

**AGREEMENT BETWEEN OWNER
AND
(ENGINEERING FIRM)
FOR PROFESSIONAL SERVICES**

THIS AGREEMENT is made as of this 6th day of September, 2016, between the City of Hickory (“OWNER”), with principal offices at 76 North Center Street, Hickory, NC, 28601 and Amec Foster Wheeler Environment and Infrastructure, Inc.), (“ENGINEER”), with principal offices at 4021 Stirrup Creek Drive, Suite 100, Durham, NC 27703 for services in connection with the project known as the City of Hickory US 321 Gateways Project (“Project”);

WHEREAS, OWNER desires to engage ENGINEER to provide professional engineering, consulting and related services (“Services”) in connection with the Project; and

WHEREAS, ENGINEER desires to render these Services as described in SECTION I, Scope of Services.

NOW, THEREFORE, OWNER and ENGINEER in consideration of the mutual covenants contained herein, agree as follows:

SECTION I. SCOPE OF SERVICES

ENGINEER will provide Services for the Project, which consists of the Scope of Services as outlined on the attached Exhibit A.

SECTION II. TERMS AND CONDITIONS OF ENGINEERING SERVICES

The Terms and Conditions which are attached hereto in Exhibit B, are incorporated into this Agreement by this reference as if fully set forth herein.

SECTION III. RESPONSIBILITIES OF OWNER

The OWNER shall provide the information set forth in paragraph 6 of the attached Terms and Conditions.

SECTION IV. COMPENSATION

Compensation for ENGINEER’S services under this Agreement shall be on the basis of lump sum, summarized as follows:

Subtotal	Design Phase	\$ 25,700.00
Grand Total		\$ 32,956.00

The amount of the lump sum is thirty two thousand nine hundred fifty six dollars (\$32,956.00).

The amount of any sales tax, excise tax, value added tax (VAT), or gross receipts tax that may be imposed on this Agreement shall be added to the ENGINEER'S compensation as Reimbursable Expenses.

Compensation terms are defined as follows:

Lump Sum shall mean a fixed amount which shall be the total compensation agreed upon in advance for Scope of Services.

SECTION V. PERIOD OF SERVICE

Upon receipt of written authorization to proceed, ENGINEER shall perform the services within the time period(s) described in Exhibit A. Unless otherwise stated in this Agreement, the rates of compensation for ENGINEER'S services have been agreed to in anticipation of the orderly and continuous progress of the project through completion. If any specified dates for the completion of ENGINEER'S services are exceeded through no fault of the ENGINEER, such as Acts of God, Delay attributed solely to Owner or unforeseeable delay related to Regulatory Agency, the time for performance of those services shall be automatically extended for a period which may be reasonably required for their completion and all rates, measures and amounts of ENGINEER'S compensation may be equitably adjusted, as agreed to in writing.

SECTION VI. SPECIAL PROVISIONS

Engineer shall be responsible for paying all fees related to regulatory or other governing authority submittal, review, permitting, etc. These fees shall be requested as a reimbursement from the City at the direct cost with no markup.

City of Hickory

“OWNER”

BY:

Mudley C. Lail

NAME:

Rudy Wright Bradley C. Lail

TITLE:

Mayor Pro Tempore

ADDRESS:

PO Box 398
Hickory, NC 28603



Attest:

Debbie D. Miller
Debbie D. Miller
City Clerk

Amec Foster Wheeler Environment and
Infrastructure, Inc.

“ENGINEER”

BY:

NAME:

Harold Thurston

TITLE:

Associate

ADDRESS:

4021 Stirrup Creek Drive,
St 100
Durham, NC 27703

Approved as to form

Arnette M. DeWitt
City of Hickory – Legal Dept.

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

Debbie D. Miller
City of Hickory
Finance Officer

EXHIBIT A

SCOPE OF SERVICES

US 321 Gateways Project

It is our understanding that the City of Hickory plans to develop gateway enhancements on US 321 in two locations under this contract (at US 70 and at Clement Boulevard). Project deliverables will include but not be limited to: surveying, subsurface utility engineering, Right-of-Way (ROW) documentations, permit applications, budgeting and scheduling, landscape architecture and engineering construction drawings, **technical specifications, bidding assistance, response to RFI's** and document/design interpretations during construction, and site visits. During the plan development process the team will also meet with City staff and officials, the Bond Commission and subcommittees, make presentations as necessary, document all meetings and provide a digital platform using SharePoint for communication and sharing of drawings.

