Provide a statement that the firm will provide insurance as specified in *Appendix A – Draft Professional Services Agreement* and provide a copy of the current Certificate of Insurance. Include a statement that the *Draft Professional Services Agreement* has been reviewed; that the firm is willing to meet all of the requirements set forth therein; and that the firm is prepared to sign the Town's agreement as written. (Any requested amendments to the *Draft Professional Services Agreement* must be specifically requested in the Proposal. Such requests will be taken into account as one of the evaluation factors when reviewing the Proposal and may be denied by Town in its discretion if Respondent is awarded the Project).
6. Identification of Lawsuits and Administrative Claims/Fine: Consultants must identify all lawsuits, administrative claims or fine proceedings Consultant has been a party to in the past five (5) years. Include any fines levied by any governmental unit relating to the proposed work in this RFQ such as fines from the EEOC, Department of Labor or other unit of government.
7. Cost Proposal: Provide unit labor rates, incidentals, percentage mark up on non-labor items for the project team members identified in the proposal (**only** provide unit rates).

4. EVALUATION METHOD

Evaluation Criteria

All Proposals will be evaluated based on the following criteria:

1. Firm experience/reputation/workload: The firm's experience in similar work and the record of successful results of that work. Consideration will be given to the firm's ability to take on additional work, demonstrate understanding of the Town's goals and purposes of this Project, specific management approach, how well the firm's organization structure show sufficient depth of its present workload, approach to managing the Town's budget and time, and the firm's ability to offer the breadth and quality of services required for this Project.
2. Response to the project objectives outlined in the scope of work: The proposed approach for performing the work for this Project, including demonstrated understanding of scope of work for this Project and Project deliverables. Ideas that are innovative, cost effective, or demonstrate overall improvements that are feasible for the Project will be given weight, especially innovative pavement maintenance techniques as mentioned in Task II of the Scope of Work.
3. Past Performance with the Town of Rolesville: Past performance on Town of Rolesville projects will be evaluated, with particular emphasis on whether the project was completed successfully in accordance with the agreed fee, deliverables, schedule, and responsiveness to the Town. A demonstrated understanding of the Town of Rolesville project processes, working with third-party entities and outside agencies that are required for Project performance will be given consideration.
4. Experience of the personnel assigned to this project team: A firm provides the resources but the individuals assigned to a project are how the job gets done. The Town will give considerable weight to the individual qualifications of the project team members who will be assigned to do a majority of the work on the Project. Consideration will include the Project Manager's individual qualifications, experience, and location, which key personnel will be assigned to the Project, and any sub-consultant's individual experience, qualifications and

location. The Project Manager's past and/or current experience working on Town projects will be given consideration.

5. Schedule: Consideration will be given to the firm's ability to meet schedules and responsiveness to Town of Rolesville staff.

Selection Procedures

The Town will review the Proposals and all of the information provided in the submittal package. A selection committee comprised of Town staff will be convened to review the proposal packages. The Town reserves the right to reject any and/or all proposals. Respondents that are deemed competitive by the Town **may** be asked to attend an interview and should make themselves available for a presentation of their proposal to the selection committee. Each firm will be responsible for all costs (e.g. travel and presentation materials) related to the presentation.

The selected firm will be notified by the Town and will enter into contract negotiations for receiving this work. If no agreement can be reached with the selected Consultants, then the Town will negotiate with another qualified firm.

The Town anticipates initial approval of the selected Consultant in November 2018 and a goal to begin in November 2018 after a final Professional Services Agreement is negotiated.

5. MINIMUM REQUIREMENTS FOR CONTRACT EXECUTION

All proposal packages and materials submitted hereunder become the exclusive property of the Town of Rolesville. The Town of Rolesville reserves the right to reject any or all submittals. This submittals request is neither a contractual offer nor a commitment to purchase services. The Town assumes no contractual obligation as a result of the issuance of this request, the preparation or submission of a qualifications statement by a Consultant, the evaluation of statements, or final selection. All submissions may be kept by the Town and may be disclosed to third parties at the Town's discretion.

Negotiating with Offerors

A Professional Services Agreement will be negotiated with the selected Consultant based on the proposed scope of work, deliverables, project schedule, fee schedule, and project team as outlined in their proposal. Appendix A contains the Town's standard "Draft" Agreement for Professional Services that will serve as a basis for any contract with the selected Consultant.

The Town reserves the right to award a contract, based on initial offers received from Consultants, without discussion and without conducting further negotiations. The Town may also, at its sole discretion, have discussions with Consultants and the Town may enter into negotiations separately with such Consultants. The Town shall not be deemed to have finally selected a Consultant until a contract has been successfully negotiated and signed by all parties.

Responsibility for Costs

The Consultant shall be fully responsible for all costs incurred in the development and submission of this submittal. Submittal documents should be prepared simply and economically, providing a straightforward and concise description of the Consultant's capabilities to satisfy the requirements of the request. Emphasis should be placed on completeness and clarity of content. Selected Consultants may be asked to present in person the substance of their response to Town staff if necessary. All costs of such presentations shall be borne solely by the Consultant.

Complete Services/Products

The Consultant shall be required to (a) furnish all tools, equipment, supplies, supervision,

transportation, and other execution accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified and required to be incorporated in and form a permanent part of the completed work; (c) provide and perform all necessary labor; and (d) in accordance with good technical practice, with due diligence, and in accordance with the requirements, stipulations, provisions, and conditions of this document and the resultant contract, execute and complete all specified work to the satisfaction of the Town.

Public Records and Submitted Proposals from Consultant

Records received by the Town of Rolesville in response to a bid solicitation or a request for proposals are public records and subject to public inspection and copying. Some bid records are public as soon as received by the Town, others become public at bid opening and others at bid award.

