

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, effective as of the ___ day of September 2015, by and between the Town of Southern Shores, North Carolina (hereinafter referred to as the Client), and CodeWright Planners, LLC, a North Carolina Limited Liability Company doing business at 9 Blue Bottle Lane Durham, NC 27705 (hereinafter referred to as the Contractor).

WHEREAS, the Client desires to have an updated Town Code (hereinafter referred to as the Code); and

WHEREAS, the Client desires to engage the Contractor to render these professional services in connection with this project; and

WHEREAS, the Contractor desires to undertake the project.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. Scope of Services.

The Contractor agrees to provide professional services to prepare an updated Code. The services to be performed are described in Exhibit A attached hereto and incorporated herein (Exhibit A is titled "Scope of Services"). The Client agrees to provide supporting services to the Contractor as described in Exhibit A.

2. Time of Performance. The services of the Contractor are to commence on the date of execution of this Agreement by both Client and Contractor, and will be undertaken and completed consistent with the Tasks set out in Exhibit A. The project will be completed over the period from October 1, 2015 through December 31, 2016 (total time = 14 months). The time of performance may be extended beyond the schedule set out in Exhibit A by mutual written agreement of the parties.

3. Method of Payment & Total Project Amount. The Client shall compensate the Contractor for its services in accordance with the Compensation Schedule set out in Exhibit B. It is understood and agreed that the total compensation and reimbursement to be paid for the professional services rendered under this Agreement is \$78,000. Contractor may invoice Client upon completion of a task or on a monthly basis for the percent of work completed on each task, and Client will pay Contractor within 30 days of receipt of the invoice, as long as the work is satisfactorily completed. By mutual written agreement, the Client and Contractor may reallocate the budget among project tasks if the total budget amount remains unchanged.

4. General Terms and Conditions.

- A. Termination of Agreement: The Client shall have the right to terminate this Agreement, with or without cause, by giving written notice to the Contractor of such termination and specifying the effective date thereof. Notice shall be given at least 30 days before the effective date of such termination. In such event all finished or unfinished documents, data, studies and reports prepared by the Contractor pursuant to this Agreement shall become the Client's property. Contractor shall be entitled to receive compensation in accordance with the Agreement for any satisfactory work completed pursuant to the terms of this Agreement prior to the date of termination.
- B. Changes. The Client may, from time to time, request changes in the scope of services of the Contractor to be performed hereunder. Such changes, including the increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon between the Client and the Contractor, shall be in writing and upon execution shall become part of the Agreement.
- C. Assignability. Any assignment or attempted assignment of this Agreement by Contractor without the prior written consent of the Client shall be void; provided, however, that claims for money due or to become due to the Contractor from the Client under this Agreement may be assigned to a bank, or other financial institution, without such approval. Notice of any such assignment or transfer shall be furnished to the Client.
- D. Audit. The Client or any of its duly authorized representatives shall have access to any books, documents, papers, and records of Contractor which are pertinent to Contractor's performance under this Agreement, for the purposes of making an audit, examination, or excerpts. The Contractor shall maintain records for three (3) years after the Agreement ends.
- E. Ownership of Documents. Drawings, specifications, guidelines, and other documents prepared by Contractor in connection with this Agreement shall be property of the Client. However, Contractor shall have the right to utilize such documents in the course of its marketing, professional presentations, and for other business purposes.
- F. Use of Work. Contractor assigns to Client the right to: 1) reproduce the work prepared under this Agreement; 2) distribute copies to the public; and 3) display the work publicly. Contractor shall have the right to use materials produced in the course of this contract for marketing purposes and professional presentations, articles, speeches and other business purposes.
- G. Governing Law. This Agreement has been executed by the parties hereto on the day and year first above written and shall be governed by the laws of

the State of North Carolina. Contractor shall also comply with all applicable state and federal laws and regulations and resolutions of Client, and shall commit no trespass on any public or private property in the performance of any of the work embraced by this Agreement.

- H. Notices. Any notice concerning the terms and conditions of this Agreement from Contractor to Client shall be in writing and delivered, either personally or by mail (postage prepaid), by electronic mail, or facsimile transmission and shall be addressed as follows:

Wes Haskett, Town Planner
Town of Southern Shores
5375 N. Virginia Dare Trail
Southern Shores, NC 27949
Facsimile number: 252.255.0876
Email: whaskett@southernshores-nc.gov

Notices to Contractor from Client shall be in writing and delivered, either personally or by mail (postage prepaid), by electronic mail, or facsimile transmission and shall be addressed to:

Chad Meadows, Principal
CodeWright
9 Blue Bottle Lane
Durham, North Carolina 27705
Facsimile number: 888.255.7920
Email: chad@codewright.info

Notices shall be deemed effective upon delivery in the event of personal delivery, and after three (3) days when mailed, postage prepaid; if transmitted by facsimile or electronic mail, upon verified receipt of the electronic transmission. Either party may change its address in reference to notices by written notification to the other party.

