

MASTER AGREEMENT FOR ON-CALL ENGINEERING AND RELATED SERVICES

THIS Master Agreement ('Agreement'), made and entered into this ____ day of _____, 2024, by and between the Town of North Topsail Beach (hereinafter called the "TOWN") and _____, a professional engineering, geotechnical and/or surveying firm with a partner or principal registered in North Carolina as a licensed engineer for engineering services and/or a partner or principal registered in North Carolina as a licensed surveyor for surveying services, (hereinafter, the "FIRM").

WITNESSETH

WHEREAS, the TOWN is procuring professional "on-call" professional engineering and related services ("Services"); and

WHEREAS, TOWN published a Request for Letters of Interest and Statements Qualifications for "on-call" engineering and related services ("RFQ") on June 14, 2024 for such on-call professional services, and

WHEREAS, FIRM was one of several professional civil engineering, planning, geotechnical and/or surveying firms responding to the RFQ with a proposal dated July 8, 2024, and is willing to serve as the TOWN'S professional consultant to provide Services on an on-call basis for each project authorized under this Agreement.

NOW, THEREFORE, in the consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1 **SCOPE OF SERVICES**

- 1.1 The recitals set forth hereinabove are incorporated herein by reference.
- 1.2 The term "Services" shall include the services to be provided by the FIRM as described in this Agreement, the "Basic Services" described in Exhibit A to this Agreement and all additional services described in any Task Order (as defined below). This Agreement is the Master Agreement pursuant to which FIRM shall render such Services to the TOWN. This Agreement will be supplemented by written "Task Orders" signed by the parties ("Task Order") for each project authorized under this Agreement. The process for executing Task Orders is set forth in Article 2.

- 1.3 By its execution of this Agreement, FIRM represents and agrees that it is qualified and fully capable to perform and provide the Services and other services required or necessary under this Agreement in a fully competent, professional and timely manner. FIRM also represents and warrants that, if it provides any services hereunder related to development located on State or US routes, it is familiar with North Carolina Department of Transportation (“NCDOT”) regulations, standards, policies and practices.

ARTICLE 2
COMMENCEMENT, COMPLETION AND COMPENSATION

- 2.1 Services shall be performed by FIRM only after receipt from TOWN of a Request for Proposal (“RFP”) for that particular project (“Project”) and upon the execution by both parties of a Task Order. Each RFP shall include a “scope of work” for that particular Project prepared by TOWN outlining the parameters to be included in the Services and such other materials and requirements as TOWN may deem necessary. Unless specifically excluded, all requirements of this Agreement are deemed to be incorporated into every RFP and any Task Order based on such RFP. Upon receipt of an RFP, FIRM shall prepare its proposal in the form of a Task Order for that Project. Each Task Order prepared by FIRM shall include a scope of work, fixed or hourly fee total compensation for Services, Project schedule including date by which Services shall be completed and all deliverables to be delivered. If FIRM proposes to use sub-consultants for a portion of its Services, Task Order shall also include information about such sub-consultant. The Task Orders for all Projects shall be considered integral parts of this Agreement and subject to the terms and conditions hereof. The scope of work for each Project shall be the Services as defined herein and as further supplemented by the terms of the Project’s Task Order.
- 2.2 FIRM may begin work on a Project upon written execution of a corresponding Task Order by TOWN. The time allowed for FIRM to complete its work for each Project shall be specified in the Task Order for that particular Project.
- 2.3 FIRM may perform portions of its work through other consultants (“Consultants”). FIRM must receive written consent from TOWN for use of any Consultant(s) prior to Consultant(s) performing any work. No changes in the FIRM’s Consultants indicated in the written consent from TOWN shall be permitted except with the prior written consent of the TOWN.
- 2.4 TOWN shall pay FIRM compensation as specified in this Agreement and corresponding Task Order(s). Payment shall be made as provided in Section 7.1. Unless FIRM expenses are specifically designated and described in this Agreement or corresponding Task Order separately as reimbursable expenses of FIRM, there shall be no reimbursement for any FIRM expenses.

ARTICLE 3

RESPONSIBILITIES OF THE FIRM

3.1 Standard of Care

3.1.1 FIRM shall exercise reasonable care and diligence in performing FIRM's Services under this Agreement in accordance with generally accepted standards of engineering and surveying practice throughout the United States. FIRM shall also perform Services in accordance with any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction over each aspect of the Project ("Laws and Regulations").

