

Town of  
**KERNERSVILLE**  
PARKS & RECREATION

Request for Qualifications (RFQ)

**ON-CALL PROFESSIONAL SERVICES**  
**FOR**  
**KERNERSVILLE PARKS &**  
**RECREATION**

**Issue Date:** October 17, 2022

**Submittal Deadline:** November 18, 2022





# ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS

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## **TABLE OF CONTENTS**

<b>INTRODUCTION .....</b>	<b>3</b>
<b>INFORMATION .....</b>	<b>4</b>
<b>QUALIFICATIONS PACKAGE REQUIREMENTS .....</b>	<b>5</b>
<b>SECTION 1 – LETTER OF TRANSMITTAL / GENERAL INFORMATION .....</b>	<b>5</b>
<b>SECTION 2 – PERSONNEL QUALIFICATIONS .....</b>	<b>5</b>
<b>SECTION 3 – CONSULTANTS / SUB-CONSULTANTS / OTHER PARTICIPANTS .....</b>	<b>6</b>
<b>SECTION 4 – PROJECT AND PROJECT MANAGEMENT EXPERIENCE .....</b>	<b>6</b>
<b>SECTION 5 – EXPERIENCE AND EXPERTISE .....</b>	<b>6</b>
<b>SECTION 6 – GENERAL QUALIFICATIONS .....</b>	<b>7</b>
<b>SUBMITTAL OF QUALIFICATION PACKAGE .....</b>	<b>7</b>
<b>EVALUATION AND AWARD OF PROJECTS .....</b>	<b>8</b>
<b>QUESTIONS .....</b>	<b>8</b>
<b>ANTICIPATED SCHEDULE .....</b>	<b>8</b>



# ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS

## INTRODUCTION

The Town of Kernersville Parks and Recreation Department is currently seeking qualified firms to provide on-call professional engineering and architectural services for design, planning, natural resources, construction services and project/program management of upcoming infrastructure and other municipal capital improvement projects. Submissions will be accepted for five (5) disciplines. The disciplines are listed below, with numbered examples of the type of work that falls into the discipline. The disciplines will include all of the types of work shown, but will not be limited to only that work.

### **A. Architecture**

1. Landscape Design
2. Building Design
3. Park Design

### **B. Planning**

1. System Wide Plans
2. Department Strategic Plans
3. ADA Transitional Plans
4. Transportation/Greenway Plans

### **C. Natural Resources**

1. Stormwater Systems
2. Erosion Control Plans
3. Watershed Analysis
4. Stream Restorations
5. Natural Resource Management Plan
6. Maintenance Planning

### **D. Construction Services**

1. Creation of Blueprints
2. Procurement Assistance
3. Material Testing
4. Construction Testing
5. Inspections Services
6. Design Plan Review

### **E. Project / Program Management**

1. Design Review
2. Project Management
3. Assistance with Bond Projects & Marketing
4. Assistance with Grant Applications
5. Contract Preparation and Management

All respondents to this Request for Qualifications (RFQ) are subject to the instructions communicated in this document and are cautioned to completely review the entire RFQ and follow instructions carefully.



## ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS

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### INFORMATION

It is the intent of the Town of Kernersville Parks and Recreation Department (referred to as “the Town P&R Department”) to select a qualified firm using a Qualifications Based Selection Process to provide on-call professional services on an as needed basis. Selection criteria will include, but is not necessarily limited to, qualifications of the proposed project team, demonstrated experience and expertise in the field of interest, submittal completeness, the firm’s resources and capacity, ability of the firm to work in partnership with town staff and other consultants and contractors who may be part of a project, and the ability of the firm to respond in a timely manner to any issues that may arise.

Firm selected will be required to execute an overall Master Agreement (MA) with the Town and provide a Certificate of Insurance listing the Town of Kernersville as the Certificate Holder and Additional Insured. Individual Supplemental Agreements are required and must be submitted under the MA for individual projects. As part of the individual submittals, the selected firm will be able to subcontract other firms for specialized services for components of some projects. The Town reserves the right to accept or reject any proposed supplemental submission or subcontractor within a supplemental submission. Firms unwilling or unable to sign a Master Agreement may be considered as non-responsive.

