



ENGINEERS • SCIENTISTS • SURVEYORS • CONSTRUCTION MANAGERS

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**PROFESSIONAL SERVICES
AGREEMENT LETTER**

December 20, 2016

Mr. Matthew Wallace
Guilford County Government
301 West Market Street
Greensboro, NC 27401
336-641-3544

Client's Authorized Representative(s): Matthew Wallace

Subject: Rich Fork Preserve

KCI Technologies, Inc. (KCI) is pleased to submit this professional services agreement (the "Proposal") to Guilford County ("Client") for the work (the "Work") described in the Scope of Services section of this Proposal. The Work will be performed for the following:

Project Name: Rich Fork Preserve – Trail Planning and Design

Location: 407 West Parris Ave., High Point NC

Property Size: 115 acres

PROJECT UNDERSTANDING

Guilford County has requested that KCI Associates of NC prepare a proposal to provide a trail development plan for the Rich Fork Preserve located north and west of the City of High Point. The 115-acre parcel includes approximately 3,000 linear feet of Rich Fork Creek as well as two smaller tributary channels. Upland acreage surrounding the Rich Fork riparian area is forested or recently clearcut. Surrounding land use is primarily residential although commercial and institutional development parcels are located to the north (Harley YMCA) and the south

(Northwood Elementary School) of the County-owned parcel. Improvements on the property include the remaining abandoned buildings associated with the Hedgecock farm. A sanitary sewer line owned and operated by the City of High Point and a natural gas line owned by Piedmont Natural Gas are also located on the property.

It is the County's desire to investigate various recreation opportunities on the property, while protecting the water quality attributes and other natural resource amenities on the property. All of these activities will require trail planning and design services as detailed in the Scope of Services section below.

KCI has the capabilities to provide all of the services requested below in-house. We also have the capability of completing the project as a design-build project using our Construction entity KCI Environmental Technologies and Construction Inc. to complete all the grading work, if requested.

All assumptions associated with this work are explained below.

SCOPE OF SERVICES:

This Proposal is limited exclusively to the Work as described in this Scope of Services section and anything not expressly described shall be considered expressly excluded from the Work. KCI proposes to perform the Work which is described as follows:

We understand the project will include the following elements:

ELEMENT 1. MULTIUSE TRAIL

A. Baseplan Development

KCI will develop a baseplan using existing available information including LIDAR topography, property survey information to be provided by Guilford County, GPS trail survey information to be provided by Guilford County and other readily available information (soils, biological inventory, floodplain/floodway information, etc.) that will be necessary to define existing conditions constraints on the site.

B. Wetland/Stream Delineation

KCI will conduct a routine wetland delineation using the 1987 Corps of Engineers Wetland Delineation Manual and appropriate Regional Supplements to identify and locate (using GPS) any wetlands or streams that could be subject to permitting implications during site development. KCI will request and obtain a Jurisdictional Determination (JD) from the Corps of Engineers so Guilford County will have a verified delineation for the property that will be valid for a period of 5 years. This JD will also help expedite the future permitting process due to regulatory familiarity with the site.

C. Development of Multiple Use Trail Alignment and Design

KCI will locate and design a cross section and alignment for the multiuse trail that will ultimately link the YMCA property to the Northwood Elementary School property. This

new alignment will refine the existing concept shown in the Master Plan. KCI Landscape Architects and Scientists will walk the alignment and survey an alignment that achieves the following objectives:

1. Minimizes grading requirements
2. Minimizes natural resource impacts, including steep slopes
3. Minimizes future maintenance issues
4. Optimizes user connectivity to natural landmarks

KCI anticipates that several site visits will be required to refine the location of the trail. The final alignment will be walked with the County to solicit feedback prior to finalizing the alignment. Once the final alignment has been verified by the County, KCI will survey in the centerline of the alignment using traditional survey techniques. The multiuse trail will also require two crossing locations, one on Rich Fork and one on the first-order tributary located to the South of West Parris Avenue. A third crossing along a third tributary to Rich Fork near the YMCA may also be required and will be located as part of this project. These crossing structures are anticipated to be pre-fabricated pedestrian bridge structures that will be supported with cast in place concrete abutments. Smaller tributary crossings may be accomplished with culverted crossings based on sizing requirements. Hydraulic sizing for each crossing will be completed for each structure to support future bridge design plans. The location of these structures will consider access for constructability concerns.

A grading plan for the trail will also be prepared by KCI. The grading plan will utilize the existing baseplan developed in Element #1. A site surveyed trail alignment will be overlain on the baseplan along with a sheet that includes typical trail cross sections and appropriate stationing referenced to the trail cross section details. The trail alignment will also show the locations, sizes and appropriate references to details for drainage features that will need to be installed along the trail. Trail details will also show the type of backfill, cover and grading requirements for the trail. The plan will also address the stabilization of the backslope, the bench and the fillslope of the trail where a benchcut is required.

Because the multiuse trails is expected to be constructed of pervious material, no stormwater management plan is anticipated for this project. If the County would prefer an impervious trail material be used, a stormwater plan would be required, however that work is outside the scope of this proposal based on KCI's understanding of the project.

