

**Recreation and Parks Department**  
2000 Cedar Lane  
Greenville, NC 27858

**Request for Qualifications (RFQ)**

Date of Issue: ***February 16, 2017***



**Sycamore Hill Memorial Gateway Plaza and Restroom Facility at Town Common**

**Project Manager Contact Information:**

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City of Greenville  
Greenville Recreation and Parks Department  
Parks Division  
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Definitions in this RFQ

**“City”** means the City of Greenville.

**“Statement of Qualifications”** or **“SOQ”** is the response of a person, firm, or corporation proposing to provide the services sought by this RFQ.

**“Proposer”** is the person, firm, or corporation that submits an SOQ.

**“Designer”** is the Proposer with which the City enters into a contract to provide the services stipulated in this RFQ.

## **PURPOSE OF RFQ & SCOPE OF SERVICES**

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Town Common, located at 105 East 1<sup>st</sup> Street, sits on 20 acres of open space. The park is considered Greenville central park because of its unique location between the Uptown Central Business District and the Tar River. As such, Town Common has become an integral part of Uptown revitalization. During the 2016 Council Planning Session, Town Common Development was included as a short-term priority in the City’s 2016-2018 Goals and Objectives. Consequently, City Council approved Capital Improvement Plan (CIP) funding for the implementation of improvements in the FY16-17 budget. Specifically, funding was appropriated for the Sycamore Hill Missionary Baptist Church (SHMBC) Memorial Tower, commemorative plaza, restroom facility, and parking improvements. An RFQ process is required to select a design firm to complete construction documents for the implementation of the project elements.

Through this RFQ the City of Greenville is soliciting Statements of Qualifications (SOQ) from engineering, architectural and landscape architectural firms for the provision of construction documents related to the Sycamore Hill Memorial Gateway Plaza and restroom.

## **BACKGROUND**

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In July 2015, City Council approved CIP funding for the design development phase of the Town Common Improvements Project. In the fall of 2015, the City selected a design consultant to complete the schematic design and update the Town Common Master Plan. In November 2016, City Council adopted the Town Common schematic design.

The schematic plan, shown in **Appendix C**, depicts the park elements of the overall proposed renovations and improvements at Town Common. To view Town the Common Schematic Design document visit:

<http://www.greenvillenc.gov/Home/ShowDocument?id=13636>

The schematic design document should be used as a reference and for background information and design intent only.

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## 1.3 SCOPE OF SERVICES

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The City of Greenville is seeking a qualified design firm to develop contract documents that include construction drawings, project manual with technical specifications and a statement of probable cost for the Sycamore Hill Gateway Plaza and a restroom facility. The Designer shall prepare construction documents for the Sycamore Hill Gateway Plaza and restroom facility and provide the following deliverables:

### 1.2.1. SCHEMATIC PHASE

- A. The Designer shall facilitate a kickoff meeting and visioning to clarify goals, define project scope, develop design solutions, and confirm compliance with the project budget. Designer shall facilitate an external stakeholder meeting to ensure consensus regarding the project scope, schedule and budget. A Basis of Design Report (BODR) shall be submitted with the schematic drawings. The BODR shall document the results of the visioning sessions and stakeholder meetings, and list the City's project goals and objectives. The Schematic submittal shall include at a minimum the following information:
1. A scaled civil / site plan, with a north arrow, showing the location and size of the proposed facilities in relation to the existing property lines, structures, roads, walkways, parking and existing utility services. Emphasis shall be placed on the early determination of adequacy and availability of all existing utility services. The Designer shall be responsible for examining all existing conditions and reviewing available as-built drawings related to the project.
  2. Single line drawings including demolition plans, proposed floor plan(s) that show the rooms and spaces including mechanical and electrical rooms, service areas, etc. Rooms shall be identified by name or use for consideration of code implications.
  3. A preliminary probable cost statement prepared by a third party estimator to ensure budget control.
- B. The Designer shall submit schematic plans (25% completion of Construction Documents) for review, comment and approval by the City.

### 1.2.2. DESIGN DEVELOPMENT

- A. Based on the approved schematic submittal, the Design shall prepare the Design Development Documents setting forth in writing and drawings all basic program elements, systems and materials to be used in the project. The Designer shall provide design Development Documents (65% completion of construction documents), that include but not limited to the following:
1. A written response to Schematic Design review comments and questions.
  2. A Code Summary sheet that includes the basic code analysis and code decisions made supporting the proposed design.
  3. A scaled civil / site plan showing topographic information, benchmarks, site drainage and sedimentation control, utility infrastructure, adjacent structures and other site data furnished on the previous submittal.
  4. Outline specifications with brief descriptions of building systems and materials in CSI Master Format.
  5. Scaled architectural floor plans, building cross-sections at appropriate points that show major vertical spaces, two or more elevations, and a typical wall section detail. Plans must clearly indicate initial results of the building code analysis for the building type, egress and accessibility.
  7. Room finish schedule showing basic materials proposed for the floors, walls and ceilings.
  8. Plumbing, mechanical, electrical and fire protection drawings shall be included with the Design Development submittal.
- B. The final submittal of the Design Development documents shall include a statement of probable cost by a third party estimator to ensure budget control.
- C. The Designer shall submit Design Development Documents to the City for review and comment prior to continuing into the next phase of the project.

### 1.2.3. CONSTRUCTION DOCUMENTS

- A. Based on the approved design development submittal, the Designer shall prepare construction drawings and specifications setting forth all work in detail and prescribing work to be done, including materials, workmanship, finishes, mechanical and electrical systems, special equipment, site work, utility connections and service. The Construction Documents shall include bidding information, bid proposal, contract and bond forms, General and Supplemental Conditions, and all other documents required for receiving competitive bids. Copies of construction documents shall be simultaneously furnished for review to Recreation and Parks and regulatory agencies having jurisdiction.
- B. Final Submittal: The Designer shall submit one set of original construction documents and two printed sets. An electronic copy of the construction drawings in AutoCAD LT (or a version that can be viewed in AutoCAD LT 2009) , and an electronic copy of the technical specifications in Microsoft Word shall accompany the final submittal.
- C. The Designer shall receive approval from the City that the Construction Documents are acceptable prior to bidding the work.

### 1.2.4. CONSTRUCTION BUDGET

The construction price shall include materials, labor, equipment, permits, testing and construction inspection /administration.

- A. The Designer shall provide a design for the Sycamore Hill Gateway Plaza that includes a 20' x 20' x 60' memorial tower and an interpretive wall that has a maximum construction cost of \$2,100,000. The Designer shall also include a restroom building with 975 square feet of building space (maximum), and a maximum construction cost of \$332,200. The total construction budget for this project shall not exceed **\$2,432,300**.
- B. The Designer is responsible for designing the project within the budget as set forth in the design contract. The Designer is responsible for recommending alternative selections, design parameters, proposed alignments, major project features, and special provisions etc. that follow City standard practices and meet the goals of the project.
- C. Should the Designer's estimate be over the construction funds available, the base bid should be established at 90% of the construction funds available with add alternates to 110% of those funds to permit flexibility and ability to award contracts without negotiating down. No transition of funds, or use of specified or unspecified additional services funds shall occur without prior written approval from the City.

