



Spruce Pine Town Council Meeting
Town Hall
11050 S. Highway 226
Spruce Pine, NC 29777
Monday, May 12, 2025
5:30 PM



AGENDA

I. CALL TO ORDER – MAYOR PHILLIP HISE

- A. Roll Call
- B. Notification and Posting of the Agenda
- C. Pledge of Allegiance (Mayor Hise)
- D. Invocation (Councilman Peight)
- E. Approval of Minutes (April 24, 2025 Special Called Budget Retreat & April 28, 2025 Regular Council Meeting)

II. PUBLIC COMMENT

Public comment is limited to 3 minutes. This time is provided to share general thoughts with Town Council. Individuals who desire to make public comment, must complete the sign-in sheet made available at each meeting, and speak at the lecture (unless physically unable).

III. PRESENTATIONS (Dept Updates)

- A. Finance – Christy Young
- B. Police Dept – Chief Cook
- C. Water and Sewer – Donnie & Darell
- D. Public Works – Travis Phillips
- E. Main Street – Spencer Bost
- F. Parks and Rec – Mike Wood

IV. ACTION ITEMS

- A. Discussion and approval for the Town Manager and Town Attorney to execute a contract for land purchase in an amount not to exceed \$500,000.00 – contingent of a clear Phase I Environmental Report, a Survey free of conflicts and all necessary closing procedures including but not limited to Title Search.



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AGENDA

- B. Discussion and approval of a Professional Services Agreement with Hunt, Guillot & Associates LLC for the strategic management of the project development and administration of any and all federal and/or state disaster programs related to declared emergencies, including but not limited to Hurricane Helene.
 - C. Discussion and approval of the next budget workshop planning session date related to the FY26 Budget.
- V. MANAGERS REPORT**
- VI. MAYOR/COUNCIL REQUESTS OR COMMENTS**
- VII. ADJOURNMENT**



Spruce Pine Town Council
BUDGET RETREAT
Springmaid Mountain Resort
2171 Henredon Road
Spruce Pine, NC 29777
Thursday, April 24, 2025 @ 5:00 PM



MINUTES

The purpose of this meeting was for the discussion and planning of the FY26 budget with Town Council and Town Staff. There will be no public comment period during this meeting and no zoom option. The public may attend in person.

I. CALL TO ORDER – MAYOR PHILLIP HISE

Mayor Hise Called the meeting to order at 5:07PM. The following Council members were present: Councilwoman Holmes, Councilman Buchanan, Councilwoman Rensink and Councilman Peight.

II. DISCUSSION ITEMS (5:07pm – 6:00pm)

Mayor Hise welcomed staff to the retreat and immediately began discussions, beginning with the Public Works Department:

A. Public Works:

Public Works Director Travis Phillips provided a layout of his capital and operational needs for FY26. The items requested were: Street Sweeper, Ford F150 pickup, Leaf Vac, Sewer Camera, Meters and Radio Reads and Light Towers. Discussion was had that many of these items were turned in on Insurance and turned into FEMA since some were lost in the flood. Staff will determine what funds are available to provide some options to Council to consider.

B. Water/Wastewater:

Water Plant Operator Donnie Staton updated Council on the Towns lift station repairs and provided costs to update those stations. Sullins Branch lift station has an overhaul cost of \$61,715 and the waste-water treatment plants clarifier needs about \$39,900 in overhaul repairs. Asked if these repairs were emergency or urgent in nature, Donnie stated not urgent but



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Thursday, April 24, 2025 @ 5:00 PM



MINUTES

they need doing. Discussion was has pertaining to the waste-water plant being under FEMA project and if that project might cover the clarifier. Staff confirmed that it very well could, and that mitigation of the plant may mean a different top of system all together. Donnie commented that we were good everywhere else, overall.

C. Police Dept:

Chief Cook presented Council with a breakdown of requests from the Police Department. It was mentioned that two vehicles were lost during the flood, and that insurance will cover some of the cost but not the entirety after valuation. Chief Cook also mentioned his vehicle is nearing the end with a bad transmission and that they will most likely need another vehicle before the end of the fiscal year. Chief Cook said the Dodge Charger that was donated by the County will help but they are getting in a tight spot on vehicles, especially when the new officer in training comes on board. Chief Cook noted the Police Dept logged 1200 call in the month of March, so things are busy. The Department requests included funding for: training, equipment such as Alco Sensors, Radar Units, Two Vehicles, Laptop, Uniforms/Clothing, LPR Cameras and Flock Cameras.

D. Finance:

Finance Officer Christy Young informed Council she was there to mainly hear the requests of department heads and updated Council that she had received outside agency funding requests from the Library, Toe River Arts, EDC and TRAC.

E. Main Street:

Spenser Bost requested Council consider approving an increase in the part-time hours for the Media and Marketing Coordinator from 14 to 20 hours per week, bringing the revised cost of this position to \$16,640 annually. Spencer provided a breakdown of the Main Street programs annual expenses and revenues, demonstrating a total income of \$47,225 and total expense of \$47,225.



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Spruce Pine, NC 29777
Thursday, April 24, 2025 @ 5:00 PM



MINUTES

F. Parks & Rec:

Parks and Recreation Director, Mike Wood presented Council with budget requests for: Computer for Office, Waterproof Walkie-Talkies, two Lifeguard Stand Chairs, four Rescue Buoys, Lifeguard Stand Steps, Cash Register, Leaf Blower, Socket Set, and an Air Compressor. Staff informed Council, there may be some items added to the Parks Dept request, related to upfitting the pool-house/restroom building to better protect it from the elements.

G. Administration:

Town Administrator Daniel Stines informed Council that the purpose of the budget retreat was to allow staff to express their needs in a casual atmosphere and staff appreciated their time and support. Stines informed Council that there would be adjustments within the budget related to the Towns insurance, IT needs and funding related to other systems and operations upgrades. Staff will be working on the department requests and plugging those numbers into the budget to see how things balance. Staff will bring all requests back to Council and demonstrate the revenue vs expenses projections.

III. DINNER (6:05PM – 6:45PM)

A. Dinner Invocation: Councilman Peight:

Mayor Hise invited Councilman Peight to deliver the dinner invocation. The formal business of budget discussions concluded at 6:02 PM.

IV. DISCUSSION REVIEW (6:45PM – 8:00PM):

Dinner concluded and the meeting reconvened at 6:50pm. Mayor Hise asked if any members of the Board has any questions for staff, no questions were posed. Mayor Hise asked if staff had any additional comments or requests, no comments or requests were made.

V. ADJOURNMENT:

Mayor Hise requested for a motion to adjourn, Councilman Buchanan made a motion to adjourn, Councilman Peight seconded. Motion Passed – 5/0. Meeting adjourned at 7:03PM.



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BUDGET RETREAT
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MINUTES

Respectfully Submitted:

Daniel Stines – Town Manager

ATTEST:

Daniel Stines, Town Manager

Phillip Hise, Mayor

Rocky Buchanan, Mayor Pro Tem

Beth Holmes, Council Member

Wayne Peight, Council Member

Jackie Rensink, Council Member



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MINUTES

I. CALL TO ORDER – MAYOR PHILLIP HISE

A. Roll Call:

Mayor Hise called the meeting to order at 5:30PM. Daniel Stines conducted a roll call vote, the members present were: Councilwoman Rensink, Councilman Buchanon and Mayor Hise. Members absent were: Councilwoman Holmes and Councilman Peight.

B. Notification and Posting of the Agenda:

Mayor Hise requested an amendment to the agenda. The request was to move Action Item A to the end, making it Action Item E. Councilwoman Rensink made a motion to amend the agenda as stated, Councilman Buchanon seconded the motion – motion passed 3/0.

C. Pledge of Allegiance (Councilman Buchanan):

Councilman Buchanon led the Pledge of Allegiance.

D. Invocation (Councilwoman Rensink):

Councilwoman Rensink led the Invocation.

E. Approval of Minutes (4/14/25 Special Called, 4/14/25 Regular):

Mayor Hise asked Council to review the minutes from the April 14 Special Called and April 14 Regular meeting – Councilman Buchanon motioned to approved the Special Called meeting minutes, Councilwoman Rensink seconded. The motion passed 3/0. Councilwoman Rensink motioned to approve the Special Called meeting minutes; Councilman Buchanon seconded – motion passed 3/0.