The Public Records law (N.C.G.S. 132-1 et seq.) authorizes the Town to withhold from public inspection and copying legitimate and properly marked 'trade secrets'. If a record meets all of the following conditions:

- It is a "trade secret" as defined in G.S. 66-152(3); and
- It is the property of a private "person" as defined in G.S. 66-152(2); and
- It is disclosed or furnished to the Town in connection with a bid or proposal; and
- It is marked as "confidential" or as a "trade secret" at the time of its initial disclosure to the Town, then the Town may withhold that particular trade secret from a public record inspection request.

If as part of Consultant's bid or proposal, Consultant submits to the Town any record, or portion of a record, that Consultant considers to be a trade secret meeting the definition contained in G.S. 66-152 (2), Consultant shall clearly mark the particular record, or portion of the record, that meets the definition of trade secret as TRADE SECRET or CONFIDENTIAL TRADE SECRET. In the event the Town receives a public records request for records Consultant designates as 'trade secret' the Town will notify Consultant and give Consultant the opportunity to, within one week of such notification, (1) confirm in writing that the specific record, or portion of record, that Consultant designated as TRADE SECRET meets the requirements of G.S 132-1.2 and G.S. 66-152, and the reasons therefore, and (2) to indemnify the Town in the event a challenge is brought for the withholding of a record based on Consultant having designated it a trade secret. The Town will only withhold the record if both conditions have been fulfilled to the Town's satisfaction.

Minimum Engineering Credentials

Licensure is required for professional Engineers, Architects, Landscape Architects, and other professional services. The Architects and Engineers performing the work must be licensed Architects or Professional Engineers in the State of North Carolina and must have good ethical and professional standing. Any consultant proposing to use corporate subsidiaries or sub-consultants must include a statement that these companies shall be properly licensed in like fashion. It will be the responsibility of the prime consultant to verify license(s) of any corporate subsidiary or sub-consultant prior to contract negotiations.

Consultant Qualifications

Consultants shall be required to submit evidence that they have relevant experience and have previously delivered services similar to those required.

Consultant may additionally be required to show that they have satisfactorily performed similar work in the past and that no claims of any kind are pending against such work. No submittal will be accepted from any Contractor/Consultants who is engaged in any work which would impair their ability to perform or finance this work or from any Consultant with outstanding claims pending

for work of a similar nature, either completed or in progress. No submittal will be accepted from, nor will a contract be awarded to, any Consultant who is in arrears to the Town upon any debt or contract, or who is in default, as surety or otherwise, upon any obligation to the Town, or is deemed to be irresponsible or unreliable by the Town.

The Consultant must have the financial ability to undertake the work and assume the professional liability. The firm(s) must have an adequate accounting system to identify costs chargeable to the Project.

Conflict of Interest Statement

By submission of a response, the Consultant agrees that at the time of submittal, it: (1) has no interest (including financial benefit, commission, finder's fee, or any other remuneration) and shall not acquire any interest, either direct or indirect, that would conflict in any manner or degree with the performance of Consultant's services, and (2) will not benefit from an award resulting in a "Conflict of Interest." A "Conflict of Interest" shall include holding or retaining membership, or employment, on a board, elected office, department, division or bureau, or committee sanctioned by and/or governed by the Town. Consultants shall identify any interests, and the individuals involved, on separate paper with the response and shall understand that the Town, in consultation with legal counsel, may reject their proposal.

Changes in Personnel

Changes to personnel on project team(s), particularly a Project Manager, are to be avoided wherever possible. If during the contract negotiation phase the Consultant requests to make a change to any personnel listed within the Consultant's submitted Proposal, the request to the Town must be made in writing and detail the proposed replacement personnel, resume(s) and reason(s) as to why the replacement is needed. The Town will consider the request and may, or may not accept the new personnel changes. If the Town denies the Consultant's request for a change in personnel, the Consultant will be required to confirm in writing that the personnel submitted within Consultant's original Proposal will perform the work, or the Town will no longer consider the Consultant as the best qualified firm, and may enter into contract negotiations with the next most qualified Consultant.

*****PLEASE NOTE, IF YOU HAVE RECEIVED THIS SOLICITATION FROM A SOURCE OTHER THAN THE TOWN OF ROLESVILLE, IT IS THE RESPONDENT'S RESPONSIBILITY TO ENSURE THAT ALL ADDENDA HAVE BEEN RECEIVED.*****

Appendix A: Draft Professional Services Agreement

MASTER AGREEMENT

for

ON-CALL PROFESSIONAL ENGINEERING SERVICES

This Master Agreement for On-Call Professional Engineering Services for (“Agreement” or “Master Agreement”), made as of the ____ day of _____, 2018, by and between the Town of Rolesville (hereafter, “Town”) and XXXXXXX, a professional Engineering firm with a partner or principal registered in North Carolina as a licensed Engineer and with offices in North Carolina (hereafter, “Professional”).

RECITALS

WHEREAS, the Town is procuring “on-call” professional Engineering services; and

WHEREAS, Town issued a “Request for Proposals, Town of Rolesville On-Call Engineering Services” dated the XX day of XXXX (“RFQ”); and

WHEREAS, Professional was one of several (XX) XXXX firms responding to RFQ with a Proposal entitled Statement of Qualifications Professional Design Services for Town of Rolesville On-Call Engineering Services dated XXXX, 2018 (“Proposal”) and is willing to serve as one of Town’s professional Engineers on an “on-call” basis for each project authorized under this Agreement.