A sediment and erosion control plan will be developed as part of the planset. The City of High Point has local program delegation for implementation of the State sediment and erosion control program. Plans will include sediment control notes and details, a sequence of construction, seeding and stabilization schedules as well as a planview showing the locations of various sediment and erosion control measures.

Rich Fork is located within a Zone AE of the FEMA regulated floodplain and thus is subject to regulation. It is not anticipated that impacts to the floodplain elevation will be

required as part of the trail development process. KCI anticipates a no-rise certification will be issued for the project, however local (Guilford County) ordinances will also apply to this project. FEMA permitting/modeling is not included in this proposal.

KCI anticipates that the construction plans for this project will require an eight page plan set as well as bid-worthy construction specifications.

ELEMENT 2: LOW IMPACT MOUNTAIN BIKING TRAIL

KCI will evaluate the area south of Rich Fork Creek to determine the feasibility of developing a low impact mountain bike trail system in this area. Topography, jurisdictional features, sensitive plant and animal communities and adjacent property constraints will all be evaluated to determine the most appropriate trail system within this area of the property. The trail system is intended to provide and maintain a cohesive balance between a high level of recreational opportunity to this community, while protecting and restoring the ecological framework that is inherent to this site. The critical evaluation factors for this trail system will be centered on environmental sustainability, safety, landscape connectivity, minimizing impacts to the adjacent communities, maintenance and cost.

Limiting access points to maximize security and prevent unintended impacts to natural resources will be a key focus area of the plan developed by KCI. The access locations will be along the multiuse trail from the YMCA property to the north and from the Northwood Elementary School property to the south. A third access will be designed near the terminus of West Parris Avenue near the Hedgecock Farm area. The proposed trail network is located adjacent to five subdivisions as well as a number of private residential lots. Existing trails that do not have adequate buffers between a residence and the trail will be abandoned. Additionally, unsanctioned access points created from surrounding residential communities will be evaluated for closure. Controlling access and providing an adequate buffer between the property and the adjacent residential communities, will ensure long-term success for the trail system.

The existing unauthorized trail network (developed by others) will be evaluated to determine if any of the existing trails can be integrated into the overall trail plan. The main issue with the existing mountain bike trail system is the impact that certain portions of the trail system are having on the natural resources on the property. While some of the trails have been sited and constructed to minimize erosion and work with the natural contours of the site, other trails have been poorly sited, resulting in accelerated erosion and impacts to natural communities. Many of these trails are located on steep slopes with highly erodible soils. The intersection of spur trails with the main trails is also potentially a safety issue. Each of the existing trails would be individually evaluated to determine if any component of the existing trail network is an appropriate fit for the future trail network.

KCI will leverage our expertise in landscape architecture, engineering, natural resource management and construction to design a low impact mountain biking trail system that is convenient, sustainable and cost effective for Guilford County and its residents. This design will consider all the aforementioned evaluation criteria in determining the extent and alignment of the trail system. The design plans, specifications, and engineers estimates provided as part of this

project will be bid-worthy documents that are accurate and constructible and can be used to acquire future permits. This will allow Guilford County to efficiently implement the improvements shown in the project plans.

ELEMENT 3: NATURAL SURFACE NATURE TRAILS

KCI will evaluate the existing natural surface trail system on the north side of Rich Fork Creek to determine if expansion is appropriate. There does appear to be ample opportunity to expand and refine the existing walking trails, especially in the area of the Hedgecock Farm and east of the multipurpose trail. This trail system will highlight the historic aspects of the property (Hedgecock Farm) and capitalize on the natural features of the property (Rich Fork Bluffs, mature forests, specimen trees, etc.). The northwest corner of the property will also be evaluated to determine if trail expansion is appropriate in this area. The feasibility of trails in this portion of the property will need to consider topographic limitations and connectivity with the multipurpose trail. Similar to the multiuse trail, the natural surface trail design would include a cross section (albeit smaller than the multipurpose trail) and stabilization methodology, however the treatment would utilize all on-site materials. This trail system will also have connectivity with the multiuse trail. In addition to the trail grading, a single parking lot area will be designed in the location of the old homesite at the Parris Avenue entrance to the property. This lot will be constructed of pervious material and designed to accommodate 15-20 vehicles. Similar to the low-impact mountain biking trails, these trails will be planned and designed to minimize environmental impacts and maximize long-term sustainability of the natural and historic resources on the property.

Deliverables:

KCI will provide Guilford County with Plans, Specifications and an Engineer's estimate for trails, a gravel parking area and two crossings.

Not Included:

- Attendance at Public Meetings or Stakeholder Group Meetings
- Field Run Topography
- Federal State and Local Permits
- Stormwater Management Plan
- Bridge Design Plans

ADDITIONAL WORK

Experience indicates that certain additional items of work may be required or necessary which KCI cannot presently determine or estimate. For this reason the fee for these items is not included in the provisions which follow on "Fees and Payments". Further, the performance of these items is not included in the Work unless the item is expressly described as the Work in the preceding Scope of Services section. These additional items of work ("Additional Work") are caused by many factors, usually at the discretion of the Client and/or his construction contractors. They may also be caused by reviewing agency or Client variance/deviation from present policies and standards of reviewing governmental agencies. "Additional Work" may sometimes be referred to as extras, change orders, or add-ons, but for purposes of this Agreement all such descriptions are intended to be encompassed within the term Additional Work.