There are a handful of important issues to be addressed during the design process. Those appearing to be most significant include the following listed below:

- ✦ Bond Commission, subcommittee and city management engagement;
- ✦ Planning for the agency coordination and approvals including utility companies and NCDOT;
- ✦ Accurate cost estimating for budget management.

Areas of Focus. Listed below are the areas of focus for development of gateway projects.

- ✦ Art/sculpture, including long term maintenance
- ✦ Lighting
- ✦ Signage/environmental graphics
- ✦ Landscape aesthetics
- ✦ Landscape maintenance

Assessment. As part of the process, the project team will conduct a visual survey of each gateway. This visual survey will include a photographic inventory of physical and visual features, aesthetics, viewsheds, drainage, safety, and related site conditions along the highway and road corridors. The visual survey will be presented to City staff for discussion and analysis.

Review of Current Regulations/Guidelines/Manuals. Amec Foster Wheeler will review and evaluate existing NCDOT regulations and manuals (including the Arts Policy) to identify issues pertaining to art, lighting, signage, landscape, aesthetics and use. During the course of this review, specific attention will be given to safety and maintenance issues. Identification of areas of concern will be identified during this phase that may affect the development of gateway plans.

Survey. Survey information necessary to design this project will be provided by our staff. NCDOT standards for surveying services will be utilized. Any additional information such as ROW and underground utilities will also be provided by the survey team. Our staff will provide the field survey with the data necessary for securing ROW as may be needed to complete the gateways. The survey will include a minimum of 20 feet on either side of the ROW of identified gateway target area. The survey will include property lines, names of businesses/property owners, ROW lines, existing contour elevations, DOT mileposts, posted speed limit, signage, billboards, width of roadway pavement, lane widths, direction of travel, edge of pavement, drainage features and structures, above and below ground utilities and trees 4 inches caliper and larger.

Quality Level B – SUE Investigation. Scope to include: Notice to one call centers, Site Walk, Utility Records Review, Coordination with Utility Owners, location of underground utilities using methods such as ground penetrating radar (GPR) or electromagnetic surveys (EM) preparation of drawings, and Final Drawing Review.

ROW Document Preparation. Amec Foster Wheeler will identify existing right of way limits from deed records and research and prepare ROW maps. After the 30% Design Phase is complete, ROW needs will be identified and ROW issues that can be resolved in the design phase of work will be identified and resolved with assistance from the city. Final right-of-way plans will be prepared immediately after approval to begin the Construction Documents Phase.

Visioning Workshop with Bond Commission and subcommittee members. To kick-off the Design Process, the Amec Foster Wheeler team will conduct a “Visual Preference Survey” for the Bond Commission and the appropriate subcommittees. The survey will include photo documentation of up to 100 images of gateways, signage, lighting, landscape, and sculpture. The survey will be tabulated and the results shared with the Bond Commission. The results of the survey will assist the team in focusing the design process for the project and ensuring outcomes consistent with the Bond Commission, subcommittee and City expectations.

Small Group Workshop. An important component of the process will be interviews with the Bond Commission subcommittee members. Local knowledge will be essential to insure a successful gateway design and construction program. Amec Foster Wheeler will host a workshop that will include break-out tables for small group discussion. Amec Foster Wheeler will provide a facilitator for each discussion table. Input gathered during the small group workshop will be summarized in a guidance memo and issued to the Bond Commission and the City for review and comment.

Conceptual Design. Concurrent to these two workshops, a preliminary assessment analysis will be developed as baseline information including all data gathered from existing documents on file at NCDOT as well as current survey data and environmental data. The Amec Foster Wheeler team will identify opportunities and constraints within the project area and discuss how they impact the basis for design. Based on information from the two workshops, prepare conceptual designs which include thematic elements for use in the City’s overall gateway plan, including preparation of a minimum of three schematic plans with one plan being baseball themed for the Clement Blvd site (presented as scaled color rendered plans and sketches) for each gateway site. Conceptual “sketch” plans will be presented as color rendered plan, elevation and free-hand drawings illustrating gateway materials, scale, and the relationship to the roadway. This will be presented to City Staff and NCDOT, then Streetscapes Sub-Committee. A preferred alternative will be identified from the three options which will be carried forward to 30% plan preparation.

