

TOWN OF LANDIS
MASTER JOB ORDER CONTRACT FOR ENGINEERING SERVICES (SMALL PROJECTS)

This **MASTER JOB ORDER CONTRACT FOR ENGINEERING SERVICES (SMALL PROJECTS)** ("Contract") is made and entered into to be effective _____, 2023 ("Effective Date") between Town of Landis, North Carolina (the "Town") and Southeastern Consulting Engineers, Inc. "the Contractor"). For and in consideration of the mutual promises set forth in this Contract, the parties do mutually agree as follows:

1. Obligations of the Contractor – On an as needed, the Contractor agrees to provide engineering and related consulting services (the "Services") as more particularly described in the scope of work attached hereto and incorporated herein by reference as Exhibit 1, or otherwise requested by Town representatives.

This Contract does not grant the Contractor the right or the exclusive right to provide specified services to the Town. Similar services may be obtained from sources other than the Contractor (or not at all) at the discretion of the Town.

Individual tasks will be requested on a project-by-project basis by an authorized representative of the Town.

The Contractor shall begin work within a mutually agreeable time after receiving notice to proceed, with actual contract time starting on the day within this period when work begins.

The Contractor agrees to perform the Services in a timely, complete, and professional manner and in accordance with the terms and conditions of this Contract. Furthermore, the Contractor represents that (i) it is duly qualified and, if required by law, licensed to provide the Services; (ii) it will provide the Services in a manner consistent with the level of care and skill ordinarily exercised by contractors providing similar Services under similar conditions at the same time and in the same locale; (iii) it possesses sufficient experience, personnel, and resources to provide the Services; (iv) it shall provide the Services in compliance with applicable laws, statutes, ordinances, codes, orders, rules and regulations; and (v) its reports, if any, shall meet the above standard of care.

The terms of this Contract shall be through December 31, 2029.

2. Obligations of the Town. The Town hereby agrees to pay to the Contractor for the faithful performance of this Contract at the rates set forth on Exhibit 1 with a total not to exceed as set forth in the applicable Work Order or Town request.
3. The Town's Project Coordinator. The Director of Public Works, Electrical Director, or Electrical Superintendent, or his/her designed is designated as the Project Coordinator for the Town. The Project Coordinator shall be the Town's representative in connection with the Contractor's performance under this Contract. The Town has complete discretion in replacing the Project Coordinator with another person of its choosing.
4. Primary Client Contact for the Contractor. A.J. Molnar, PE is designated as the Primary Contact for the Contractor. The Primary Contact is fully authorized to act on behalf of the Contractor in connection with this Contract.
5. Terms and Methods of Payment. The Town will make payment after invoices are approved on a net 30-day basis for work completed. Invoices shall be detailed to the satisfaction of Town and applicable North Carolina sales tax shall be invoices as a separate item. Invoices shall be sent to the Town's

Finance Officer with a copy to the Town's Project Coordinator. The Town will not pay in advance for Services without the prior approval of the Town's Finance Officer.

6. Standard Terms and Conditions: The Contractor agrees to the Standard Terms and Conditions set forth as **Attachment A** attached hereto and incorporated herein by reference. To the extent the any terms of Exhibit 1 conflict with this Contract or the Standard Terms and Condition, this Contract and the Standard Terms and Conditions set forth in Attachment A shall control.
7. Counterpart Execution. This Contract may be executed and recorded in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument. Each party shall be entitled to rely upon executed copies of this Contract transmitted by facsimile or electronic "PDF" to the same and full extent as the originals.

IN WITNESS WHEREOF, the Town and the Contractor has executed this Contract on the date and year first written above.

Southeastern Consulting Engineers, Inc.