For Client's reference, the following are some of the services that may be required as Additional Work to complete the Work but that are expressly excluded from the Scope of Services listed above. In view of their exclusion from this Proposal, KCI is not and shall not be held responsible for their performance as Work within the Scope of Services.

Work revisions on any Scope of Services items that are required as a result of a change requested by Client after previous approval by it or any approving agencies.

Certifications not specifically called for in the Scope of Services.

Re-work or revisions of work due to changes in policies or regulations during the progress of the work.

The recording of plats and documents, and fees for same, which shall be paid directly by the Client.

Expert witness testimony.

Participation in public meetings at the request of the Client.

Permitting.

FEES AND PAYMENTS

The following fees are for the performance of the Work listed in the Scope of Services above, at the location described above. The fees listed in this FEES AND PAYMENTS section do not cover any Additional Work (defined above), or any other services which are not specifically described as part of the Work listed in the Scope of Services above.

KCI's fee for the Work listed in the Scope of Services above will be billed on a Lump Sum basis based on the Milestone schedule described below. The fee includes all direct charges (travel, equipment cost, etc.) associated with the performance of this Work.

Task	Cost
Task 1 Wetland Delineation and JD	\$ 4,000.00
Task 2 Site Work, Data Collection, Trail Alignment Survey	\$ 6,500.00
Task 3 Survey (Final Trail Alignment, Crossing Locations)	\$ 1,500.00
Task 4 Baseplan Preparation (Using Existing Data)	\$ 3,500.00
Task 5 Trail and Parking Lot Design - 60%	\$ 18,800.00
Task 6 Trail and Parking Lot Design - 90%	\$ 3,200.00
Task 7 Trail and Parking Lot Design - PS&E	\$ 4,500.00
 TOTAL	 \$ 42,000.00

FEES AND PAYMENTS FOR ADDITIONAL WORK

Fees and payments for Additional Work shall be in addition to any fees and payments for the Work described in the Scope of Services and shall be billed and paid on the same fee and payment terms described for the Work above or as mutually agreed upon in writing when the Additional Work is ordered by the Client.

KCI welcomes the opportunity to serve and looks forward to working with Guilford County on this project. The Project Principal to be assigned to the Work is Tim Morris, and his telephone number is 919-278-2511

Very truly yours,



Timothy J. Morris
Senior Associate

pc: Project Principal
Contract File
Proposal File

Attachments:

Guilford County's General Terms and Conditions, 3-7-16
Design Contract for Trails, Revised 4-30-14



Guilford County's General Terms and Conditions

1. This bid package serves as official notice that GUILFORD COUNTY is soliciting and will receive bids for the item(s) and/or service(s) stated on the event cover page and outlined in the bid specifications. Bids shall be submitted by mail or hand delivered to the location named in the solicitation or electronically via www.myguilford.com by the event close date and time specified in the bid package.
2. All addenda to this bid package will be issued electronically. No oral changes made by anyone shall affect this bid package.
3. The official bid price, quote, and response for the RFP, RFQ, or otherwise instructed; shall be signed by a duly authorized person acknowledging full understanding of the bid information and all addenda. The signature shall be witnessed and the Corporate Seal affixed if a corporation. The exact legal name of the corporation or other entity shall be provided.
4. Price quote(s) shall be net, and include all discounts and delivery charges to GUILFORD COUNTY. In cases of difference(s) between unit price and total price, unit price shall prevail unless otherwise noted.
5. Items and services bids are for delivery or completion as soon as possible unless otherwise stated. Delivery or completion dates could therefore be important in making the final determination of award.
6. State and local sales taxes are not to be included in quotes, but they are to be added later to all invoices shown as a separate line item for payment. Federal (sales-excise) taxes, where applicable, are to be included in quotes as they are part of the purchase price.
7. All Formal Bids will be publicly opened and recorded at the date and time specified by and in the Purchasing Department. It is GUILFORD COUNTY'S policy to announce the award electronically. All other information, except that specifically noted by the Supplier as being of a Confidential nature, becomes public record in accordance with N.C. GS 132 and other applicable North Carolina laws. All interested parties are invited to attend any Formal Bid opening.