## 1.3 DESIGN GUIDELINES AND POLICIES

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The following guidelines and policies are intended to assist the Designer with common policies, regulations, statutes and issues that may impact the project. These guidelines are derived from Local State and Federal laws, regulation and codes.

**1.3.1. AMERICANS WITH DISABILITIES ACT (ADA)** – The Designer shall prepare the Construction Documents in accordance with the 2010 ADA Standards for Accessible Design, which provides that those facilities that are constructed or altered by, on behalf of, or for the use of public entity shall be designed, constructed or altered to be readily accessible to and usable by individuals with disabilities.

**1.3.2. LEED Design** – The Designer shall develop a program that meets the City’s goal for energy conservation and energy use, sustainable design, and construction including life cycle cost evaluation. The Designer shall incorporate the following City Adopted LEED practices into the Construction Documents:

Buildings less than 5,000 sq. ft. All new construction, renovation, or addition or addition of a City-owned building less than 5,000 square feet will be a minimum of LEED-Certified and is not required to be certified by the U.S. Green Building Council.

## 1.4 CITY RESPONSIBILITIES

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The City of Greenville shall be responsible for:

- A. Working closely with the Designer to answer questions, make decisions, provide guidance and assist with coordination where needed. The City’s responsibilities do not include conducting research and design tasks for the consultant.
- B. Arranging, scheduling, and providing facility space for meetings. Providing access to park facilities during normal business hours of operation.
- C. Providing the Designer with copies of relevant City of Greenville plans, studies, master plans, ordinances, design guidelines and special plans of the project area.
- D. Providing the Designer with a summary of the findings from previous related Public Input Sessions.

## 1.5 SAMPLE CONTRACT

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It is the City's intention to use the contract that is attached as **Appendix D**. If your firm objects to any of the contract's content, please state the objections.

### Exceptions:

Any and all exceptions to the RFQ must be listed on an item-by-item basis and cross-referenced with the RFQ document. If there are no exceptions, Proposer must expressly state that no exceptions are taken.

*If your firm wishes to submit a proposal that does not comply with the standards as discussed above, it is recommended that you also submit one that does comply in addition to the one that does not comply so that your "non-compliant" version can be considered as an alternative if the City is interested in it. This will allow your firm's compliant version to be considered if the City remains steadfast on applying the standards discussed above.*

## 2. SUBMITTAL REQUIREMENTS

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Firms that are interested in providing the required services to the Greenville Recreation and Parks Department (GRPD) are invited to submit a Statement of Qualifications (SOQ), in electronic format only, to Lamarco. M. Morrison at [lmorrison@greenvillenc.gov](mailto:lmorrison@greenvillenc.gov). Each firm is solely responsible for the timely delivery of its SOQ. All SOGs must be received **by 2:00 pm local time on Thursday, March 16, 2017. No Qualification Packages will be accepted after this deadline.** Firms accept all risks of late delivery regardless of fault.

### 2.1 PRESUBMITAL MEETING

The City will conduct a pre-submittal meeting at City Hall, Conference Room 328, 200 West 5<sup>th</sup> Street, Greenville, NC 27834, **2:00 PM Eastern Standard Time, on March 3, 2017**. Attendance is strongly recommended, and the City may consider attendance in deciding on the award of the contract. Attendees should be familiar with the requirements of this RFQ.

### 2.2 SUBMITTAL TIMELINE

The following is the likely schedule and timing leading up to a contract signing. The City may change this schedule as appropriate.

Advertisement .....	February 16, 2017
Pre-submittal meeting .....	March 3, 2017
SOQs submitted.....	March 16, 2017
Evaluation procedure .....	March 31, 2017
Short Listed Consultant Interviews.....	April 10, 2017
Council contract approval.....	May 8, 2017



## 2.3 FORMAT

The SOQ should be divided into the individual sections listed below. Proposers are urged to include only information that is relevant to this specific project as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of the RFQ, and emphasize the Proposer's demonstrated capability to provide services of this type.

All requirements and questions should be addressed and all requested data should be supplied. The City reserves the right to request additional information which, in its opinion, is necessary to ensure that the Proposer's competence, number of qualified employees, business organization and financial resources are adequate to perform according to contract.

The SOQ should be no longer than six pages in length, exclusive of individuals' resumes, examples of work experience and references, and required MWBE forms (these items should be included in tabbed sections and placed behind the main document). Minimum font size should be the equivalent of 11pt Times New Roman. One-inch margins are preferred.

### 2.3.1. COVER LETTER

The SOQ should contain a cover letter, signed by a principal in the firm, indicating his or her title that he or she has authority to submit the proposal on behalf of the firm, including the cover letter, and which should contain the following statement:

"The undersigned has the authority to submit this SOQ on behalf of the legal name of company in response to the City of Greenville RFQ for the Sycamore Hill Memorial Gateway Plaza and Restroom Facility at Town Common.

The cover letter should contain one of the following two paragraphs:

"With respect to all trade secrets that the Proposer may submit to the City in connection with this SOQ or the Contract, if the Contract is awarded to the Proposer, the Proposer shall comply with the section of the RFQ titled "Trade Secrets and Confidentiality," (see Appendix A) including but not limited to all of its subsections, such as the subsection titled "Defense of City." The Proposer acknowledges that the City will rely on the preceding sentence."

-or-

"The Proposer is not submitting and shall not submit any trade secrets to the City in connection with this SOQ or the Contract, if the Contract is awarded to the Proposer. The Proposer acknowledges that the City will rely on the preceding sentence.

### 2.3.2. NON-COLLUSION

This RFQ constitutes an invitation to bid or propose. Firms and their staff are prohibited from communicating with elected City officials and City employees regarding the RFQ or submittals from the time the RFQ has been released until all respondents have been notified and the selection results have been publicly announced. These restrictions extend to “thank you” letters, phone calls, and emails and any contact that results in the direct or indirect discuss of the RFQ and/or the Qualification Package submitted by the firm/team. Violation of this provision by the firm/team and/or its agents may lead to the disqualification of the firm's /team's submittal from consideration. Exceptions to the restrictions on communications with City employees are detailed in **Section 2.5 of the RFQ**. Acknowledge that you have read this section by including the following signed Non-Collusion affidavit with your response:

*The City of Greenville prohibits collusion, which is defined as a secret agreement for a deceitful or fraudulent purpose.*

*I, \_\_\_\_\_ affirm that I have not engaged in collusion with any City employee(s), other person, corporations or firms relating to this bid, SOQs or quotations. I understand collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.*

Signature: \_\_\_\_\_

### 2.3.3. PROJECT TEAM (TAB 1)

Behind “Tab1” respond to the following requirements in the same sequence as listed:

- A. Identify the legal entity that would enter into the contract with the City and include location of company headquarters, local office location, type of business (sole proprietorship, partnership, or corporations), state of incorporation or organization, and the name and title of the person authorized to enter into an agreement.
- B. Identify the primary contact professional who would be assigned responsibility for this project and note their experience with projects of a similar scope. Also identify other assigned personnel, their qualifications and their location.
- C. For proposed sub-consultants, provide the name of each firm, the office location, contact name and telephone number, and the service to be provided.
- D. Provide an organizational chart, identifying all key members of the team including sub-consultants who would be assigned to this project. **Specifically identify individuals who will serve as project managers.**
- E. Provide a description of the professional and technical experience, background, qualifications and professional licensing / certification of the firm. The Proposer should show that their firm possesses demonstrated experience in all areas of the project scope of services.
- F. Include detailed resumes of all team members assigned to this project including sub-consultants.