5. Indemnification. The Contractor agrees to protect, defend, indemnify and hold the Client and its officers, employees, and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind and character in connection with or arising directly or indirectly out of this Agreement and/or the performance hereof and caused by the negligence of the Contractor or subcontractors.
6. Independent Contractor. Contractor is an independent contractor. Notwithstanding any provision appearing in this Agreement, all personnel assigned

by Contractor to perform work under the terms of the Agreement shall be and remain at all times, employees of the Contractor for all purposes. The Contractor, its agents and employees, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees of Client.

7. Certificate of Insurance. Contractor agrees to procure all of the insurance specified below and shall submit a Certificate of Insurance, from an insurer duly authorized to do business in North Carolina, naming the Town of Southern Shores, as an additional insured:

A. Workers' compensation insurance. Workers' Compensation insurance for all employees who are engaged in the work under the Agreement.

B. Motor vehicle liability insurance. Contractor shall take out and maintain during the life of this Agreement, such motor vehicle liability insurance as shall protect Contractor while performing work covered by this Agreement from claims for damages which may arise from operations by Contractor or by any other persons directly or indirectly employed by Contractor and the amounts of such insurance shall be as follows:

1. Motor vehicle liability insurance. On all motor vehicles owned, leased or otherwise used by Contractor in an amount not less than \$1,000,000.00 (combined single limit) for bodily injury including death and property damage combined.

C. Professional liability insurance. Contractor shall procure and maintain professional liability insurance in the amount of not less than \$1,000,000.00.

D. Insurance Company. The insurance company(ies) used by Contractor must be licensed to do business in the State of North Carolina.

8. Inquiries Regarding Payment. All inquiries regarding payment of invoices are to be directed to:

Wes Haskett, Town Planner
Town of Southern Shores
5375 N. Virginia Dare Trail
Southern Shores, NC 27949
Facsimile number: 252.255.0876
Email: whaskett@southernshores-nc.gov

9. Anti-discrimination Clause. Client does not discriminate against any person because of race, color, religion, national origin, or handicap in employment or service provided.

10. Extent of Agreement. This Agreement represents the entire and integrated agreement between the Client and the Contractor and supersedes all prior negotiations, representations or agreement, either written or oral. This Agreement may be amended only by written agreement signed by both the Client and the Contractor.

11. Mediation. All claims, disputes, and other matters in question between the parties to this Agreement arising out of or relating to this Agreement concerning a breach thereof, may be submitted to non-binding mediation upon agreement of the parties. The cost of said mediation shall be split equally between the parties. Mediation conducted under this Agreement shall occur in Durham, North Carolina.

12. E-Verification of Employees
The Contractor represents and warrants that it has ensured and will ensure for itself and each subcontractor that it uses to perform obligations under this Agreement, that the Contractor employs fewer than 25 employees who are employed for 9 months or more during a 12-consecutive-month period, and that the Contractor has used the E-Verify program, as defined in NCGS §64-25(5), to verify the work authorization of each employee.

13. Legal Review. This agreement anticipates that all legal review of project deliverables will be conducted by the Client or its offices or agents.

14. Severability. In the event that any provision of this Agreement shall be held to be invalid or unenforceable, the remaining provisions of this Agreement shall remain valid and binding upon the parties hereto.

CODEWRIGHT PLANNERS, LLC

BY: _____

Chad Meadows

Title: Principal

Date: _____

9/4/15

ATTEST:

BY: _____

Sheila Kane
Printed Name: Sheila Kane
Title: Town Clerk

TOWN OF SOUTHERN SHORES

BY: _____

Peter Rascoe
Peter Rascoe

Title: Town Manager

Date: _____

September 8, 2015



(SEAL):

PRE-AUDIT CERTIFICATION:

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

 _____

Finance Director

EXHIBIT A: SCOPE OF SERVICES

This scope of services includes the following four tasks:

TASK 1: PROJECT INITIATION

The main purpose for the project initiation task is to establish a common background and understanding of the project and the current conditions in the Town. Task 1 includes the following six subtasks:

1.A Background Review

After execution of the contract (estimated to be September 15, 2015) and delivery of the following documents to the project background site by Town staff, the consulting team will review the background documents. At a minimum the documents are anticipated to include:

- The Town Code of Ordinances;
- The Town Zoning Map;
- The 2012 CAMA Land Use Plan;
- Town Hazard Mitigation Plan;
- The 2014 Draft Bike and Pedestrian Plan; and
- The 2015 Emergency Management Plan.