II. PUBLIC COMMENT

Public comment is limited to 3 minutes. This time is provided to share general thoughts with Town Council. Individuals who desire to make public comment, must complete the sign-in sheet made available at each meeting, and speak at the podium (unless physically unable):

No one signed up for public comment.



Spruce Pine Town Council Meeting
Town Hall
11050 S. Highway 226
Spruce Pine, NC 29777
Monday, April 28, 2025
5:30 PM



MINUTES

III. PRESENTATIONS (Dept Updates)

A. Mitchell Giving Gardens – Christine Hodel (Executive Director):

Christine Hodel from the Mitchell Giving Gardens was present to provide Council with update of the program. Christine provided Council a handout, highlighting the years success. She noted 2024 was the best year to date, with exception to the damages caused by Helene. Christine expressed her appreciation to the Council and the Town for the on-going partnership. She noted that 2400lbs of vegetables were grown in 2024. Other highlights consisted of being able to provide a good amount of assistance to people affected by the flood, she updated Council on some grants the organization is working on, the repairs from Helene that including mucking out 16-18" of mud and silt from the river as well soil testing to ensure the soil was not contaminated. They are in position to plant the beds, onions were planted this spring and they expect to have a good harvest. Councilwoman Rensink stated that she was glad the program was here and appreciated what they brought to the community. Councilman Buchanon also thanked Christine.

IV. ACTION ITEMS

A. Discussion and approval to re-certify a resolution adopted February 14, 2022, "Resolution Authorizing Increase in Micro-Purchase Threshold" to extend for the remaining of Fiscal Year 2025, and renew for Fiscal Year 2026, beginning July 1, 2025:

Mayor Hise asked Administrator Stines to explain the purpose of this item. Stines explained that Council previously approved this resolution under the then American Rescue Plan Act for provisions of increasing the expenditure limits for micro-purchases (under \$50,000). These provisions only apply to Federal allocated dollars, not state or local funds. Stines explained that the original Act that was passed, required recertifying between fiscal years, which was the reason this is brought forward. It was also explained that the Act is set to expire in 2027 and that while the provision may have only intermittent benefits for expedited smaller purchases, but with the federal



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Monday, April 28, 2025
5:30 PM



MINUTES

funds related to FEMA coming in, there could be useful opportunities to utilize the micro-purchase Act for some of the smaller projects the Town is working to repair. Councilwoman Rensink made a motion to approve the renewal of the micro-purchase resolution, Councilman Buchanon seconded the motion. Motion passed 3/0.

B. Discussion and approval of the Toe River Valley Regional Library System Agreement:

Administrator Stines provided a brief overview, noting the agreement was the final step to solidifying the new Toe Rive Regional Library System and its relation to the Yancey County withdrawal from the former Avery-Mitchell-Yancey (AMY) Library system. There were not any questions related to the agreement; Town Attorney Chad Donahue requested Council also give Administrator Stines authority to attest the signatures in the absence of a Town Clerk. Councilman Buchanon motioned to approve the agreement; Councilwoman Rensink seconded the motion. Motion passed 3/0.

C. Discussion and approval of awarding the Jim Brown Memorial Scholarship:

Mayor Hise ask Council is they had an opportunity to review all of the applications and a decision needed to be made on award. Town Attorney Chad Donahue noted that if Council wished to move into executive session if the Council felt it was necessary to avoid announcing the scholarship prior to the school but it was decided that was not necessary. After some discussion, Administrator Stines read the applicants aloud to Council. Councilman Buchanon made a motion to approve Grace Willis as the 2025 Jim Brown Scholarship recipient, Mayor Hise seconded, motion passed 3/0.

D. Discussion and Approval of a Contract with Garney Construction for Disaster Recovery and Repairs for the Waste-Water Treatment Plant as related to Hurricane Helene Recovery.

Administrator Stines updated Council that the contract was related to the on-going disaster recovery work that Garney Construction has provided and that the contract establishes a itemized detail of exigent work and the



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Monday, April 28, 2025
5:30 PM



MINUTES

remaining work to ensure the Waste-Water Treatment Plant is back to a 100% operating capability, even though these repairs are still considered temporary until the mitigated dollars are established by FEMA. Project estimations, contracts and invoices are all required and part of the FEMA process. Town Attorney Chad Donahue clarified to Council the estimated project costs as well the contingency dollars. He referenced the contract estimation sheet. Mayor Hise noted that Garney has been vital for the Town and they have been boots on grounds since the start and we wouldn't be where we are today without them. Mayor Hise requested a motion, Councilwoman Rensink made a motion to approve the contract, Councilman Buchanon seconded – motion passed 3/0.

E. Discussion and approval for the Town Manager and Town Attorney to execute a contract for land purchase in an amount not to exceed \$500,000.00 – contingent of a clear Phase I Environmental Report, a Survey free of conflicts and all necessary closing procedures including but not limited to Title Search.

Mayor Hise informed Council that he would be recusing himself from any discussion of this item, to avoid any conflicts of interest. In doing so, there was not a quorum of Council to hear this matter. Councilman Buchanon made a motion to table the item until the next Council meeting, Councilwoman Rensink seconded – motion passed 3/0.

V. APPOINTMENTS

A. Discussion and appointment of two new members to the Toe River Regional Library Board.

Mayor Hise updated Council that there would need to be affirmed appointments on the Toe River Regional Library Board. The matter was discussed since it was a new board, even though there were members serving on the former AMY Library Board. After some discussion it was



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Monday, April 28, 2025
5:30 PM



MINUTES

decided that Councilman Peight and Darla Harding would be appointed to the Toe River Regional Library Board, as they were on the AMY Library Board. Councilman Buchanan made a motion, Councilwoman Rensink seconded – motion passed 3/0.

VI. MANAGERS REPORT

Administrator Stines updated Council that staff has met with a second company to provide IT Management for the Town, staff has conducted some more interviews for the Town Clerk position and should be making a decision soon. Stines updated that a Independence Day Celebration committee was put together with the Kiwanis Club, Main Street, Town and the Fireworks vendor. We're looking at adding some music this year with street festivities, as well the parade by Kiwanis and fireworks. A brief discussion was had about parade logistics and fees. Stines updated Council that staff has an important meeting coming up April 29 with the new FEMA efficiency director who would be visiting the Town for the first time. Stines gave an overview of the progress the Town is making with FEMA and we're continuing to get obligated dollars and many of the projects are moving into the mitigation and planning phases for permanent repairs. Several RFPs are being draft and the intent will be to release those in tandem. Stines also noted the hard work staff continues to do, both administratively and putting the Town back. Public Works had a long week with several bust lines but also dug a large section of Center Street up to fix a long-standing sewer odor. Staff feels this is resolved. Stines noted the list of things to do is long but we're chipping away each day.

VII. MAYOR/COUNCIL REQUESTS OR COMMENTS

No comments by Council.

VIII. ADJOURNMENT

Councilman Buchanan made a motion to adjourn, Councilwoman Rensink seconded – motion passed 3/0.



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Respectfully Submitted:

Daniel Stines – Town Manager

ATTEST:

Daniel Stines, Town Manager

Phillip Hise, Mayor

Rocky Buchanan, Mayor Pro Tem

Beth Holmes, Council Member

Wayne Peight, Council Member

Jackie Rensink, Council Member



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MEMOS

To: Mayor & Town Council
From: Town Manager
Date: 5/12/2025
Subject: Potential Land Purchase for Relocation of Public Works Facility

Background:

As a result of Hurricane Helene, the Town's public works facility was washed away. The former facility was located within the flood plain for the N. Toe River. As part of the recovery with FEMA assistance, emergency funding is made available for the short-term and mitigation funds are made available for the long-term solutions.

The priority of getting public works back in a permanent facility is imperative, with the current lease option being month-to-month with no guarantee of occupancy. The other significant factor is establishing something before the winter months, to ensure equipment and staff are provided adequate protection from the elements.