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt of which is acknowledged, the parties agree as follows:

ARTICLE 1

PURPOSE, EFFECTIVE DATE AND SCOPE OF SERVICES

- 1.1 The purpose of the Town’s ‘on call’ process is to secure one or more North Carolina licensed professional to provide professional on-call Engineering services. The purpose of this Agreement is to provide the basic terms and conditions by which Professional will provide its services to the Town, as the need for Professional’s services may arise, and in accordance with the standards and requirements as described herein, in Attachment A, and in each Task Order (“Services” or “Basic Services”). The Recitals are incorporated into Agreement.
- 1.2 This Agreement shall be effective upon execution by both parties (“Effective Date”) and shall have a term of three (3) years.
- 1.3 Town hereby engages Professional to provide ‘on-call Engineering services’ and Professional agrees to perform such services for projects as may be set forth in subsequent, fully executed task orders (“Task Order”). Projects shall commence and terminate as provided in the applicable Task Order(s) and shall be performed in accordance with any schedule contained in the applicable Task Order (sometimes, “Milestone Dates”). If one or more Task Orders are executed and undertaken but not completed prior to the termination of this Master Agreement, then and in that event this Master Agreement shall continue as to incomplete projects until such time as the last of projects undertaken hereunder is satisfactorily completed. The process for executing Task Orders is set forth in Article 2.
- 1.3 The Town has no obligation to provide Professional with any work hereunder and does not guarantee the issuance of any minimum number of Task Orders under this Agreement.
- 1.4 Professional represents and agrees that now and continuing for the term of Agreement, Professional:
 - a. is experienced, qualified, skilled and fully capable of performing Services in a competent and professional manner;
 - b. shall exercise reasonable care and diligence, and shall act in the best interest of Town;

- c. shall act in accordance with generally accepted standards of Professional's practice applicable to the locality; and shall comply with this Agreement, applicable Task Orders, and with all applicable federal, state and local laws, ordinances, codes, rules and regulations (collectively "Laws and Regulations");
- d. possesses all necessary qualifications, licenses and certifications;
- e. shall perform in a timely manner and in accordance with all Milestone Dates or other schedules required under this Agreement or an applicable Task Order, time being of the essence;
- f. shall work in good faith with Town to meet requirements imposed by the federal or state government or other funding entity if grants are used to fund any portion of Project; and
- g. the individual(s) signing Agreement have the right and power to do so and bind Professional to the obligations set forth herein and such individuals do so personally warrant that they have such authority.

ARTICLE 2
COMMENCEMENT OF SERVICES

- 2.1 Services for a project shall be undertaken by Professional only after execution by both parties of a Task Order. Each Task Order shall include a "scope of work" for that particular Project prepared by Town outlining the required Services and parameters to be included in the work and such other materials and requirements as Town may deem necessary. Unless specifically excluded by a Task Order, all requirements of this Agreement are deemed to be incorporated into every Task Order. In addition, each Task Order shall include the fixed fee total compensation for Services (or other method of compensation as may be agreed upon by the parties), Project schedule including date by which Services shall be completed, and all deliverables to be delivered. If Professional proposes to use subcontractors for a portion of its Services, Task Order shall also include information about such subcontractor(s). Each Task Order shall be considered integral parts of this Agreement and subject to the terms and conditions hereof. The scope of work for each Project shall be the Basic Services as defined herein and as further supplemented by terms of Task Order.
- 2.2 Professional hereby authorizes the following to execute Task Orders and represents and warrants that these individuals and/or positions have the right and power to bind Professional to the obligations set forth in an executed Task Order:

If no names or position titles are listed above, then the only individuals authorized to execute a Task Order are those that can otherwise bind the company to execute contracts.

- 2.3 Professional may begin work on a Project upon written execution of Task Order by Town, unless the Task Order requires that work commence only upon a notice to proceed from Town. The time allowed for Professional to complete its work for each Project shall be specified in the applicable Task Order.
- 2.4 In consideration of Services performed under any Task Order, Town shall pay Professional compensation as specified in Task Order. Payment shall be made as provided in Article 4.1. Unless specifically designated and described in Task Order, there are no separately reimbursable expenses.

ARTICLE 3
RESPONSIBILITIES OF PROFESSIONAL

- 3.1 Standard of Care.
 - 3.1.1 Professional shall assure that all drawings, specifications, plans, surveys, reports, technical memoranda, testing protocol, designs, electronic databases and other documents and all deliverables ("Documents and Deliverables") prepared by Professional are in accordance with all Laws and

Regulations and that all necessary or appropriate applications for approvals are submitted to federal, state and local governments or agencies in a timely manner so as not to delay the design or construction activities of the Project.

3.1.2 Professional shall be responsible for all errors or omissions in Documents and Deliverables and shall correct at no additional cost to Town any and all errors, omissions, discrepancies, ambiguities, mistakes or conflicts in the Documents and Deliverables. Professional shall reimburse Town for the aggregate cost to Town for all errors and omissions of Professional.

3.1.3 In addition to any other damages that might be due to Town hereunder in connection with the breach of this Agreement (as supplemented by Task Orders) by Professional, Professional shall reimburse Town for costs, damages and expenses that are the result of errors, omissions or delays of Professional, including those of Professional's subcontractors.

3.1.4 Professional shall expedite and accelerate its efforts as necessary to perform in accordance with this Agreement at no additional cost to Town, if Town reasonably determines that Professional is behind schedule.

3.2 Key Personnel and Subcontractors. The Professional and the Professional's subcontractors for the Project, along with their key project personnel, should be listed in each Task Order. No changes in Professional's personnel or subcontractors designated in Task Order as those who will provide Services shall be permitted except with the prior written consent of Town, which consent shall not be unreasonably withheld. Such replacement personnel and subcontractors shall have the same or higher qualifications and experience as those being substituted. If Professional provides any Services through the use of subcontractors, Professional shall be solely responsible for all aspects of subcontractor(s) conduct and performance. Additionally, Professional's contracts with subcontractor(s) shall include a provision that, in the event this Agreement is terminated for cause by Town, Town may take assignment of such contract of Professional with their subcontractor.

3.3 Taxes, Permits and Licenses. Unless otherwise provided, Professional is responsible for all applicable taxes and license fees and shall acquire all licenses and permits required by Laws and Regulations.