3.1.2 FIRM shall be responsible for all errors or omissions in the Services and other deliverables prepared by FIRM. It shall be the responsibility of FIRM throughout the period of performance under this Agreement to use reasonable professional care and judgment.

3.1.3 FIRM shall assure that the Services and all documents prepared by FIRM or FIRM's subcontractors hereunder, are in accordance with all Laws and Regulations and that all necessary or appropriate applications for approvals are submitted to federal, state and local governments or agencies in a timely manner so as not to delay the design or construction activities of the Project.

3.1.4 FIRM shall correct, at no additional cost to the TOWN, any and all errors, omissions, discrepancies, ambiguities, mistakes or conflicts in the documents prepared by FIRM or FIRM's Consultants.

3.1.5 In addition to any other damages that might be due to TOWN hereunder in connection with the breach of this Agreement by FIRM, FIRM shall reimburse TOWN, as described in Article 10 hereof, for costs, damages and expenses that are the result of errors, omissions or delays of FIRM or FIRM's Consultants.

3.1.6 FIRM shall perform its Services in a timely manner in accordance with all schedules for the Project to include, but not be limited to, the schedule set forth in Exhibit B attached hereto and incorporated herein.

ARTICLE 4 **BASIC SERVICES**

4.1 The Basic Services are those services described in Exhibit A to this Agreement.

ARTICLE 5

ADDITIONAL SERVICES

- 5.1 No services in addition to those described in the Task Order shall be undertaken except through a written amendment to the Task Order. Compensation for such Additional Services shall be as set forth in such written amendment.

ARTICLE 6 **DURATION OF AGREEMENT**

- 6.1 This Master Agreement shall commence upon execution of both parties and shall have a term of three (3) years, with an option to the Town to extend two (2) one-year extensions. Particular Projects commenced hereunder shall commence and terminate as provided in Task Order(s). If one or more Projects are undertaken but not completed prior to the termination of this Master Agreement, then, and in that event, this Master Agreement shall continue until such time as all Projects undertaken hereunder are satisfactorily completed.

ARTICLE 7 **FIRM'S COMPENSATION**

- 7.1 Compensation for Basic Services.

7.1.1 Compensation for FIRM's Services for each specific Project shall be as set forth in the applicable Task Order. Compensation shall be set forth as a fixed fee or not to exceed total compensation basis, which shall include all expenses, unless stated otherwise in the Task Order.

7.1.2 Payment shall be made within thirty (30) days of receipt of invoice upon completion of each of the phases or tasks as outlined in the Task Order.

7.1.3 Invoices shall be in form and substance acceptable to the TOWN. In the event the TOWN finds any part of an invoice not to be acceptable, it shall identify to the FIRM the part or parts which are not acceptable and shall pay the part or parts of the invoice which are acceptable, if any. The TOWN shall have the right to deduct from payments to the FIRM any costs or damages incurred, or which the Town reasonably believes may be incurred, by the TOWN as a result of the FIRM's failure to perform on any portion of the Task Order.

- 7.2 Compensation for Additional Services.

7.2.1 In the event Additional Services are required (the "Additional Services"), such Additional Services shall be as set forth in a Task Order or in a written amendment and shall be paid as set forth in the Task Order or written amendment.

7.2.2 After TOWN's approval of the performance of an Additional Service, payments will be made by the TOWN within thirty (30) calendar days of receipt of an invoice that is in form and substance acceptable to the TOWN. In the event the TOWN finds any part of an invoice not to be acceptable, it shall identify to the FIRM the part or parts which are not acceptable and shall pay the part or parts of the invoice which are acceptable, if any. The TOWN shall have the right to deduct from payments to the FIRM any costs or damages incurred, or which the Town reasonably believes may be incurred, by the TOWN as a result of the FIRM's failure to perform any service with respect to the Project.