30% Design Phase. The 30% design plans will be prepared following requirements for NCDOT’s approval. This step in the process allows for the refinement of the conceptual designs, which can be reviewed and revised following input. The 30% design will detail sufficient information to submit to utility companies and to assess potential right of way issues. Amec Foster Wheeler will coordinate with NCDOT and DEQ to establish encroachment permitting and requirements necessary for issuance of a land disturbance permit prior to finalizing the project’s construction plans

The 30% design drawings will encompass the following tasks: Horizontal locations determined for proposed art/sculpture, signage, lighting and landscape; Construction limits identified; Preliminary drainage; Preliminary erosion control design; Construction staging outlined; Utility plan coordination with utility companies; ROW Plans including existing and proposed right-of-way lines, property lines, owner names, and proposed easements; Trees to be protected and proposed tree planting identified and located. Special details for planting developed. The design will be accomplished in compliance with all applicable NCDOT guidelines, the AASHTO Green Book and NCDOT Standard Specifications and Details. Design

consideration will include the future NCDOT US 321 widening project and its impact on the Clement Boulevard Gateway site.

After 30% design is complete, ROW needs will be identified and ROW issues that can be resolved in the design phase of work will be identified and resolved with input from the City.

Final Document Preparation (60%, 90% and 100% Plans and Specifications). Amec Foster Wheeler will prepare the final design and construction documents for art/sculpture, signage, lighting and landscape. The construction drawings will encompass the tasks outlined in Preliminary Design and the following: utility location plans as coordinated with the affected utility companies; Grading and drainage plan if applicable; Detailed Cost Estimate. Final right of way plans will be prepared immediately after Amec Foster Wheeler receives notice to begin the Final Plans Phase. Amec Foster Wheeler will use NCDOT requirements to prepare the plans.

A project manual will be prepared and will include but not be limited to the following: Bidding requirements will be drafted per City requirements and coordinated with the NCDOT standards; Contract requirements as coordinated with NCDOT; General requirements as coordinated with NCDOT; and Technical specifications.

Estimate of Probable Cost. Each submittal during Conceptual, 30%, 60%, 90% and Final Document preparation will include an estimate of probable cost, including base bid and add alternates.

Letting Assistance and Construction. A representative of Amec Foster Wheeler will attend and assist in a pre-bid meeting including answering questions regarding the contract documents. Amec Foster Wheeler will assist the City in issuing an addendum during bidding, if necessary and will assist in analyzing bids. During construction Amec Foster Wheeler will respond to the contractor's requests for information.

Design drawings will be issued to the City for review, comment, and approval based upon the following schedule:

30% Design Phase Drawings

30% Design Phase review by City

40% Design Drawings submittal for Bond Commission update

60% Construction Drawings

60% Construction Drawings and specifications review by City

80% Construction Drawings submittal for Bond Commission update

90% Construction Drawings and specifications submittal for City Review, Building permits review, NCDOT review

100% Construction Drawings and specifications for Bidding

The construction plans will be issued for review and comment by City Staff and Streetscapes Sub-Committee and then review, comment, and approval by NCDOT and Catawba County Building Inspections at 90% completion. The 90% completion set will be issued for permitting. Revisions will be made to the plans based on comments received from NCDOT. Copies of the final plan package and bids documents will be provided to the City and NCDOT.

In order to assist the City with public communication of pending activities, Amec Foster Wheeler will prepare graphics and content for use in the placement of uniform temporary signage that can be utilized at all Bond project locations.