- G. Illustrate the project availability of proposed project team members by indicating the percentage of their time to be devoted to the project.
- H. Describe methods, tools, software, business practices etc. used to provide accessibility to clients in the absence of a physical meeting.

#### **2.3.4. RELEVANT EXPERIENCE (TAB 2)**

Provide a summary of Proposer's experience with projects of similar scope.

Behind "Tab 2", to be attached to the SOQ, include detailed information for a maximum of ten previously completed projects by the firm or its sub-consultants that are similar in nature to this specific project, including, but not limited to, contracts with the City, currently in progress or having been performed in the past five (5) years comparable to this project as follows:

- List only projects **involving current staff** comprising your proposed team;
- List projects in **date order** with newest project listed first; and
- List projects in **North Carolina** first, followed by projects located in other states.

Information should include a description of the project, scope of work, location of project and total project cost; client name and telephone number; and dates of project work. As part of the selection process the City may contact the Proposer's references.

#### **2.3.5. METHODS AND PROCEDURES (TAB 3)**

The Proposal should provide a detailed methodology for accomplishing the entire project scope. This project approach shall include additional suggestions that are not specifically requested in this RFQ, but are considered necessary to ensure the highest degree of safety, constructability, value and operation.

If your SOQ assumes that the City will take certain actions or provide certain facilities, data or information, state these assumptions explicitly.

#### **2.3.6. EQUAL BUSINESS OPPORTUNITY PROGRAM (TAB 4)**

It is the policy of the City of Greenville to provide minorities and women equal opportunity for participating in all aspects of the City's contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchase, and professional and personal service contracts. In accordance with this policy, the City has an adopted a Minority and Women Business Enterprise (M/WBE) Plan and subsequent program, outlining verifiable goals.

**The City has established a 4% Minority Business Enterprise (MBE) and 4% Women Business Enterprise (WBE) goal** for the participation of M/WBE firms in supplying goods and services for the completion of this project. All firms submitting qualifications and/or proposals agree to employ "good faith efforts" towards achieving these goals and supply other information as requested in the "M/WBE Professional and Personal Services Forms" included in **Appendix B. Failure to complete the M/WBE forms shall be cause to deem the submittal nonresponsive.**

Questions regarding the City's M/WBE Program should be directed to the M/WBE Coordinator, Ferdinand Rouse, at (252) 329-4462.

### **Equal Employment Opportunity Clause**

The City has adopted an Equal Employment Opportunity Clause, which is incorporated into all specifications, purchase orders, and contracts, whereby a vendor agrees not to discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin or ancestry. A copy of this clause may be obtained at the City Clerk's Office, City Hall, Greenville, NC. By submitting qualifications and/or proposals, the firm is attesting that they are an Equal Opportunity Employer.

Include the completed forms behind "**Tab 4**" to be attached to the SOQ.

## **2.4 LIMIT ON CLAIMS**

No Proposer will have any claims or rights against the City for participating in the SOQ process, including without limitation submitting an SOQ. The only rights and claims any Proposer will have against the City arising out of participating in the SOQ process will be in the Contract with the selected Proposer.

## **2.5 COMMUNICATION GUIDELINES AND QUESTIONS**

Firms may submit written (email or fax) questions concerning this RFQ to the Parks Planner for receipt no later than **5 pm local time on March 8, 2017**. Any questions about the RFQ should be submitted, in writing to:

Lamarco M. Morrison, Parks Planner

or via Email: [lmorrison@greenvillenc.gov](mailto:lmorrison@greenvillenc.gov)

or via fax: (252)329-4062

Questions received after the stated deadline will not be answered. No oral statement of any person shall modify or otherwise change or affect the terms, conditions, or specifications stated in the RFQ, and changes to the RFQ, if any, shall be made in writing only and issued in the form of an Addendum to the RFQ.

### 3. EVALUATION CRITERIA

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It is the policy of the City that the selection of firms to provide professional services shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. The Greenville Recreation and Parks Department (GRPD) shall conduct a fair and impartial evaluation of all submittals that are received in accordance with the provisions of this RFQ. GRPD will appoint a selection committee to perform the evaluations, and shall put each SOQ submitted through a process of evaluation to determine responsiveness to all administrative and technical requirements of the RFQ.

The evaluation criteria are intended to be used to make a recommendation to the entity or person who will award the contract, but who is not bound to use these criteria or to award to a firm on the basis of the recommendation. Further, the City reserves the right to vary from this procedure as it determines to be in the City's interest. For example, the City may request clarification of any point in a firm's/team's Qualification Package or obtain additional information. All firms/teams who submit a Qualification Package will be notified of the selection committee's choice. Final approval of any selected firm/team is subject to the action of City Council.

#### 3.1 EVALUATION METHOD

Compliance Check: All SOQs will be reviewed to verify that minimum requirements have been met. SOQs that have not followed the requirements in this RFQ or do not meet minimum content and quality standards may be eliminated from further consideration.

Analysis: Members of an evaluation team assigned by the City Manager will independently analyze each SOQ. The evaluation team will analyze how the Proposers' qualifications, experience, professional content, and proposed methodology meet the City's needs. Points will be assigned by each committee member using the point-scoring schedule below as a guideline.

At the discretion of the City, the evaluation team may decide to conduct interviews of a short list of Proposers.

#### 3.2 POINT-SCORING SCHEDULE

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Qualifications will be evaluated using the minimum following criteria (Total possible points = 95):

**1). Proposer's Qualifications and Experience: 30 Points**

Verifiable technical capacity, experience on similar projects and an outstanding record of successfully completed projects. Past performance on City projects may be considered.

**2). Personnel Qualifications and Experience: 20 Points**

Proposer's principal(s), years of experience and number of years with the firm/company. Proposer's location and experience of personnel assigned to the project, their projected educational background, certification and licensing that are deemed to meet the project requirements.

**3). Project Approach: 20 Points**

Proposer's familiarity with, and understanding of the project and their ability to innovate upon and complete the work.

**4). Workload / Ability to meet Schedule: 20 points**

Proposer's current workload, number of active projects, and availability to work on this project.

**5). Proposer's Accessibility: 5 points**

Proposer's geographic location and methods of accessibility through technology per the project requirements mentioned in 2.3.3.