8. All Informal Bids will NOT be publicly opened and recorded at the date and time specified by and in the Purchasing Department. It is GUILFORD COUNTY'S policy to announce the award electronically. All other information, except that specifically noted by the Supplier as being of a Confidential nature, becomes public record in accordance with N.C. GS 132 and other applicable North Carolina laws after the award is made.
9. GUILFORD COUNTY will have a period of thirty (30) days, unless otherwise stated, after opening the bid package to analyze and award to the lowest responsive and responsible bidder taking into account; service, quality, delivery date, past performance and price. At that time, the successful vendor shall promptly enter into a contract acceptable to GUILFORD COUNTY.
10. Events/Bids that exceed \$90k for the purchase of apparatuses, supplies, equipment, and/or services and construction or construction repair contracts (greater than \$500,000) require final approval of the GUILFORD COUNTY Board of Commissioners who normally meet in open session two (2) times each month, the first and third Thursdays at 5:30pm in Old County Courthouse. Everyone is invited to attend those meetings. Note: Other contracts may in the sole discretion of the County, may require Board of County Commissioners Approval.
11. A bid bond or deposit may be required for Construction or repair contracts (at least 5% of bid amount, Formal Bids (\$500,000 and above) and for Purchase contract it is not required. If this is the case, it will be clearly stated in the Event specifications for each bid package. If a bid deposit is required, it should be submitted in the form of cash, cashier's check, certified check, or bid bond. The checks shall be drawn on a bank or trust company insured by the Federal Deposit Insurance Corporation; and bond shall be a corporate surety licensed under the State of North Carolina. The obligee in either check or bond shall be GUILFORD COUNTY. In addition to the bid deposit or bid bond, some bids may require a separate performance bond and/or payment bond as provided by law in the amount of the contract by the awarded vendor(s). Construction or repair contracts (100% of contract amount (each contract over \$50,000 of project costing over \$300,000 - G.S. 143-129(c); G.S. 44A-2; Purchase Contracts it is not a requirement. If this is required, it will be clearly stated in the bid specifications. In place of a bond; cash, cashier's check, certified check or government securities shall be acceptable.
12. If bid deposit checks are received, they will be returned to all suppliers when the successful supplier has been awarded a contract by GUILFORD COUNTY. The successful vendor's deposit check will be returned when the required contract has been executed.
13. GUILFORD COUNTY'S MWBE participation goal is 10% in accordance with N.C.G.S. 143-28.2(e) (3) and 143-129(b). This 10% percent is a goal, and is not a requirement, demand, set aside or guarantee to minority/women businesses.
14. GUILFORD COUNTY reserves the right to reject any and all bids if it is in the best interest of the County.
15. In case of default by the vendor, GUILFORD COUNTY shall retain the bid deposit or call upon the bid bond surety unless otherwise provided by law.
16. GUILFORD COUNTY'S policy is Net 30 days upon completion and acceptance. In the case of some longer term projects, GUILFORD COUNTY may choose to release partial payments to the vendor each month based on 90% of the estimated value of work completed. The final payment will be released within thirty (30) days or less after the satisfactory completion of all work, its acceptance by GUILFORD COUNTY, and the settlement of all other claims and accounts.

17. In the case of continuing service type contracts, payment(s) will be made monthly or as otherwise agreed upon.
18. It is GUILFORD COUNTY'S policy to conduct all purchasing within the North Carolina State Laws and Guilford County Purchasing Policy. To provide each vendor/supplier an equal opportunity to participate and to award on a best value basis. In order to accomplish our policy, we intend to make every vendor/supplier aware of each purchasing opportunity. Contracts shall be awarded to the lowest responsive and responsible bidder(s) based on quality, past performance, and the time specified in the proposal of the contract. Vendors/suppliers should register online for bidding opportunities at: www.myguilford.com/purchasing
19. A Material Safety Data Sheet (MSDS) shall be furnished to GUILFORD COUNTY for any/all products purchased that contain hazardous material and/or components.
20. Any vendor/supplier performing work on GUILFORD COUNTY's property is required to have and maintain adequate Liability and Worker's Compensation Insurance as laid out in the bid package that will fully protect GUILFORD COUNTY from any damages to property and/or persons caused by the vendor/supplier.
21. The successful supplier/vendor shall be required, and is responsible, to take Affirmative Action to employ Disabled Veterans and Veterans of the Vietnam era, including listing vacancies with the North Carolina Employment Security Commission, under 42 US Code 4212 and applicable regulations thereafter.
22. The successful vendor/supplier shall be required, and is responsible, to take Affirmative Action in complying with all Federal and State requirements concerning fair employment without regard to discrimination by reason of race, color, religion, sex, national origin or physical handicap.
23. The successful vendor/supplier shall be required to employ in the workforce only those laborers whose employment is consistent with all applicable State and Federal Laws including E-Verify requirements. The successful vendor/supplier, and each subcontractor, shall prior to performance of the work, receive clear written evidence from each laborer, that said laborer may lawfully be employed. Said evidence shall immediately be submitted to the County. Failure of said vendor/supplier or subcontractor to receive, retain and/or provide to the County such evidence shall constitute a material breach of the contract with the County.
24. The successful vendor/supplier is responsible for compliance with all applicable Local, State, and Federal laws, including all state and local permits, licenses and fees.
25. If the vendor/supplier should undergo merger, acquisition or any change in their ownership or their name for any reason, the provider shall immediately notify GUILFORD COUNTY in writing of these changes and provide GUILFORD COUNTY with legal documentation supporting these changes such as an Assumption Agreement, Bill of Sale, Articles of Incorporation, Articles of Amendment, sales contract, merger documents, etc. Further, the vendor/supplier shall submit the name and address of their registered agent for service of process and/or all notices required under the contract(s). This contract shall not be assumed or otherwise transferred to another party by the vendor/supplier without the express written consent of GUILFORD COUNTY, which said consent will be evidenced by acceptance memo, letter or email from the GUILFORD COUNTY MANAGER or his designee to the original vendor/supplier under the contract and the assuming vendor/supplier.
26. Provider shall operate as an independent vendor/supplier for all purposes. The parties agree to each be solely responsible for their own acts of omissions in the performance of each of their individual duties hereunder, and shall be