ARTICLE 8 **RESPONSIBILITIES OF THE TOWN**

- 8.1 With respect to each RFP and Project authorized by Task Order under this Agreement, TOWN shall:
- 8.1.1 When it requires FIRM's Services hereunder, provide an RFP to FIRM.
 - 8.1.2 Provide information to FIRM as to its requirements for Project to enable the FIRM to develop a detailed written Task Order for each requested RFP.
 - 8.1.3 Provide to the FIRM all readily available maps, reports, etc. that may be used in support of the preparation of the Task Order by the FIRM. FIRM shall be responsible for determining the applicability and reliability of all such information and documents.
 - 8.1.4 Provide prompt reviews of the FIRM's Preliminary Services and other work and will direct changes to reporting as may be deemed necessary by the TOWN.
 - 8.1.5 Designate in writing one or more persons to act as TOWN representative to coordinate the work of each Project with FIRM.

ARTICLE 9 **INSURANCE**

9.1 General Requirements

9.1.1 FIRM and FIRM's permitted Consultants shall purchase and maintain during the term of this Agreement insurance for protection from claims under workers' or workmen's compensation acts; Comprehensive General Liability Insurance covering claims arising out of or relating to bodily injury, including bodily injury, sickness, disease or death of any of FIRM's employees or FIRM's Consultants' employees or any other person and to real and personal property including loss of use resulting thereof; Comprehensive Automobile Liability Insurance, including hired and non-owned vehicles, if any, covering personal injury or death, and property damage; and Professional Liability Insurance, covering

personal injury, bodily injury and property damage and claims arising out of or related to the performance under this Agreement by the FIRM.

9.1.2 Insurance policies required hereunder shall include provisions or endorsements that:

- a) the insurer shall have no right of recovery or subrogation against the TOWN, its agents or agencies, it being the intention of the parties that the insurance policies shall protect the TOWN and be primary coverage for any and all losses covered by the policies;
- b) the clause “other insurance provisions” in a policy in which the TOWN, its agents or agencies is named as an insured, shall not apply to such insured parties;
- c) the insurance companies issuing the policy or policies shall have no recourse against the TOWN, its agents or agencies for the payment of any premiums or for assessments under any form of policy;
- d) any and all deductibles under the insurance policies shall be assumed by and be at the sole risk and expense of FIRM;
- e) coverage shall be deemed to be in connection with this Agreement and applicable Task Orders; and
- f) TOWN shall be given written notice of cancellation, non-renewal or reduction in coverage not less than thirty (30) days prior to cancellation, non-renewal or reduction in coverage.

9.1.3 The minimum insurance ratings for any company insuring FIRM shall be Best’s A. Should the ratings of any insurance carrier insuring FIRM fall below the minimum rating, the TOWN may, at its option, require FIRM to purchase insurance from a company whose rating meets the minimum standard.

9.2 Limits of Coverage

9.2.1 Minimum limits of insurance coverage shall be as follows:

INSURANCE DESCRIPTION/MINIMUM REQUIRED COVERAGE

Worker’s Compensation:

Limits for:

Coverage A - Statutory State of N.C.

Coverage B - Employers Liability

\$500,000 each accident and policy limit and disease each employee

Commercial General Liability: \$1,000,000 Each Occurrence, \$2,000,000 Aggregate

Automobile Liability: \$1,000,000

Umbrella: \$1,000,000

Professional Liability: \$1,000,000 Each Claim Made, \$1,000,000 Aggregate

9.2.2 FIRM shall cause TOWN to be named and endorsed as an additional insured for General Liability and Automobile Liability and Umbrella coverage and be provided with a certificate of insurance prior to the effective date of the contract or any renewal contract. The TOWN shall be provided with all renewal certificates within thirty (30) days of the expiration date of any and all policies listed on the certificate of insurance.

9.3 Proof of Coverage

9.3.1 Evidence of such insurance shall be furnished to the TOWN, together with evidence that each policy provides that the TOWN shall receive not less than thirty (30) days prior written notice of any cancellation, non-renewal or reduction of coverage of any of the policies. Upon notice of such cancellation, non-renewal or reduction, FIRM shall procure substitute insurance so as to assure the TOWN that the minimum limits of coverage are maintained continuously throughout the periods specified herein. A Certificate of Insurance indicating that all required insurance is in place shall be included as Exhibit B to this Agreement prior to execution of this Agreement.