Once established, the Master Agreement shall be effective for a period of five (5) years with an option to extend for an additional one-year, or a maximum of (6) total years from the effective date. Selection by the Town for the on-call service does not guarantee that the selected firm will automatically receive a project. As projects arise, Town staff shall review the said project’s needs as well as the on-call firm’s previously completed Town projects. This review will specifically evaluate work quality, project approach, and responsiveness to decide on how to proceed on a project.

The Town makes no guarantee of a specific volume of work or a total contracted amount arising from this solicitation. Additionally, the Town makes no guarantee that the quantity of work (whether measured in monetary terms or otherwise) will be spread equally or according to any other specific criteria.

While the Town Parks and Recreation Department intends to utilize the selected firm for the majority of projects over the five (5) year period, it reserves the right to issue separate solicitations for specific projects when it is determined to be in the best interest of the Town to do so. In such cases, the selected firm would be invited to participate.

Selected firms shall agree to provide information regarding changes in ownership, operation, or personnel to the Town in a timely manner. The Town, upon evaluation of information received, reserves the right to remove a firm from the list.



## **ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS**

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Upon selection of a firm for a particular project, the firm and the Town shall negotiate and agree to the scope of work, responsibilities, and compensation for the project, after which a Work Authorization for the project will be executed by the firm and the Town.

All information and materials submitted in response to this solicitation shall become the property of the Town of Kernersville and shall be subject to the provisions of the North Carolina public records laws.

### **QUALIFICATIONS PACKAGE REQUIREMENTS**

Submissions should include the following information. It should be tabbed as identified and, in the order, indicated. A firm who submits a package that does not follow the order or address each of the sections specified below may be deemed non-responsive.

#### **SECTION 1 – LETTER OF TRANSMITTAL / GENERAL INFORMATION**

- Provide firm name, year established, address, telephone number, email address and contact person.
- Provide a copy of the firm's Certificate(s) of Insurance.
- Identify if the firm is classified as a Disadvantaged Business Enterprise.
- State any conflicts of interest your firm or any key individual may have with this program or with the Town.

#### **SECTION 2 – PERSONNEL QUALIFICATIONS**

- Provide an organizational chart identifying members of the team, including sub-consultants, who would be assigned to the project(s). The chart should clearly delineate roles and responsibilities of the various team members, identify specialty, level of expertise, education and direct work experience on projects in the area(s) of expertise for which you want to be considered.
- Provide a resume detailing professional qualifications of key management and staff personnel to be assigned to the project(s).
- Identify location of key project personnel to be used.
- Identify adequacy, availability, and ability of personnel to complete the task.

*Note: Substitution of other personnel after the selection is made must be approved by the Town.*



## **ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS**

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### **SECTION 3 – CONSULTANTS / SUB-CONSULTANTS / OTHER PARTICIPANTS**

- Provide a list of consultants or sub-consultants who would be retained to provide services on the project(s).
- Provide a synopsis for each to include size of staff, names and resumes of key personnel, services to be provided, as well as relative and related work experience.
- Identify any Disadvantaged Business Enterprise (DBE) or minority firms to be used.
- Identify location of personnel to be used.

### **SECTION 4 – PROJECT AND PROJECT MANAGEMENT EXPERIENCE**

- Describe your project management approach, quality control procedures, and use of alternative engineering methods, if any.
- Describe the project management experience of key individuals to be assigned to the project(s).
- Describe your firm's cost control measures, billing procedures and project tracking process.
- Describe your firm's experience with developing schedules, preparing estimates and bid documents, and budget control measures.
- Explain your firm's quality control procedures. Under this section, please specifically address the following: survey accuracy, errors and omissions, supervision of sub-consultants, and revisions.
- Describe the surveying capabilities or data collection methods of your firm (manpower and equipment).
- Describe your firm's CADD capabilities or proficiencies on any related design software.

### **SECTION 5 – EXPERIENCE AND EXPERTISE**

- Briefly describe representative municipal or publicly owned projects completed by your firm in the last five (5) years related to the area(s) of expertise for which you want to be considered.
- Provide references for above projects including contact names and phone numbers



## ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS

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- Describe any previous work history on Town projects to include contact name. Describe why your firm should be selected and include any unique qualities which you feel make your firm well suited to perform the work.

### *Examples of Ideal Experience:*

- Comprehensive Master Plans
- Strategic Plans
- Conceptual Site Plans
- ADA Transitional Plans (if any)
- Completed Projects (with estimated & final budgets, timelines)
- Natural Resource Plans/Projects
- Greenway Plans/Projects
- Funding examples (PARTF & LWCF with success rate)
- Licensure in the state of North Carolina for professional engineers, architects, and similar professional services in good professional standing.