Property Description:

The property is located at 6385 19 Hwy E, Spruce Pine, NC. TMS#: 0890-00-74-5236. The property is 7.2 acres, with approximately 2.07 acres of level road frontage terrain and 5.13 acres of varying grade and slopes +/- 100 foot elevation change. The property is vacant land with water, sewer, gas and electric available at the street. The property has two driveway permits on file with NCDOT with direct access to 19 Hwy E.

Request:

Staff is requesting Council to provide the Town Manager and Town Attorney the authority to execute a contract and closing for a land purchase for an amount not to exceed \$500,000. The condition of purchase is conditional upon a successful and clear Phase I Environmental Report, a certified survey, free of any encroachment, title issue, boundary issues or any other items that would impair or devalue the property and all other applicable laws and resources related to real-estate transactions.

Respectfully,

Daniel Stines
Town Manager



Spruce Pine Town Council Meeting
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11050 S. Highway 226
Spruce Pine, NC 29777



MEMOS

To: Mayor & Town Council
From: Town Manager
Date: 5/12/2025
Subject: Hunt, Guillot & Associates (HGA) Professional Services Agreement

Background:

Council approved a contract with Withers & Ravenel for grant administration and engineering services at a February 2025 Council meeting. Staff has worked closely with Withers & Ravenel since the onset of the Helene recovery, and for the past 5 weeks on the FEMA grants administration portion.

The Town has also been working with Mitchell Counties acquired grants administration firm, HGA, who has been offering supplemental assistance to the Town as a curtesy. Since HGA is administering the same contract for the County, the Town has found that due to the amount of collaboration and on-site assistance the Town has been receiving, a logical move would be to join in with the same services of the County, helping maintain consistence and attention to the FEMA projects and eliminate any redundancy.

The Town has reached a consensus and understanding with Withers & Ravenel, agreeing to maintain their involvement on the engineering work and transition grants administration to HGA.

Request:

To approve a professional services agreement with Hunt, Guillot and Associates LLC as presented for project development and administration of any and all federal and/or state disaster programs related to declared emergencies, including but not limited to Hurricane Helene.

Respectfully,

Daniel Stines
Town Manager

Professional Services Agreement
Contract Ref. C-721

This Professional Services Agreement (“Agreement”) is dated as of 9th day of May, 2025 between the Town of Spruce Pine (TOWN) with its principal office located at, 11050 S. NC-226, Spruce Pine, NC 28777, and **Hunt, Guillot & Associates, LLC** (CONSULTANT), a limited liability company with its principal place of business at 603 E. Reynolds Dr., Ruston, Louisiana 71270 and with a mailing address at P.O. Box 580, Ruston, LA 71273

1.0 SERVICES

A. The Work

CONSULTANT will work closely with TOWN, and under their direction to assist with the strategic management of the project development and administration of any and all federal and/or state disaster programs related to declared emergencies, including but not limited to Hurricane Helene.

B. Description of Services

CONSULTANT shall not commence work on any phase or special services of this contract until a Notice to Proceed, followed by a task order, request for services or the like (each an “Order”) is issued to the TOWN for that particular phase. CONSULTANT will provide experienced personnel and resources to complete the activities described in Exhibit A.

C. Orders

Order shall include a detailed written description of the services (the “Services”) to be performed by CONSULTANT and shall be dated and signed by authorized representatives of TOWN and CONSULTANT in order to be binding. Each Order shall be deemed incorporated into and made a part of this Agreement. The terms and conditions of this Agreement shall be deemed incorporated into and made a part of, and shall govern, each Order. An Order shall be prepared by CONSULTANT using its standard form(s) and executed by TOWN and CONSULTANT for each specified assignment requested by TOWN unless otherwise



mutually agreed in writing. To the extent of any conflict between the terms of this Agreement and any Order, the terms and conditions of this Agreement shall govern and supersede the terms and conditions contained in each individually authorized Order pursuant hereto unless mutually agreed otherwise by both Parties in writing.

D. Time is of the essence in the completion of this project.

2.0 CHANGES IN THE SERVICES

TOWN may from time-to-time request changes in the Services by notifying CONSULTANT in writing of the requested change to the Services, including a detailed description thereof (each a “Requested Change”). Any Requested Change shall not be binding upon CONSULTANT unless and until TOWN and CONSULTANT agree in writing to the Requested Change and the additional compensation and/or time to perform, if any, afforded to CONSULTANT (each a “Change Order”) at which time such agreed change shall become part of the “Services” (as defined herein) and the provisions of this Agreement shall apply to the Services, including such agreed change. Notwithstanding the foregoing, CONSULTANT is not obligated to perform any change work without a signed Change Order.

3.0 TERMS OF PAYMENT

Invoices will be submitted monthly for all services. All invoices are due and payable Net thirty (30) days from the date of the CONSULTANT invoice. TOWN shall pay all amounts due within the time limits set forth above. In the event TOWN disputes any invoice item, TOWN shall give CONSULTANT written notice of such disputed item and shall pay CONSULTANT the undisputed portion of the invoice according to the provisions hereof.

4.0 ACCOUNTING AND AUDIT

During the course of the Services and until the conclusion of the FEMA reimbursement process , TOWN or its authorized representatives shall be afforded access to CONSULTANT’s accounting records relating to the Services in order to audit all charges for the Services for which CONSULTANT has submitted an invoice to TOWN; however, such audit right shall not extend to the makeup of CONSULTANT’s fixed

multipliers, fixed rates or fees hereunder. In the event CONSULTANT'S services are performed beyond the term of this Contract, CONSULTANT shall continue to be paid at their regular rates as set forth in the Contract for such services rendered in completing the reimbursement process.

Records of CONSULTANT's personnel, consultants, additional services and expenses pertaining to the project, and records of accounts between TOWN and other parties shall be kept on a generally recognized account basis, and all such records shall be available to TOWN or its authorized representative at mutually convenient times.

5.0 INSURANCE

CONSULTANT will, at all times during the term of this Agreement, maintain the insurance coverage as defined within Exhibit C.

TOWN will be named as additional insured on all policies listed in Exhibit C, except for Workers Compensation and Professional Liability insurance. CONSULTANT hereby waives all rights of subrogation that it may have against TOWN arising out of this Agreement, except with respect to Professional Liability and Workers Compensation insurance.

6.0 WARRANTY

CONSULTANT shall perform its Services hereunder on a professional efforts basis, consistent with generally accepted industry standards, or in the absence of generally accepted industry standards, consistent with CONSULTANT'S experience within the industry. In the event of defect, error, omission, or failure caused by CONSULTANT'S sole negligence (hereinafter "Defect" or collectively called "Defects") in performance of any of the Services under this Agreement, and provided that CONSULTANT is notified by TOWN in writing of such Defect within one (1) year after substantial completion of the Services and such notice specifically includes a request for re-performance, CONSULTANT will re-perform the defective portion of the Services without any additional costs to the TOWN.

7.0 MUTUAL INDEMNITY

To the fullest extent permitted by law, and for TOWN, only the extent of applicable insurance, each party to this Agreement (the "Indemnifying



Party”) hereby agrees to indemnify, defend and hold harmless the other party, its affiliates and their officers, directors, employees, and agents (the “Indemnified Party”) from and against any and all costs , claims, losses, suits, damages and causes of action by any and all persons for personal injury, death or property damage (“Claims”) to the extent such Claims arise out of and/or result from the negligent acts, errors or omissions, other wrongful conduct, or breach of this Agreement by the Indemnifying Party or others acting on its behalf or under its control in the performance of services under this Agreement or the performance of obligations hereunder. Each party shall promptly serve notice on the other party of any Claims for which it or the other party may be liable under the foregoing provisions of this Agreement and shall cooperate in the defense and settlement of any claims arising thereunder.

In the event liabilities arise out of the concurrent, proportionate or contributory negligence of CONSULTANT and TOWN, such liabilities shall be apportioned among the parties based upon the principles of comparative negligence, and each party shall also be responsible for its apportioned costs of litigation.

Nothing contained in this section shall be construed as to create any cause of action in any third party, and the TOWN specifically reserves all applicable defenses of governmental immunity which may otherwise be available to it as provided by law.