ARTICLE 4 COMPENSATION FOR SERVICES

4.1 Compensation for Basic Services.

4.1.1 Compensation for Professional's Services for each specific Project shall be as set forth in applicable Task Order. There shall be no reimbursable expenses unless explicitly permitted by the applicable Task Order.

4.1.2 Payment shall be made within thirty (30) days of receipt by Town of an acceptable invoice upon completion of the Project or each of the phases or tasks as set forth in Task Order.

4.1.3 Invoices shall be in form and substance acceptable to the Town. In the event the Town finds any part of an invoice not to be acceptable, it shall identify to the Professional the part or parts which are not acceptable and shall pay the part or parts of the invoice which are acceptable, if any. The Town shall have the right to deduct from payments to the Professional any costs or damages incurred, or which may be incurred, by the Town as a result of the Professional's failure to perform Services on any portion of the Task Order following reasonable notice and opportunity to cure such nonperformance by Professional.

4.2 Compensation for Additional Services. Additional Services shall be as set forth in a Task Order or Written Amendment to this Agreement. Payments for Additional Services that have been properly approved and satisfactorily completed will be made by Town within thirty (30) calendar days of receipt of an invoice that is in form and substance acceptable to Town. In the event the Town finds any part of an invoice not to be acceptable, it shall identify to the Professional the part or parts which are not acceptable and shall pay the part or parts of the invoice which are acceptable, if any. Town shall have

the right to deduct from payments to Professional any costs or damages incurred, or which may be incurred, by Town as a result of Professional's failure to perform any Service, following reasonable notice and opportunity to cure such nonperformance by Professional. If the Task Order or Written Amendment does not specify method of compensation, compensation shall be on a time-spent basis at the hourly rates shown in Attachment A.

- 4.3 Accounting Records and Other Records. Accounting records of Professional's compensation for Services and Additional Services shall be maintained by Professional in accordance with generally accepted accounting practices and shall be available for inspection and copying by Town at mutually convenient times for a period of three (3) years after termination of this Agreement.

ARTICLE 5 RESPONSIBILITIES OF TOWN

- 5.1 With Respect to Task Orders under this Agreement, Town shall:
- 5.1.1 Provide full information to Professional as to its requirements for each Project.
- 5.1.2 Designate in writing one or more persons to act as Town representative to coordinate the work of each Project with Professional.

ARTICLE 6 INSURANCE

- 6.1 Insurance. Professional and Professional's permitted subcontractors shall purchase and maintain on a primary basis and at its sole expense during the term and for three years after the termination of this Contract insurance for the following: protection from claims under Worker's or Workmen's Compensation Acts covering claims arising out of or related to bodily injury, including bodily injury, sickness, disease or death of any of Professional's employees or subcontractors; Commercial General Liability Insurance, including contractual liability and covering bodily injury, property damage, products and completed operations and personal injury; Commercial Automobile Liability Insurance, including owned, hired and non-owned vehicles, if any, covering bodily injury and property damage; Cyber Liability covering infringement, information theft, release of private information, damage, destruction and alteration of electronic information, extortion, network security, breach response costs, and regulatory fines; and Professional Liability/Errors & Omissions Insurance (if applicable) covering claims arising out of or related to Professional's performance under this Contract.

Unless otherwise specified on Attachment 1, minimum limits of insurance coverage are:

General Liability	\$1,000,000 per occurrence / \$2,000,000 aggregate
Commercial Automobile Liability	\$1,000,000 CSL
Commercial Excess Liability / Umbrella Policy	\$1,000,000 per occurrence
Workers Compensation	Statutory Limits
Employer's Liability	\$ 500,000 each accident
Professional Liability	\$1,000,000 per claim
Cyber Liability	\$2,000,000 per claim and aggregate

The Professional may satisfy the insurance limits above with a combination of primary and umbrella/excess liability insurance policies. Umbrella/Excess liability shall follow form as to each of the underlying policies. Any available insurance proceeds in excess of or broader than the specified minimum limits of insurance and coverage shall be available to the Town.

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Insurers

The minimum insurance ratings for any company insuring the Professional shall be Best's A-. Should the ratings of any insurance carrier fall below the minimum rating, the Town may, at its option, require the Professional to

purchase insurance from a company whose rating meets the minimum standard. Professional's insurance carrier(s) shall be authorized to do business in the state of **North Carolina**. If Professional is unable to find an authorized carrier for any line of insurance coverage, Professional shall notify Town in writing.

Additional Insured Status

All insurance policies (except Workers Compensation and Professional Liability) shall name the Town, its elected officials, officers, employees and volunteers as an additional insured.

Notice of Cancellation

Each policy shall provide that the Town shall receive not less than thirty (30) days prior written notice, when available, of any cancellation or non-renewal of coverage of any of the policies. Upon notice of such cancellation, non-renewal or if a policy's limits are exhausted, Professional shall procure substitute insurance so as to assure Town that the minimum limits of coverage are maintained continuously throughout the periods specified herein.

Primary

Professional's insurance coverage shall be primary for any claims related to this agreement.

Waiver of Subrogation

The insurer shall have no right of recovery or subrogation against Town, its agents or agencies, it being the intention of the parties that the insurance policies shall protect Town and be primary coverage for any and all losses covered by the policies.

Verification of Coverage

A certificate of insurance and all endorsements required shall be provided at, or prior to, execution of this Contract. The Town's review or acceptance of certificates of insurance shall neither relieve Professional of any requirement to provide the specific insurance coverage set forth herein nor shall it constitute a waiver or acknowledgement of satisfaction of the specific insurance requirements set forth in this Contract.

Certificate Holder address should read:

Town of Rolesville
PO Box 250
Rolesville, NC 27571

Special Risks or Circumstances

The Town reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**ARTICLE 7
DAMAGES AND REMEDIES**

7.1 Services, Reimbursement and Deductions.

7.1.1 Professional shall reimburse Town for costs, damages and expenses, including reasonable attorney's fees and expert's fees incurred by Town if such costs, damages and expenses are the result of any error, omission or delay of, or failure by Professional to perform as required by Agreement or any Task Order.