### **SECTION 6 – GENERAL QUALIFICATIONS**

- Briefly describe your firm's operating history.
- Indicate proof of insurance and licensing in NC.

### **SUBMITTAL OF QUALIFICATION PACKAGE**

Interested firms shall submit, for each discipline for which they wish to be considered, a total of one (1) electronic PDF copy containing the qualifications package no later than **4:00 pm, Friday, November 18, 2022**. Late submittals will not be considered.

Qualifications packages shall be electronically mailed to:

**Ernie Pages, Parks & Recreation Director**

**Email:** [epages@toknc.com](mailto:epages@toknc.com)

**Subject:** “Request for Qualifications – On-Call Professional Services for the Kernersville Parks & Recreation Department”



## ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS

Submittals shall be limited to a maximum of sixteen (16) single-sided standard pages (8½” x 11”, font size 10 or larger). Promotional literature, brochures, etc. will be considered as part of the page limit. **The front and back cover will not be counted towards the page limit. Packages which exceed the page limit may be rejected as non-compliant.**

### **EVALUATION AND AWARD OF PROJECTS**

The Town will consider and evaluate qualifications packages in accordance with NCGS 143-64.31. Qualifications packages will be evaluated by a committee composed of Town of Kernersville personnel. As part of the evaluation process, the Town reserves the right to request additional information and/or interview any or all firms. After the evaluation, a new on-call list will be developed and firms will be notified. There will be a period of negotiation between the Town and the awarded firm to create a Master Agreement.

The Town reserves the right to accept, or reject, any and all qualifications received as the result of this request, to negotiate with all qualified firms, or to cancel this request for qualifications if it is in the best interest of the Town to do so.

### **QUESTIONS**

Questions regarding this Request for Qualifications shall be submitted in writing by e-mail to Ernie Pages [epages@toknc.com](mailto:epages@toknc.com), no later than **5:00 pm, Friday, November 11, 2022**. Questions received after this date and time will not be considered for response.

Upon receipt of questions, an Addendum will be issued if deemed necessary. A signed copy of each addendum must be included in the proposal package. Prospective firms are strictly prohibited from contacting any Town official or employee regarding this Request for Qualifications, except in the manner prescribed above. Violation of this provision may result in disqualification of the firm’s submittal.

### **ANTICIPATED SCHEDULE**

Request for proposal issued:	Monday, October 17, 2022
Deadline for questions:	Friday, November 11, 2022
Deadline for RFQ submission:	Friday, November 18, 2022
Contract negotiations:	TBD
Contract award:	December 2022 / January 2023



# **ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS**

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## **EXHIBIT A: ADDITIONAL TERMS AND CONDITIONS**



## ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS

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### ADDITIONAL TERMS AND CONDITIONS

Payment Terms. Payment terms are Net 30 days after receipt of applicable invoice.

E-verification. Contractor and any of its subcontractors must comply with the requirements of the North Carolina General Statutes, if applicable, which requires certain employers to verify the work authorization of each newly hired employee through the federal E-Verify program operated by the United State Department of Homeland Security and other federal agencies.

Iran Divestment Act Certification. Contractor hereby certifies that Contractor, and all subcontractors, are not on the Final Iran Divestment List ("List") created by the North Carolina State Treasurer pursuant to NCGS 147, Article 6E. Contractor shall not utilize any subcontractor that is identified on the List.

Indemnification. Contractor shall indemnify and hold harmless the Town of Kernersville, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees and liability that any of them may sustain (a) arising out of Contractor's failure to comply with any applicable law, ordinance, or regulation or (b) arising directly or indirectly out of Contractor's performance or lack of performance of their terms and conditions of the Contract. In event Contractor, its employees, agents, subcontractors and or lower-tier subcontractors enter premises occupied by or under the control of the Town of Kernersville in the performance of the Contract Documents, Contractor agrees that it will indemnify and hold harmless the Town of Kernersville, 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 caused by the negligence or willful misconduct of such entrant.

Insurance. The Contractor certifies that it currently has and agrees to purchase and maintain during its performance under this contract the following insurance from one or more insurance companies acceptable to the Town of Kernersville and authorized to do business in the State of North Carolina.