Summary

Technical Approach Tasks

Assessment (includes a visual survey of each gateway)

- Review of Current Regulation/Guidelines/Manuals (local ordinances, NCDOT Policies, etc...)
- Survey and Quality Level B SUE Investigation
- ROW Document Preparation

Conceptual Design (sketch graphics as needed to convey intent for three conceptual designs)

- Estimate of Probable Cost

30% Design

- Estimate of Probable Cost
- Review/Approval

40% Bond Commission/Subcommittee Meeting

60% Design

- Estimate of Probable Cost
- Review/Approval

80% Bond Commission/Subcommittee Meeting

90% Drawings and specifications and cost estimate

- Estimate of Probable Cost
- Review/Approval

Final Document Preparation (must meet NCDOT requirements)

- Estimate of Probable Cost
- Review and Approval (submit a 90% set for review)
- 100% Drawings and specifications

Letting Assistance and Construction (Pre-bid meeting and RFI's)

Regulatory Permitting and Approvals

- Joint Plan Review Meeting
- NCDOT Encroachment Permit

SCHEDULE

Assumed Notice to Proceed	September 7, 2016
30% Design Phase Drawings	October, 2016
30% Design Phase review by City	October 2016
40% Design Drawings submittal for Bond Commission update	November 2016
60% Construction Drawings	January 2017
60% Construction Drawings and specifications review by City	January 2017
80% Construction Drawings for Bond Commission update	February 2017
90% Construction Drawings and specifications submittal for City Review, Building permits review, NCDOT review	April 2017
100% Construction Drawings and specifications for Bidding	May 2017

COST PROPOSAL

Technical Approach Tasks

Assessment (includes a visual survey of each gateway)	\$ 600
Review of Current Regulation/Guidelines/Manuals	\$ 1,200
Survey	\$ 2,800
Quality Level B SUE Investigation	\$ 2,200
ROW Document Preparation	\$ 1,400

Vision Workshop, Small Group Workshop \$ 2,500

Conceptual Design (sketch graphics as needed to convey intent \$ 5,400
 Three options for each location)
 Review/Approval
 Estimate of Probable Cost

30% Design / 40% Submittal \$ 3,000
 Estimate of Probable Cost
 Review/Approval
 Bond Commission

60% Design / 80% Submittal \$ 3,500
 Estimate of Probable Cost
 Review/Approval
 Bond Commission

90% & 100% Final Document Preparation \$ 3,100
 Estimate of Probable Cost
 Review and Approval (submit a 90% set for review)

SUBTOTAL – DESIGN **\$25,700**

Letting Assistance and Construction (Pre-bid meeting, \$ 2,200
 RFI's, 2 Site Visits)

Uniform Temporary Signage Design \$ 1,856

Regulatory Permitting and Approvals

Joint Plan Review Meeting	\$ 600
NCDOT Coordination (2 meetings) and DOT & DEQ permits	\$ 800

Expenses (Mileage, per diem, etc) \$ 1,800

GRAND TOTAL - Project Total Lump Sum Fee Estimate **\$32,956**

EXHIBIT B

TERMS AND CONDITIONS Terms and Conditions for Professional Services

1. STANDARD OF PERFORMANCE

The standard of care for all professional engineering, consulting and related services performed or furnished by ENGINEER and its employees under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

2. INSURANCE/INDEMNITY

ENGINEER agrees to procure and maintain, at its expense, Workers' Compensation insurance as required by statute; Employer's Liability of \$250,000; Automobile Liability insurance of \$1,000,000 combined single limit for bodily injury and property damage covering all vehicles, including hired vehicles, owned and non-owned vehicles; Commercial General Liability insurance of \$1,000,000 combined single limit for personal injury and property damage; and Professional Liability insurance of \$3,000,000 per claim for protection against claims arising out of the performance of services under this Agreement caused by negligent acts, errors, or omissions for which ENGINEER is legally liable. OWNER shall be made an additional insured on Commercial General and Automobile Liability insurance policies and certificates of insurance will be furnished to the OWNER. ENGINEER agrees to indemnify OWNER for claims to the extent caused by ENGINEER's negligent acts, errors or omissions. However, neither Party to this Agreement shall be liable to the other Party for any special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, errors or omissions, strict liability or breach of contract.

3. OPINIONS OF PROBABLE COST (COST ESTIMATES)

Any opinions of probable project cost or probable construction cost provided by ENGINEER are made on the basis of information available to ENGINEER and on the basis of ENGINEER's experience and qualifications, and represents its judgment as an experienced and qualified professional engineer. However, since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s)' methods of determining prices, or over competitive bidding or market conditions, ENGINEER does not guarantee that proposals, bids or actual project or construction cost will not vary from opinions of probable cost ENGINEER prepares.