7.1.2 In addition to any other remedies available to Town, Town shall have the right to deduct from payments to the Professional any costs, damages and expenses, including reasonable attorney's fees, that have been or may be incurred by Town as a result of Professional's failure to perform as required by Agreement or any Task Order.

7.2 Indemnities.

7.2.1 General Indemnity. To the fullest extent permitted by Laws and Regulations, Professional shall indemnify and hold Town, its officers and employees, harmless from and against all claims, costs, charges, civil penalties, fines, losses, liabilities and damages (including but not limited to reasonable

professionals' fees and charges and all court or other dispute resolution costs), by whomsoever brought or alleged, arising out of, resulting from, or in connection with (a) any breach by Professional of any term or condition of this Agreement, Written Amendment or any Task Order, (b) any breach or violation by Professional of any applicable Law or Regulation, or (c) any other cause resulting from any act or failure to act by Professional under this Agreement, Written Amendment or any Task Order, but only to the extent caused by any negligence or omission of Professional. This indemnification shall survive the termination of this Agreement and Task Orders hereunder.

7.2.2 Intellectual Property Indemnity. To the fullest extent permitted by Laws and Regulations, Professional shall indemnify and hold Town, its officers and employees harmless from and against all claims, costs, charges, civil penalties, fines, losses, liabilities and damages (including but not limited to all professionals' fees and charges and all court or arbitration or other dispute resolution costs), by whomsoever brought or alleged, arising out of or related to infringement of patent rights, copyrights, or other intellectual property rights, except with respect to designs, processes or products of a particular manufacturer expressly required by the Town in writing. If Professional has reason to believe the use of a required design, process or product is an infringement of a patent, copyright or other intellectual property, the Professional shall be responsible for such loss unless such information is promptly given to the Town.

7.3 Non-Exclusivity of Remedies/No Waiver of Remedies. A party's selection of one or more remedies for breach of this Agreement shall not limit that party's right to invoke any other remedy available under this Agreement or by law. No delay, omission or forbearance to exercise any right, power or remedy accruing to a party shall impair any such right, power or remedy or shall be construed to be a waiver of any breach hereof or default hereunder. Every such right, power or remedy may be exercised from time-to-time and as often as deemed expedient.

7.4 Waiver of Damages. Professional shall not be entitled to, and hereby waives any monetary claims for, or damages arising from or related to, lost profits, lost business opportunities, unabsorbed overhead or any consequential damages.

ARTICLE 8 AMENDMENTS TO AGREEMENT

8.1 Changes in the Basic Services. Changes to this Agreement or changes in any Task Order including entitlement to additional compensation or a change in duration or any other term of this Agreement or a Task Order shall be made only by a Written Amendment to this Agreement or a Task Order Amendment executed by both parties. Town may, without invalidating a Task Order, make written changes in Scope of Services by preparing and executing a Task Order Amendment for review and execution by Professional. Within three (3) days of receipt of such Task Order Amendment, Professional shall notify Town in writing of any change contained therein that Professional believes significantly increases or decreases Services and request an adjustment in compensation with respect thereto. If Task Order Amendment significantly increases or decreases Scope of Services, the compensation may be equitably adjusted.

ARTICLE 9 TERMINATION AND SUSPENSION

9.1 Termination for Convenience of Town. This Agreement and/or any Task Order hereunder may be terminated without cause by Town and for its convenience upon ten (10) days written notice to Professional.

9.2 Other Termination. After ten (10) days written notice to the other party of its material breach of the Agreement or a Task Order, this Agreement and/or any Task Order may be terminated by the noticing party, provided that the other party has not taken all reasonable actions to remedy the breach.

9.3 Compensation After Termination.

9.3.1 In the event of termination of any Task Order for the convenience of Town, Professional shall be paid that portion of its fees and expenses that it has earned under said Task Order to the date of termination, plus five percent (5%) (i) of its Compensation for such Task Order undertaken but not yet completed, or (ii) of its unearned Compensation for such Task Order undertaken but not yet completed, whichever is less, less any costs or expenses incurred or anticipated to be incurred by Town due to errors or omissions of Professional. Upon receiving notice of termination, Professional shall immediately terminate any ongoing Services it is to provide under the applicable Task Order.

9.3.2 In the event of termination by reason of a material breach of a Task Order by Town, Professional shall be entitled to the same compensation as it would have received had Town terminated the Task Order for convenience, and Professional expressly agrees that said compensation is fair and appropriate as liquidated damages for any and all costs and damages it might incur as a result of such termination.

9.3.3 In the event of termination by reason of a material breach of a Task Order by Professional, Professional shall be paid that portion of its fees and expenses that it has earned to the date of termination, less any costs or expenses incurred or anticipated to be incurred by Town due to errors or omissions of Professional or by reason of Professional's breach of the Task Order.

9.3.4 Should this Agreement or any Task Order be terminated for any reason, Town shall nevertheless have the right to require Professional to (a) turn over to Town all finished or unfinished Documents and Deliverables and (b) expend such additional effort as may be necessary to provide to the Town professionally certified and sealed reports and such other information and materials as may have been accumulated by Professional in the performance of this Agreement and any Project or Task Order hereunder, whether completed or in process. If Professional provides such certified and sealed information as outlined above, Professional shall be compensated in accordance with this Agreement.

9.4 Survival. Termination of this Agreement or a Task Order, for whatever reason, shall not terminate a party's representations and warranties nor nullify any indemnity hereunder. If one or more Projects are undertaken but not completed prior to the termination of this Agreement, then and in that event this Agreement shall continue until such time as all Projects undertaken hereunder are satisfactorily completed, unless a Project or Projects are specifically terminated prior to completion.