Contractor Name



Signature of Authorized Representative

4/11/23

Date

56-0726859

Contractor's Federal Identification #

[If Contract is with Organization or Social Security Number if individual]

Town of Landis, NC

Signature of Authorized Representative

Date

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

Signature of Authorized Finance Officer

Date

Attachment A

Standard Terms and Conditions

1. **Entire Agreement.** The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between the Contractor and the Town with respect to the purchase by the Town of the Services provided or work performed as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract". In the event of any conflict between any terms and conditions of the Contract Documents, the terms, and conditions most favorable to the Town shall control. No additional or supplemental provision or provisions in variance herewith that may appear in the Contractor's quotation, acknowledgment, invoice, or in any other communication from the Contractor to the Town shall be deemed accepted by or binding on the Town. The Town hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until the Town's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by the Town are subject to correction.
2. **Nondiscrimination.** During the performance of the Contract, the Contractor shall not discriminate against or deny the Contractor's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age, or disability.
3. **Conflict of Interest.** The Contractor represents that no member of the Town or any of its employees or officers who may obtain a direct benefit, personal gain or advantage for themselves or a relative or associate as a result of the Contract, subcontract or other agreement related to the Contract is in a position to influence or has attempted to influence the making of the Contract, has been involved in making the Contract, or will be involved in administering the Contract. The Contractor shall cause this paragraph to be included in all Contracts, subcontracts and other agreements related to the Contract.
4. **Gratuities to the Town.** The right of the Contractor to proceed may be terminated by written notice if the Town determines that the Contractor, its agent, or another representative offered or gave a gratuity to an official or employee of the Town in violation of the policies of the Town.
5. **No Kickbacks to the Contractor.** The Contractor shall not permit any kickbacks or gratuities to be provided, directly or indirectly, to itself, its employees, subcontractors, or subcontractor employees for the purpose of improperly obtaining or rewarding favorable treatment in connection with a Town contract or in connection with a subcontract relating to a Town contract. When the Contractor has grounds to believe that a violation of this clause may have occurred, the Contractor shall promptly report to the Town in writing the possible violation.
6. **E-Verification.** The Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.
7. **Indemnification.** The Contractor shall indemnify and hold harmless the Town, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expense, reasonable attorneys' fee and liability that any of them may sustain to the extent (a) proximately caused by the Contractor's failure to comply with any applicable law, ordinance, regulation, or the negligent acts, errors or omissions in its performance of its services herein or (b) arising out of the Contractor's breach of the terms and conditions of the Contract. In the event the Contractor, its employees, agents, subcontractors and or lower-tier subcontractors enter premises occupied by or under the control of the Town in the performance of the Contract Documents, the Contractor agrees that it will indemnify and hold harmless the Town, its officers, agents, employees and assigns, from any loss, costs, damage expense or liability by reason of property damage or personal injury of whatsoever nature or kind arising out of, as a result of, or in connection with such entry.
8. **Insurance.** Unless such insurance requirements are waived or modified by the Town, the Contractor certifies that it currently has and agrees to purchase and maintain during its performance under the Contract the following insurance from one or more insurance companies acceptable to the Town and authorized to do business in the State of North Carolina: Automobile – the Contractor shall maintain bodily injury and property damage liability insurance covering all owned, non-owned and hired automobiles. The policy limits of such

insurance shall be \$1,000,000 combined single limit each person/each occurrence. Commercial General Liability – the Contractor shall maintain commercial general liability insurance that shall protect the Contractor from claims of bodily injury or property damage which arise from performance under the Contract. This insurance shall include coverage for contractual liability. The policy limits of such insurance shall be \$1,000,000 combined single limit each occurrence/annual aggregate. Worker’s compensation and Employers’ Liability Insurance – if applicable to the Contractor, the Contractor shall meet the statutory requirements of the State of North Carolina for workers' compensation coverage and employers' liability insurance. The Contractor shall also provide any other insurance specifically recommended in writing by the Town or required by applicable law. Certificates of such insurance shall be furnished by the Contractor to the Town and shall contain the provision that the Town be given 30 days’ written notice of any intent to cancel or materially change by either the Contractor or the insuring company. Failure to furnish insurance certificates or to maintain such insurance shall be a default under the Contract and shall be grounds for immediate termination of the Contract.