- a. Worker's Compensation: Coverage to apply for all employees for statutory limits in compliance with the applicable state and federal laws. The policy must include the employers' liability with a limit \$1,000,000 each accident. This insurance must include a waiver of subrogation in favor of the Town.
- b. Commercial General Liability: Shall have minimum limits of \$1,000,000 per occurrence combined single limit for bodily injury liability and property damage liability.
- c. Commercial Auto Liability: Shall have minimum limits of \$1,000,000 each accident combined single limit for bodily injury liability and property damage liability. This



## ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS

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shall include owned vehicles, hired and non-owned vehicles, and employee non-ownership.

- d. The Contractor shall furnish a copy of an original Certificate of Insurance, naming the Town of Kernersville as an additional insured. Should any of the policies be canceled before expiration date, the issuing company will provide by mail thirty (30) days written notice to the certificate holder. This contractor shall furnish insurance in satisfactory limits, and on forms and of companies which are acceptable to the Town of Kernersville and shall require and show evidence of insurance coverage on behalf of any subcontractors (if applicable), before entering any agreement to sublet any part of the work to be completed under this contract.

Termination for Convenience. In addition to all of the other rights that the Town of Kernersville may have to cancel this Agreement, the Town of Kernersville shall have the further right, without assigning any reason therefore, to terminate any work under the Contract Documents, in whole or in part, at any time by providing written notice to Contractor. If the Contract is terminated by the Town of Kernersville in accordance with this Paragraph, Contractor will be paid for Services actually provided up through the date of termination at the rates provided herein.

Termination for Default. The Town of Kernersville may terminate this Contract, in whole or in part, for failure of the Contractor to perform any of the provisions hereof. In addition to any other remedies available to the Town of Kernersville in law or equity in connection with an uncured breach of the Contract by Contractor, the Town of Kernersville may procure upon such terms as the Town of Kernersville shall deem appropriate, services substantially similar to those so terminated, in which case Contractor shall be liable to the Town of Kernersville for any excess costs for such similar supplies or services and any expenses incurred in connection therewith.

Contract Funding. It is understood and agreed between Contractor and the Town of Kernersville that 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 of Kernersville for any payment may arise until funds are made available to Town's Finance Officer and until Contractor receives notice of such availability. Should such funds not be appropriated or allocated, the Contract shall immediately be terminated. The Town of Kernersville shall not be liability to Contractor for damages of any kind (general, special, consequential or exemplary) as a result of such termination.

Contract Modifications. The contract may be amended only by written amendment duly executed by both the Town of Kernersville and Contractor. No price adjustments will be made unless the procedure has been included in the Contract and a maximum allowable amount stipulated.

Independent Contractor. Contractor is an independent contractor and not an employee of the Town of Kernersville. The conduct and control of the work will lie solely with Contractor. The Contract



## ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS

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shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between Contractor and the Town of Kernersville. Employees of Contractor shall remain subject to the exclusive control and supervision of Contractor, which is solely responsible for their compensation.

Nondiscrimination. Contractor shall not discriminate against or deny the Contract's benefits to any person on the basis of: race; religion; creed; color; sex; gender identity and expression; medical conditions related to pregnancy, childbirth, or breastfeeding; sexual orientation; marital status; age; national origin; ancestry; genetic information; disability; veteran status; or any class protected by local state or federal law.

Conflict of Interest. It is the policy of the Town that the conduct of officers, directors, project managers, and/or all other persons acting as its representatives should be at all times in the best interests of the Town, its members and the general public. In performing their duties, Town representatives should not be influenced by desire for personal gain. Conflict of interest is defined as a situation in which professional judgment or behavior concerning a primary interest (in this case the integrity of Town) has been improperly influenced by a different interest (such as for financial gain). The prompt disclosure of possible conflicts of interest or of those situations where such a perception could reasonably be anticipated to arise helps to avoid injury to an agreed upon primary interest.

Firm(s) selected for these advertised services shall become aware of and comply with state laws related to gifts and favors, conflicts of interest and the like, including NCGS 14-234, NCGS 133-1, and NCGS 133-2. Firm(s) selected for Planning and Design Services by the Town will be required to disclose any conflicts of interest for 18 months prior to the submission of the Proposal package to the Town.