9.5 Suspension.

9.5.1 Town may order Professional in writing to suspend, delay or interrupt all or any part of the Services for the convenience of Town.

9.5.2 In the event Professional believes that any suspension, delay or interruption of the Services ordered by Town may require an extension of the duration of Basic Services or any Task Order or an increase in the level of staffing by Professional, it shall so notify Town and propose an amendment to the applicable Task Order, which shall be effective only upon the written approval of Town. In the event the duration of Basic Services or any Task Order is extended or shortened or the level of staffing by Professional is increased or decreased, the Compensation for Basic Services may be equitably adjusted by Task Order Amendment.

9.5.3 A suspension, delay or interruption of a Project or Task Order shall not terminate this Agreement or the applicable Task Order; provided, however, that if such suspension, delay or interruption causes a suspension of Services for a period exceeding ninety (90) days, the Compensation for Basic Services may be equitably adjusted by Written Amendment.

ARTICLE 10 OWNERSHIP OF DOCUMENTS AND DELIVERABLES

10.1 Ownership of Documents and Deliverables. Town shall be granted, at no additional cost, ownership of all drawings, specifications, plans, surveys, reports, technical memoranda, testing protocol, designs, electronic databases and other documents or instruments identified as "deliverables" herein or which, by

their nature, are designed to be delivered to Town under this Agreement. Professional shall turn over to Town in good unaltered condition, reproducibles as described in Section 11.8 of all Deliverables prior to final payment, if not delivered earlier hereunder, or within seven (7) days after completion of Project or after termination if this Agreement is terminated for any reason. Professional may retain one set of Deliverables for its records.

- 10.2 Termination. In the event of termination, for whatever reason, should Town use drawings or other Documents or Deliverables for completion of the Project, Town shall, to the extent allowed by law and covered by insurance, indemnify and hold Professional harmless from and against any cost, expense, damage or claim arising out of the loss of life, personal injury or damage to tangible property occasioned wholly or in part by any act or omission by Town or a Professional in connection with Town's improper use (or misuse) of Documents and Deliverables.
- 10.3 Other Projects. Documents and Deliverables may be used by Town for any reason not related to a Project undertaken pursuant to a Task Order without additional compensation to the Professional. Such use of Documents and Deliverables by Town for other projects shall be at the full risk of Town and Town shall indemnify and hold Professional harmless, to the extent allowed by law and covered by insurance, from and against any costs, expense, damage or claim arising out of the loss of life, personal injury or damage to tangible property occasioned wholly or in part by any act or omission by Town, its agents or employees, in connection with Town's improper use (or misuse) of Documents and Deliverables.

ARTICLE 11 **ADDITIONAL PROVISIONS**

- 11.1 Dissemination of Information. Town takes efforts to assure that accurate information about the Town is disseminated such that neither the public trust nor the public's perception of Town impartiality is compromised. Professional, mindful of those efforts, agrees that it shall not publicly disseminate any information concerning Services without prior approval of Town. Any approval by Town may be given with certain stipulations, such as Town's participation in the creation of the public product or Town's review and the option to refuse ultimate release of the final product should it fail to meet the Town's standards and goals. Publicly disseminate means but is not limited to electronic, video, audio, photographic or hard copy materials serving as, in whole or part, advertising, sales promotion, professional papers or presentations, news releases, articles, or other media products, and/or Professional's business collateral pieces. Notwithstanding the foregoing, the parties agree that Professional may list Town as a reference in response to requests for proposal and may identify the Town as a customer in presentations to potential customers.
- 11.2 Limited Assignment/Delegation. This Agreement or a Task Oder shall bind Professional and its successors and permitted assigns. Professional shall not assign or transfer its rights or interest in Agreement or a Task Order (including the right to payment), nor shall Professional delegate its duties under Agreement or a Task Order, without the Town's written consent, which the Town may grant or withhold in its sole discretion. The Town's consent shall not release Professional of any obligation under Agreement or a Task Order and Professional and permitted assigns shall be subject to all of Town's defenses. Any attempt to assign Agreement or a Task Order without the prior written approval of Town shall be void. If Professional utilizes approved subcontractors, Professional shall be responsible for the scheduling, completeness, quality, accuracy and timeliness of all their work. Town has the right to request that any subcontractor be replaced due to unsatisfactory performance.
- 11.3 Governing Law. The parties acknowledge Agreement or a Task Order is a "business contract" subject to the provisions of N.C.G.S. Chapter 1G and agree that Agreement or a Task Order and the rights and duties of the Parties shall be governed by the laws of the State of North Carolina, without regards to conflict of laws provisions. The Parties further agree that any dispute arising from Agreement or a Task Order shall be litigated in the courts of the State of North Carolina and any and all suits or actions related to Agreement or a Task Order shall be brought exclusively in Wake County, North Carolina. Service of process may be effected by delivery by any method permitted under the N.C. Rules of Civil Procedure on the office or individual specified in Paragraph 19 'Notice' or on any officer of the Contractor.