financially and legally responsible for all liabilities, costs, damages, expenses and attorney fees resulting from or attributable to any and all of their individual acts or omissions to the extent allowable by law.

27. **Iran Divestment Act of 2015.** In accordance with N.C.G.S. §143C-6A-5 and other applicable sections of N.C.G.S. §143C-6A regarding the Iran Divestment Act of 2015, each Party hereby certifies that it is not identified on the State Treasurer's list of persons which the Treasurer has determined engage in investment activities in Iran, including any subcontractors of either Party.

28. This contract and all other related agreements are governed by the Laws of Guilford County in the State of North Carolina.

Guilford County North Carolina Contract for Architectural Services

This **AGREEMENT** is made this 20th day of December in the year 2016 between Guilford County, hereinafter called the "Owner", and KCI Associates of NC, PA hereinafter called the "Designer".

This is a contract for A/E services for Trail Planning. Individual work orders will be negotiated for each project. The work order will include details on the scope of work, schedule, deliverables, budget, etc.

Any work order over \$90k must be reviewed / approved by the Board of Commissioners. The attached rate schedule is to be used for all services provided unless otherwise agreed. Additional services such as geotechnical, surveys, testing, commissioning, onsite project management, and their associated fees may be negotiated for specific projects. All work performed under this contract shall be per the provided terms and agreements.

TERMS AND CONDITIONS OF THE AGREEMENT

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ARTICLE 1

BASIC SERVICES OF THE DESIGNER

Schematic Design Phase

- 1-1 The Designer shall consult with the Owner to ascertain the requirements of the project and shall confirm such requirements to the Owner in writing.
- 1-2 He shall prepare schematic design studies, leading to a recommended solution together with a general description of the project for approval by the Owner.
- 1-3 He shall submit to the Owner a statement of probable construction cost based on the area, volume or other current unit costs.
- 1-4 The Designer will be permitted to reduce the scope of the project, within reasonable limits approved by Owner, if such reduction is deemed necessary in order to not exceed the total project budget cost as set forth in the body of Page 1 of this Agreement.

Design Development Phase

- 1-5 The Designer shall prepare from the approved schematic design studies, for approval by the Owner, the design development documents which shall include site and floor plans, elevations and other drawings, and outline specifications as are necessary to fix and illustrate the size and character of the entire project in its essentials as to kinds of material, type of structure, mechanical and electrical systems, and such other work as may be required, including site and utility requirements.
- 1-6 The Designer shall submit to the Owner a further statement of probable construction cost.

Construction Document Phase

- 1-7 The Designer shall prepare from the approved design development documents, working drawings and specifications setting forth in detail and prescribing the work to be done and the materials, workmanship, finishes and equipment required for the engineering, architectural, structural, mechanical, electrical and the site work, and for service-connected equipment; and assemble the necessary bidding information, proposal and contract forms, and conditions of the contract, for approval by the Owner.
- Designer shall submit to the Owner drawings and specifications for reviews at the following stages:
- a) 30% Design – This review will include plans and specifications. Civil should show site and building layout and basic parking areas, Architectural will have the floor plans, some details, room finish schedule started and other items to a 30% completion stage. Mechanical and electrical is to show plans and basic system concepts. Specifications to be started with front end started and some sections complete. The design can be changed at this stage to address the Owner's needs.
 - b) 60% Design – This is to be the same as above but with greater detail. Concept changes should not happen on this review. However, minor adjustments may happen.
 - c) 95% Design – This review is of the 100% plans and specifications. This review is for quality control and to make sure the AE has complied with the owner's needs. Any changes on this review should be for corrections to the plans and specifications.
- 1-8 He shall submit to the Owner a detailed statement of probable construction cost. The cost should reflect the fully developed requirements and current market conditions.
- 1-9 The Designer shall assist in the requesting of proposals and conducting the bid opening. He shall evaluate same and make recommendations of award to the Owner within two (2) workdays of the bid opening unless negotiations or redesign is required. Upon award of contracts, Designer shall assure proper execution of the contract documents by the contractors and forward to the Owner for his execution and further approval.
- 1-10 Designer shall fulfill the responsibilities of Guilford County to notify and attract minority businesses including:
- a) Attend the scheduled pre-bid conference to explain minority business requirements to the prospective bidders.
 - b) Assist the Owner to identify and notify prospective minority business prime and subcontractors of potential contracting opportunities.
 - c) Maintain documentation of any contacts, correspondence, or conversation with minority business firms made in an attempt to meet the goals.
 - d) Make documentation showing evidence of implementation of Designer's responsibilities available for review, upon request.
- 1-11 The Designer shall prepare and file the required documents for the approval of governmental authorities having jurisdiction over the project.
- 1-12 In the event that bids and design fees exceed the total project cost as set forth on Page 1 of this Agreement, then the provisions of Article 5 hereof, Limitations of Project Cost and Project Scope, shall apply.