9. Termination for Convenience. In addition to all of the other rights which the Town may have to cancel this Contract, the Town shall have the further right, without assigning any reason therefore, to terminate the Contract, in whole or in part, at any time at its complete discretion by providing 10 days’ notice in writing from the Town to the Contractor. If the Contract is terminated by the Town in accordance with this paragraph, the Contractor will be paid in an amount which bears the same ratio to the total compensation as does the Services actually delivered or performed to the total originally contemplated in the Contract.
10. Termination for Default. The Town may terminate the Contract, in whole or in part, upon breach of the Contract by the Contractor upon written notice to the Contractor and the failure of the Contractor to cure such breach within a reasonable time as set forth in the written notice. In addition to any other remedies available to the Town law or equity, the Town may procure upon such terms as the Town shall deem appropriate, Services substantially similar to those so terminated, in which case the Contractor shall be liable to the Town for any excess costs for such similar goods, supplies, or services and any expenses incurred in connection therewith.
11. Contract Funding. It is understood and agreed between the Contractor and the Town that the Town’s obligation under the Contract is contingent upon the availability of appropriated funds from which payment for Contract purposes can be made. No legal liability on the part of the Town for any payment may arise until funds are made available to the Town’s Finance Officer and until the Contractor receives notice of such availability. Should such funds not be appropriated or allocated, the Contract shall immediately be terminated. The Town shall not be liable to the Contractor for damages of any kind (general, special, consequential, or exemplary) as a result of such termination.
12. Improper Payments. The Contractor shall assume all risks attendant to any improper expenditure of funds under the Contract. The Contractor shall refund to the Town any payment made pursuant to the Contract if it is subsequently determined by audit that such payment was improper under any applicable law, regulation, or procedure. The Contractor shall make such refunds within 30 days after the Town notifies the Contractor in writing that a payment has been determined to be improper.
13. Contract Transfer. The Contractor shall not assign, subcontract, or otherwise transfer any interest in the Contract without the prior written approval of the Town.
14. Contract Personnel. The Contractor agrees that it has, or will secure at its own expense, all personnel required to provide the Services set forth in the Contract.
15. Contract Modifications. The Contract may be amended only by written amendment duly executed by both the Town and the Contractor.
16. Relationship of Parties. The Contractor is an independent contractor and not an employee of the Town. The conduct and control of the work will lie solely with the Contractor. The Contract shall not be construed as establishing a joint venture, partnership, or any principal-agent relationship for any purpose between the Contractor and the Town. Employees of the Contractor shall remain subject to the exclusive control and supervision of the Contractor, which is solely responsible for their compensation.
17. Advertisement. The Contract will not be used in connection with any advertising by the Contractor without prior written approval by the Town.
18. No Pre-Judgment or Post-Judgment interest. In the event of any action by the Contractor for breach of contract in connection with the Contract, any amount awarded shall not bear interest either before or after any judgment, and the Contractor specifically waives any claim for interest.