- 11.4 Dispute Resolution. No services shall be delayed or postponed pending the resolution of any dispute unless Town otherwise agrees in writing. Any and all suits or actions to enforce, interpret or seek damages with respect to any provision of, or the performance or non-performance of, this Agreement or a Task Order shall be brought exclusively in the General Court of Justice of North Carolina sitting in Wake County, North Carolina and it is agreed by the parties that no other court shall have jurisdiction or venue with respect to such suits or actions. If and to the extent the project is subject to the dispute resolution requirement of N.C.G.S. 143-128(f1), then Professional shall participate in the Town's dispute resolution process which shall be considered part of Basic Services unless specifically agreed otherwise herein.
- 11.5 Entire Agreement; Amendments to Agreement. This Agreement represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, or agreements, either written or oral, including clickthrough agreements, clickwrap agreements, clickwrap licenses, or similar non-reciprocal agreements (collectively, "clickthrough agreement"). Agreement may be amended only by written amendment signed by both parties. Neither party may amend, or seek to amend, this Agreement by clickthrough agreement.
- 11.6 Severability. If any provision of this Agreement is held as a matter of law to be unenforceable, the remainder of this Agreement shall be enforceable without such provision.
- 11.7 Conduct. Town has adopted a Mission Statement and Statement of Values. To the extent consistent with the terms and conditions of Agreement, Professional agrees to support and abide by the policies.
- 11.8 Protocol for Documents and Deliverables. Professional shall provide all Documents and Deliverables in electronic form to the Town in read-only MS-Windows compatible format (including either screen readable .pdf or HTML formats). All drawings shall be CAD generated and shall be provided on electronic media downloadable onto an AutoCAD based system. In order to meet US Justice Department standards for Internet accessibility, all Deliverables (draft and final) intended for presentation on the Town of Rolesville's Web site must be provided in a manner and format compatible, consistent, and in compliance with all Town technology standards. Such material must be provided in screen readable PDF or HTML versions, be screen-reader friendly and contain alternate text tags of no more than 34 characters. In the event that Professional notices any errors in electronic data provided to the Town under this Agreement, Professional shall immediately notify Town, and if Professional provided such electronic data, Professional shall immediately replace same with correct versions thereof.
- 11.9 Notice. Whenever any provision of this Agreement or a Task Order requires the giving of written notice, unless otherwise provided in a particular Task Order, notice will be deemed to have been validly given if (i) delivered in person to the Project Manager, if to the Town, or to the Project Manager, or equivalent position, or officer/member of the entity that is the Professional, if to the Professional, or (ii) if delivered at or sent by a nationally recognized overnight courier service or overnight express mail or registered or certified mail, postage prepaid, to the Town's or Professional's address. The date of said notice shall be the date of such delivery or mailing.

The notice address for the Town shall be:

Public Works Department
Town of Rolesville
PO Box 250 / 502 Southtown Circle
Rolesville, NC 27571

The notice address for the Professional shall be:

XXXX
XXXX
XXXX

- 11.10 Gifts and Favors. Professional shall become aware of and comply with laws related to gifts and favors, conflicts of interest and the like, including G.S. §14-234, G.S. §133-1, and G.S. §133-32.

- 11.11 Independent Contractor. Professional is an independent contractor and is solely responsible for its Services and the supervision of its employees and permitted subcontractors. All persons assigned by Professional to provide Services pursuant to this Agreement shall, for all purposes of this Agreement, be considered employees of Professional only. Professional shall assume the sole and exclusive responsibility for the payment of wages to individuals for services performed under this Contract and the withholding of all applicable Federal, State, and local taxes, unemployment insurance, and maintaining workers compensation coverage in an amount and under such terms as required by law. If Town notifies Professional in writing that any person providing Services appears to be incompetent, disorderly, or otherwise unsatisfactory to Town, such person shall be removed from the project and shall not again be employed on it except with the prior written consent of Town. No extension to any "Milestone Date" or completion date will be granted for replacement of such personnel or subcontractors.
- 11.12 Public Records. Professional acknowledges that records made or received in connection with the transaction of public business are public records and subject to public records requests. Town may provide copies of such records, including copyrighted records, in response to public record requests, except that, upon request of and indemnification by Professional, the Town will not disclose records that meet all of the requirements of a trade secret as set forth in N.C.G.S. 66-152, that are specifically designated as a "trade secret" or "confidential" at the time of initial disclosure by contractor, and that are otherwise entitled to protection under N.C.G.S. 132-1.2(1). Professional shall make Town aware of any public records requests made in regard to Services or this Agreement.
- 11.13 Resolving Discrepancies. Except as otherwise stated in Agreement, the provisions of Agreement take precedence in resolving any conflict, error, ambiguity or discrepancy between the provisions of the Agreement, its Attachments and any Task Order hereunder and the provisions of any standard, specification, manual, code or instruction of any technical society, organization or association (collectively "Other Standards"), provided that if any of the Other Standards impose a more stringent standard or obligation upon Professional than in the Agreement its Attachments or Task Order, the Other Standard shall take precedence in resolving any conflict, error, ambiguity or discrepancy between the provisions of this Agreement, its Attachment or Task Order and the Other Standard.
- 11.14 Electronic Version of Agreement. Town may convert a signed original of this Agreement and any Task Order hereunder to an electronic record pursuant to an approved North Carolina Department of Cultural Resources approved procedure and process for converting paper records to electronic records for record retention purposes. Such electronic record shall be deemed for all purposes to be an original signed Agreement or Task Order.
- 11.15 Verification of Work Authorization. Contractor, and all subcontractors, shall comply with Article 2, Chapter 64, of the North Carolina General Statutes.
- 11.16 No Third Party Beneficiaries. There are no third party beneficiaries to Agreement.
- 11.17 Nondiscrimination. Neither party shall discriminate on any prohibited basis. Contractor shall comply with the Americans with Disabilities Act of 1990 ("ADA").
- 11.18 Pre-Audit Requirement. This Agreement or a Task Order have not been fully executed and are not effective until the Preaudit Certificate (if required by NCGS 159-28) has been affixed and signed by the Town of Rolesville finance officer or deputy finance officer.
- 11.19 Performance of Government Functions. Nothing contained in this Agreement or a Task Order shall be deemed or construed so as to restrict or inhibit the Town's police powers or regulatory authority.
- 11.20 Principles of Interpretation and Definitions. In this Agreement, unless the context requires otherwise: (1) The singular includes the plural and the plural the singular. The pronouns "it" and "its" include the masculine and feminine. (2) References to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The words "include," "including," etc. mean include, including, etc. without

limitation. (3) References to a "Section" or "section" or "paragraph" shall mean a section or paragraph of this Agreement. (4) "Contract" and "Agreement," whether or not capitalized, refer to this instrument. (5) Titles of sections, paragraphs, and articles are for convenience only, and shall not be construed to affect the meaning of this Agreement. (6) "Duties" includes obligations. (7) The word "person" includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities. (8) The word "shall" is mandatory. (9) The word "day" means calendar day. (10) Normal business hours means Monday through Friday from 8:00a.m. until 5:00p.m. Eastern Standard Time.