1.B Initial Trip

Following completion of the background review, two members of the consulting team will travel to Southern Shores for one-and-one-half days of meetings. The following activities are anticipated during the trip:

- A kick-off meeting with key project staff;
- A meeting with the Town Manager;
- A meeting with the Town Attorney;
- A discussion of the public engagement strategy;
- A discussion about content to be provided for posting on the Town's web page;
- Discussion about the Advisory Committee's role;
- A meeting with staff from other Town departments to discuss the project and collect initial input about how the current regulations work and issues to be addressed in the new regulations; and
- Staff-led reconnaissance tour of Southern Shores.

1.C Stakeholder Interviews

During the second day of the trip, the consulting team will conduct up to seven one-hour stakeholder interviews between the hours of 9:00 AM and 4:00 PM. Each interview can be conducted individually or in small groups of up to three people. Up to two additional or follow-up interviews can be conducted via telephone after the first trip.

1.D Presentation

On the evening of the second day of the trip, the consulting team will make a presentation to the Advisory Committee to inform them of the process and gather input. The presentation will overview the project scope and schedule, summarize the input received to date, and identify some (though not all) of the key issues to be addressed by the project. Following the presentation, the consulting team will solicit feedback and answer questions.

1.E Communication Protocol

Prior to departure, the consulting team and Town staff will determine the date and time of on-going bi-weekly status update meetings as well as the mode of communication (whether via telephone or webcam). The team will also answer any remaining questions about the internal Basecamp project management tool.

1.F Webpage Content

Two weeks after completion of the project initiation trip, the team will prepare content for Town staff to post on the Town's webpage designed to keep citizens informed about the project. The web content will provide information on:

- Project objectives;
- Anticipated deliverables;
- A description of the public engagement strategy;
- The project schedule;
- The consulting team; and
- Town staff contact information.

Timing

October 1, 2015 through October 31, 2015 (1 month)

Trips

One one-and-one-half-day trip to the town by up to two members of the consulting team

Staff Responsibilities

- Provide background documents and resources electronically;
- Identify key stakeholders with assistance from the consulting team and organize stakeholder meetings;
- Assemble Advisory Committee;
- Organize project kick-off meeting;
- Conduct tour;
- Organize and participate in staff meetings;
- Organize and advertise meeting with Advisory Committee; and
- Post content to the Town webpage.

TASK 2: CODE ASSESSMENT

The main purposes of the code assessment task are to conduct a technical analysis of the Town's current Code of Ordinances; gather input from the public, Town officials, and Town staff about what changes should be made to the code in order to meet the Town's goals; and provide some initial recommendations for revision to the document. Task 2 includes the following five subtasks:

2.A Citizen Survey

The first step in the Code Assessment process is the development and delivery of a digital survey for Town residents, officials, and staff. The goal of the survey is to capture the vision for the Town's growth and development and pose questions about the Town's future. At the discretion of the Town staff, the survey may also include questions related to visual preferences. The survey will be prepared using Survey Monkey or a comparable on-line survey service.

An initial draft of the survey will be forwarded to Town staff for review and comment. Following discussion of comments and revision, the consulting team will provide a link to the survey for the Town to distribute.

Following a one-to-two week turnaround time, the consulting team will assemble the survey results and discuss them in the Code Assessment report.

2.B Staff Draft

Following analysis of the survey results, the consulting team will prepare the first draft of the Code Assessment, which is for internal staff review only. This allows staff to provide the team with feedback and identify any issues in the document in need of adjustment prior to public review. The staff draft is expected to include six main sections:

1. A written technical analysis and evaluation of the Town Code and other development-related provisions;
2. A review of key community goals as identified in the citizen survey;
3. A consistency analysis between the Town's long range policy guidance and the existing Town Code;
4. A series of recommendations for change based upon the input collected in Task 1 and Task 2.A and the team's analysis for consistency with best practices;
5. A section-by-section outline of the new Town Code, including key changes and their rationale; and
6. An appendix that includes supporting information and examples from other areas.

To aid in visualization, the Code Assessment will include a detailed Town Code organizational structure, examples of draft text and illustrations as they are anticipated to appear in the new Code.