8.0 MUTUAL CONSEQUENTIAL DAMAGES WAIVER

To the fullest extent allowed by law, and notwithstanding anything in this Agreement to the contrary, it is agreed that neither TOWN nor CONSULTANT shall be liable in any event for any indirect, incidental, punitive or consequential damages arising out of this Agreement or resulting from the performance of the Services. Indirect, incidental, punitive or consequential damages as used herein shall include, but not be limited to, loss of capital, loss of product, loss of profit, loss of use of any system or other property, whether arising in contract, tort (including negligence and strict liability), warranty, statute, or otherwise.

9.0 LIMITATION OF LIABILITY – NOT USED

10.0 INDEPENDENT CONTRACTOR



In the performance of the Services hereunder, CONSULTANT shall act as an independent contractor, providing necessary supervision, direction and control over its employees. TOWN agrees to avail itself of any protections or liability limitations available to it.

11.0 RECRUITMENT OF PERSONNEL

During the term of this Agreement and for a period of three (3) years thereafter, CONSULTANT will not, except with the prior written approval of TOWN, solicit the employment of any TOWN employees with whom CONSULTANT has had contact in connection with CONSULTANT's performance of the Services or obligations under this Agreement or the administration of this Agreement. During the term of this Agreement and for a period of two (2) years thereafter, TOWN will not, except with the prior written approval of CONSULTANT, solicit the employment of any CONSULTANT employees with whom TOWN has had contact in connection with TOWN's performance of the Services or obligations under this Agreement or the administration of this Agreement.

12.0 NOTICES

This Agreement may be executed and delivered in counterparts, electronically and/or in hardcopy, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement, by electronic means or in hardcopy, shall be deemed to constitute due and sufficient delivery of such counterpart. Any notice required or permitted to be given hereunder shall be given in writing to the other party either personally, electronically, facsimile or by certified mail, return receipt required, or by a recognized overnight courier (e.g., Federal Express), addressed as follows:

To TOWN:

Town of Spruce Pine
11050 S. 226 HWY, Spruce Pine, NC 28777
Attention: Daniel Stines
Email: manager@sprucepine-nc.gov
Phone: 828-765-3000



To **CONSULTANT:** **Hunt, Guillot & Associates, LLC**
P.O. Box 580 Ruston, LA 71273
Attention: Jack Hunt
Email: jhunt@hga-llc.com

Any notices sent by mail shall be effective upon receipt. Each party shall notify the other of any change of address in writing in the manner stated above.

13.0 TERM OF AGREEMENT

This Agreement will remain in effect from the date of this Agreement for one (1) year with two (2) one-year extension options, or otherwise terminated according to Section 15.0.

14.0 ASSIGNMENT

This Agreement shall not be assignable by either party without written consent of the other, except for assignment resulting from merger, consolidation, or reorganization of the assigning party.

15.0 TERMINATION

TOWN or CONSULTANT may terminate this Agreement at any time upon thirty (30) days written notice of termination, in which event CONSULTANT will be reimbursed for all Services rendered, fees earned and materials purchased to the date of termination, all costs necessary to terminate its commitments for Services and materials made prior to termination, all costs of CONSULTANT's demobilization, such further expenditures after the date of termination for the protection and disposal of TOWN's property, accounting services in connection with the settlement of this Agreement.

Notwithstanding the foregoing, CONSULTANT shall be available to assist TOWN with finalizing any outstanding FEMA reimbursement claims as needed, and CONSULTANT shall be paid for such services at its regular rates as set forth herein.

16.0 GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina, without reference to conflict of



laws or principles. The parties agree that any dispute or claim hereunder shall be filed in a state court of proper jurisdiction and venue sitting in North Carolina.

This Contract is entered into in Mitchell County, North Carolina, and shall be construed in accordance with the laws of the State of North Carolina. The parties hereby agree that Mitchell County, North Carolina, is an appropriate venue for the resolution of any disputes arising as a result of this contract. If a dispute arises out of or relates to the Contract which cannot be resolved informally between the parties, the parties agree to conduct pre-litigation mediation, consistent with the rules of Mediated Settlement Conferences for the Superior Court of North Carolina, prior to the filing of any suit arising out of this Contract.

17.0 ENTIRE AGREEMENT

All negotiations, proposals, and agreements prior to the date of this Agreement are merged herein and superseded hereby, there being no other agreements, warranties, or understandings other than those written or specified herein and in the Standard Terms of any TOWN Order subsequently issued to CONSULTANT. In the event of a conflict between this Agreement and the Standard Terms of any subsequently issued Order, the terms of this Agreement shall control unless mutually agreed otherwise by both Parties in writing.

If any provision of this contract is unenforceable, invalid, or illegal, the remaining provisions will continue in full force and effect.

18.0 SEVERABILITY AND SURVIVAL

Each provision of this Agreement is severable. If any provision of this Agreement is determined to be illegal, invalid or unenforceable in any jurisdiction, the illegality, invalidity or unenforceability of that provision shall not affect (a) the legality, validity or enforceability of the remaining provisions of this Agreement, or (b) the legality, validity or enforceability of that provision in any other jurisdiction; and provided further, the subject provision shall be applied to the fullest extent permitted by applicable law, and TOWN and CONSULTANT shall revise the provision so as to confirm their mutual intention upon entering this Agreement and yet be legal, valid and enforceable in the applicable jurisdiction.



19.0 CONFIDENTIALITY

“Confidential Information” means (i) any information or material proprietary to one party (the “Disclosing Party”) and disclosed to the other party (the “Receiving Party”) or designated as “Confidential” or “Proprietary” either orally or in writing by the Disclosing Party, (ii) any information not generally known by Non-Disclosing Party personnel (other than persons subject to confidentiality obligations), (iii) business plans, (iv) marketing and development plans, (v) financial and tax information, (vi) development procedures, test methodologies, research results, “know-how”, specifications, engineering, scientific, financial and commercial information, designs, inventions, ideas, studies, findings, conclusions, models, technical, user and product documentation under development, internal documentation, diagrams, data, samples, drawings, plans, flowcharts, graphs, photographs, reports, letters, manuals, tables, formulae, formulations, processes, operating and testing procedures and spreadsheets, (vii) customer names and other information related to current and potential customers, (viii) price lists and pricing policies, (ix) supplier lists, (x) information in employee files, and (xi) information the Disclosing Party obtains from another party and treats as proprietary or designates as Confidential Information. Confidential Information may include information disclosed to the Receiving Party by an entity related to the Disclosing Party. Confidential Information does not include information, data or know-how which the Receiving Party can demonstrate: (i) was independently developed by the Receiving Party without any use of the Disclosing Party’s Confidential Information or by the Receiving Party’s employees or other agents (or independent contractors hired by the Receiving Party) who have not been exposed to the Disclosing Party’s Confidential Information; (ii) becomes known to the Receiving Party, without restriction, from a source other than the Disclosing Party that had no duty of confidentiality to the Disclosing Party with respect to such information; (iii) was in the public domain at the time it was disclosed or becomes in the public domain through no act or omission of the Receiving Party; or (iv) was rightfully known to the Receiving Party, without restriction, at the time of disclosure.

Each Receiving Party shall not disclose any Confidential Information of the Disclosing Party to third parties. Each Receiving Party shall take all reasonable measures (i) to protect the secrecy of and avoid disclosure or unauthorized use of Confidential Information of the Disclosing Party,

and (ii) to prevent such Confidential Information from falling into the public domain or the possession of persons other than those persons authorized hereunder to have such information. Such measures shall include using the highest degree of care that the Receiving Party uses to protect its own Confidential Information of a similar nature. Each Receiving Party agrees to notify the Disclosing Party in writing of any misuse or misappropriation of the Disclosing Party's Confidential Information which may come to such Receiving Party's attention.

It is further understood and agreed that TOWN is subject to certain state and/or federal laws governing the disclosure of public records and/or public information. If "Confidential Information" in TOWN's possession falls within the scope of a "public records request," FOIA request," or the like, and TOWN determines that the law requires disclosure of such information, TOWN will notify CONSULTANT and will not disclose such "Confidential Information" until CONSULTANT has had at least three (3) business days to either consent to the disclosure or institute legal proceedings to prevent such disclosure. TOWN's disclosure of "Confidential Information" in response to a "public records request," FOIA request," or the like, and after CONSULTANT's consent or a final court Order shall not violate this section.

20.0 AFFIRMATIVE ACTION PLAN

TOWN and CONSULTANT shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60- 300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

(Signature page to
follow)

IN WITNESS WHEREOF, TOWN and CONSULTANT have caused this Agreement to be executed by their duly authorized representatives as of the dates indicated below, but effective as of the date first written above.

TOWN

CONSULTANT

By: _____

By: _____
Tyson Hackenberg

Title: _____

Title: Vice President

Date: _____

Date: _____

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

Finance Officer

EXHIBIT A – SCOPE OF SERVICES

1. BACKGROUND

TOWN seeks to protect its interests by securing the services of CONSULTANT. TOWN faces recurring threats of natural disasters like hurricanes and flooding, necessitating robust mitigation and disaster recovery strategies. TOWN's vulnerability underscores the critical need for CONSULTANT to provide qualified planning and development resources specializing in mitigation and recovery. Such expertise is essential for crafting proactive measures to reduce risk, safeguarding infrastructure and enhancing community resilience. Moreover, CONSULTANT shall provide resources versed in disaster recovery can streamline post event efforts, expediting restoration, and fostering long term recovery. Securing services of CONSULTANT reflects TOWN'S commitment to proactive disaster preparedness and effective response, ensuring the safety and well-being of its citizens. CONSULTANT will work closely with and at the direction of TOWN and will assist in strategically managing the project development and administration of any and all federal and/or state disaster programs related to declared emergencies, including but not limited to Hurricane Helene.

2. SCOPE OF WORK

CONSUTLANT will provide experienced personnel and resources for administrative services, project management, disaster recovery advisory, funding compliance, reimbursement, grant development, grant closeout, and audit support as directed by the TOWN in support of any disaster recovery program, including any related federally funded and state funded programs or initiatives currently existing or yet defined. The CONSULTANT shall perform services and work necessary, or usually implied as prerequisite for performance of the services whether or not specifically mentioned below for any program so authorized by subsequent Order. The scope of work may include but is not limited to the following categories and tasks:

A. Applicants Briefing and Kick-Off Meeting. – Attend meetings with the State/Federal agencies including applicant briefings, kick-off meetings and project specific discussions.

B. Technical Assistance – Provide general financial management advice and assistance including but not limited to:

- Develop and support the ongoing activity of a disaster recovery team to



manage the FEMA Public Assistance process.

- Provide advice as to the disaster recovery team as appropriate and participate in meetings.
- Provide advice as to the eligibility of facilities, work, and costs and develop justifications for presentation to the State of North Carolina and FEMA with regard to any issues which may arise.
- Briefing purchasing, contracting and department personnel on requisite/purchasing procedures and documentation.
- Provide related technical assistance to TOWN staff.
- Draft Requests for Qualifications and prepare initial drafts of contracts meeting the qualifications for the appropriate grant administering entity

C. Correspondence – Prepare correspondence to the State of North Carolina, FEMA, HUD, etc. on behalf of the TOWN as necessary; Prepare periodic reports to the TOWN as to the status of grant management progress and participate in all status meetings.

D. Financial Tracking – Categorize, record, track and file costs on approved forms in support of the financial reimbursement process. Communicate with TOWN Departments on an as needed basis and maintain an up-to-date database of eligible labor, equipment, and materials costs.

E. Financial Management – Assist with requesting funding or grants based on estimates; development and tracking of plans for cash flow management and disbursements by State/FEMA; insurance evaluation, documentation adjusting and settlement services; tracking project progress, expenditures, reimbursement requests and receipts.

F. Project Worksheet – Prepare Project Worksheets for Categories A-G and Z for review by FEMA and the State ensuring that the scope of work is accurate and comprehensive, estimates are accurate, expenses are eligible and documented, and that projects are categorized as small or large in a manner that ensures prompt and sufficient reimbursement to the TOWN; Attend all meetings with the TOWN, State and FEMA (and/or other Federal agencies) to negotiate individual Project Worksheets as needed.

G. Repair and Restoration – Review the scope of work and bidding procedures of proposed damage repair/reconstruction work for compliance with FEMA requirements. Prepare cost estimates and track schedule and scope of work funded by grants.

H. Documentation – Support departments with organizing reimbursable expenses.



Review, maintain and ensure accuracy of documentation prepared by TOWN departments.

I. Reporting – Compile and summarize in FEMA approved format costs for presentation to FEMA and the State and inclusion in project worksheets.

J. Compliance – Ensure the TOWN meets all deadlines imposed by FEMA and/or the State for documentation, appeals, completion of work, etc. If the TOWN disagrees with any FEMA determinations, make all reasonable efforts to resolve any such dispute and/or strategize and write appeals; Provide fully qualified subject matter experts to the TOWN in support of any legal action required as the result of an appeal and/or arbitration; Review and advise on contract drafts and terms to meet compliance with the requirements of the applicable grant administering program.

K. Closeout – Preparation of closeout packages including final funding reconciliation, copies of required permits, exemptions or waivers, bid documents, change orders, improved project filings, compliance monitoring, and other documents required or useful for grant closeout review. Prepare all documentation for, and represent the TOWN in, all project closeout activities. Participate in exit conferences with the TOWN, State, and FEMA.

L. Audit – Upon completion of all projects and drawn down reimbursement for all eligible costs, finalize preparations for State and FEMA final inspections and audits.

M. Mitigation – FEMA 404 (HMGP) and 406 (PAP) Hazard Mitigation Services: Assist in identifying, developing, and evaluating opportunities for hazard mitigation projects (Section 404 and 406). Develop hazard mitigation proposals, cost benefit analysis (BCA). Prepare other hazard mitigation services related to Hazard Mitigation Grant Program, Pre-Disaster Mitigation, and other mitigation programs.

N. Community Development Block Grant – Provide knowledge, experience, and technical competence in the planning, administration, and implementation of eligible CDBG activities as identified at 24 CFR 570 and modified or waived under Federal Register allocation of the CDBG funds. Conduct unmet needs assessment – particularly housing, infrastructure, and economy. Provide other HUD related technical assistance and consulting services as needed.

O. Other Grant Management Assistance – Provide other state and federal grant management services as needed. Assist the TOWN with the management and administration of other federal grant management programs not identified above.



P. FEMA Public Assistance (PA) Advisory Services including but not limited to the following:

1. Develop a process/system to efficiently submit grant applications, identify eligible projects, capture costs, prepare cost reports, reconcile invoices, and close-out projects.
2. Attend meetings with relevant local, state, and federal officials to address eligibility and process issues.
3. Provide knowledge, experience and technical expertise in dealing with federal and state regulations, specifically including, but not limited to, the Robert T. Stafford Disaster Relief and Emergency Assistance Act and familiarity with North Carolina Emergency Management and grant processing.
4. Proactively identify and resolve issues that may arise related to the funding of completed and forthcoming work.
5. Provide engineering, cost estimating, and architectural support, among other types of technical assistance.
6. Assess damage to public infrastructure components, transportation systems, and facilities.
7. Obtain, analyze and gather field documentation, including gathering relevant records (including timekeeping and assignment records) in order to extract pertinent information.
8. Review all data and supporting documentation to determine eligible adequate costs.
9. Evaluate and assist in the formulation of FEMA PA Emergency and permanent Work Project Worksheets, to include Cost Estimating, developing Detailed Damage Descriptions and Dimensions (“DDD”) and project Scope of Work (“SOW”).
10. Assist in the development of hazard mitigation proposals under Sections 406 and 404 of the Stafford Act.
11. Evaluate alternate and/or improved projects.
12. Evaluate the appropriateness of the use of FEMA Section 428 Public Assistance Alternative Procedures for Permanent Work.
13. Review Project Worksheets (PW) to determine final eligible costs and third-party refunds/ reimbursements.

14. Reconcile eligible costs and prepare PW versions.
15. Prepare first and second appeals, and/or initiate and support arbitration proceedings.
16. Monitor reconstruction efforts, reconcile change orders with PW scope of repair and prepare progress payments.
17. Perform PW closeouts.
18. Prepare projects for audit.
19. Respond to audit findings, as required.

Q. Financial and Grant Management Support including but not limited to the following:

1. Advise on FEMA's policies, regulations, practices and procedures and how to track costs, including direct administrative costs to facilitate reimbursement for all eligible client costs, including contractor costs.
2. Provide general grant management advice.
3. Perform internal controls assessment.
4. Conduct pre-audit activities and prepare disaster recovery projects for audit.
5. Meet with County/State/Federal representatives in connection with the programmatic, financial, contracting and accounting services related to applicable regulations.
6. Prepare required reports, including the Public Assistance Quarterly Progress Report, for the State and FEMA, as needed.
7. Provide oversight of contractors' billing to ensure that they invoice in accordance with their contract, and that all costs eligible for the disaster grant funding are documented and claimed.
8. Categorize, record, track, and file costs in support of the financial reimbursement process. Track Project Worksheet status and status of payment from the State.
9. Assist in providing intergovernmental coordination and technical support, as well as identifying funding resources that may be available to assist in the long- term recovery process.
10. Collect Policies, Bid Tabs, Contracts, Agreements, etc.

11. Work with FEMA Project Specialist in compiling documentation for the Consolidated Resource Center (CRC) and/or Site Assessment teams.
12. Perform analysis of force account labor and equipment hours, etc.

R. HUD Community Development Block Grant Disaster Recovery including but not limited to the following:

1. Provide knowledge, experience, technical competence, and oversight in the planning, administration, and implementation of eligible CDBG activities as identified in the Code of Federal Regulations (to include CDBG-DR funds).
2. Conduct assessments that identify housing, infrastructure, and the economic disaster recovery needs.
3. Develop and submit HUD required Action Plan for Disaster Recovery, Action kick-off meetings and project specific discussions.

EXHIBIT B – PRICING ATTACHMENT

The hourly labor rates shall include all applicable overhead and profit. All nonlabor related project costs (including travel, lodging, and per diem) will be billed to the Town of Spruce Pine at cost without markup.

POSITIONS	HOURLY RATES
Project Executive	\$150.00
Project Manager	\$175.00
GIS Analyst	\$145.00
GIS Technician	\$120.00
Engineer I	\$125.00
Engineer II	\$165.00
Engineer III	\$210.00
Planner I	\$90.00
Planner II	\$110.00
Planner III	\$135.00
Senior Program Manager	\$215.00
Program Manager	\$190.00
Senior Grant Manager	\$175.00
Grant Manager	\$135.00
Recovery Management Specialist	\$90.00
Community Development Planner I	\$110.00
Community Development Planner II	\$145.00
Construction Manager	\$150.00
Construction Inspector	\$115.00
Environmental and Historic Preservation Specialist	\$150.00
Program Administrator	\$125.00
Admin/Clerical Staff	\$60.00

OTHER REQUIRED POSITIONS

CONTRACTOR may submit other positions, with hourly rates and attach a job description for each position.



EXHIBIT C - INSURANCE REQUIREMENTS

CONSULTANT shall purchase and maintain, for the duration of the Agreement, insurance for any and all claims including but not limited to injuries to persons or damages to property which may arise from or in connection with the performance of the work by CONSULTANT, its agents, representatives, volunteers, employees or subcontractors, etc.

A. MINIMUM SCOPE AND LIMITS OF INSURANCE

Workers Compensation

Workers Compensation insurance shall be in compliance with the Workers Compensation law of the State of Louisiana. Employers Liability is included with a minimum limit of \$500,000 per accident/per disease/per employee.

Commercial General Liability

Commercial General Liability insurance, Broad Form Damage, including Personal and Advertising Injury Liability, Contractual Liability for Consultant's obligation assumed hereunder, Independent Contractors Coverage, Premises/Operations and Products/Completed Operations. There shall be a minimum limit per occurrence of \$1,000,000 and a minimum general aggregate of \$2,000,000. The Insurance Services Office (ISO) Commercial General Liability occurrence coverage form CG 00 01 (or current form approved for use in Louisiana), or equivalent, is to be used in the policy. Claims-made form is unacceptable. If applicable, coverage for occurrences results from blasting, explosion or collapse, damage to underground property and injury or destruction of any property resulting there from.

Commercial Automobile Liability

Commercial Automobile Liability Insurance shall have a minimum combined single limit per occurrence of \$1,000,000 ISO form number CA 00 01 (or current form approved for use in Louisiana), or equivalent, is to be used in the policy. This insurance shall include third-party bodily injury and property damage liability for owned, hired and non-owned automobiles.



Excess Umbrella

Excess Umbrella insurance may be used to meet the minimum requirements for General Liability and Automobile Liability only.

Professional Liability (Errors & Omissions) Insurance

Insurance shall be maintained appropriate to the Consultant's profession, with limits no less than \$1,000,000 per occurrence or claim and \$2,000,000 aggregate.

The policy must include coverage for OWNER, CONSULTANT and any subcontractors as their interests may appear. The CONSULTANT shall:

- Be responsible for all deductibles and self-insured retentions;
- Be responsible for all work in progress until final completion;
- Procure and maintain for the duration of the work and until acceptance by Owner, an All Risk Builders Risk Policy, including Flood and Named Windstorms; and
- Name the TOWN as a Loss Payee or Named Insured.

B. DEDUCTIBLES AND SELF-INSURED RETENTIONS

CONSULTANT shall be responsible for all deductibles and self-insured retentions. Any deductibles or self-insured retentions must be declared to and accepted by the OWNER.

C. OTHER INSURANCE PROVISIONS

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

a. GENERAL LIABILITY AND AUTOMOBILE LIABILITY COVERAGE

The TOWN, its officers, agents, employees and volunteers shall be named as an Additional Insured with a Waiver of Subrogation as regards negligence by the Consultant. ISO Form CG 20 10 (or current form approved for use in Louisiana), or equivalent, is to be used when applicable. The coverage shall contain no special limitations on the scope of protection afforded to the TOWN.



CONSULTANT insurance shall be primary as respects the TOWN, its officers, agents, employees and volunteers. Any insurance or self-insurance maintained by the TOWN shall be excess and non-contributory of the CONSULTANT's insurance.

CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the policy limits.

**b. WORKERS COMPENSATION AND EMPLOYERS LIABILITY
COVERAGE**

The insurer shall agree to waive all rights of subrogation against the TOWN, its officers, agents, employees and volunteers for losses arising from work performed by the CONSULTANT for the TOWN.

c. ALL COVERAGE

Coverage shall not be canceled, suspended, or voided by either party (the CONSULTANT or the insurer) or reduced in coverage or in limits except after 30 days written notice has been given to the TOWN. Ten-day written notice of cancellation is acceptable for non-payment of premium. Notifications shall comply with the standard cancellation provisions in the Consultant's policy.

Neither the acceptance of the completed work nor the payment thereof shall release the CONSULTANT from the obligations of the insurance requirements or indemnification agreement.

The insurance companies issuing the policies shall have no recourse against the TOWN for payment of premiums or for assessments under any form of the policies.

Any failure of the CONSULTANT to comply with reporting provisions of the policy shall not affect coverage provided to the TOWN, its officers, agents, employees and volunteers.

If the CONSULTANT maintains higher limits than the minimum show herein, the TOWN shall be entitled to coverage to the higher limits maintained by the CONSULTANT.

If the CONSULTANT does not maintain proper coverage, he will be given notice to stop work and informed that any such stoppage is a violation of the Agreement and that the Consultant is liable for any losses or delays.

D. ACCEPTABILITY OF INSURERS

All required insurance shall be provided by a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located. Insurance shall be placed with insurers with a A.M. Best's rating of A-:VI or higher.

If at any time an insurer issuing any such policy does not meet the minimum A.M. Best rating, the CONSULTANT shall obtain a policy with an insurer that meets the A.M. Best rating and shall submit another Certificate of Insurance as required in the Agreement.

E. VERIFICATION OF COVERAGE

CONSULTANT shall furnish the TOWN with Certificates of insurance reflecting proof of required coverage. The Certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The Certificates are to be received and approved by the TOWN before work commences and upon any contract renewal thereafter.

In addition to the Certificates, CONSULTANT shall submit the declarations page and the cancellation provision endorsement for each insurance policy. The TOWN reserves the right to request complete certified copies of all required insurance policies at any time.

Upon failure of the CONSULTANT to furnish, deliver and maintain such insurance as above provided, this Agreement, at the election of the TOWN, may be suspended, discontinued or terminated. Failure of the CONSULTANT to purchase and/or maintain any required insurance shall not relieve the CONSULTANT from any liability or indemnification under the Agreement.

EXHIBIT D

FEDERAL PROVISIONS

FOR

PROFESSIONAL SERVICES CONTRACTS

CONTENTS

1. FEDERAL CONTRACT CLAUSES.....	23
2. EQUAL EMPLOYMENT OPPORTUNITY.....	23
3. CERTIFICATION OF NONSEGREGATED FACILITIES.....	25
4. CIVIL RIGHTS.....	25
5. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.....	25
6. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 – <i>COMPLAINCE IN THE PROVISION OF TRAINING, EMPLOYMENT, AND BUSINESS OPPORTUNITIES</i>	25
7. SECTION 503 OF THE REHABILITATION ACT OF 1973 (29 USC 793)	26
8. SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED.....	27
9. AGE DISCRIMINATION ACT OF 1975.....	27
10. CERTIFICATION OF COMPLAINCE WITH AIR AND WATER ACTS.....	27
11. FLOOD DISASTER PROTECTION.....	28
12. ACCESS TO RECORDS – MAINTENANCE OF RECORDS.....	28
13. INSPECTION.....	28
14. REPORTING REQUIREMENTS.....	28
15. CONFLICT OF INTEREST.....	28
16. ACTIVITIES AND CONTRACTS NOT SUBJECT TO EXECUTIVE ORDER 11246, AS AMENDED..	29
17. PATENTS.....	29
18. COPYRIGHT.....	29
19. TERMINATION FOR A CAUSE.....	29
20. TERMINATION FOR A CONVENIENCE.....	30
21. ENERGY EFFICIENCY.....	30
22. SUBCONTRACTS.....	30
23. DEBARMENT, SUBSPENSION, AND INELIGIBILITY.....	30
24. BREACH OF CONTRACT TERMS.....	30
25. PROVISIONS REQUIRED BY LAW DEEMED INSERTED.....	31
26. CHANGES.....	31
27. PERSONNEL.....	31
28. ANTI-KICKBACK RULES.....	31
29. ASSIGNABILITY.....	31
30. INTEREST OF CONTRACTOR.....	31
31. POLITICAL ACTIVITY.....	32
32. COMPLAINCE WITH OFFICE MANAGEMENT AND BUDGET.....	32
33. DISCRIMINATION DUE TO BELIEFS.....	32
34. CONFIDENTAL FINDINGS.....	32
35. LOBBYING.....	32
36. PROCUREMENT OF RECOVERED MATERIALS.....	33
37. COMPLIANCE WITH THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.....	33
38. FEDERAL WATER POLLUTION CONTROL ACT.....	33
39. BYRD ANTI-LOBBYING ACT.....	34
40. ACCESS TO RECORDS.....	34

41. DHS SEAL, LOGO, AND FLAGS.....	34
42. COMPLIANCE WITH FEDERAL EXECUTIVE ORDERS.....	34
43. NO OBLIGATION BY THE FEDERAL GOVERNMENT.....	34
44. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS.....	34
45. REMEDIES.....	34
46. DAVIS-BACON ACT.....	35
47. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES.....	35
48. DOMESTIC PREFERENCE FOR PROCUREMENTS.....	36
49. CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.....	37
50. STATE OF NORTH CAROLINA – EVERIFY.....	37

1. FEDERAL CONTRACT CLAUSES

Since the parties anticipate that federal funding will be applied to this Agreement, the following federal contract clauses must be complied with, where applicable, in addition to the clauses already mentioned.

2. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

- a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- d. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to

- employees and applicants for employment.
- e. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 - f. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 - g. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 - h. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States. The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of

future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

3. CERTIFICATION OF NONSEGREGATED FACILITIES

(applicable to contracts and subcontracts over \$10,000)

By the submission of this bid, the bidder, offeror, applicant or subcontractor certifies that he/she does not maintain or provide for his/her establishments, and that he/she does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. He/she certifies further that he/she will not maintain or provide for employees any segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is a violation of the equal opportunity clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

He/she further agrees that (except where he/she has obtained for specific time periods) he/she will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the equal opportunity clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

4. CIVIL RIGHTS

The Contractor shall comply with the provisions of Title VI of the Civil Rights Act of 1964. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

5. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

The Contractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 further provides that discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, is prohibited.

6. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 -COMPLIANCE IN THE PROVISION OF TRAINING, EMPLOYMENT AND BUSINESS OPPORTUNITIES

- a. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.



- b. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which
- c. implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- d. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each, and the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin.
- e. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- f. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- g. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- h. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25
- i. U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

7. SECTION 503 OF THE REHABILITATION ACT OF 1973 (29 USC 793)

(applicable to contracts and subcontracts over \$10,000)

- a. The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is otherwise qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- c. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of

the Secretary of Labor issued pursuant to the Act.

- d. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through
- e. the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- f. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- g. The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

8. SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED

The Contractor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his disability, be denied the benefits, or be subjected to discrimination including discrimination in employment, any program or activity that receives the benefits from the federal financial assistance.

9. AGE DISCRIMINATION ACT OF 1975

The Contractor shall comply with the provisions of the Age Discrimination Act of 1975. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

10. CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS

(applicable to contracts and subcontracts exceeding \$100,000)

The Contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

- a. A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR Part 15, as amended.
- b. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- c. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EPA List of

Violating Facilities.

- d. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the government may direct as a means of enforcing such provisions.

11. FLOOD DISASTER PROTECTION

This contract is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234). Nothing included as a part of this contract is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary of HUD as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the National Flood Insurance Program pursuant to Section 201(d) of said Act; and the use of any assistance provided under this contract for such acquisition for construction in such identified areas in communities then participating in the National Flood Insurance Program shall be subject to the mandatory purchase of flood insurance requirements or Section 102(a) of said Act.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Contract shall contain, if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(a) of Flood Disaster Protection Act of 1973.

12. ACCESS TO RECORDS - MAINTENANCE OF RECORDS

The State of North Carolina, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to this specific contract, for the purpose of audits, examinations, and making excerpts and transcriptions. All records connected with this contract will be maintained in a central location by the unit of local government and will be maintained for a period of five (5) years from the official date of the State's final closeout of the grant.

13. INSPECTION

The authorized representative and agents of the State of North Carolina and the Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

14. REPORTING REQUIREMENTS

The Contractor shall complete and submit all reports, in such form and according to such schedule, as may be required by the Owner.

15. CONFLICT OF INTEREST

- a. No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.
- b. No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any



share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

16. ACTIVITIES AND CONTRACTS NOT SUBJECT TO EXECUTIVE ORDER 11246, AS AMENDED (applicable to contracts and subcontracts of \$10,000 and under) During the performance of this contract, the Contractor agrees as follows:

- a. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. 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.
- b. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this non-discrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- c. Contractors shall incorporate foregoing requirements in all subcontracts.

17. Patents

- a. The Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract including its use by the Owner, unless otherwise specifically stipulated in the Contract Document.
- b. License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized license, direct by the Owner and not by or through the Contractor.
- c. If the Contractor uses any design device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the owner of such patented or copy-righted design device or material.
- d. It is mutually agreed and understood, that without exception the contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or his Sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copy-righted design, device or materials or any trademark or copy- right in connection with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense, or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

18. COPYRIGHT

No materials, to include but not limited to reports, maps, or documents produced as a result of this contract, in whole or in part, shall be available to the Contractor for copyright purposes. Any such materials produced as a result of this contract that might be subject to copyright shall be the property of the Owner and all such rights shall belong to the Owner.

19. TERMINATION FOR CAUSE

If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the Owner shall thereupon have the right to terminate this contract by giving written



notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Contractor under this contract shall, at the option of the Owner, become the Owner's property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the Contractor shall not be relieved of liability to the Owner for damages sustained by the Owner by virtue of any breach of the contract by the Contractor, and the Owner may withhold any payments to the Contractor for the purpose of set-off until such time as the exact amount of damages due the Owner from the Contractor is determined.

This Agreement may be terminated by Contractor, only with cause, upon Contractor's giving written notice to the TOWN that is in material breach of this contract and upon such default not having been cured by the TOWN within 30 days of such notice. The TOWN may terminate this Agreement upon providing written notice to Contractor that it no longer requires Contractor's services under this contract. Upon such termination by either party, (i) the Contractor shall continue to perform services and develop a plan for the orderly stoppage of the work, which shall include the delivery, or otherwise making available, to the TOWN all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Contractor in performing this Contract, whether completed or in process, and (ii) TOWN shall pay Contractor all fees and expenses due for services rendered through the 30th day after the notice of termination. Notwithstanding any such Termination, Contractor shall use best efforts to assist the TOWN regarding any unresolved and unsettled reimbursement claims with FEMA, including through first and second level appeals and as otherwise necessary or requested by the TOWN. Contract rates and payment terms shall apply to any work performed post termination.

20. TERMINATION FOR CONVENIENCE

The Owner may terminate this contract at any time by giving at least ten (10) days notice in writing to the Contractor. If the contract is terminated by the Owner as provided herein, the Contractor will be paid for the time provided and expenses incurred up to the termination date.

21. ENERGY EFFICIENCY

The Contractor shall comply with 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 (Public Law 94-163).

22. SUBCONTRACTS

- a. The Contractor shall not enter into any subcontract with any subcontractor who has been debarred, suspended, declared ineligible, or voluntarily excluded from participating in contracting programs by any agency of the United States Government or the State of North Carolina.
- b. The Contractor shall be as fully responsible to the Owner for the acts and omissions of the Contractor's subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by the Contractor.
- c. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractor to the Contractor by the terms of the contract documents



insofar as applicable to the work of subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provision of the contract documents.

- d. Nothing contained in this contract shall create any contractual relation between any subcontractor and the Owner.

23. DEBARMENT, SUSPENSION, AND INELIGIBILITY

The Contractor represents and warrants that it and its subcontractors are not debarred, suspended, or placed in ineligibility status under the provisions of 24 CFR 24 (government debarment and suspension regulations).

In addition, the Contractor represents and warrants that it and its subcontractors, in accordance with CFR Part 200, Appendix II, are not listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

24. BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the Contractor or the Contractor's subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this contract. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

25. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

26. CHANGES

The Owner may, from time to time, request changes in the scope of the services of the Contractor to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation which are mutually agreed upon by and between the Owner and the Contractor, shall be incorporated in written and executed amendments to this Contract.

27. PERSONNEL

The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Owner.

All the services required hereunder will be performed by the Contractor or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

No person who is serving sentence in a penal or correctional institution shall be employed on work



under this Contract.

28. ANTI-KICKBACK RULES

Salaries of personnel performing work under this Contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. 874; and Title 40 U.S.C. 276c). The Contractor shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this contract to insure compliance by the subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

29. ASSIGNABILITY

The Contractor shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of the Owner provided that claims for money due or to become due the Contractor from the Owner under this Contract may be assigned to a bank, trust company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Owner.

30. INTEREST OF CONTRACTOR

The Contractor covenants that he presently has no interest and shall not acquire any interest direct or indirect in the above described project or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed.

31. POLITICAL ACTIVITY

The Contractor will comply with the provisions of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of employees.

32. COMPLIANCE WITH THE OFFICE OF MANAGEMENT AND BUDGET

The parties agree to comply with the regulations, policies, guidelines, and requirements of the Office of Management and Budget, Circulars A-95, A-102, A-123, A-133, and A-54, as they relate to the use of Federal funds under this contract.

33. DISCRIMINATION DUE TO BELIEFS

No person with responsibilities in operation of the project to which this grant relates will discriminate with respect to any program participant or any applicant for participation in such program because of political affiliation or beliefs.

34. CONFIDENTIAL FINDINGS.

All of the reports, information, data, etc., prepared or assembled by the Contractor under this Contract are confidential, and the Contractor agrees that they shall not be made available to any individual or organization without prior written approval of the Owner.

35. LOBBYING.

The Contractor certifies, to the best of his or her knowledge and belief that:

- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the contractor, to any person for influencing or attempting to influence an officer or employee of



any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)- Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal 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 tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

36. PROCUREMENT OF RECOVERED MATERIALS.

All contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 257 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by proceeding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

37. COMPLIANCE WITH THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.

- a. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), 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 clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
- c. Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal

agency or the loan or grant recipient) 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 contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section

- d. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

38. FEDERAL WATER POLLUTION CONTROL ACT

- a. The Contractor 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. § 7401 et seq.
- b. The Contractor agrees to report each violation to the GOHSEP and understands and agrees that the GOHSEP will, in turn, report each violation as required to assure notification to the FEMA, and the appropriate Environmental Protection Agency Regional Office.
- c. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

39. BYRD ANTI-LOBBYING ACT

The Contractor will be expected to comply with Federal statutes required in the Anti-Lobbying Act. Contractors who apply or bid for an award shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal 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 tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

40. ACCESS TO RECORDS

- a. The following access to records requirements apply to this contract:
The Contractor agrees to provide Catahoula Parish, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- b. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy experts and transcripts as reasonably needed.
- c. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- d. In compliance with the Disaster Recovery Act of 2018 Catahoula Parish and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

41. DHS SEAL, LOGO, AND FLAGS

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS



agency officials without specific FEMA pre-approval.

42. COMPLIANCE WITH FEDERAL EXECUTIVE ORDERS

This is an acknowledgement that FEMA financial assistance will be used to fund the Contract only. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

43. NO OBLIGATION BY THE FEDERAL GOVERNMENT

The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the Contract.

44. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

45. REMEDIES

Contracts for more than the simplified acquisition threshold, currently set at \$250,000, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II(A).

46. DAVIS-BACON ACT

Compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").

- a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- c. Additionally, contractors are required to pay wages not less than once a week.

47. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

- Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause.
- Prohibitions.
 1. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
 2. Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
 - a. Procure or obtain any equipment, system, or service that uses covered



- telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - b. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - c. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
 - d. Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
- Exceptions.
 - 1. This clause does not prohibit contractors from providing—
 - a. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - b. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
 - c. By necessary implication and regulation, the prohibitions also do not apply to:
 - d. Covered telecommunications equipment or services that:
 - i. Are not used as a substantial or essential component of any system; and
 - ii. Are not used as critical technology of any system.
 - e. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.
- Reporting requirement.
 - a. In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
 - b. The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:
 - i. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - ii. Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

- Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.”

48. DOMESTIC PREFERENCE FOR PROCUREMENTS

As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this clause:

Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.”

49. CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

- a. Any party to this Contract, should consider minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- b. Such consideration means:
 - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - ii. That small and minority businesses, and women's business enterprises are solicited whenever they are deemed eligible as potential sources;
 - iii. Dividing transactions into separate procurements to permit maximum participation by small and minority businesses, and women's business enterprises;
 - iv. Establishing delivery schedules (for example, the percentage of an order to be delivered by a given date of each month) that encourage participation by small and minority businesses, and women's business enterprises
 - v. Utilizing organizations such as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

50. STATE OF NORTH CAROLINA – EVERIFY

Pursuant to Session Law 2013-418, CONTRACTOR shall fully comply with the U.S. Department of Homeland Security employee legal status E-Verify requirements for itself and all its subcontractors. TOWN requires an affidavit attesting to CONTRACTOR’s compliance. Violation of the provision, unless timely cured, shall constitute a breach of contract.



Spruce Pine Town Council Meeting
Town Hall
11050 S. Highway 226
Spruce Pine, NC 29777



MEMOS

To: Mayor & Town Council
From: Town Manager
Date: 5/12/2025
Subject: **Budget Workshop Planning Dates**

Request:

Staff is requesting that Town Council establish the next budget workshop for the FY26 budget. The request is for the next workshop to take place on or before May 22, 2025.

Respectfully,

Daniel Stines
Town Manager