IN WITNESS WHEREOF, Professional and Town, being duly authorized, have caused these presents to be signed in their names as of the day and year first above written, on the following pages.

TOWN OF ROLESVILLE:

By: _____

Name: _____

Title: _____

PROFESSIONAL: Appropriate Signature line must be added based on type of company

A North Carolina Professional Association Company

By: _____
(signature)

Name: _____
(typed or printed)

Title: _____

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public of _____ County, State of _____, do hereby certify that _____ personally came before me this day and acknowledged that he/she is _____ Secretary of _____, a _____ corporation, and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its _____ President, sealed with its corporate seal, and attested by himself/herself as its _____ Secretary.

Witness my hand and official seal, this the ____ day of _____, 2018.

Notary Public
My Commission expires: _____

Certificate of Town of Rolesville Finance Officer
This instrument has been preaudited in the manner required by
the Local Government Budget and Fiscal Control Act.

Finance Officer Date

**TASK ORDER
UNDER
MASTER AGREEMENT FOR ON-CALL PROFESSIONAL SERVICES**

This Task Order (“Task Order”), made as of the ____ day of _____, 20__, by and between the Town of Rolesville (hereafter, “Town”) and _____ (“Professional”).

WITNESSETH

WHEREAS, Town and Professional entered into a Master Agreement for On-Call Professional Services dated _____ (“Master Agreement”); and

WHEREAS, Town has determined it is in need of Services for _____ (“Project”), and Professional desires to provide such Services; and

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt of which is acknowledged, the parties agree as follows.

1. Recitals, Purpose and Effective Date. The Recitals and the Master Agreement are incorporated into this Task Order. Each party represents and warrants that it has in its possession and is familiar with the Master Agreement, and agrees that such does not need to be attached to this Task Order. The purpose of this Task Order is to set forth specific terms and conditions pursuant to which Professional shall provide Services for the Project. The Project is _____ and is further identified on Attachment 1 Scope of Work attached hereto and incorporated herein by reference. The Effective Date of this Task Order is the date on which it is executed by the last to execute this Task Order.
2. Commencement and Termination.
 - A. Professional’s services on Project shall commence upon a Notice to Proceed issued by Town or as otherwise provided in Attachment 1.
 - B. If the Master Agreement terminates before the Services provided hereunder are completed, then and in that event the Master Agreement shall continue as to Project until such time as Project is satisfactorily completed.
3. Schedule, Milestone Dates. Project schedule, including date by which Services shall be completed, and all deliverables to be delivered is provided in Attachment 1.
4. Fee for Services.
 - A. The fixed fee total compensation for Basic Services is provided in Attachment 1.
 - B. The fee for Additional Services, if any, shall be determined as provided in Attachment 1, or, if not so provided, as provided in Agreement.
5. Key Personnel and Use of Subcontractors.
 - A. Professional’s key personnel are provided in Attachment 1.

B. If Professional is to use subcontractors for a portion of its Services, then the following applies to such subcontractor(s):

No changes in Professional's key personnel or subcontractors designated in this Task Order as those who will provide Services shall be permitted except with the prior written consent of Town, which consent shall not be unreasonably withheld.

6. Insurance. Professional represents and warrants that all insurance requirements set forth in Agreement continue to be met.
7. Amendment. This Task Order may be amended only by written amendment of the parties.

[INSERT TOWN AND CONTRACTOR SIGNATURE BLOCKS HERE]

**ATTACHMENT 1
SCOPE OF WORK**

The Project is _____

The Basic Services are _____

Project Schedule and Deliverables:

Fixed Fee Total Compensation for Basic Services:

Method of Determining Fee for Additional Services:

Key Personnel:

Attachment B -- Key Milestone Listing

[Project Schedule as provided in DESIGNER's Proposal shall be inserted here.]

Attachment C -- Consultants and Key Personnel

[Key DESIGNER personnel who will be working on the Project and Consultants and Consultant's key personnel as provided in the DESIGNER's Proposal shall be inserted here.]

Attachment D – Basic Services

Attachment E – Additional Services

Any services described in the Agreement as Additional Services shall be considered Additional Services to be provided to OWNER by DESIGNER or DESIGNER’s Consultants in accordance with the terms of the Agreement upon execution by OWNER of a Written Amendment specifying that such services shall be provided. Additionally, the following services, if marked as included, comprise Additional Services to be performed for the Owner by the DESIGNER or the DESIGNER’s Consultants, for Additional Compensation, as described in Attachment F.

None Presently Anticipated

[Describe Additional Services Contemplated]

Attachment F – Basic Services Compensation

Following are the percentages of the Total Project Cost that are allocable to each Phase for which DESIGNER is to perform Basic Services. Payments are not to exceed the stated percentages of the Total Project Cost for each Phase:

• Preliminary or Schematic Design Phase	<u>10</u> %
• Design Development Phase	<u>10</u> %
• Construction Contract Documents Phase	<u>45</u> %
• Bidding and Construction Contract Award Phase	<u>5</u> %
• Construction Administration Phase	<u>25</u> %
• Post-Construction Phase	<u>5</u> %
Total:	100%

Attachment G -- Hourly Rates Schedule

[Rate Table as provided in DESIGNER's Proposal shall be inserted here.]

Attachment H – Format of Total Project Cost Estimates

[To be negotiated with DESINGER prior to executing Agreement.]

Attachment I – Insurance Certificate

[Provided by DESIGNER prior to executing Agreement.]