ARTICLE 10 **DAMAGES AND REMEDIES**

10.1 Services, Reimbursement and Deductions

10.1.1 FIRM shall reimburse the TOWN for costs, damages and expenses, including all reasonable attorney's fees and expert's fees, incurred by the TOWN when such costs, damages and expenses are the result of any error, omission or delay of, or failure to perform as required by the Agreement by FIRM or FIRM's Consultants.

10.1.2 The TOWN is entitled to interest on all amounts due from FIRM that remain unpaid thirty (30) calendar days after the amount is deemed due, whether as a result of a resolution of a dispute or otherwise, at a rate of 1.5 % per month.

10.1.3 In addition to any other remedies available to the TOWN hereunder, the TOWN shall have the right to deduct from payments to FIRM any costs, damages and expenses, including reasonable attorney's fees, that have been or may be incurred by the TOWN as a result of FIRM's failure to perform as required by the Agreement.

10.2 Indemnities

10.2.1 General Indemnity. To the fullest extent permitted bylaw, FIRM shall indemnify and hold harmless the TOWN, its officers and employees, from and against all claims, costs, civil penalties, fines, losses, and damages (including but not limited to reasonable attorneys' and other professionals' fees and charges and all court or other dispute resolution costs), by whomsoever brought or alleged, arising out of, resulting from, or in connection with

- (a) any breach by FIRM of any term or condition of this Agreement or any applicable Task Order,
- (b) any breach or violation by FIRM of any applicable Law or Regulation, or
- (c) any other cause resulting from any act or failure to act by FIRM in connection with the services to be rendered by FIRM under this Agreement or any applicable Task Order. This indemnification shall survive the termination of this Agreement.

10.2.2 Intellectual Property Indemnity. To the fullest extent permitted bylaw, FIRM shall indemnify and hold harmless the Town, its officers and employees, from and against all claims, costs, civil penalties, fines, losses, and damages (including but not limited to all attorney' and other professionals' fees and charges and all court or arbitration or other dispute resolution costs), by whomsoever brought or alleged, arising out of or related to infringement of patent rights, copyrights, or other intellectual property rights, except with respect to designs, processes or products of a particular manufacturer expressly required by TOWN in writing ("Town required design"). If FIRM has reason to believe the use of a Town required design is an infringement of an intellectual property right, FIRM shall be responsible for such loss unless such information is given to the TOWN immediately upon becoming aware of such possible infringement. This indemnification shall survive termination of this Agreement.

10.3 Non-Exclusivity of TOWN's Remedies. The TOWN's selection of one or more remedies for breach of this Agreement shall not limit the TOWN's right to invoke any other remedy available to the TOWN under this Agreement or by law.

10.4 Remedies Not Waived. No delay, omission or forbearance to exercise any right, power or remedy accruing to the TOWN hereunder shall impair any such right, power or remedy or shall be construed to be a waiver of any breach hereof or default hereunder. Every such right, power or remedy may be exercised from time-to-time and as often as deemed expedient.

10.5 Waiver of Damages. Each party shall not be entitled to, and hereby waives any monetary claims for, or damages arising from or related to, lost profits, lost business opportunities, unabsorbed overhead or any consequential damages.

ARTICLE 11
AMENDMENTS TO THE AGREEMENT

- 11.1 Changes in Services. Changes to this Agreement or changes in any Task Order including entitlement to additional compensation or a change in duration of Task Order shall be made by a Written Amendment signed by TOWN. The FIRM shall proceed to perform the Services required by the Written Amendment only after receiving a fully executed Written Amendment from the TOWN.
- 11.2 TOWN Changes. The TOWN may, without invalidating this Agreement or any Task Order, make written changes in the Services as to any Project by preparing and executing a Written Amendment to the Task Order. Within three (3) days of receipt of such a Written Amendment, the FIRM shall notify the TOWN in writing of any change contained therein that the FIRM believes significantly increases or decreases the FIRM's Services and request an adjustment in compensation with respect thereto. If the Written Amendment significantly increases or decreases the FIRM's Services, the FIRM's compensation may be equitably adjusted as agreed to in writing by the TOWN.