**4. ADDITIONAL PROVISIONS OF THIS RFQ**

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A response to this RFQ should not be construed as a contract, nor indicate a commitment of any kind. The RFQ does not commit the City to pay for costs incurred in the submission of a response to this RFQ or for any cost incurred prior to the execution of a final contract. No recommendations or conclusions from this RFQ process concerning any firm shall constitute a right (property or otherwise) under the Constitution of the United States or under the Constitution, case law or statutory law of North Carolina. No binding contract, obligation to negotiate, or any other obligation shall be created on the part of the City unless the City and a firm jointly execute a contract.

**4.1. FINANCIAL CONDITION OF THE FIRM**

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The City may request that the Proposer provide an annual operating statement, completed income tax form, or other reasonably comprehensive evidence of financial condition. Financial data provided in response to this RFQ will be held confidential if marked "confidential".

The Proposer must be willing and able to provide insurance coverage, bonding and forms required by the City. The insurance required for professional services can be found in **Appendix D, Section 6 of the Standard form of Agreement**.

**4.2. DISCRETION OF THE CITY**

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The City reserves the right to request substitutions of sub-consultants. The City reserves the right to contact any firm/team to negotiate if such is deemed desirable by the City. The City of Greenville reserves the right to reject any or all SOQs. NOTWITHSTANDING anything to the contrary in this document or in any addendums to this document, unless the provision refers specifically to this provision, the City reserves the right (i) to negotiate changes of any nature with any firm proposing to do the work with respect to any term, condition, or provision in this document and/or in any SOQ, whether or not something is stated to be mandatory and whether or not it is said that an SOQ will be rejected if certain information or documentation is not submitted with it, and (ii) to enter into an agreement for the work with one or more firms that do not submit an SOQ. For example, all deadlines are for the administrative convenience or needs of the City and may be waived by the City in its discretion.

As a general rule, all submissions to the City are available to any member of the public. However, if materials qualify as provided in this section, the City will take reasonable steps to keep Trade Secrets confidential.

**(a) Designation of Confidential Records.** The terms “Trade Secrets” and “record” are defined in (a)(1) (Definitions). To the extent that the Proposer wishes to maintain the confidentiality of Trade Secrets contained in materials provided to the City that will or may become a record, the Proposer shall prominently designate the material as “Trade Secrets” at the time of its initial disclosure to the City. The Proposer shall not designate any material provided to the City as Trade Secrets unless the Proposer has a reasonable and good-faith belief that it contains a Trade Secret. When requested by the City, the Proposer shall promptly disclose to the City the Proposer’s reasoning for designating individual materials as Trade Secrets. In providing materials to the City, the Proposer shall make reasonable efforts to separate those designated as Trade Secrets from those not so designated, both to facilitate the City’s use of records and to minimize the opportunity for accidental disclosure. For instance, if only a sentence or paragraph on a page is a Trade Secret, the page must be marked clearly to communicate that distinction. To avoid mistake or confusion, it is generally best to have only Trade Secret information on a page and nothing else on that page. To the extent authorized by applicable state and federal law, the City shall maintain the confidentiality of records designated “Trade Secrets” in accordance with this section. Whenever the Proposer ceases to have a good-faith belief that a particular record contains a Trade Secret, it shall promptly notify the City.

(1) Definitions.

“Trade secret” means business or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that:

- a. Derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and
- b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

The existence of a trade secret shall not be negated merely because the information comprising the trade secret has also been developed, used, or owned independently by more than one person, or licensed to other persons.

“Record” means all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, received by the City of Greenville in connection with the Proposer’s SOQ.

**(b) Request by Public for Access to Record.** When any person requests the City to provide access to a record designated as Trade Secrets in accordance with subsection (a), the City may

- (1) decline the request for access,
- (2) notify the Proposer of the request and that the City intends to provide the person access to the record because applicable law requires that the access be granted, or
- (3) notify the Proposer of the request and that the City intends to decline the request.

Before declining the request, the City may require the Proposer to give further assurances so that the City can be certain that the Proposer will comply with subsection (c) (Defense of City).

**(c) Defense of City.** If the City declines the request for access to a record designated as Trade Secrets in accordance with subsection (a), the Proposer shall defend, indemnify, and save harmless Indemnitees from and against all Charges that arise in any manner from, in connection with, or out of the City's non-disclosure of the records. In providing that defense, the Proposer shall at its sole expense defend Indemnitees with legal counsel. The legal counsel shall be limited to attorneys reasonably acceptable to the City Attorney. Definitions. As used in this subsection (c), "Charges" means claims, judgments, costs, damages, losses, demands, liabilities, fines, penalties, settlements, expenses, attorneys' fees, and interest. "Indemnitees" means the City, and officers, officials, independent contractors, agents, and employees, of the City. "Indemnitees" does not include the Proposer. The City may require the Proposer to provide proof of the Proposer's ability to pay the amounts that may reasonably be expected to become monetary obligations of the Proposer pursuant to this section. If the Proposer fails to provide that proof in a timely manner, the City shall not be required to keep confidential the records whose non-disclosure gives rise to the potential monetary obligation. Nothing in this agreement shall require the City to require any natural person to be imprisoned or placed in substantial risk of imprisonment as a result of alleged nondisclosure of records or for alleged noncompliance with a court order respecting disclosure of records. This subsection (c) is separate from and is to be construed separately from any other indemnification and warranty provisions in the contract between the City and the Proposer.



**City of Greenville/Greenville Utilities Commission  
Minority and Women Business Enterprise Program**

**City of Greenville  
MWBE Guidelines for Professional Service Contracts  
\$50,000 and above**

These instructions shall be included with each bid solicitation.

**City of Greenville/Greenville Utilities Commission  
Minority and Women Business Enterprise Program**

**MWBE Guidelines for Professional Service Contracts  
\$50,000 and above**

**Policy Statement**

It is the policy of the City of Greenville and Greenville Utilities Commission to provide minorities and women equal opportunity for participating in all aspects of the City’s and Utilities’ contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchases, and professional and personal service contracts.

**Goals and Good Faith Efforts**

Service providers responding to this solicitation shall comply with the MWBE program by making Good Faith Efforts to achieve the following aspirational goals for participation.

	CITY	
	MBE	WBE
Professional Services	4%	4%

Submitters shall submit MWBE information with their submissions on the forms provided. This information will be subject to verification by the City prior to contract award. **As of July 1, 2009, contractors, subcontractors, suppliers, service providers, or MWBE members of joint ventures intended to satisfy City MWBE goals shall be certified by the NC Office of Historically Underutilized Businesses (NC HUB) only.** Firms qualifying as “WBE” for the City’s goals must be designated as a “women-owned business” by the HUB Office. Firms qualifying as “MBE” for the City’s goals must be certified in one of the other categories (i.e.: Black, Hispanic, Asian American, American Indian, Disabled, or Socially and Economically Disadvantaged). According to new Statewide Uniform Certification (SWUC) Guidelines, ethnicity supersedes gender; therefore, firms who are certified as both a “WBE” and “MBE” will satisfy the “MBE” category only. **Each goal must be met separately. Exceeding one goal does not satisfy requirements for the other.**

The City shall accept NCDOT certified firms on federally funded projects only.