2.C Revision

Within three weeks of delivery, it is anticipated that the staff will provide written consensus comments on the staff draft Code Assessment. Following receipt of comments, the consulting team will conduct a web-based meeting to discuss staff comments and identify areas in need of revision. Following revision, a public review version of the Code Assessment will be forwarded to Town staff for distribution to the Advisory Committee and posting on the project website.

2.D Advisory Committee Meeting

Approximately three weeks after posting, the team will travel to Southern Shores to conduct a meeting with the Advisory Committee and Town staff to review each of the six sections of the Code Assessment in detail.

2.E First Public Forum

During the two-day trip which includes the Advisory Committee meeting described in Task 2.D, the consulting team will work with Town staff to conduct the first public forum. The purpose for the forum is to overview the Code Assessment and discuss the key recommendations for change.

The forum should take place in the evening of the second day and should be limited to a maximum of two hours. One possibility for consideration is to utilize Town AV equipment and film portions of the event for live feed and rebroadcast on the internet.

Timing

November 1, 2015 through January 31, 2016 (3 months)

Trips

One two-day trip to the Town by members of the consulting team

Staff Responsibilities

- Distribute and advertise the citizen survey;
- Review the staff draft Code Assessment and provide written consensus comments;
- Organize Advisory Committee meeting; and
- Organize and advertise the public forum.

TASK 3: CODE DRAFTING

The main purpose for the code drafting task is to prepare the draft Town Code update. Because the new regulations will likely include a substantial amount of new information, it will be difficult to digest in a single review or meeting. Therefore, we recommend dividing the drafting process into three modules or groups of related chapters, each to be reviewed separately. We suggest the drafting process be organized as follows:

- Module 1: Introductory provisions, procedures, districts, and uses;
- Module 2: Development and design standards, environmental provisions, definitions, and illustrations; and
- Module 3: Remaining Town Code chapters.

Task 3 includes the following five subtasks:

3.A Staff Draft

As with the Code Assessment, the team will prepare a staff draft version of each module for internal review. The new regulations will be consistent with the structure, contents, and layout described in the document produced in Task 2.B, and will be developed in Microsoft Word. The new regulations will be written in plain English and supplemented with summary tables, flow charts, and page layout techniques that make the document easy to navigate. It will include footnotes and other annotations about new standards, items for additional consideration, and chapter-based summary lists of the key changes between the current regulations and the draft provisions.

To the maximum extent possible, the updated Town Code will be structured to translate all existing zoning districts into the set of zoning districts included in the new document without the need for a comprehensive Town-wide rezoning.

This work program anticipates a two-month review time for Town staff to provide consolidated written consensus comments on each module. The consulting team will use the staff review time to draft the subsequent module text so the project moves efficiently.

3.B Graphics

This scope of services anticipates \$4,800 to be applied toward the completion of graphics. Concurrent with the delivery of the staff draft version of Module 2, the consulting team will provide a list that will identify a wide range of potential graphics that could be included and then work with Town staff to prioritize this list based on the available budget of \$4,800. Graphics will be prepared and inserted as part of the consolidated document prepared in Task 4.

3.C Revision

Following receipt of staff comments on each module, the team will conduct a web-based meeting with staff to discuss the comments and then make the agreed upon revisions. The public review version of each module will then be forwarded to the Advisory Committee and to Town staff for placement on the project webpage.

3.D Presentation to the Advisory Committee

One week after the completion of revisions in Task 3.C, the consulting team will travel to the Town for one day to present each module to the Advisory Committee and the Planning Board, as appropriate (for a total of three one-day trips, one for each module). At the meetings, the consulting team will overview the draft module material, answer questions, and collect input. Town staff may wish to conduct additional meetings, as appropriate. (CodeWright team members can participate in additional meetings at the rates described in Appendix C.)

3.E Second Public Forum

Following completion of all three draft modules, the consulting team will work with Town staff to conduct the second public forum. The purpose for the forum is to:

- Update the public on project progress;
- Introduce the drafts of the modules; and
- Collect input on the modules.
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The forum should take place in the evening and should be limited to a maximum of two hours. One possibility for consideration is to utilize Town AV equipment and film portions of the event for live feed and rebroadcast on the internet.

Timing

February 1, 2016 through July 30, 2016 (6 months)

Trips Four one-day trips to the Town by up to two members of the consulting team

Staff Responsibilities

- Review each draft module;
- Provide written consensus comments to the consulting team on each module;
- Facilitate legal review of the draft with the Town's legal experts;
- Organize Advisory Committee meetings;
- Conduct additional meetings as appropriate; and
- Work with the consulting team to select appropriate graphics.

TASK 4: ADOPTION

The main purpose for the adoption task is to conduct a Planning Board meeting and public hearing with the Town Council associated with adoption of the new Town Code. Task 4 includes the following four subtasks:

4.A Consolidation

Following presentation of Module 3 to the Advisory Committee, the consulting team will prepare a consolidated version of the Town Code for review during the adoption process. The consolidated version will include all the code language, the graphics, the dynamic cross reference links, and an index. A fully functional pdf of the consolidated draft version of the Town Code will be provided for Town staff to place on the project webpage.

4.B Planning Board Recommendation Meeting

Following posting of the consolidated adoption version of the Town Code on the project webpage, the adoption process may commence with provision of public notice by Town staff. This work program anticipates participation by the consulting team in a public meeting with the Planning Board seeking a recommendation on the consolidated version of the Town Code. Following the meeting, the consulting team will prepare a list of input received and an overview of the necessary edits to the adoption draft of the Town Code to address comments received. Town staff may wish to conduct additional work sessions or meetings. In the case that additional meetings are conducted, Town staff will need to maintain a list of recommended edits to the consolidated adoption draft. This scope of services does not anticipate further edits to the Town Code text until after adoption. Modification to the draft text midstream could confuse the public or potentially expose to Town to notice flaws. As a result, this scope of services anticipates a running list of recommended edits to the Town Code text to be completed based on comments received during all meetings, hearings, or work sessions.

4.C Public Hearing

Following notification by Town staff, the consulting team will then participate in a public hearing with the Town Council seeking approval of the consolidated adoption version of the development regulations. Following the hearing, the consulting team will prepare a list of input received and an overview of the necessary edits to the adoption draft of the development regulations to address comments received.

Consulting team attendance at additional hearings or meetings beyond the ones identified in Tasks 4.B and 4.C is available in accordance with Appendix C of this Agreement.

4.D Revision & Transmittal

Once the document has been adopted by the Town Council, the consulting team will make all final revisions and prepare a final version of the adopted Town Code (in Microsoft Word and .pdf versions) and deliver 10 paper copies and digital copies of all files, including .jpeg versions of all illustrations. As with the consolidated version of the Town Code, the digital document will include dynamic hyperlinks and searching capability.

Timing

August 1, 2016 through December 31, 2016 (4 months)

Trips

Two one-half-day trips to the Town by up to two members of the consulting team

Staff Responsibilities

- Organize and advertise public meetings and hearings;

- Post consolidated version of the Town Code on project webpage;
- Conduct additional meetings (as appropriate); and
- Maintain list of comments from meetings not attended by consulting team.

At the Town's option, CodeWright will conduct a pro-bono follow-up evaluation of the development regulations with Town staff at six months or a year following adoption. This review is to ensure the regulations are functioning as intended and to make any additional revisions necessary. At the request of Town staff, CodeWright team members will travel to the Town for a half-day of meetings to discuss the operational aspects of the development regulations, identify areas where revisions are necessary, and then work with staff to prioritize revisions. It is anticipated that CodeWright staff members will expend 30 to 40 hours of effort drafting revisions to the adopted development regulations standards. This effort could also include participation in a work session or meeting to discuss the issues to be addressed or the revisions proposed to address them. There are no costs to the Town for this effort.

EXHIBIT B:
COMPENSATION SCHEDULE

TASK	COMPENSATION
Task 1: Project Initiation	\$7,200
Task 2: Code Assessment	\$11,000
Task 3: Drafting	\$46,000
Task 4: Adoption Draft	\$7,000
Graphics:	\$4,800
Copies (10):	\$2,000
PROJECT TOTAL	\$78,000

EXHIBIT C: ADDITIONAL SERVICES

The following CodeWright professionals will be compensated at the following rate, for the following professional services:

1. Attendance at additional meetings or hearings not included in this scope of services;
 2. Preparation of additional graphics and illustrations not included in this scope of services;
 3. Preparation of additional text not included in this scope of services; or
 4. Preparation of any additional services not included in this scope of services.
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Chad Meadows -- \$115 per hour, plus material expenses (no travel expenses charged)

Cara Isher-Witt -- \$85 per hour, plus material expenses (no travel expenses charged)

Jason Epley -- \$115 per hour, plus travel expenses between Charlotte and Southern Shores

Vagn Hansen -- \$115 per hour, plus travel expenses between Charlotte and Southern Shores