Construction Phase

- 1-13 The Construction Phase will begin with the notification of award of contracts. The Owner will issue separate appropriate letters of "Notice to Proceed" to the single prime, construction manager at risk, or separate letters to each prime contractor in the case of separate prime bidding, which letters shall fix and definitely establish the beginning date of time of performance for the respective contract types, and the required completion date. Copies of each such letter issued by the Owner shall be furnished to the Designer and to the County Purchasing Office.
- 1-14 The designer's responsibilities during the Construction Phase shall be as set forth hereinafter. His responsibilities shall include the following:

- a) Arrange for and give written notice to all appropriate parties as to the time and place as well as conduct the pre-construction conference.
- b) Establish and conduct a regular schedule of monthly meetings for contractors' representatives and a representative of the Owner. Such monthly meetings shall be maintained throughout the entire construction period and shall be for the primary purpose of assessing the progress of the work and recommending such remedial actions as are necessary to maintain progress and to complete the project within the contract time. The Designer shall submit to the Owner a full report of each such meeting. Attendance, purposes, results, reports and conduct of these monthly meetings shall be fully described.
- c) Process and approve, or take other appropriate action in respect of, progress schedules, shop drawings and other required submissions of contractors promptly.
- d) Prepare change orders as required, and have such change orders properly executed and approved before authorizing work on account thereof;
- e) Process contractors' applications for payment promptly for authorized work and issue certificates of payment;
- f) Review "MBE Documentation for Contract Payment" – (Appendix E) for compliance with minority business utilization commitments. Submit Appendix E form with monthly pay applications to the Owner.
- g) Provide general administration of the performance of construction contracts, including inspection and continuous liaison of the work to ensure compliance with plans and specifications, which inspection shall be by qualified and mutually agreed upon representatives of the designer's firm not less than once per week while work is in progress, and as often as necessary to ensure compliance with plans and specifications;
- h) Require all in-house consultants and contract consultants participating in the design of the project, and as named in Article 13 of this contract, to provide liaison and inspection services with respect to their portion of the design not less than once per week while work related to their design is in progress and as often as necessary to ensure compliance with plans and specifications;
- i) Schedule and conduct final inspection of the project, coordinating the date for such inspection with the Owner;
- j) Assemble written guarantees, affidavits, manuals of instruction for operation, and other required and closing papers of the contractors; issue certificates of final completion, certificates of compliance from various in-house and contract consultants, final certificates for payment; and set date for beginning of the guarantee period, forwarding all closing papers to the Owner;
- k) Serve as agent of the Owner as described in this contract, and within the limits and conditions of this contract, guarding the Owner against defects but not guaranteeing performance of the construction contractors.

1-15 The Designer agrees that his representatives on the construction project shall be qualified by training and experience to make decisions and interpretations of plans and specifications, and shall be empowered by the Designer to do so; such decisions and interpretations shall be binding upon the Designer as if made by him; all such decisions shall be confirmed in writing at the earliest reasonable date, with copies to the Owner, conditioned that such decisions and interpretations shall not modify adversely the requirements of the contract documents; the designer's representatives shall be replaced promptly and without protest at the request of the Owner, if in the opinion of the Owner, such representatives are either negligent or unqualified to perform their duties; and all of the above in this paragraph shall be applicable to consultants referred to in Paragraph 1-14(h) above.

Post-Construction Phase

- 1-16 Upon completion of the project, the Designer shall correct the drawings to conform to the project as finally constructed, and shall deliver to the Owner corrected record drawings.
Prior to final payment to the Designer, he shall prepare and deliver to the Owner a final report.
- 1-17 Five percent (5%) of the total fee of the Designer shall be retained until approval of the record drawings and final report by the Owner. Final payment can be made after letter of approval is received
- 1-18 by the Owner.