ARTICLE 12
TERMINATION AND SUSPENSION

- 12.1 Termination for Convenience of the TOWN. This Agreement and any Task Order may be terminated without cause by the TOWN and for its convenience upon ten (10) days written notice to the FIRM.
- 12.2 Other Termination. After ten (10) days written notice to the other party of its material breach of this Agreement or any Task Order, this Agreement and/or any Task Order may be terminated by the noticing party provided that the other party has not taken all reasonable actions to remedy or otherwise cure the breach.
- 12.3 Compensation after Termination.
- 12.3.1 In the event of termination for the convenience of the TOWN, the FIRM shall be paid that portion of its fees and expenses that it has earned to the date of termination less any costs or expenses incurred or anticipated to be unearned by the TOWN due to errors or omissions of the FIRM. Upon receiving notice of termination, FIRM shall immediately and expeditiously terminate any ongoing Services and Additional Services it is to provide under any Task Order or amendment thereto and inform FIRM's Consultants of the termination of this Agreement and/or Task Order, so as to minimize the costs and expenses sustained prior to the effective date of the termination.
- 12.3.2 In the event of termination by reason of a material breach of the Agreement by the TOWN, FIRM shall be entitled to the same compensation as it would have received had the TOWN terminated the Agreement for convenience, and FIRM expressly agrees that

said compensation is fair and appropriate as liquidated damages for any and all costs and damages it might incur as a result of such termination.

12.3.3 In the event of termination by reason of a material breach of the Agreement by the FIRM, FIRM shall be paid that portion of its fees and expenses that it has earned to the date of termination, less any costs or expenses incurred or anticipated to be incurred by the TOWN due to errors or omissions of the FIRM or by reason of the FIRM's breach of this Agreement.

12.3.4 Should this Agreement be terminated, for whatever reason, FIRM shall, at the request of the TOWN, expend such additional effort as may be necessary, at its cost and expense, to provide to the TOWN professionally certified and sealed drawings, and such other information and materials as may have been accumulated by the FIRM in the performance of this Agreement or Written Amendment, whether completed or in process.

12.4 Survival. Termination of this Agreement, for whatever reason, shall not terminate FIRM's representations and warranties to TOWN hereunder, nor nullify any indemnity of TOWN by FIRM hereunder.

12.5 Suspension

12.5.1 The TOWN may order FIRM in writing to suspend, delay or interrupt all or any part of FIRM's Services on the Project for the convenience of TOWN.

12.5.2 In the event the FIRM believes that any suspension, delay or interruption of a Project ordered by TOWN may require an extension of the duration of Services or any Task Order or an increase in the level of staffing by FIRM, it shall so notify the TOWN. Such amendment or extension shall be effective only upon the written approval of the TOWN. In the event the duration of Services or any Task Order is extended or shortened or the level of staffing by the FIRM is increased or decreased, the Compensation for Services may be equitably adjusted in writing signed by both parties.

12.5.3 A suspension, delay or interruption of an individual Project shall not terminate this Agreement; provided, however, that if such suspension, delay or interruption causes a suspension of FIRM's Services for a period exceeding ninety (90) days, the Compensation for Services may be equitably adjusted in writing signed by both parties.

ARTICLE 13 **OWNERSHIP OF DOCUMENTS**

13.1 TOWN's Ownership of Documents. The TOWN shall be granted, at no additional cost, ownership of all documents, drawings, and electronic databases relating to the Project, including the ownership and use of all drawings, specifications, documents and materials relating to the Project prepared by or in the possession of FIRM. FIRM shall turn over to the TOWN in good unaltered condition, reproduces of all original drawings,

specifications, documents, electronic data bases and materials within seven (7) days after completion of Project or after termination, whether for the TOWN's convenience or otherwise. The FIRM may retain one (1) copy of the documents for its records.

- 13.2 Termination. In the event of termination, whether for the TOWN's convenience or otherwise, should the TOWN use such drawings or documents for completion of the Project, the TOWN shall do so at its own risk.
- 13.3 Other Projects. Said drawings, specifications, documents and materials relating to the Project prepared by or in the possession of the FIRM may be used by the TOWN on any other project without additional compensation to the FIRM. The use of the documents by the TOWN or by any person or entity for any purpose other than the Project as set forth in this Agreement shall be at the full risk of the TOWN or such person or entity.
- 13.4 Incorporation of Provision in all Contracts. The FIRM specifically agrees to incorporate the provisions of Article 13 in all contracts for the services of FIRM's Consultants.