Please note: A service provider may utilize any firm desired. However, for participation purposes, all MWBE firms who wish to do business *as a minority* must be certified by NC HUB. A complete database of NC HUB certified firms may be found at <http://www.doa.nc.gov/hub/>

## Instructions

The submitter shall provide the following forms:

FORM 1—Sub-Service Provider Utilization Plan

This form provides the amount of sub-contracted work proposed on the project for MWBE. This proposed participation is based on the current scope of work. Submitter must turn in this form with submission. If the submitter does not customarily subcontract elements of this type of project, do not complete this form. Instead complete FORM 2.

FORM 2--Statement of Intent to Perform work without Sub-Service Providers

This form provides that the submitter does not customarily subcontract work on this type of project.

Sub-Service Provider Utilization Commitment

Submitted by the selected service provider after negotiation of the contract and prior to Award, this form lists the MWBE firms committed to participate on the project. This commitment will reflect any changes in the Plan due to adjustments in project scope.

NOTE: A firm is expected to maintain the level of participation proposed in FORM 1 – Sub-Service Provider Utilization Plan – unless there is a negotiated change in the service required by the City. A firm is also encouraged to increase MWBE participation in the Utilization Commitment as a result of ongoing Good Faith Efforts.

Proof of Payment Certification

Submitted by the selected service provider with each payment application, listing payments made to subconsultants. This form is not provided with the submission.

*In addition to the forms provided above, each service provider must provide a discussion of its diverse business policies and procedures to include the good faith efforts it employed to utilize minority and women-owned firms on this project. This discussion must include:*

1. *Outreach efforts that were employed by the firm to maximize the utilization of MWBE's.*
2. *A history of MWBE firms used on similar projects; and*
3. *The percentage participation of MWBE firms on these projects.*

*NOTE: Those service providers submitting FORM 2 should discuss and provide documentation to justify 100% performance without the use of subconsultants (both majority and minority) per the statements of the form.*

**Minimum Compliance Requirements:** All written statements, signed forms, or intentions made by the Submitter shall become a part of the agreement between the Submitter and the City for performance of contracts. Failure to comply with any of these statements, signed forms, or intentions or with the minority business guidelines shall constitute a breach of the contract. A finding by the City that any information submitted (either prior to award of the contract or during the performance of the contract) is inaccurate, false, or incomplete, shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of the City whether to terminate the contract for breach or not. In determining whether a Submitter has made Good Faith Efforts, the City will evaluate all efforts made by the Submitter and will determine compliance in regard to quantity, intensity, and results of these efforts.



## Sub-Service Provider Utilization Plan FORM 1

(Must be included with submission if subcontracting any portion of work)

We \_\_\_\_\_, do certify that on the  
 (Company Name)  
 \_\_\_\_\_ we propose to expend a minimum of \_\_\_\_\_%  
 (Project Name)  
 of the total dollar amount of the contract with certified **MBE** firms and a minimum of \_\_\_\_\_% of the total  
 dollar amount with **WBE** firms.

Name, Address, & Phone Number of Sub-Service Provider	*MWBE Category	Work description	% of Work

\*Minority categories: Black, African American (**B**), Hispanic or Latino (**L**), Asian American (**A**) American Indian (**I**),  
 Female (**F**) Socially and Economically Disadvantaged (**S**) Disabled (**D**)

The undersigned intends to enter into a formal agreement with MWBE firms for work listed in this schedule conditional upon execution of a contract with the current scope proposed by the Owner.

The undersigned hereby certifies that he/she has read the terms of this agreement and is authorized to bind the submitter to the agreement herein set forth.

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

Name & Title of Authorized Representative \_\_\_\_\_

Signature of Authorized Representative \_\_\_\_\_

## Statement of Intent to Perform work without Sub-Service Providers FORM 2

(Must be included with submission if not subcontracting any portion of work)

We, \_\_\_\_\_, hereby certify that it is our  
intent to perform 100% of the work required for the \_\_\_\_\_ contract.  
(Project Name)

In making this certification, the Proposer states the following:

- i. It is a normal and customary practice of the Proposer to perform all elements of this type of contract with its own workforce and without the use of subconsultants. *The Proposer has substantiated this by providing documentation of at least three (3) other projects within the last five (5) years on which they have done so.*  
 Check box to indicate documentation is attached.
- ii. The Proposer has a valid business reason for self-performing all work on the Contract as opposed to subcontracting with a MWBE. The Proposal must describe the valid business reason for self-performing, and the Proposer must submit with its Bid or Proposal documentation sufficient to demonstrate to the Authority reasonable satisfaction the validity of such assertions.  
 Check box to indicate documentation is attached.
- iii. If it should become necessary to subcontract some portion of the work at a later date, the Proposer will notify the City and institute good faith efforts to comply with all requirements of the MWBE program in providing equal opportunities to MWBEs to subcontract the work. **The firm will also submit a Request to Change MWBE Participation Form (even if the final subconsultant is not MWBE).**

The undersigned hereby certifies that he or she has read the terms of this certification and is authorized to bind the Proposer in accordance herewith.

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

Name & Title of Authorized Representative \_\_\_\_\_

Signature of Authorized Representative \_\_\_\_\_

## Sub-Service Provider Utilization Commitment

(Must be submitted after contract negotiation and prior to Award)

We \_\_\_\_\_, do certify that on the  
 \_\_\_\_\_ we will expend a minimum of \_\_\_\_\_%  
 (Company Name) (Project Name)

of the total dollar amount of the contract with certified MBE firms and a minimum of \_\_\_\_\_% of the total dollar amount of the work with WBE.

Name, Address, & Phone Number of Sub-Service Provider	*MWBE Category	Work description	% of Work

\*Minority categories: Black, African American (B), Hispanic or Latino (L), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (S) Disabled (D)

The undersigned will enter into a formal agreement with MWBE firms for work listed in this schedule. Failure to fulfill this commitment may constitute a breach of contract.

The undersigned hereby certifies that he/she has read the terms of this commitment and is authorized to bind the submitter to the commitment herein set forth.

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

Name & Title of Authorized Representative \_\_\_\_\_

Signature of Authorized Representative \_\_\_\_\_



## REQUEST TO CHANGE MWBE PARTICIPATION

(Submit changes only if recipient of intent to award letter, continuing through project completion.)

Project: \_\_\_\_\_

Bidder or Prime Consultant: \_\_\_\_\_

Name & Title of Authorized Representative: \_\_\_\_\_

Address: \_\_\_\_\_ Phone #: \_\_\_\_\_

\_\_\_\_\_ Email Address: \_\_\_\_\_

Original Total Contract Amount: \$ \_\_\_\_\_

Total Contract Amount (including approved change orders or amendments): \$ \_\_\_\_\_

Will this request change the dollar amount of the contract?  Yes  No

If yes, give the total contract amount including change orders and proposed change: \$ \_\_\_\_\_

The proposed request will do the following to overall MWBE participation (please check one):

Increase  Decrease  No Change

Name of subconsultant: \_\_\_\_\_

Service provided: \_\_\_\_\_

### Proposed Action:

\_\_\_ Replace subconsultant

\_\_\_ Perform work in-house

For the above actions, you must provide one of the following reasons (Please check applicable reason):

\_\_\_ The listed MBE/WBE, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract.