19. **Background Checks.** At the request of the Town's Project Coordinator, the Contractor (if an individual) or any individual employees of the Contractor shall submit to the Town criminal background check and drug testing procedures.
20. **Confidential Information.** **Employee Personnel Information:** If, during the Contractor's performance of the Contract. Contractor shall obtain any information pertaining to the employees of the Town's personnel records, Contractor agrees to keep any such information confidential and to not disclose or permit it to be disclosed, directly or indirectly, to any person or entity. **Other Confidential Information:** (a) the Contractor agrees that it will at all times hold in confidence for the Town all designs, know-how, techniques, devices, drawings, specifications, patterns, technical information, documents, business plans, item requirements, forecasts and similar data, oral, written or otherwise, conveyed by the Town to the Contractor in connection herewith or procured, developed, produced, manufactured or fabricated by the Contractor in connection herewith or procured, developed, produced, manufactured or fabricated by the Contractor in connection with the Contractor's performance hereunder (collectively "Information"). The Contractor shall exercise the same degree of care to prevent disclosure of a any information to others as it takes to preserve and safeguard its own proprietary information, but in any event, no less than a reasonable degree of care. The Contractor shall not, without the prior written consent of the Town, reproduce any information; nor disclose information to any party; nor use any information for any purpose other than performance for the benefit of the Contractor hereunder except where such disclosure is required by law, subpoena or other court or administrative order. Any technical knowledge or information of the Contractor which the Contractor shall have disclosed or may hereinafter disclose to the Town in connection with the Services or other performance covered by the Contract shall not, unless otherwise specifically agreed upon in writing by the Town, be deemed to be confidential or proprietary information and shall be acquired by the Town free from any restrictions as part of the consideration of the Contract.
21. **Intellectual Property.** The Contractor agrees, at its own expense, to indemnify, defend and save the Town harmless from all liability, loss, or expense, including costs of settlement and attorney's fees, resulting from any claim that the Town's use, possession or sale of the Services or any goods infringes any copyright, patent or trademark or is a misappropriation of any trade secret.
22. **Mediation.** If a dispute arises out of or relates to the Contract, or the breach of the Contract, and if the dispute cannot be settled through negotiation, the parties agree to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to litigation.
23. **No Third-Party Benefits.** The Contract shall not be considered by the Contractor to create any benefits on behalf of any third party. The Contractor shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no thirty-party benefits.
24. **Force Majeure.** If the Town is unable to perform its obligations or to accept the Services because of Force Majeure (as hereinafter defined), the time for such performance by the Town or acceptance of Services will be equitably adjusted by allowing additional time for performance or acceptance of Services equal to any periods of Force Majeure. "Force Majeure" shall mean any delays caused by acts of God, riot, war, terrorism, inclement weather, labor strikes, material shortages and other causes beyond the reasonable control of the Town.
25. **Strict Compliance.** The Town may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.
26. **General Provisions.** The Town's remedies as set forth herein are not exclusive. Any delay or omission in exercising any right hereunder, or any waiver of any single breach of default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default. If action be instituted by the Contractor hereunder, the Town shall be entitled to recover costs and reasonable attorney's fees. The Contractor may not assign, pledge, or in any manner encumber the Contractor's rights under this Contract or delegate the performance of any of its obligations hereunder, without the Town's prior, express written consent.
27. **Contract Situs.** All matters, whether sounding in contract or tort relating to the validity, construction, interpretation, and enforcement of the Contract, will be determined in Rowan County, North Carolina. North Carolina law will govern the interpretation and construction of the Contract.
28. **Severability.** Any provision of this Contract that is determined by any court of competent jurisdiction to be invalid or unenforceable will not affect the validity or enforceability of any other provision. Any provision of

the Contract held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

29. **FEDERAL FUNDS:** If the source of funds for this contract is federal funds, the following federal provisions apply pursuant to 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II (as applicable): Equal Employment Opportunity (41 C.F.R. Part 60); Davis-Bacon Act (40 U.S.C. 3141-3148); Copeland "Anti-Kickback" Act (40 U.S.C. 3145); Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708); Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387); Debarment and Suspension (Executive Orders 12549 and 12689); Byrd Anti-Lobbying Amendment (31 U.S.C. 1352); Procurement of Recovered Materials (2 C.F.R. § 200.322); and Record Retention Requirements (2 CFR § 200.324).

Exhibit 1 – Scope and Price List

Provide Professional Engineering Services in support of the Electric System. The services and projects anticipated may include, but are not limited to; electric engineering analysis; design of electric facilities; system studies; long range work plans; construction plans and specifications; electrical transmission; distribution, and substations design; generation systems; SCADA systems; operational equipment; process improvements; energy consumption analysis; arc flash studies; relay and post fault analysis; rate analysis, financial studies, and other electrical review as required.

Price List see Attachment A