4. CONSTRUCTION PROCEDURES

ENGINEER's observation or monitoring portions of the work performed under construction contracts shall not relieve the contractor from its responsibility for performing work in accordance with applicable contract documents. ENGINEER shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the work and shall not manage, supervise, control or have charge of construction. ENGINEER shall not be responsible for the acts or omissions of the contractor or other parties on the project. ENGINEER shall be entitled to review all construction contract documents and to require that no provisions extend the duties or liabilities of ENGINEER beyond those set forth in this Agreement.

5. CONTROLLING LAW

This Agreement is to be governed by the state of NC. Jurisdiction and Venue shall lie with the courts of Catawba County, NC.

6. SERVICES AND INFORMATION

OWNER will provide all criteria and information pertaining to OWNER's requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations. OWNER will also provide copies of any OWNER-furnished Standard Details, Standard Specifications, or Standard Bidding Documents which are to be incorporated into the project.

In performing professional engineering and related services hereunder, it is understood by OWNER that ENGINEER is not engaged in rendering any type of legal, insurance or accounting services, opinions or advice. Further, it is the OWNER's sole responsibility to obtain the advice of an attorney, insurance counselor or accountant to protect the OWNER's legal and financial interests. To that end, the OWNER agrees that OWNER or the OWNER's representative will examine all studies, reports, sketches, drawings, specifications, proposals and other documents, opinions or advice prepared or provided by ENGINEER, and will obtain the advice of an attorney, insurance counselor or other consultant as the OWNER deems necessary to protect the OWNER's interests before OWNER takes action or forebears to take action based upon or relying upon the services provided by ENGINEER.

7. SUCCESSORS AND ASSIGNS

OWNER and ENGINEER, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the covenants of this Agreement. Neither OWNER nor ENGINEER will assign, sublet, or transfer any interest in this Agreement or claims arising therefrom without the written consent of the other.

8. RE-USE OF DOCUMENTS

Upon payment of all amounts rightfully owed by Owner to the Engineer for services rendered with respect to the Services provided under this Agreement, all plans, drawings, specifications, elements of design, models, reports, submissions, mock-ups and other documents and materials that are produced by the Engineer as part of its performance of such Services hereunder (hereinafter the "Design Documents"), with the exception of those documents that constitute standard details, specifications, and/or other data and/or materials that are regularly used by the Engineer and/or the professional design industry in the normal course of business, shall be deemed to be the property of Owner. Any reuse or modification of such documents for purposes other than those intended by the Engineer shall be at the Owner's sole risk and without liability to the Engineer.

9. TERMINATION OF AGREEMENT

OWNER or ENGINEER may terminate the Agreement, in whole or in part, by giving ten (10) days written notice to the other party. Where the method of payment is "lump sum," or cost reimbursement, the final invoice will include all services and expenses associated with the project up to the effective date of termination. An equitable adjustment shall also be made to provide for termination settlement costs ENGINEER incurs as a result of commitments that had become firm before termination.

10. SEVERABILITY

If any provision of this agreement is held invalid or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term or condition shall not be construed by the other party as a waiver of any subsequent breach of the same provision, term or condition.

11. INVOICES

ENGINEER will submit monthly invoices for services rendered and OWNER will make payments within 30 days in response to ENGINEER's invoices.

ENGINEER will retain receipts for reimbursable expenses in general accordance with Internal Revenue Service rules pertaining to the support of expenditures for income tax purposes. Receipts will be available for inspection by OWNER's auditors upon request.

If OWNER disputes any items in ENGINEER's invoice for any reason, including the lack of supporting documentation, OWNER may temporarily delete the disputed item and pay the remaining amount of the invoice. OWNER will promptly notify ENGINEER of the dispute and request clarification and/or correction. After any dispute has been settled, ENGINEER will include the disputed item on a subsequent, regularly scheduled invoice, or on a special invoice for the disputed item only.

OWNER recognizes that late payment of invoices results in extra expenses for ENGINEER. ENGINEER retains the right to assess OWNER interest at the rate of one percent (1%) per month, but not to exceed the maximum rate allowed by law, on invoices which are not paid within thirty (30) days from the date of receipt by OWNER. In the event undisputed portions of ENGINEER's invoices are not paid when due, ENGINEER also reserves the right, after ten (10) days prior written notice, to suspend the performance of its services under this Agreement until all past due amounts have been paid in full.

12. CHANGES

The parties agree that no change or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement. