

**CONTRACT NUMBER:**

**EFFECTIVE DATE:** \_\_\_\_\_

**EXPIRATION DATE:** \_\_\_\_\_



**CONTRACT FOR PROFESSIONAL SERVICES**

**PROJECT:**

Northwest Huntersville Transportation Study

**OWNER:**

Town of Huntersville

**CONSULTANT:**

Gresham, Smith and Partners

Thru its affiliate Company GS&P/NC, P.C.

# **AGREEMENT**

Between

**GS&P/NC, P.C.**

and

**Town of Huntersville, North Carolina**

for

**PROFESSIONAL SERVICES**

**THIS AGREEMENT** is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between GS&P/NC, P.C. (CONSULTANT) which is qualified to do business in the State of North Carolina, with its local office located at 201 S. College Street, Charlotte, NC 28244, and **TOWN OF HUNTERSVILLE**, a North Carolina municipal corporation (CLIENT).

## **WITNESSETH:**

**WHEREAS**, the Consultant has been selected by the CLIENT to provide professional planning services to prepare the Northwest Huntersville Transportation Study as described in detail in attachment A, Scope of Services, and;

**WHEREAS**, the CONSULTANT agrees to provide planning services (SERVICES) in accordance with the negotiated and agreed upon scope of work that includes: transportation planning services including public engagement, data collection and mapping, developing and evaluating thoroughfare network and alignment alternatives, preparing preliminary functional designs and final report.

**NOW THEREFORE**, the parties agree as set forth below:

1. **Engagement of Consultant.** The CLIENT agrees to engage the CONSULTANT, and the CONSULTANT agrees to perform SERVICES as set forth herein.
2. **Area Covered.** All SERVICES provided under this AGREEMENT shall be performed within the Town of Huntersville, NC in coordination with surrounding areas.
3. **Scope of Work.** The CONSULTANT will provide SERVICES in order to identify alternative networks and alignments for thoroughfares in the project study area. SERVICES to be undertaken shall be those identified in Attachment A that defines in detail work activities that will be conducted and deliverables that will be provided to the CLIENT.

The CONSULTANT will perform or cause to be performed SERVICES to the standard of care of reasonable, qualified professionals performing the same or similar services, at the same time and locality, and under the same or similar conditions faced by the CONSULTANT in accordance with applicable laws, regulations, codes, and provisions of this AGREEMENT.

4. **Project Schedule.** Upon written Notice to Proceed, in coordination with the CLIENT, the CONSULTANT shall develop a final schedule for progress and completion dates of the SERVICES. The CONSULTANT shall endeavor to complete the SERVICES in an expeditious and timely manner.
5. **Kick-off Meeting.** The CLIENT and the CONSULTANT shall meet prior to the commencement of SERVICES, with a view to agreeing generally upon Project premises, schedules, number and types of employees to be used by the CONSULTANT for the purpose of facilitating performance of the SERVICES, general agreement on accounting and other procedures, the time of CLIENT's acceptance of the completed Project, and other related matters. It is understood that the CONSULTANT will not proceed with SERVICES until receipt of authorization to do so from the CLIENT.
6. **Obligation of CLIENT to CONSULTANT.** The work to be performed by the CLIENT will include:
  - A. Provide all existing planning data that is deemed necessary by the CLIENT and that is readily available to the CLIENT.
  - B. Provide all available prior studies, plans, programs of projects, and information or other data related to or in connection with the work associated with this AGREEMENT.
  - C. Cooperate with the CONSULTANT in making arrangements with public officials and with such individuals as the CONSULTANT may need to contact for advice, counsel, and information.
  - D. Upon receipt of draft materials from the CONSULTANT, the CLIENT will review and comment on deliverables and provide guidance and direction for completion of documentation in a timely manner, so as not to delay the overall agreed-upon project schedule.
  - E. The CONSULTANT shall be entitled to rely on the accuracy and completeness of services and information furnished by the CLIENT, and shall not be required to verify the accuracy or applicability of such information unless such verification is part of the SERVICES.

7. **Performance.** The CLIENT shall furnish written Notice to Proceed before CONSULTANT will begin performance of SERVICES.
- A. The CONSULTANT will begin work within five (5) days after receipt of the written Notice to Proceed from the CLIENT.
  - B. The CONSULTANT will furnish progress reports on all work, which shall accompany monthly invoices, indicating work that has been completed to date as well as the schedule for completion of remaining work.
  - C. AGREEMENT TERM: The period within which all SERVICES shall be completed shall be 12 months from date of execution; however, such term may be extended beyond that time in accordance with the provisions in paragraph 15, or it may be renewed for an additional period that is agreed to in writing by the Parties.
8. **Compensation.** The total compensation to the CONSULTANT for services provided for when performed under this AGREEMENT will be as follows:
- A. Compensation to the CONSULTANT will be (1) a lump sum amount of \$ 99,973 that includes all costs and expenses,
  - B. For any additional services that may be requested by the CLIENT, see Section 15.
  - C. An annual adjustment to the Labor Rate for all employees of the CONSULTANT which may perform work under this AGREEMENT, such as annual pay increases, and/or promotions which may effect this AGREEMENT shall be furnished to the CLIENT each year this AGREEMENT is in effect.
9. **Method of Payment.** The CONSULTANT shall be paid the stated compensation at the time work is completed under terms of this AGREEMENT, subject to CLIENT approval of monthly progress reports and invoices. The CLIENT shall remit payment to the CONSULTANT within or by the 30th day following the submittal of invoices.

The CONSULTANT shall submit the number of copies of each invoice requested by the CLIENT for payment, including the progress report as described above, to the CLIENT.

In the event the CLIENT disputes any invoice item, the CLIENT must give the CONSULTANT written notice of such disputed item within ten (10) days after receipt of invoice and shall pay to the CONSULTANT all undisputed portions of the invoice according to the provisions hereof.

10. **Compliance with Federal, State, and Local Laws.** The CONSULTANT acknowledges that this project is funded in part with Federal Highway Administration planning funds. In performance of its obligations pursuant to this AGREEMENT, the CONSULTANT shall comply with applicable provisions of federal, state, and local laws. Excerpts from the most recent version of the City of Charlotte's federal funded project supplemental conditions are included as Attachment C and made part of this contract.
  
11. **Personnel.** The CONSULTANT will secure at his own expense, all personnel required to perform the SERVICES under this AGREEMENT. Such personnel shall not be employees of nor have any contractual relations with the CLIENT. All services required hereunder will be performed by the CONSULTANT or under his supervision, and all personnel engaged in the work shall be qualified and shall be authorized, if applicable, under state and local law to perform such services. None of the work or services covered by this AGREEMENT shall be subcontracted without the prior written approval of the CLIENT.
  
12. **Subconsultants.** The CONSULTANT may, upon approval of the CLIENT, and at the expense of the CONSULTANT, secure other applicable professional personnel as subconsultants to the CONSULTANT.
  
13. **Termination for Cause.** Either party may terminate this AGREEMENT upon not less than seven (7) days' written notice should the other party fail substantially to perform in accordance with the terms of this AGREEMENT through no fault of the party initiating the termination. Prior to termination, the CLIENT shall notify the CONSULTANT in writing of the specific problem(s), and provide a thirty (30) day remedy period, during which time the CONSULTANT may provide evidence of an earnest effort to resolve the problem(s). If, after thirty (30) days, the CLIENT is not satisfied with the CONSULTANT's efforts to remedy the situation, then the CLIENT may give written notice of termination to the CONSULTANT specifying the effective date thereof, at least five (5) days before the effective date of such termination. In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the CONSULTANT shall be delivered to the CLIENT upon the CLIENT's payment to CONSULTANT of just and equitable compensation for all satisfactory services completed. The CONSULTANT shall have no liability for any damage arising out of the CLIENT's use of any unfinished documents and materials created for the Project, including those delivered to the CLIENT in accordance with this paragraph 13 or paragraph 14.

If the CLIENT fails to make payments to the CONSULTANT within sixty (60) days of invoice dates, such failure shall be considered substantial nonperformance and cause for termination, or at CONSULTANT's option, cause for suspension of performance of services. If the CONSULTANT elects to suspend services, the CONSULTANT shall give seven (7) days' written notice to the CLIENT before

suspending services. Before resuming services, the CONSULTANT shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the CONSULTANT's services. The CONSULTANT shall have no liability to the CLIENT for delay or damage caused the CLIENT because of such suspension of services, and the CONSULTANT's compensation for the remaining services and the time schedules shall be equitably adjusted.

14. **Termination for Convenience.** The CLIENT may terminate this AGREEMENT at any time for its convenience and without cause by giving written notice to the CONSULTANT of such termination and specifying the effective date thereof, at least thirty (30) business days before the effective date of such termination. In that event, all finished or unfinished documents and other materials as described herein, shall be delivered to the CLIENT. If the AGREEMENT is terminated by the CLIENT as provided herein, and prior to the delivery of documents and materials created for the Project, the CONSULTANT shall be paid for all services performed prior to termination and shall be reimbursed for actual out-of-pocket expenses incurred (less payments of compensation previously made) which are covered by this AGREEMENT, plus any other expenses directly attributable to termination for which the CONSULTANT is not otherwise compensated, up until the effective date of the termination of the AGREEMENT.
15. **Changes.** If, during the term of this AGREEMENT, the CLIENT decides that additional services are required other than those services specified in this AGREEMENT, or that changes in the SERVICES become necessary, the CLIENT may, in writing, request the CONSULTANT perform such additional services or make such changes, and if the CONSULTANT is of the opinion that such changes and additional services are beyond the scope of this AGREEMENT, the CONSULTANT shall promptly notify the CLIENT in writing of such fact. However, CONSULTANT must receive written approval from the CLIENT of any such changed or additional services and the additional compensation required prior to performing such changed or additional services.
  - A. The terms "*in writing*" and "*written approval*" may be in the form of normal correspondence such as letters or email, approved by the CONSULTANT and the CLIENT. Additional terms for completion of this AGREEMENT shall be given, and payment for the extra work will be negotiated and added as an amendment to this AGREEMENT.
  - B. In the event that the CONSULTANT becomes aware that additional work or unavoidable delays prevent completion of the services to be performed under this AGREEMENT in the time specified, and in accordance with the standard of care identified herein, the CONSULTANT will provide written application to the CLIENT for an appropriate extension of the schedule for performance of the delayed or additional services. Approval of such an extension shall not be unreasonably withheld.

16. **Equal Rights Provisions.** During the performance of this AGREEMENT, the CONSULTANT agrees as follows:
- A. *Compliance with Regulations.* The CONSULTANT will comply with U.S. Code and Regulations of U.S. agencies of government relative to nondiscrimination in federally-assigned programs, if applicable.
  - B. *Nondiscrimination.* The CONSULTANT, with regard to the work performed by it after award and prior to completion of work associated with this AGREEMENT, will not discriminate on the ground of race, color, religion, sex, or national origin in the selection and retention of subconsultants, including procurement of materials and leases of equipment.
  - C. *Solicitations.* In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subconsultant, supplier, or lessor shall be notified by the CONSULTANT of the CONSULTANT's obligation under this AGREEMENT and any applicable regulations relative to nondiscrimination on the ground of race, color, religion, sex, or national origin.
17. **Assignability.** Neither the CONSULTANT nor the CLIENT shall assign this AGREEMENT without the written consent of the other.
18. **Interest of Consultant.** The CONSULTANT warrants that he has not employed or retained any company or person, to solicit or secure this AGREEMENT, and, that it has not paid or agreed to pay any company or person, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this AGREEMENT. For breach or violation of this warranty, the CLIENT shall have the right to annul this AGREEMENT without liability or, in its discretion to deduct from the AGREEMENT price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.
19. **Findings Confidential.** Any reports, information, data, etc. given to or prepared or assembled by the CONSULTANT under this AGREEMENT which the CLIENT requests to be kept confidential shall not be made available to any individual or organization by the CONSULTANT without the prior written approval of the CLIENT. Notwithstanding anything contained herein, either party may disclose information that is required to be disclosed in accordance with the order or decree of a court of competent jurisdiction or by applicable law or regulation, provided that the party making the disclosure agrees to give the other party adequate advance notice prior to disclosure in order that it may seek a protective order or other appropriate relief.

20. **Audits and Inspections.** During the AGREEMENT period, records pertaining to the costs incurred by the CONSULTANT in performance of work activities described herein shall be available to the CLIENT at mutually convenient times.
21. **Ownership of Documents.** Copies of all completed plans, specifications, and related documents, with the exception of any proprietary materials, agreements, or methods so declared by CONSULTANT that are created under this AGREEMENT shall become the property of the CLIENT when submitted by the CONSULTANT to the CLIENT. CONSULTANT shall exclusively own all right, title and interest in all of CONSULTANT's prior or current technology, and CONSULTANT's prior or current intellectual property rights, processes, source code, programs, and the like, which are or have been developed by CONSULTANT independently of and not arising from CONSULTANT's performance of the services. Unless specifically indicated on the documents or materials by the CONSULTANT, none of the documents or materials are intended or represented by CONSULTANT to be suitable for reuse by CLIENT or others on extensions of the project or on any other project. Any reuse or modification of the documents or materials without written verification or adaptation by CONSULTANT for the specific purpose intended will be at CLIENT's sole risk and without liability or legal exposure to CONSULTANT. The CLIENT shall indemnify and hold CONSULTANT harmless and without liability for claims and damages that may arise out of such reuse or modification of the documents or materials.
22. **Intellectual Property Use and Ownership.** Both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under this AGREEMENT.
- A. *Title and Ownership Rights.* The CLIENT shall retain title to and all ownership rights in all data and content, including but not limited to geographic information systems, databases, maps, multimedia or images (graphics, audio and video), text and the like provided by the CLIENT (the *content*), but grants CONSULTANT the right to access and use content for the purpose of complying with its obligations under this AGREEMENT and any applicable statement of work.
- B. *Mutual Use.* Unless otherwise specified in a statement of work, both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use and authorize others to use, copyrightable property created under this AGREEMENT, including all deliverables and other materials, products, modifications developed or prepared for the CLIENT by CONSULTANT under this AGREEMENT.
- C. *Ownership of CONSULTANT Information.* Techniques, sub-routines, algorithms and methods or rights thereto owned by CONSULTANT at the time this AGREEMENT is executed and employed by CONSULTANT in connection with the



services provided to the CLIENT (the *consultant information*) shall be and remain the property of CONSULTANT.

D. *Delay of Publication.* CONSULTANT shall furnish CLIENT copies of any proposed publication or presentation at least ten (10) days before submission of such proposed publication or presentation. At the request of the CLIENT, information deemed confidential by CLIENT shall be deleted.

E. *Confidential Information.* During the term and any subsequent extension of this AGREEMENT, and for a period of two (2) years thereafter, the parties shall not use or disclose to any third party without prior written consent of the other party, any confidential information of the other party. For the purposes of this AGREEMENT, *Confidential Information* means all information which is disclosed or provided to one party to this AGREEMENT (Receiving Party) by the other party (Disclosing Party), whether in written form, or in oral or electronic form which is reduced to written form, and is designated in writing as confidential. The Receiving Party shall have no obligations with respect to any portion of such Confidential Information which:

- (1) Is, or later becomes, generally available to the public by use, publication, or the like, through no fault of the Receiving Party; or
- (2) Is obtained without an obligation of confidentiality from a third party who had the legal right to disclose the same to the Receiving Party; or
- (3) The Receiving Party already possesses, as evidenced by its written records, pre-dating receipt thereof from the Disclosing Party; or
- (4) The Receiving Party independently develops without reference to Confidential Information of the Disclosing Party; or
- (5) Is required to be disclosed by law.

During the term of the AGREEMENT, the parties will not disclose to each other any information which is confidential or proprietary to the Disclosing Party or any third party: (1) except as is necessary for the Disclosing Party to fulfill its obligations under this AGREEMENT; or (2) unless the Receiving Party has agreed in writing to accept such disclosure. All other communications between the parties shall be on a non-confidential basis.

23. **Disadvantaged Business Enterprise.** In connection with the performance of this AGREEMENT, the CONSULTANT will cooperate with the CLIENT in meeting its commitments and goals with regard to the maximum utilization of disadvantaged business enterprises (DBEs) and will endeavor to see that DBEs shall have the

maximum practicable opportunity to compete for subcontract work under this AGREEMENT.

24. **Force Majeure.** Neither the CLIENT nor the CONSULTANT will be in violation of this contractual agreement if it is prevented from performing any of its obligations because of strikes, boycotts, labor disputes, embargoes, acts of God, or acts of a public enemy, or acts of superior governmental authority, unusual weather conditions, floods, riots, rebellion, or sabotage. Notice of the delay and an estimate of the length of the delay will be given immediately upon the occurrence of the event.

25. **Responsibility for Claims and Liability.** CONSULTANT shall provide the following insurance coverage:

- A. Commercial General Liability insurance covering bodily injury, personal injury, products and completed operations, and broad form property damage coverage in the amount of one million dollars (\$1,000,000) per occurrence/annual aggregate;
- B. Professional liability insurance in the amount of one million dollars (\$1,000,000) per claim/ annual aggregate;
- C. Auto liability coverage equal to one million dollars (\$1,000,000) combined single limit; and
- D. Worker's compensation coverage at the statutory limits.

Proof of insurance coverage (Certificate of Insurance) shall be provided prior to commencing services and the CLIENT shall be named as certificate holder on all CONSULTANT's certificates of insurance. To the extent damage to property is covered by property insurance, the CLIENT and CONSULTANT waive all rights against each other.

CONSULTANT's liability to the CLIENT for any damages arising out of the performance of SERVICES shall be limited to the amounts of insurance coverage required by this AGREEMENT.

26. **Consequential Damages.** The CONSULTANT and CLIENT waive consequential damages for claims, disputes or other matters in question arising out of or relating to this AGREEMENT. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this AGREEMENT.

27. **Dispute Resolution.** The CLIENT and the CONSULTANT shall endeavor to resolve all issues between them first through direct good faith discussion and negotiation; to be followed, if unsuccessful, by non-binding mediation. The parties shall share equally any filing fees and the fee of a mutually acceptable mediator. The mediation

shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. If the parties still have not resolved the dispute, after a period of sixty (60) days following the filing for mediation, either party may initiate proceedings in a court of competent jurisdiction. The sole venue for any litigation hereunder shall be a State or Federal court in Mecklenburg County, North Carolina.

- 28. **Third Party Beneficiaries.** Nothing contained in this AGREEMENT shall create a contractual relationship with or a cause of action in favor of a third party against either the CONSULTANT or the CLIENT.
- 29. **Divestment List.** Consultant is not listed on the Final Divestment List (“Divestment List”) created by the North Carolina State Treasurer pursuant to Article 6E, N.C.G.S. §147-86.55, et seq, (“Iran Divestment Act of 2015”). Consultant shall not utilize in the performance of its obligations under this AGREEMENT any contractor or subcontractor listed on the Divestment List, nor assign this contract to any assignee on the Divestment List.
- 30. **E-Verify.** Consultant shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes of North Carolina. Further, if Consultant utilizes a subcontractor, Consultant shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes of North Carolina.
- 31. **Applicable Law.** This AGREEMENT shall be governed by and construed in accordance with the laws of the State of North Carolina.

**IN WITNESS WHEREOF**, the parties hereto have caused this AGREEMENT to be executed by the officers, officials, and persons duly authorized and the AGREEMENT is deemed to be effective on the date herein stated.

**GS&P/NC, P.C.  
201 South College Street  
Suite 110  
Charlotte, NC 28244**

By:

\_\_\_\_\_Mary N. Clayton\_\_\_\_\_

Name:

\_\_\_\_\_Senior Vice President\_\_\_\_\_

Title:

\_\_\_\_\_  
Signature

**Town of Huntersville  
Post Office Box 664  
Huntersville, NC 28070**

By:

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

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Signature

This agreement constitutes the entire agreement between the parties hereto and supersedes any oral or written understandings, proposals, or communications heretofore entered into by or on account of the parties and may not be changed, modified or amended except in writing signed by the parties hereto.

# ATTACHMENT A

## Northwest Huntersville Transportation Study Scope of Services

The Northwest Huntersville Transportation Study will assist in the analysis of and defining alignments for the transportation network in the vicinity of NC 73 and Beatties Ford Road. The project will focus on the thoroughfare extensions of Birkdale Commons Parkway, Hugh Torance Parkway, and Ervin Cook Road. The study will include mapping, public involvement, analysis and support in the decision making process to identify the appropriate alignments and cross sections for the thoroughfare network within the study area. Following the selection of the preferred alignments by the Town of Huntersville and the CRTPO, functional designs will be completed for those alignments for the purposes of right-of-way protection. Specific tasks to complete the study are:

### **Task 1: Project Mobilization**

- The GS&P team will participate in a project kick off meeting with Huntersville staff and the Project Advisory Team appointed by the Town. At this meeting we will confirm the project approach, public engagement strategy and identify any special areas of emphasis for the study. As part of the meeting activities, GS&P will visit the study area to perform a field review of existing conditions.

Deliverable: Meeting materials and meeting summary

### **Task 2: Community Engagement Plan and Program**

- Plan and conduct two engagement forums, gathering public input on transportation priorities and options. The Town will secure adequate meeting space for the open houses, however, GSP will be responsible for meeting room set up and break down.
- Coordinate, develop, setup and test MetroQuest public involvement software and have up to three (3) rounds of edits with the Town. MetroQuest technology will be used at both open house events. The survey will be open and available on the Town's project website for up to four weeks after each open house.
- Develop draft open house boards and have up to two (2) rounds of edits with Town.
- Coordinate printing open house boards and all public engagement materials. Boards and materials to be printed by GS&P.
- Develop open house marketing plan and marketing materials to help advertise the event (e.g., flyer, email template, news release).
- Develop open house feedback form.
- Compile feedback form data collected at the open house.
- Draft a brief summary report after each open house.
- Prepare and maintain webpage to host all the project information to communicate to the general public, webpage to be hosted on town's website. GSP will provide project website components, including text and graphics, maps, etc., however, the Town's website will be uploaded and edited by Town staff.
- Prepare materials for up to two email communications with public meeting attendees. The Town will be responsible for sending out communications materials and maintaining the distribution list.

Deliverable: Community Engagement Plan and Program, Summary findings of Public Engagement events/meetings

### **Task 3 & 4: Data Collection, Environmental Screening and Base Mapping**

Baseline data will be gathered from existing sources, primarily the Town of Huntersville, Mecklenburg County, state agencies, and environmental screening, to develop a project base map. No additional survey work will be done onsite, however, the GS&P Team will provide site verification of land use and other layers visible through a site visit. This information will help to inform the alignment alternatives in Task 5. Base maps will be prepared in conformance with the RFP and shall include the following layers:

- Wetland Areas
- Known and planned public utility easements and installations

- The 1-foot floodway/land use mapping encroachment floodway line and the ultimate 100-year floodplain
- Areas of ecological significance based on the Mecklenburg County Natural Heritage Inventory or identified by the Catawba Lands Conservancy or Trust for Public Lands
- Any known locations of threatened or endangered species
- Locations of existing or planned cemeteries, churches, schools, parks, greenways, recreational facilities and other institutional or cultural uses
- Locations of national, state and locally identified sites of historical or archaeological significance
- Topography at 2' intervals
- Locations of known hazardous waste sites
- Landfill or stump burial sites, operating or closed
- Current land use
- Existing traffic volumes and design year (2040) forecasts from the regional travel demand model
- Recently performed traffic studies or traffic counts including NC73 project forecasts
- Approved developments in and around the study area
- All known EJ populations
- Other layers as mutually determined

Deliverable: Base mapping of existing conditions and technical memo on environmental screening

#### **Task 5: Review/Present Existing Information, Feedback and Develop Alternative Alignments**

At the beginning of this task, the GS&P team, along with the Town of Huntersville staff, will hold the first community engagement open house. Base maps developed in the previous task showing existing conditions, environmental constraints and existing plans will be presented. The purpose of this workshop is to inform the public that the study is occurring and to present information regarding the scope and goals of the study. Concerns and desires expressed by area residents, property and business owners will be considered heavily when identifying alternatives. Specific tasks include:

- Present potential evaluation criteria and seek public comments
- Allow breakout groups at meeting to draw alignments on map
- Use public input and technical data to develop up to 3 Alternative networks and alignments for thoroughfares will be drawn
- Alternatives will be vetted with the Project Advisory team
- Alternatives will include provisions for Bike and pedestrian facilities as needed

Deliverable: Summary of open house input, mapping of up to 3 alternative networks and alignments

#### **Task 6: Evaluate Alternatives**

Conceptual cross sections and preliminary design standards will be determined based on facility type for each alternative. Bicycle and pedestrian facilities will be included as recommended. This effort will follow NCDOT Roadway Design Guidelines as well as other standards provided by Huntersville. Minimum AASTHO design standards will be maintained unless design exceptions are noted otherwise. Specific tasks in this phase include:

- Planning level cost estimates developed for each alternative
- Evaluation matrices to be prepared illustrating relevant data, as mutually determined by the GS&P Team and Project Advisory Team, for each alternative
- Second open house will be held to present the alternatives being considered
- The evaluation matrices will be presented at the open house and posted on the project website to communicate costs, impacts and pros and cons of each alternative
- Recommended network and alignments will be determined and presented to Town Board/Planning Board at a Work Session
- Summary report will be prepared for presentation to TCC, Town of Huntersville and CRTPO.

Deliverable: Planning level cost estimates; evaluation matrices; second open house and meeting summary

### **Task 7: Prepare Functional Designs**

Once the Town recommends and the CRTPO has made their final decision on the transportation system in the study area that includes Birkdale Commons Parkway, Hugh Torance Parkway and Ervin Cook Road, the GS&P team will begin functional design of those facilities. Specific tasks include:

- A high level capacity analysis will be conducted for the network in the area to identify intersection treatments with a high likelihood of functioning under future conditions.
- Plan and profile sheets will be prepared for the adopted alignments and will include a station centerline with horizontal and vertical curve data, proposed construction and rights of way limits, storm drainage (54" diameter or larger) and bridge crossings.
- Plan drawings will be prepared using the most current version of Microstation and GEOPAK; translate to AutoCAD and Shapefiles format.

Deliverable: Plan and profile sheets of adopted network alignments

### **Task 8: Prepare Final Northwest Huntersville Transportation Study Report**

A final report document will be prepared in this task. The study process will be fully documented including the input received from the public, staff, and technical and governing boards. The final report will include all necessary data, analyses, and mapping to accurately convey the justifications for the Plan's conclusions and recommendations. The final report will be written in a user-friendly manner to summarize the study process and findings with technical information and public meeting documentation as appendices. GS&P will provide the Town of Huntersville and CRTPO the report, maps and any informational tools in hardcopy and electronic format.

Deliverable: 5 hard copies of Final Report; digital files for mapping and final report

### **Communication, Review & Approval:**

GS&P will serve as project manager and in the project manager/process management capacity, will:

- Set up regular communication with Town staff, typically bi-weekly coordination calls.
- Develop a detailed project schedule with milestones for approval by the Town.
- Schedule, prepare for, and participate in meetings (i.e., calls and/or in-person) with Project Team, comprised of Town staff and GS&P project team staff.
- Develop a technical team meeting schedule for approval by the Town.
- Coordinate with NCDOT and the NC 73 project in particular throughout the project
- Schedule, prepare for, and participate in meetings (i.e., calls and/or in-person) with the project technical team.
- Drafting, finalizing, and distributing agendas for project team and technical team meetings.
- Updating project status report (meeting summary in table format) after meetings and distributing to project team and technical team.
- Coordinate with the Town to schedule public engagement events, logistics, and staffing coordination.
- Organize event management during the week and day of the engagement events.
- Supply content for online presence for this project.
- Meeting with Technical Coordinating Committee (TCC), Town Council, and CRTPO to update them on project status.
- Monitoring the project budget and monthly invoicing. Each invoice will include a progress report showing status of each tasks.
- Complete project by December 31, 2017 given no delays in approval process

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## **ATTACHMENT B: SUPPLEMENTAL CONDITIONS, FEDERAL FUNDED PROJECT**

*This project is funded in part with USDOT Federal Highway Administration planning funds and is thus subject to applicable federal laws, regulations, policies, and related administrative practices. The following is excerpted from the most recent City of Charlotte contract template governing federal funded projects and incorporates that document's formatting.*

### **32 SUPPLEMENTARY CONDITIONS – UNITED STATES DEPARTMENT OF TRANSPORTATION (USDOT) - FEDERAL HIGHWAY ADMINISTRATION (FHWA) REQUIREMENTS**

The Services to be performed under the contract will be financed in whole or in part with federal funding. As such, federal laws, regulations, policies, and related administrative practices apply to the contract. The most recent of such federal requirements, including any amendments made after the execution of the contract, shall govern the contract, unless the federal government determines otherwise. This Section identifies the federal requirements that are applicable to this contract. The company is responsible for complying with all applicable provisions.

To the extent applicable, the federal requirements contained in the most recent version of the Federal Highway Administration (FHWA) Master Agreement, as amended (the "Master Agreement"), including any certifications and contractual provisions required by any federal statutes, or regulations referenced therein, to be included in this contract, are deemed incorporated into the contract by reference and shall be incorporated into any sub-agreement or subcontract executed by the company pursuant to its obligations under the contract. The company and its subcontractors, if any, hereby represent and covenant that they have complied and shall comply in the future with the applicable provisions of the Master Agreement then in effect and with all applicable federal, state, and local laws, regulations, and rules and local policies and procedures, as amended from time to time, relating to the Services to be performed under the contract. Notwithstanding anything to the contrary herein, all FHWA mandated terms shall be deemed to control in the event of a conflict with other applicable provisions contained in the contract. The company shall not perform any act, fail to perform any act, or refuse to comply with any Town requests, which would cause the Town to be in violation of the FHWA terms and conditions.

#### **32.1 ENERGY CONSERVATION**

42 U.S.C. § 6321, et seq., 49 CFR 18

The company agrees to comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. § 6321, et seq. This requirement extends to all third party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract.

#### **32.2 CLEAN WATER**

33 U.S.C. § 1251

The company agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, et seq. The company agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to FHWA and the appropriate Environmental Protection

Agency (EPA) Regional Office. This requirement extends to all third party contractors and their contracts; this clause shall be included in all subcontracts in excess of one hundred thousand dollars (\$100,000) executed in furtherance of this Contract.

### **32.3 CLEAN AIR**

42 U.S.C. § 7401, et seq., 40 CFR § 31.36, 49 CFR 18

The company agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401, et seq. The company agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to FHWA and the appropriate EPA Regional Office. This requirement extends to all third party contractors and their contracts; this clause shall be included in all subcontracts in excess of one hundred thousand dollars (\$100,000) executed in furtherance of this contract.

### **32.4 RECYCLED PRODUCTS**

42 U.S.C. § 6962, 40 CFR 247, Executive Order No. 12873

The company agrees to comply with all requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. § 6962, including, but not limited to, the regulatory provisions of 40 CFR 247 and Executive Order No. 12873, as they apply to the procurement of the items designated in Part B of 40 CFR 247.

This requirement extends to all third party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract.

### **32.5 CIVIL RIGHTS REQUIREMENTS**

29 U.S.C. § 623; 42 U.S.C. §§ 2000, 6102, 12112, 12132; 49 U.S.C. § 5332; 29 CFR 1630; 41 CFR 60 et seq.; 23 CFR 200; 49 CFR 21; 23 CFR § 200.9

The following requirements apply to the contract:

Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d; Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102; Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132; and federal law at 49 U.S.C. § 5332, the company agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the company agrees to comply with applicable federal implementing regulations and other implementing requirements FHWA may issue, as applicable.

Equal Employment Opportunity. The following Equal Employment Opportunity requirements apply to the contract:

Race, Color, Creed, National Origin, Sex - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and federal laws at 49 U.S.C. § 5332, the company agrees to comply with all applicable equal employment opportunity requirements of United States Department of Labor (USDOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity,

Department of Labor," 41 CFR 60, et seq., (which implements Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of this Project. The company agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the company agrees to comply with any implementing requirements FHWA may issue, as applicable.

Age - In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, and federal law at 49 U.S.C. § 5332, the company agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the company agrees to comply with any implementing requirements FHWA may issue, as applicable.

Disability – In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 USC § 12112, the company agrees that it will comply with the requirements of United States Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR 1630, pertaining to employment of persons with disabilities. In addition, the company agrees to comply with any implementing requirements FHWA may issue, as applicable.

These requirements extend to all third party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract.

### **32.6 DISADVANTAGED BUSINESS ENTERPRISES**

49 CFR 26

The contract is subject to the requirements of 49 CFR 26, Participation by Disadvantaged Business Enterprises (DBE) in Department of Highway Administration Financial Assistance Programs.

The company shall not discriminate on the basis of race, color, national origin, or sex in the performance of the contract. The company shall carry out applicable requirements of 49 CFR 26 in the award and administration of the contract. Failure by the company to carry out these requirements is a material breach of the contract, which may result in the termination of the contract or such other remedy as the Town deems appropriate. Each subcontract the company signs with any subcontractors must include the assurance in this paragraph (see 49 CFR § 26.13(b)).

The company is required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR § 26.55. Award of the contract is conditioned upon the submission of the following, concurrent with and accompanying an initial proposal prior to award: (i) the names and addresses of DBE companies that will participate in the contract; (ii) a description of the work each DBE will perform; (iii) the dollar amount of the participation of each DBE company participating; (iv) written documentation of the company's commitment to use DBE subcontractors whose participation it submits to meet the contract goal; (v) written confirmation from the DBE that it is participating in the contract as provided in the company's commitment; and (vi) if

the contract goal is not met, evidence of good faith efforts to do so must be provided. The company shall present the information required above as a matter of responsiveness (see 49 CFR § 26.53(3)).

The company is required to pay its subcontractors performing work related to the contract for satisfactory performance of that work no later than seven (7) days after the company's receipt of payment for that work from the Town. In addition, the company is required to return any retainage payments to subcontractors within thirty (30) days after incremental acceptance of subcontractors' work by the Town.

The company must promptly notify the Town whenever a DBE subcontractor performing work related to the contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The company may not terminate any DBE subcontractors and perform that work through its own forces or those of an affiliate without prior written consent of the Town.

### **32.7 ACCESS TO RECORDS AND REPORTS**

49 U.S.C. § 5325(g), 49 CFR § 18.36(i), 49 CFR § 18.42

The Town is not a State but a local government, and is the FHWA recipient or a sub-grantee of the FHWA recipient, in accordance with 49 CFR §18.42. As applicable, the company agrees to provide the Town, the FHWA Administrator, the Comptroller General of the United States, or any of their authorized representatives, access to any books, documents, papers, and records of the company which are directly pertinent to the contract for the purposes of making audits, examinations, excerpts, and transcriptions. The company also agrees to provide the FHWA Administrator or his authorized representatives, including any PMO company, access to the company's records and construction sites pertaining to a major capital project, which is receiving federal financial assistance.

As applicable, the company shall also make available records related to the contract to the Town, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection. The company agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The company agrees to maintain all books, records, accounts and reports required under the contract for a period of not less than three years after the date of termination or expiration of the contract, except in the event of litigation or settlement of claims arising from the performance of the contract, in which case the company agrees to maintain same until the Town, the FHWA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims, or exceptions related thereto, 49 CFR § 18.42.

This requirement extends to all third party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract.

### **32.8 PRIVACY ACT**

5 U.S.C. § 552

The following requirements apply to the company and its employees that administer any system of records on behalf of the federal government under any contract:

The company agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552(a). The company agrees to obtain the express consent of the federal government before the company or its employees operate a system of records on behalf of the federal government. The company understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

This requirement extends to all third party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract.

### **32.9 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS**

18 U.S.C. § 1020, 23 CFR § 635.119

The company acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 18 U.S.C. § 1020, and USDOT regulations, "Program Fraud Civil Remedies," 23 CFR § 635.119, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the company certifies or affirms the truthfulness and accuracy of any statement it has made, makes, or causes to be made, pertaining to the underlying contract or an FHWA-assisted project for which the Services are being performed. In addition to other penalties that may be applicable, the company further acknowledges that if it has made, makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the federal government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the company to the extent the federal government deems appropriate.

These requirements extend to all third party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract. It is further agreed that the clauses shall not be modified except to identify subcontractors who will be subject to the provisions.

### **32.10 GOVERNMENT-WIDE DEBARMENT AND SUSPENSION**

49 CFR 29

The contract is a covered transaction for purposes of 49 CFR 29. As such, the company is required to verify that neither it, nor its principals (as defined at 49 CFR § 29.995) or affiliates (as defined at 49 CFR § 29.905) is excluded or disqualified (as defined at 49 CFR §§ 29.940, 29.945).

The company is required to comply with 49 CFR 29, Subpart C, and must include the requirement to comply with 49 CFR 29, Subpart C, in any covered transaction into which it enters. By signing and submitting its proposal, the company certifies as follows: "The certification in this clause is a material representation of fact relied upon by the Town. If it is later determined that the company knowingly rendered an erroneous certification, in addition to remedies available to the Town, the federal

government may pursue available remedies, including, but not limited to, suspension and/or debarment. The company agrees to comply with the requirements of 49 CFR 29, Subpart C, while this Contract is valid. The company further agrees to include a provision requiring such compliance in its covered transactions." This requirement extends to all third party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract.

### **32.11 FEDERAL ACQUISITION REGULATIONS (FAR) COMPLIANCE**

23 U.S.C. § 112(b), 48 CFR 31

The company's compensation, or any adjustment to the company's compensation, under the contract shall include only costs and other compensation that are allowable, allocable, and reasonable as provided elsewhere herein, or otherwise by law, and that are allowable, allocable, and reasonable under the Contract Cost Principles of the FAR System, 48 CFR 31, and any implementing guidelines or regulations issued by the said system administration. This requirement extends to all third party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract.

### **32.12 LOBBYING**

31 U.S.C. § 1352, 49 CFR 19, 49 CFR 20

The company agrees to comply with the provisions of the Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as in force or as it may hereafter be amended. The company and all subcontractors shall file the certification required by 49 CFR 20, "New Restrictions on Lobbying." Each subcontractor certifies that it has not and will not use federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each subcontractor shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-federal funds with respect to any federal contract, grant, or award covered by 31 U.S.C. § 1352. Such disclosures must be forwarded from the company to the Town. This requirement extends to all third party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract.

### **32.13 FEDERAL CHANGES**

49 CFR 18

The company shall at all times comply with all applicable federal regulations, policies, procedures, and directives, including without limitation those listed directly or by reference in the Master Agreement between the Town and FHWA, as they may be amended or promulgated from time to time during the term of the contract. The company's failure to so comply shall constitute a material breach of the contract. This requirement extends to all third party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract.

### **32.14 CONTRACT WORK HOURS AND SAFETY STANDARDS**

Overtime Requirements – The company or any of its subcontractors contracting for any part of the Services which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic to work more than forty (40) hours in any work week in which he or she is employed on such work unless such laborer or mechanic receives compensation at a rate not less than

one and one-half (1 1/2) times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.

Violation, Liability for Unpaid Wages, Liquidated Damages – In the event of any violation of the overtime requirements clause set forth in this section, the company, or any of its subcontractors responsible for the violation, shall be liable for the unpaid wages. In addition, the company and any of its subcontractors shall be liable to the federal government for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the Overtime Requirements clause set forth in this section, in the sum of ten dollars (\$10) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the overtime requirements clause set forth in this section.

Withholding for Unpaid Wages and Liquidated Damages – The Town shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work performed by the company or any of its subcontractors under any such contract or any other federal contract with the same company, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same company, such sums as may be determined to be necessary to satisfy any liabilities of the company or any of its subcontractors for unpaid wages and liquidated damages as provided in the Violation, Liability for Unpaid Wages, Liquidated Damages clause set forth in this section.

Subcontracts – The company, or any of its subcontractors, shall insert in any subcontracts the clauses set forth in this section and also a clause requiring subcontractors to include these clauses in any subcontracts. The company shall be responsible for compliance by any subcontractors with the clauses set forth in this section.

### **32.15 NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

The Town and the company acknowledge and agree that, notwithstanding any concurrence by the federal government in, or approval of, the solicitation or award of the underlying contract, absent the express written consent by the federal government, the federal government is not a party to this contract and shall not be subject to any obligations or liabilities to the Town, the company, or any other party (whether or not a party to the contract) pertaining to any matter resulting from the underlying contract. This requirement extends to all third party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract. It is further agreed that the clause shall not be modified except to identify subcontractors who will be subject to its provisions.

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