ARTICLE 14 **ADDITIONAL PROVISIONS**

- 14.1 Confidentiality. FIRM shall use its best efforts not to disclose or permit the disclosure of any confidential information relating to the Project, except to its agents, employees and other consultants who need such confidential information in order to properly perform their duties relative to this Agreement.
- 14.2 Dissemination of Information. The TOWN takes efforts to assure that accurate information about the TOWN is disseminated such that neither the public trust nor the public's perception of TOWN impartiality is compromised. FIRM, mindful of those efforts, agrees that it shall not publicly disseminate any information concerning the Services without prior approval from TOWN. Any approval given by the TOWN may be given with certain stipulations, such as TOWN participation in the creation of the public product or TOWN review and the option to refuse ultimate release of the final product should it fail to meet the TOWN's standards and goals. Publicly disseminate means but is not limited to electronic, video, audio, photographic or hard copy materials serving as, in whole or part, advertising, sales promotion, professional papers or presentations, news releases, articles, or other media products, and/or FIRM's business collateral pieces. Notwithstanding the foregoing, the parties agree that FIRM may list TOWN as a reference in response to requests for proposal and may identify the TOWN as a customer in presentations to potential customers.
- 14.3 Limitation and Assignment. The TOWN and the FIRM each bind themselves, their successors, assigns and legal representatives to the terms of this Agreement. Neither the TOWN nor FIRM shall assign or transfer its interest in this Agreement without the written consent of the other.

- 14.4 Governing Law. This Agreement and the duties, responsibilities, obligations and rights of respective parties hereunder shall be governed by the laws of the State of North Carolina.
- 14.5 Dispute Resolution. Unless the TOWN instructs FIRM otherwise, FIRM shall carry on with the timely performance of the Services and any Additional Services to be provided by FIRM hereunder during any period of disputes or disagreements between the FIRM and the TOWN. No services shall be delayed or postponed pending the resolution of any dispute unless the TOWN directs otherwise in writing. Any and all suits or actions to enforce, interpret or seek damages with respect to any provision of, or the performance or non-performance of, this Agreement shall be brought in the General Court of Justice of North Carolina sitting in Brunswick County, North Carolina and it is agreed by the parties that no other court shall have jurisdiction or venue with respect to such suits or actions.
- 14.6 Extent of Agreement. This Agreement represents the entire and integrated agreement between the TOWN and the FIRM and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a signed Written Amendment.
- 14.7 Severability. If any provision of this Agreement is held as a matter of law to be unenforceable, the remainder of this Agreement shall be enforceable without such provision.
- 14.8 Resolving Discrepancies. Except as may be otherwise specifically stated in the Agreement, the provisions of the Agreement shall take precedence in resolving any conflict, error, ambiguity or discrepancy between the provisions of the Agreement and any other document describing the services to be provided by FIRM except as otherwise provided herein. If the provisions of any standard, specification, manual, code or instruction of any technical society, organization or association imposes a more stringent standard or obligation upon FIRM than in the Agreement, the standard, specification, manual, code or instruction of any technical society, organization or association shall take precedence in resolving any conflict, error, ambiguity or discrepancy between the provisions of the Agreement and the provisions of such standard, specification, manual, code or instruction.
- 14.9 Data, Designs, Drawings, Memoranda, Etc.: Protocol. FIRM shall submit to TOWN the deliverables, including reports, technical memoranda, testing protocol, designs, drawings, specifications, electronic databases and the like (collectively 'Deliverables') in electronic format in read-only MS-Windows compatible format (including PDF and HTML formats). All drawings shall be CAD generated and shall be provided on electronic media downloadable onto an AutoCAD based system. In order to meet US Justice Department standards for Internet accessibility, all Deliverables (draft and final) intended for presentation on the Town of North Topsail Beach's Web site must be provided in a manner and format compatible, consistent, and in compliance with all TOWN technology standards, including but not limited to an HTML version of any PDF version and alternate text tags of no more than thirty-four (34) characters for all graphics contained in the HTML version. In the event that FIRM notices any errors in electronic data provided to the TOWN

in connection with this Agreement, FIRM shall immediately notify TOWN, and if FIRM provided such electronic data, FIRM shall immediately replace same with correct versions thereof. If there are any inconsistencies between electronic and hard copies of documentation provided under this Agreement, the electronic versions shall control.