If a conflict of interest is not disclosed by the contractor and a conflict of interest is determined by the Town to exist at a later time, the contractor will not be compensated for their prior work and will be required to reimburse the Town for any payments received. The contractor would be immediately dismissed from the contract.

Kickbacks to Contractor. 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 of Kernersville contract or in connection with a subcontract relating to a Town of Kernersville Contract. When Contractor has grounds to believe that a violation of this clause may have occurred, Contractor shall promptly report to the Town of Kernersville in writing the possible violation.

Monitoring and Evaluation. Contractor shall cooperate with the Town of Kernersville, or with any other person or agency as directed by the Town of Kernersville, in monitoring, inspecting, auditing



## ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS

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or investigating activities related to the Contract. Contractor shall permit the Town of Kernersville to evaluate all activities conducted under the Contract. The Town of Kernersville has the right at its sole discretion to require that Contractor remove any employee of Contractor from property and from performing services under the Contract following a provision of notice to Contractor of the reasons for the Town of Kernersville's dissatisfaction with the services of Contractor's employee.

Financial Responsibility. Contractor is financially solvent and able to perform under the Contract. If requested by the Town of Kernersville, Contractor agrees to provide a copy of its latest audited annual financial statements or other financial statements as deemed acceptable by the Town's Finance Officer. In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Contractor, the inability of Contractor to meet its debts as they become due or in the event of the appointment, with or without Contractor's consent, of an assignee for the benefit of creditors or of a receiver, then the Town of Kernersville shall be entitled, at its sole option, to cancel any unfilled part of the Contract without any liability whatsoever.

Dispute Resolution and Contract Situs. This Agreement shall be governed and will be construed in accordance with the laws of the State of North Carolina. Each party agrees that exclusive venue for all actions, relating in any manner to this Agreement will be in the General Court of Justice in Forsyth County, North Carolina.

No Third-Party Benefits. The Contract shall not be considered by Contractor to create any benefits on behalf of any third party. 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 third-party benefits.

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 affected party. If either party is unable to perform its obligations or in the case of the Town of Kernersville, to accept the Services because of Force Majeure, the time for such performance by such party or in the case of the Town of Kernersville, acceptance of Services will be equitably adjusted by allowing additional time for performance or acceptance of services equal to any periods of Force Majeure.

General Provisions. Town of Kernersville'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 or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach or default. If the Town of Kernersville should prevail in any action instituted by Contractor hereunder, the Town of Kernersville shall be entitled to recover costs and reasonable attorney's fees. Contractor may not assign, pledge, or in any manner encumber Contractor's rights under this Order, or delegate the performance of any of its obligations hereunder, with the Town of Kernersville's prior, express, written consent.



## ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS

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**Public Records Notice.** Records received by the Town in response to a bid solicitation or a request for proposal/qualifications are public records and subject to public inspection and copying. Some bid records are public as soon as received by the Town, others become public at bid opening and others at bid award.

The Public Records law (NCGS 132-1 et seq.) authorizes the Town to withhold from public inspection and copying legitimate and properly marked "trade secrets". If a record meets all of the following conditions, then the Town may withhold that particular trade secret from a public record inspection request:

- It is a "trade secret" as defined in NCGS 66-152(3); and
- It is the property of a private "person" as defined in NCGS 66-152(2); and
- It is disclosed or furnished to the Town in connection with a bid or proposal; and
- It is marked as "confidential" or as a "trade secret" at the time of its initial disclosure to the Town.

If as part of your bid or proposal, you submit to the Town any record, or portion of a record, that you consider to be a trade secret meeting the definition contained in NCGS 66-152 (2), you may clearly mark the particular record, or portion of the record, that meets the definition of trade secret as TRADE SECRET or CONFIDENTIAL TRADE SECRET, and the Town will be authorized to withhold that particular record or portion thereof, from public inspection. In the event the Town receives a public records request for records you designate as 'trade secret' the Town will notify you and give you the opportunity to, within one week of such notification, confirm in writing that the specific record, or portion of record, that you designated as TRADE SECRET meets the requirements of NCGS 132-1.2 and NCGS 66-152, and the reasons therefore. The Town will require that you indemnify the Town in the event a challenge is brought for the withholding of a record based on your having designated it a trade secret.

### **Addenda Notice**

If you have received this solicitation from a source other than the Town, it is the respondent's responsibility to ensure that all addenda have been received. Please visit [Town of Kernersville website > Finance > Open Bids](#) for the most current information.