Other Professional Services

- 1-19 If the Designer renders basically architectural services, he hereby agrees that all plans, specifications, detail drawings, construction inspection, etc., for engineering work pertaining to heating, ventilating, refrigeration, power service, or other special mechanical or structural work shall be done by his own organization, by registered professional engineers regularly engaged and particularly qualified by experience and training to do this work, or agrees to employ without additional cost to the Owner, and subject to the approval of the Owner, the services of a registered professional engineer, which contract shall bind the engineer to terms and responsibilities substantially as set forth herein regarding design and construction phase services. (See Article 1.) Copies of this Agreement shall be furnished to the Owner.
- 1-20 If the Designer who is a party to this contract renders basically engineering services, he hereby agrees that plans, specifications, detailed drawings, construction inspection, etc., for architectural work pertaining to this project shall be done by his own organization, by registered professional architects regularly engaged in and particularly qualified by experience and training to do this work, or agrees to employ without additional cost to the Owner, and subject to approval of the Owner, the services of a registered professional architect regularly engaged in the work. This engineer shall enter into a contract agreement with such registered professional architect, which contract shall bind the architect to terms and responsibilities substantially as set forth herein regarding design and construction phase services. (See Article 1.) Copies of this Agreement shall be furnished to the Owner.
- 1-21 The Designer shall be responsible for all Designer administrative cost related to the project, including, but not limited to, the following:
 - a) Providing required number of plans and specifications for review for all agencies involved in the project;
 - b) Paying for all reproduction cost except as set forth in Article 6;
 - c) Paying all cost of handling, mailing, etc., of plans and specifications to the contractors;
 - d) Paying for all telephone calls, travel, administrative overhead cost and any other expense incurred by the Designer except for those items set forth in Article 2, Additional Services of the Designer.

ARTICLE 2
ADDITIONAL SERVICES OF THE DESIGNER

- 2-1 In the event the Owner, requests in writing that the Designer perform services over, above and beyond the basic services described in Article 1 hereof, then the Designer may be paid for such additional services as herein before provided. Additional services, for which additional compensation may be allowed, are as described hereinafter.
- a) Revising previously approved design development or working drawings or specifications to accomplish changes ordered by the Owner, except where required to get the cost within the total project budget;
 - b) Preparing drawings and specifications for alternate bids for work beyond the scope of that originally contemplated in this Agreement; (when alternates are used to assure keeping project within the total project budget, no additional fee shall apply);
 - c) Arranging for the work to proceed should the Contractor default due to delinquency or insolvency;
 - d) Providing contract administration and inspection of construction should the construction contract time be extended due to no fault of the Designer;
 - e) Making an inspection of the project prior to expiration of the guarantee period and reporting observed discrepancies under guarantees provided by the construction contracts;
 - f) Other services as may be required will be negotiated.

ARTICLE 3
FULL-TIME CONSTRUCTION INSPECTION

- 3-1 The Owner, may direct the Designer in writing to provide full-time construction inspection services. The Designer shall be compensated for the additional expense in a manner as mutually agreed upon between the Owner and the Designer and as set forth in a written amendment to this Agreement. Such additional compensation as is agreed to shall take into account the value of inspection services required to be furnished by the Designer under his fee for basic services. If arrangements are effected for the Designer to provide full-time inspection service, the representative proposed by the Designer to act in his capacity shall be subject to the prior approval of the Owner, and the conditions of Paragraph 1-15 under Article 1 hereof shall apply to such full-time inspection representative. The use of a full-time inspector does not negate the conditions of Paragraph 1-14(h) under Article 1.

ARTICLE 4
THE OWNER'S RESPONSIBILITY

- 4-1 The Owner shall provide full information as to its requirements for the project, consistent with the total project budget indicated on Page 1 of this Agreement.
- 4-2 The Owner shall designate, when necessary, a representative authorized to act in his behalf, who shall examine documents submitted by the Designer, and render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the designer's work. The owner's representative shall observe the procedure of issuing instruction to contractors only through the Designer. The owner's representative shall attend monthly job meetings scheduled by the Designer and shall be empowered

to make commitments for the Owner at such meetings.

- 4-3 The Owner shall furnish or pay for, at cost, to the Designer, a survey of the site; giving grades and lines of streets, alleys, pavement and adjoining property, rights of way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, elevations at grid points; locations, dimensions, and data pertaining to existing buildings, utilities and trees; or other requirements for the project. The Owner will pay, at cost, for tests and/or reports requested by Owner for determining subsoil and conditions. However, this shall not apply in engineering contracts where the survey is part of the design.
- 4-4 The Owner shall provide legal services as may be required or necessary for the project.

ARTICLE 5

LIMITATIONS OF PROJECT COST AND PROJECT SCOPE

Total Project Cost

- 5-1 The total project cost as indicated in the body of Page 1 of this Agreement shall include all costs and expenses for which the Designer is responsible, including the design fee. The contingency fund noted on Page 1 shall be reserved at the time of award of construction contracts.

Cost Limitations

- 5-2 The total project cost, as indicated in the body of Page 1 of this Agreement, is derived from a specific appropriation or funds specifically provided for the particular project described on Page 1. Accordingly, it shall be a condition of this Agreement that the Designer shall conform his plans to a design, the construction cost of which together with the addition of design fees, shall not exceed the total project cost limitations as set forth in the body of Page 1 of this Agreement.
- 5-3 In the event that during the several stages of development of his plans the designer's Statement of Probable Construction Cost together with design fees exceeds the limitations set forth on Page 1 of this Agreement, or in the event that after receipt of bids the sum total of the lowest bona fide bids for the entire project together with design fees exceeds the limitation set forth on Page 1 of this Agreement, then the Owner shall have the right to require the Designer, without any additional cost to the Owner, to modify his plans and specifications or redesign the project as may be necessary to bring the construction cost plus design fees within the Total Project Cost limitation set forth on Page 1 of this Agreement.
- 5-4 If the probable construction cost plus design fees, or the sum total of lowest bona fide bids plus design fees, exceeds the limitation of total project cost set forth in the body of Page 1 of this Agreement, and in view of this excess of cost the Owner elects to and does effect arrangements for additional financing sufficient to permit the project to proceed at a total project cost in excess of that originally contemplated by this Agreement, then the Owner may modify the terms of this Agreement with respect to a new authorized and increased total project cost.