- 14.10 Compliance with Laws and Regulations. Without limitation as to any other provision hereof regarding FIRM'S compliance with Laws and Regulations in the performance of its duties hereunder, FIRM shall ensure that it complies with all federal, state and local Laws, Ordinances and Regulations in carrying out all services described in this Agreement. Such compliance shall include ensuring that the performance of and product of FIRM'S services comply with federal, state, and local Laws, Ordinances and Regulations, including without limitation, compliance with the American with Disabilities Act of 1990, fair hiring and compensation legislation, immigration laws and regulations, and other Laws and Regulations applicable to FIRM'S provision of services hereunder and the resulting Work to be performed in connection with FIRM'S services. All completion and submission of forms and reports, posting of notices, and the like to comply with federal and state Laws and Regulations shall constitute required elements of FIRM'S provision of services hereunder.
- 14.11 Notice. Whenever any provision of this Agreement requires the giving of written notice, it will be deemed to have been validly given if delivered in person to the Town Manager or Town Clerk in the case of the TOWN or to an officer of the FIRM in the case of the FIRM, or if delivered at or sent by registered or certified mail, postage prepaid, to the TOWN's or FIRM'S address. The date of said notice shall be the date of such delivery or mailing.

The notice address for the TOWN shall be:

Town of North Topsail Beach
2008 Loggerhead Court
North Topsail Beach, North Carolina 28460

The notice address for the FIRM shall be:

[Provided by FIRM prior to executing contract.]

Nothing herein contained shall be deemed to restrict the transmission of routine communications between representatives of the FIRM and TOWN.

- 14.12 Gifts and Favors. FIRM shall become aware of and comply with laws related to gifts and favors, conflicts of interest and the like, including N.C.G.S. §14-234, N.C.G.S. §133-1, and N.C.G.S. §133-32.
- 14.13 Public Records. FIRM acknowledges that records in the custody of TOWN are public records and subject to public records requests. TOWN may provide copies of such records,

including copyrighted records, in response to public record requests. FIRM shall refer any public records requests made of it to the TOWN for a response to the requesting party.

14.14 Iran Divestment Act Certification. Contractor hereby certifies that Contractor, and all subcontractors, are not on the Iran Final Divestment List ("List") created by the North Carolina State Treasurer pursuant to N.C.G.S. §147-86.58. Contractor shall not utilize any subcontractor that is identified on the List.

14.15 List of Exhibits. The following Exhibits are incorporated herein and made a part of this Agreement by reference:

- Exhibit A – Basic Services
- Exhibit B – Insurance Certificate

IN WITNESS WHEREOF, said FIRM and TOWN, being duly authorized, have caused these presents to be signed in their names as of the day and year first above written, on the following pages.

TOWN OF NORTH TOPSAIL BEACH:

By: _____
Name: Alice Derian
Title: Town Manager

APPROVED AS TO FORM:

Brian Edes, Town Attorney

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

Municipal Finance Officer

FIRM:

By: _____
Name: _____
Title: _____

NOTE: If the FIRM is a corporation or LLC, the legal name of the corporation or LLC shall be set forth above, together with the signature of the officer, member or manager authorized to sign contracts on behalf of the corporation or LLC. If the signature is by an agent other than an authorized officer, member or manager of the corporation or LLC, a resolution must be attached hereto authorizing execution by the individual named above. The signature of the FIRM shall also be acknowledged before a Notary Public.

EXHIBIT A BASIC SERVICES

Basic Services related to Engineering and related services shall include, but not necessarily be limited to, the following:

- Preliminary Engineering Studies and reports
- Grant writing, applications, and administration
- Design, including field surveys, plan and specification preparation
- Permitting (NCDEQ, NCDOT, USACE, FEMA, etc.)
- Construction Services including bidding, contract administration and observation
- Asset and records management, (GIS, web hosting, physical assets and infrastructure, etc.)
- Environmental engineering
- Land surveying
- Transportation
- Land development and planning
- Community planning
- Ordinance review and revision
- Water resources planning
- ADA Transitioning
- Pavement condition surveys
- Parks Planning
- Other services in support of the above and overall local government administration and operations

EXHIBIT B
INSURANCE CERTIFICATES

Provided by FIRM prior to executing contract.