# **ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS**

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## **EXHIBIT A: ADDITIONAL TERMS AND CONDITIONS**



## ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS

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### ADDITIONAL TERMS AND CONDITIONS

Payment Terms. Payment terms are Net 30 days after receipt of applicable invoice.

E-verification. Contractor and any of its subcontractors must comply with the requirements of the North Carolina General Statutes, if applicable, which requires certain employers to verify the work authorization of each newly hired employee through the federal E-Verify program operated by the United State Department of Homeland Security and other federal agencies.

Iran Divestment Act Certification. Contractor hereby certifies that Contractor, and all subcontractors, are not on the Final Iran Divestment List ("List") created by the North Carolina State Treasurer pursuant to NCGS 147, Article 6E. Contractor shall not utilize any subcontractor that is identified on the List.

Indemnification. Contractor shall indemnify and hold harmless the Town of Kernersville, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees and liability that any of them may sustain (a) arising out of Contractor's failure to comply with any applicable law, ordinance, or regulation or (b) arising directly or indirectly out of Contractor's performance or lack of performance of their terms and conditions of the Contract. In event Contractor, its employees, agents, subcontractors and or lower-tier subcontractors enter premises occupied by or under the control of the Town of Kernersville in the performance of the Contract Documents, Contractor agrees that it will indemnify and hold harmless the Town of Kernersville, 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 caused by the negligence or willful misconduct of such entrant.

Insurance. The Contractor certifies that it currently has and agrees to purchase and maintain during its performance under this contract the following insurance from one or more insurance companies acceptable to the Town of Kernersville and authorized to do business in the State of North Carolina.

- a. Worker's Compensation: Coverage to apply for all employees for statutory limits in compliance with the applicable state and federal laws. The policy must include the employers' liability with a limit \$1,000,000 each accident. This insurance must include a waiver of subrogation in favor of the Town.
- b. Commercial General Liability: Shall have minimum limits of \$1,000,000 per occurrence combined single limit for bodily injury liability and property damage liability.
- c. Commercial Auto Liability: Shall have minimum limits of \$1,000,000 each accident combined single limit for bodily injury liability and property damage liability. This



## ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS

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shall include owned vehicles, hired and non-owned vehicles, and employee non-ownership.

- d. The Contractor shall furnish a copy of an original Certificate of Insurance, naming the Town of Kernersville as an additional insured. Should any of the policies be canceled before expiration date, the issuing company will provide by mail thirty (30) days written notice to the certificate holder. This contractor shall furnish insurance in satisfactory limits, and on forms and of companies which are acceptable to the Town of Kernersville and shall require and show evidence of insurance coverage on behalf of any subcontractors (if applicable), before entering any agreement to sublet any part of the work to be completed under this contract.

Termination for Convenience. In addition to all of the other rights that the Town of Kernersville may have to cancel this Agreement, the Town of Kernersville shall have the further right, without assigning any reason therefore, to terminate any work under the Contract Documents, in whole or in part, at any time by providing written notice to Contractor. If the Contract is terminated by the Town of Kernersville in accordance with this Paragraph, Contractor will be paid for Services actually provided up through the date of termination at the rates provided herein.

Termination for Default. The Town of Kernersville may terminate this Contract, in whole or in part, for failure of the Contractor to perform any of the provisions hereof. In addition to any other remedies available to the Town of Kernersville in law or equity in connection with an uncured breach of the Contract by Contractor, the Town of Kernersville may procure upon such terms as the Town of Kernersville shall deem appropriate, services substantially similar to those so terminated, in which case Contractor shall be liable to the Town of Kernersville for any excess costs for such similar supplies or services and any expenses incurred in connection therewith.

Contract Funding. It is understood and agreed between Contractor and the Town of Kernersville that 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 of Kernersville for any payment may arise until funds are made available to Town's Finance Officer and until Contractor receives notice of such availability. Should such funds not be appropriated or allocated, the Contract shall immediately be terminated. The Town of Kernersville shall not be liability to Contractor for damages of any kind (general, special, consequential or exemplary) as a result of such termination.

Contract Modifications. The contract may be amended only by written amendment duly executed by both the Town of Kernersville and Contractor. No price adjustments will be made unless the procedure has been included in the Contract and a maximum allowable amount stipulated.

Independent Contractor. Contractor is an independent contractor and not an employee of the Town of Kernersville. The conduct and control of the work will lie solely with Contractor. The Contract



## ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS

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shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between Contractor and the Town of Kernersville. Employees of Contractor shall remain subject to the exclusive control and supervision of Contractor, which is solely responsible for their compensation.

Nondiscrimination. Contractor shall not discriminate against or deny the Contract's benefits to any person on the basis of: race; religion; creed; color; sex; gender identity and expression; medical conditions related to pregnancy, childbirth, or breastfeeding; sexual orientation; marital status; age; national origin; ancestry; genetic information; disability; veteran status; or any class protected by local state or federal law.

Conflict of Interest. It is the policy of the Town that the conduct of officers, directors, project managers, and/or all other persons acting as its representatives should be at all times in the best interests of the Town, its members and the general public. In performing their duties, Town representatives should not be influenced by desire for personal gain. Conflict of interest is defined as a situation in which professional judgment or behavior concerning a primary interest (in this case the integrity of Town) has been improperly influenced by a different interest (such as for financial gain). The prompt disclosure of possible conflicts of interest or of those situations where such a perception could reasonably be anticipated to arise helps to avoid injury to an agreed upon primary interest.

Firm(s) selected for these advertised services shall become aware of and comply with state laws related to gifts and favors, conflicts of interest and the like, including NCGS 14-234, NCGS 133-1, and NCGS 133-2. Firm(s) selected for Planning and Design Services by the Town will be required to disclose any conflicts of interest for 18 months prior to the submission of the Proposal package to the Town.

If a conflict of interest is not disclosed by the contractor and a conflict of interest is determined by the Town to exist at a later time, the contractor will not be compensated for their prior work and will be required to reimburse the Town for any payments received. The contractor would be immediately dismissed from the contract.

Kickbacks to Contractor. 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 of Kernersville contract or in connection with a subcontract relating to a Town of Kernersville Contract. When Contractor has grounds to believe that a violation of this clause may have occurred, Contractor shall promptly report to the Town of Kernersville in writing the possible violation.

Monitoring and Evaluation. Contractor shall cooperate with the Town of Kernersville, or with any other person or agency as directed by the Town of Kernersville, in monitoring, inspecting, auditing



## ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS

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or investigating activities related to the Contract. Contractor shall permit the Town of Kernersville to evaluate all activities conducted under the Contract. The Town of Kernersville has the right at its sole discretion to require that Contractor remove any employee of Contractor from property and from performing services under the Contract following a provision of notice to Contractor of the reasons for the Town of Kernersville's dissatisfaction with the services of Contractor's employee.

Financial Responsibility. Contractor is financially solvent and able to perform under the Contract. If requested by the Town of Kernersville, Contractor agrees to provide a copy of its latest audited annual financial statements or other financial statements as deemed acceptable by the Town's Finance Officer. In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Contractor, the inability of Contractor to meet its debts as they become due or in the event of the appointment, with or without Contractor's consent, of an assignee for the benefit of creditors or of a receiver, then the Town of Kernersville shall be entitled, at its sole option, to cancel any unfilled part of the Contract without any liability whatsoever.

Dispute Resolution and Contract Situs. This Agreement shall be governed and will be construed in accordance with the laws of the State of North Carolina. Each party agrees that exclusive venue for all actions, relating in any manner to this Agreement will be in the General Court of Justice in Forsyth County, North Carolina.

No Third-Party Benefits. The Contract shall not be considered by Contractor to create any benefits on behalf of any third party. 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 third-party benefits.

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 affected party. If either party is unable to perform its obligations or in the case of the Town of Kernersville, to accept the Services because of Force Majeure, the time for such performance by such party or in the case of the Town of Kernersville, acceptance of Services will be equitably adjusted by allowing additional time for performance or acceptance of services equal to any periods of Force Majeure.

General Provisions. Town of Kernersville'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 or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach or default. If the Town of Kernersville should prevail in any action instituted by Contractor hereunder, the Town of Kernersville shall be entitled to recover costs and reasonable attorney's fees. Contractor may not assign, pledge, or in any manner encumber Contractor's rights under this Order, or delegate the performance of any of its obligations hereunder, with the Town of Kernersville's prior, express, written consent.



## ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS

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**Public Records Notice.** Records received by the Town in response to a bid solicitation or a request for proposal/qualifications are public records and subject to public inspection and copying. Some bid records are public as soon as received by the Town, others become public at bid opening and others at bid award.

The Public Records law (NCGS 132-1 et seq.) authorizes the Town to withhold from public inspection and copying legitimate and properly marked "trade secrets". If a record meets all of the following conditions, then the Town may withhold that particular trade secret from a public record inspection request:

- It is a "trade secret" as defined in NCGS 66-152(3); and
- It is the property of a private "person" as defined in NCGS 66-152(2); and
- It is disclosed or furnished to the Town in connection with a bid or proposal; and
- It is marked as "confidential" or as a "trade secret" at the time of its initial disclosure to the Town.

If as part of your bid or proposal, you submit to the Town any record, or portion of a record, that you consider to be a trade secret meeting the definition contained in NCGS 66-152 (2), you may clearly mark the particular record, or portion of the record, that meets the definition of trade secret as TRADE SECRET or CONFIDENTIAL TRADE SECRET, and the Town will be authorized to withhold that particular record or portion thereof, from public inspection. In the event the Town receives a public records request for records you designate as 'trade secret' the Town will notify you and give you the opportunity to, within one week of such notification, confirm in writing that the specific record, or portion of record, that you designated as TRADE SECRET meets the requirements of NCGS 132-1.2 and NCGS 66-152, and the reasons therefore. The Town will require that you indemnify the Town in the event a challenge is brought for the withholding of a record based on your having designated it a trade secret.

### **Addenda Notice**

If you have received this solicitation from a source other than the Town, it is the respondent's responsibility to ensure that all addenda have been received. Please visit [Town of Kernersville website > Finance > Open Bids](#) for the most current information.



# **ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS**

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## **EXHIBIT B:**

### **AFFIDAVIT OF COMPLIANCE WITH NC E-VERIFY STATUTES**

**State of North Carolina**

**AFFIDAVIT– Compliance with N.C. E-Verify Statutes**

**County of Forsyth**

I, \_\_\_\_\_ (hereinafter the “Affiant”), duly authorized by and on behalf of \_\_\_\_\_ (hereinafter the “Employer”) after being first duly sworn deposes and says as follows:

1. Employer understands that “E-Verify” means the federal E-Verify program operated by the United States Dept. of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with N.C.G.S. 64-25 (5).
2. Employer understands that Employers Must Use E-Verify. Each employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with N.C.G.S. 64-26(a).
3. Employer is a person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in this State. (Mark Yes or No)  
YES \_\_\_\_\_, or  
NO \_\_\_\_\_
4. Employer's subcontractors comply with E-Verify, and if Employer is the winning bidder on this project Employer will ensure compliance with E-Verify by any subcontractors subsequently hired by Employer.

This \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

Signature of Affidavit: \_\_\_\_\_

Name of Affiant (Print or Type): \_\_\_\_\_

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

State of \_\_\_\_\_, County of \_\_\_\_\_

Subscribed and Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

Notary Public: \_\_\_\_\_

My commission expires: \_\_\_\_\_





# **ON-CALL PROFESSIONAL SERVICES REQUEST FOR QUALIFICATIONS**

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## **EXHIBIT C: AFFIDAVIT OF NON-COLLUSION**

County of Forsyth

I, \_\_\_\_\_ (hereinafter the “Affiant”), duly authorized by and on behalf of \_\_\_\_\_ (hereinafter the “Employer”) after being first duly sworn deposes and says as follows:

1. He/She is the \_\_\_\_\_ of \_\_\_\_\_, the bidder that has submitted the attached bid;
2. He/She is fully informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting such bid;
3. Such bid is genuine and is not a collusive or sham bid;
4. Neither the said bidder nor any of its officers, partners, owners agents, representatives, employees, parties of interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other bidder, firm or person to submit a collusive or sham bid in connection with the contract for which the attached bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices in the attached bid or of any other bidder, or to fix any overhead, profit or cost element of the bid price of any other bidder or to secure through collusion, conspiracy, connivance or unlawful agreement any advantage against the Town of Kernersville or any person interested in the proposed contract; and
5. The price or prices quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

This \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

Signature of Affidavit: \_\_\_\_\_

Name of Affiant (Print or Type): \_\_\_\_\_

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

State of \_\_\_\_\_, County of \_\_\_\_\_

Subscribed and Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

Notary Public: \_\_\_\_\_

My commission expires: \_\_\_\_\_