Scope of Project

- 5-5 The proposed scope of the project is indicated on Page 1 of this Agreement. The Designer will be permitted to reduce the scope of the project, within reasonable limits approved by Owner, if such reduction is deemed necessary in order to not exceed the total project cost as set forth in the body of Page 1 of this Agreement.
- 5-6 The total project cost is the primary control criteria and limitation; the scope of the project is secondary to project cost.

ARTICLE 6
REPRODUCTION EXPENSES

- 6-1 The Designer shall be required to furnish up to 5 sets of complete, approved final plans and specifications for the project. For sets required in excess of the above-mentioned number, the Designer will be paid the actual cost of reproduction. A list of plan deposits not returned to the contractors shall be furnished to the Owner. These deposits, as set forth in Notice to Bidders, shall be credited to the Owner.

ARTICLE 7
PAYMENTS TO THE DESIGNER

- 7-1 Payments on account of the designer's basic services shall become due and payable in an amount sufficient to increase the compensation for basic services to the following percentages of the basic fee upon completion of the phases of work as indicated hereinafter; monthly payments may be made if progress is satisfactory to the Owner. Payments are not to exceed the stated percentages.
- | | |
|---|-----|
| a) Upon approval of Schematic Design Phase__ | 15% |
| b) Upon approval of Design Development Phase__ | 20% |
| c) Upon approval of Working Drawings and Specifications__ | 30% |
| d) Upon Receipt of Bids__ | 5% |
| e) During the Construction Phase, monthly in proportion to the progress of the work,
up to and including final inspection and acceptance | 25% |
| f) Upon the closing of all construction contracts and the approval of record
drawings and final report. | 5% |
- 7-2 Payments for additional services of the Designer, as defined in Article 2, shall be made at the time of the next payment due under schedule of payments for basic services above.

ARTICLE 8
ACCOUNTING RECORDS OF THE DESIGNER

- 8-1 Records of the designer's personnel, consultants, additional services and reimbursable expenses pertaining to the project, and records of accounts between the Owner and the contractors, shall be kept on a generally recognized account basis, and all such records shall be available to the Owner or his authorized representative at mutually convenient times.

ARTICLE 9
OWNERSHIP OF PLANS AND SPECIFICATIONS

- 9-1 All designs, drawings, specifications, design calculations, notes and other works developed in the performance of this contract shall become the sole property of Guilford County and may be used on any other design or construction without additional compensation to the Designer. The use of the design, including tracings and specifications, by any person or entity, for the purpose other than the project as set forth in the body on Page 1 of this Agreement, shall be at the full risk of such person or entity and the Designer shall be relieved of any liability whatsoever, including claims for personal injury, property damage, or death as a result of such other use.

ARTICLE 10
TERMINATION OF AGREEMENT

- 10-1 The owner may terminate this Agreement for any reason upon ten (10) calendar days' written notice.
- 10-2 This Agreement may be terminated by either party upon seven (7) calendar days' written notice (delivered by certified mail, return receipt requested) should one party fail to perform in accordance with its terms through no fault of the other.
- 10-3 In event of termination, the Designer shall receive payment for services rendered prior to the receipt of written termination notice from the Owner. If termination results from abandonment or suspension of the project, then the Designer will receive termination expenses in the amount of five percent (5%) of the above due payment. If termination results from non-performance of work, then the Designer will not receive termination expenses. Any work done by the Designer prior to termination shall become the property of the Owner.
- 10-4 For the purpose of evaluating services rendered to termination, the following shall apply:
- | | |
|---|-----|
| a) Schematic Design Phase | 15% |
| b) Completion of Design Development Phase | 20% |
| c) Delivery of Working Drawings and Specifications for review | 25% |
| d) Approval of final drawings and specifications | 5% |
| e) Upon Receipt of Bids | 5% |
| f) Construction Phase monthly in proportion to progress of work | 25% |
| g) Approval of record drawings and final report | 5% |

ARTICLE 11
SUCCESSORS AND ASSIGNS

- 11-1 The Owner and the Designer each binds himself, his partners, successors, legal representatives and assigns to the other party to this Agreement and to the partners, successors, legal representatives and assigns of such other party in respect to all covenants of this Agreement. Neither the Owner nor the Designer shall assign, sublet or transfer his interest in this Agreement without the written consent of the other.

ARTICLE 12
EXTENT OF AGREEMENT

- 12-1 This Agreement represents the entire and integrated agreement between the Owner and the Designer and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written consent.