\_\_\_ The listed MBE/WBE is bankrupt or insolvent.

\_\_\_ The listed MBE/WBE fails or refuses to perform his/her subcontract or furnish the listed materials.

\_\_\_ The work performed by the listed subconsultant is unsatisfactory according to industry standards and is not in accordance with the plans and specifications; or the subconsultant is substantially delaying or disrupting the progress of the work.

*If replacing subconsultant:*

Name of replacement subconsultant: \_\_\_\_\_

Is the subconsultant a certified MWBE?  Yes  No

*If no, please attach documentation of outreach efforts employed by the firm to utilize an MWBE.*

Dollar amount of original consultant contract \$ \_\_\_\_\_

Dollar amount of amended consultant contract \$ \_\_\_\_\_

**Other Proposed Action:**

Increase total dollar amount of work

Add as an additional subconsultant\*

Decrease total dollar amount of work

Other

Please describe reason for requested action: \_\_\_\_\_

*\*If adding additional subconsultant:*

Is the subconsultant a certified MWBE?  Yes  No

*If no, please attach documentation of outreach efforts employed by the firm to utilize an MWBE.*

Dollar amount of original consultant contract \$ \_\_\_\_\_

Dollar amount of amended consultant contract \$ \_\_\_\_\_

**Interoffice Use Only:**

Approval  Y  N

Date \_\_\_\_\_

Signature \_\_\_\_\_



**This page intentionally left blank**

Pay Application No. _____
Purchase Order No. _____

**Proof of Payment Certification**  
M/WBE Contractors, Suppliers, Service Providers

Project Name: \_\_\_\_\_

Prime Service Provider: \_\_\_\_\_

Current Contract Amount (including change orders): \$\_\_\_\_\_

Requested Payment Amount for this Period: \$\_\_\_\_\_

Is this the final payment? \_\_\_Yes \_\_\_No

<b>Firm Name</b>	<b>M/WBE Category*</b>	<b>Total Amount Paid from this Pay Request</b>	<b>Total Contract Amount</b>	<b>Total Amount Remaining</b>

\*Minority categories: Black, African American (**B**), Hispanic or Latino (**L**), Asian American (**A**) American Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**S**) Disabled (**D**)

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

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

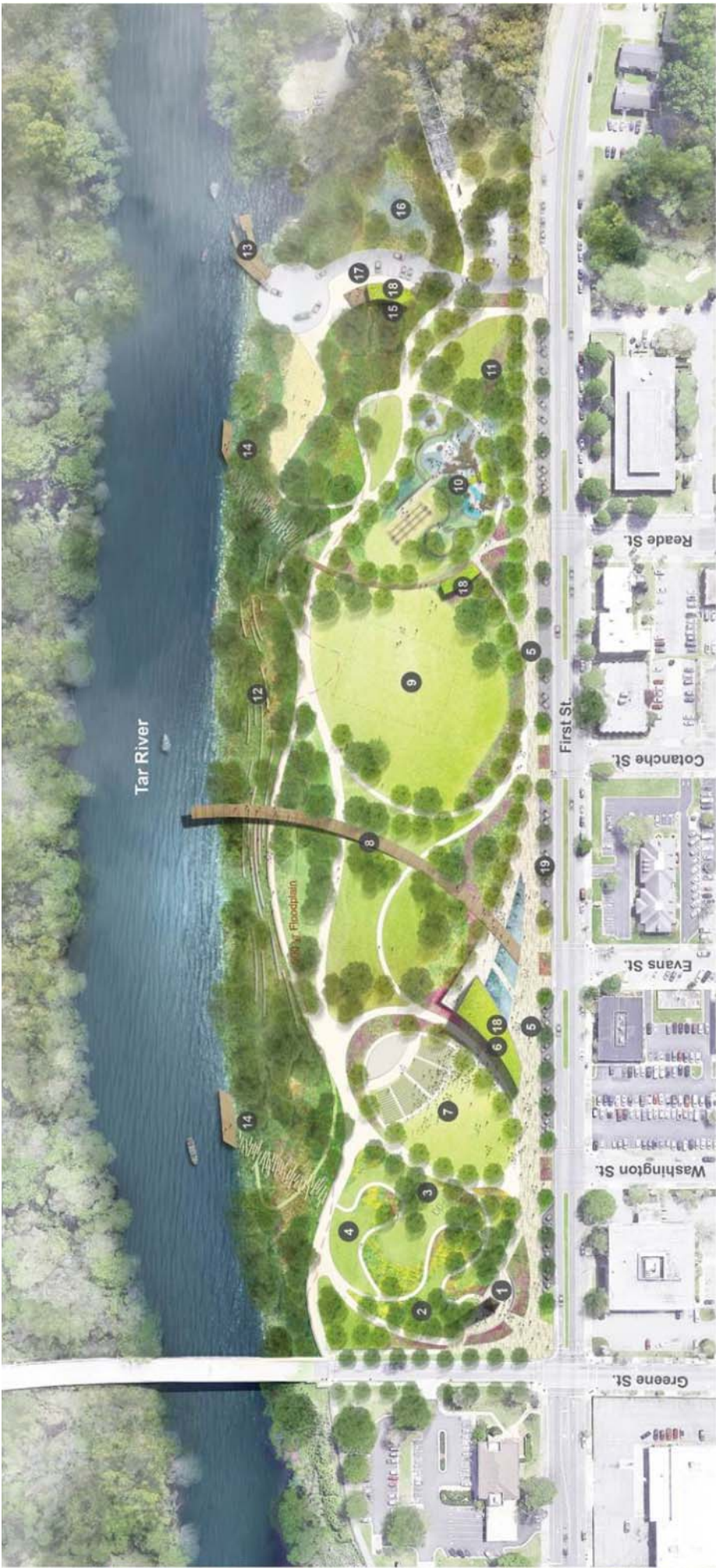
Name

\_\_\_\_\_

Title

\_\_\_\_\_

Signature



- 1. Sycamore Hill Missionary Baptist Church Commemorative Tower
- 2. Sycamore Tree Grove
- 3. Relocated Veterans Memorial
- 4. Relocated Sundial
- 5. 1st Street Promenade
- 6. Civic Building
- 7. Amphitheater + Event Lawn
- 8. Boardwalk + Promenade
- 9. Multi-Purpose Field
- 10. Playground
- 11. Future Playground Expansion
- 12. Active Living Shoreline
- 13. Kayak Launch + Fishing Pier
- 14. Dock + Viewing Platform
- 15. Kayak + Canoe Rental
- 16. Town Creek Wetland Restoration Area
- 17. Parking + Access Drive
- 18. Restrooms
- 19. On-Street Parking

# Standard Form of Agreement Between Owner and Architect

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The name of this Agreement is:

CONTRACT FOR PROFESSIONAL SERVICES RELATED TO THE TOWN COMMON PHASE I  
DESIGN DEVELOPMENT DOCUMENTS

This contract is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the City of Greenville ("City") and [name of firm] ("Designer"), *[indicate type of entity for instance:*

*A corporation organized and existing under the laws of [name of State];*

*A professional corporation organized and existing under the laws of [name of State];*

*A professional association organized and existing under the laws of [name of State];*

*A limited partnership organized under the laws of [name of State];*

*A sole proprietorship; or*

*A general partnership.*

*a corporation organized and existing under the laws of [name of State];*

Sec. 1. Background and Purpose. The goal of the Town Common Design Development Phase I Project is to develop refined plans, specifications, and cost analysis for the successful implementation of the Phase I Town Common Improvements. To achieve this goal, the City of Greenville is soliciting Statements of Qualifications (SOQ) for professional services from engineering, architectural and landscape architectural firms for the provision of design development documents that include a Phase I site schematic plan, 65% construction documents, technical specifications and a statement of probable cost. The project focuses on major improvements to approximately eight acres of the park and introduces new park elements that include a 4,500 sq. ft. building that houses a concession stand, canoe/kayak rental, restrooms and a mechanical equipment room. Additionally the project will include a commemoration tower and plaza, streetscape along 1<sup>st</sup> street, renovated boat ramp, signature sprayground, playground area, parking lot improvements and pedestrian circulation.

Sec. 2. Services and Scope to be Performed. The Designer shall prepare design development documents for the South Greenville Recreation Center with the following building program elements:

2.1. Schematic Phase: Facilitate design meetings with the City to develop design solutions based on the program elements in the Phase I improvements. The Designer shall confirm all existing conditions documentation with the city, and prepare a schematic design study that includes demolition, preliminary floor plans and site/civil plans. The Designer shall submit schematic plans for review, comment and approval by the City. A preliminary probable cost statement prepared by a third party estimator shall accompany the schematic drawings to ensure budget control.

2.2. Design Development: The Designer shall provide design development documents (65% completion of construction documents), that include boundary / topographical survey, demolition, site plan, civil plans, planting plan, architectural plans, plumbing plans, mechanical plans, electrical plans, sections and elevations, detail sheets, and other related disciplines required for the successful completion of the work. The final submittal of the design development documents shall include a statement of probable cost by a third party estimator to ensure budget control.

2.3. Contract Deliverables: The Designer shall submit three sets of design development for final review and comment by the City. In addition, the Designer shall provide the City with an electronic copy of the design development documents in AutoCAD LT (or a version that can be viewed in AutoCAD LT 2009) and an electronic copy of the technical specification in Microsoft Word.

2.4. Construction Budget: The Designer shall provide complete design development documents for Phase I of the renovations at Town Common and the north side of 1<sup>st</sup> Street that has a maximum price for construction of **\$3,065,000**. The construction price shall include materials, labor, equipment, permits, testing and construction inspection / administration.

Sec. 3. Complete Work without Extra Cost. The City shall pay the Designer for the Work as follows: [scope and compensation shall be discussed during the contract negotiation period with firm awarded the contract]

The City shall not be obligated to pay the Designer any payments, fees, expenses, or compensation other than those authorized by this section.

Sec. 4. Compensation. The City shall pay the Designer for the Work as follows:

The Designer shall be compensated on a monthly basis based on the completed services outlined below.

**PHASE**

Schematic Phase

Design Development

Final Contract Deliverables

Sec. 5. Designer's Billings to City. The Designer shall send invoices to the City on a monthly basis for the amounts to be paid pursuant to this contract. Each invoice shall document, to the reasonable satisfaction of the City: such information as may be reasonably requested by the City. Within twenty days after the City receives an invoice, the City shall send the Designer a check in payment for all undisputed amounts contained in the invoice.

Sec. 6. Insurance. The Designer shall not commence services under this Contract until the Designer has obtained all insurance required, and such insurance has been approved in writing by the City. Insurance required shall remain in effect through the term of this Contract. Failure to maintain the required insurance coverage shall constitute grounds for Contract termination. Insurance requirements are as follows:

**A. Public Liability and Property Damage:**

The Designer shall take out and maintain during the life of this Contract such Public Liability and Property Damage Insurance as shall protect from claims for damage for personal injury, including accidental death, as well as from claims for property damages which may arise from operations under this Contract, whether such operation be by himself or by any sub-consultant, or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall not be less than \$500,000 for injuries, subject to the same limits per person and \$1,000,000 for property damage or otherwise needed to protect the interests of the City. The City of Greenville shall be named as an additional insured on all coverage.

**B. Other Insurance:**

The Designer shall furnish such additional insurance as may be required by the General Statutes of North Carolina, including motor vehicle insurance in amounts not less than statutory limits.

**C. Workers Compensation.**

Meeting the statutory requirements of the State of North Carolina and Employers Liability - \$100,000 per accident limit, \$500,000 disease per policy limit, \$100,000 disease each employee limit.

**D. Cancellation:**

Each certificate of insurance shall bear the provision that the policy cannot be canceled in less than ten (10) days after mailing written notice to the assured of such cancellation.

**E. Proof of Carriages:**

The Designer shall furnish the City with satisfactory proof of carriage of the insurance required before written approval of such insurance is granted by the City.

**F. Sub-Consultants:**

If any part of the services to be performed under this Contract is sublet, the sub-Designer shall be required to meet all insurance requirements set forth in this Agreement. The parties stipulate that the Designer will maintain each type of insurance set forth above at a coverage level equal to the amount set forth above for such type of insurance. However, nothing contained herein shall relieve the Designer from meeting all insurance requirements or otherwise being responsible for the sub-consultant.

Sec. 7. Performance of Work by City. If the Designer fails to perform the Work in accordance with the schedule referred to in section 2 above, the City may, in its discretion, in order to bring the project closer to the schedule, perform or cause to be performed some or all of the Work, and doing so shall not waive any of the City's rights and remedies. Before doing so, the City shall give the Designer notice of its intention. The Designer shall reimburse the City for additional costs incurred by the City in exercising its right to perform or cause to be performed some or all of the Work pursuant to this section.

Attachment A – Compensation for Additional Services

In case of conflict between an attachment and the text of this Contract excluding the attachment, the text of this Contract shall control.

Sec. 12. Termination for Convenience ("TFC"). (a) *Procedure*. Without limiting any party's right to terminate for breach, the City may, without cause, and in its discretion, terminate this Contract for convenience by giving the Designer written notice that refers to this section. TFC shall be effective at the time indicated in the notice. The City Manager may terminate under this section without City Council action. (b) *Obligations*. Upon TFC, all obligations that are still executory on both sides are discharged except that any right based on prior breach or performance survives, and the indemnification provisions shall remain in force. At the time of TFC or as soon afterwards as is practical, and upon the City's payment to Designer of monies due, the Designer shall deliver to the City all project documents, including partly completed project documents, provided however that the City assumes all risk for use of the project documents after TFC, and the Designer shall be relieved of any liability whatsoever. In case of TFC, the Designer shall follow the City's instructions as to which Subcontracts to terminate. (c) *Payment*.



The City shall pay the Designer an equitable amount for the costs and charges that accrue because of the City's decisions with respect to the Subcontracts, but excluding profit for the Designer. Within 20 days after TFC, the City shall pay the Designer a one hundred dollar TFC fee and for all services performed except to the extent previously paid for. Services shall be paid for in accordance with the method (unit prices, hourly fees, etc.) to be used for payment had the services been completed except to the extent it would be inequitable to either party, and if services were to be paid for on a lump-sum basis, the City shall pay the part of the lump sum that reflects the percentage of completion attained for such services. The Designer shall not be entitled to any payment except as stated in this section because of TFC, whether on the basis of overhead, profit, damages, other economic loss, or otherwise.

Sec. 13. Notice. (a) All notices and other communications required or permitted by this Contract shall be in writing and shall be given either by personal delivery, fax, or certified United States mail, return receipt requested, addressed as follows:

To the City of Greenville:  
c/o Greenville Recreation and Parks Department  
P.O. Box 7207  
Greenville, NC 27835  
The fax number is (252) 329-4062

To the Designer:

(b) Change of Address. Date Notice Deemed Given. A change of address, fax number, or person to receive notice may be made by either party by notice given to the other party. Any notice or other communication under this Contract shall be deemed given at the time of actual delivery, if it is personally delivered or sent by fax. If the notice or other communication is sent by United States mail, it shall be deemed given upon the third calendar day following the day on which such notice or other communication is deposited with the United States Postal Service or upon actual delivery, whichever first occurs.

Sec. 14. Indemnification. The Designer shall, to the extent permitted under North Carolina law, indemnify and hold harmless the City and its officers and employees from and against all liabilities, damages, losses and costs that arise in any manner from, in connection with, or out of this Contract as a result of acts or omissions of the Designer or any sub-consultant or other persons employed or utilized by the Designer in the performance of this Contract except when such liabilities, damages, losses, and costs are proximately caused by or result from the negligence, in whole or in part, of the City or its independent Contractors, agents, officers or employees.



Sec. 15. Miscellaneous.

(a) Choice of Law and Forum. This Contract shall be deemed made in Pitt County, North Carolina. This Contract shall be governed by and construed in accordance with the law of North Carolina. The exclusive forum and venue for all actions arising out of this Contract shall be the North Carolina General Court of Justice, in Pitt County. Such actions shall neither be commenced in nor removed to federal court. This section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this section.

(b) Waiver. No action or failure to act by the City shall constitute a waiver of any of its rights or remedies that arise out of this Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

(c) Performance of Government Functions. Nothing contained in this Contract shall be deemed or construed so as to in any way stop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

(d) Severability. If any provision of this Contract shall be unenforceable, the remainder of this Contract shall be enforceable to the extent permitted by law.

(e) Assignment. Successors and Assigns. Without the City's written consent, the Designer shall not assign (which includes to delegate) any of its rights (including the right to payment) or duties that arise out of this Contract. The City Manager may consent to an assignment without action by the City Council. Unless the City otherwise agrees in writing, the Designer and all assignees shall be subject to all of the City's defenses and shall be liable for all of the Designer's duties that arise out of this Contract and all of the City's claims that arise out of this Contract. Without granting the Designer the right to assign, it is agreed that the duties of the Designer that arise out of this Contract shall be binding upon it and its heirs, personal representatives, successors, and assigns.

(f) Compliance with Law. Consistent with the Standard of Care set forth in this Contract, in performing all of the services, the Designer shall comply with all applicable law.

(g) City Policy. THE CITY OPPOSES DISCRIMINATION ON THE BASIS OF RACE AND SEX AND URGES ALL OF ITS DESIGNERS TO PROVIDE A FAIR OPPORTUNITY FOR MINORITIES AND WOMEN TO PARTICIPATE IN THEIR WORK FORCE AND AS SUBDESIGNERS AND VENDORS UNDER CITY CONTRACTS.

(h) EEO Provisions. During the performance of this Contract the Designer agrees as follows: (1) The Designer shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. The Designer shall take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Designer shall post in conspicuous places, available to employees and applicants for employment, notices setting forth these EEO provisions. (2) The Designer shall in all solicitations or advertisement for employees placed by or on behalf of the Designer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. (3) The Designer shall send a copy of the EEO provisions to each labor union or representative of workers with which it has a collective bargaining agreement or other Contract or understanding. (4) In the event of the Designer's noncompliance with these EEO provisions, the City may cancel, terminate, or suspend

this Contract, in whole or in part, and the City may declare the Designer ineligible for further City Contracts. (5) Unless exempted by the City Council of the City of Greenville, the Designer shall include these EEO provisions in every purchase order for goods to be used in performing this Contract and in every Subcontract related to this Contract so that these EEO provisions will be binding upon such sub-Designer and vendors.

(j) No Third Party Rights Created. This Contract is intended for the benefit of the City and the Designer and not any other person.

(k) Principles of Interpretation and Definitions. In this Contract, 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. 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. (2) References to a "Section" or "section" shall mean a section of this Contract. (3) "Contract" and "Agreement," whether or not capitalized, refer to this instrument. (4) Titles of sections, paragraphs, and articles are for convenience only, and shall not be construed to affect the meaning of this Contract. (5) "Duties" includes obligations. (6) The word "person" includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities. (7) The word "shall" is mandatory. (8) The word "day" means calendar day.

(l) Modifications. Entire Agreement. A modification of this Contract is not valid unless signed by both parties and otherwise in accordance with requirements of law. Further, a modification is not enforceable against the City unless the City Manager or a deputy or assistant City Manager signs it for the City. This Contract contains the entire agreement between the parties pertaining to the subject matter of this Contract. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this Contract.

(m) Standard of Care. In rendering its services under this Contract, the Designer shall exercise that degree of care which an Designer of ordinary skill and prudence practicing in Pitt County, North Carolina or similar communities would exercise under the same or similar circumstances.

(n) Hazardous Materials. Designer shall have no responsibility or liability for the discovery, presence, identification, evaluation, handling, removal or disposal of or exposure of persons to hazardous (or allegedly hazardous) materials in any form at the project, including but not limited to asbestos, mold, mildew, PCB or other toxic substances.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed in duplicate originals as of the day and year first above written.

CITY OF GREENVILLE:

[COMPANY NAME]

BY: \_\_\_\_\_  
Barbara Lipscomb  
City Manager

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

**APPROVED AS TO FORM:**

BY: \_\_\_\_\_  
David A. Holec, City Attorney

**PRE-AUDIT CERTIFICATION:**

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Bernita W. Demery, Director of Financial Services

Date \_\_\_\_\_

Account Number \_\_\_\_\_

Project Code (if applicable) \_\_\_\_\_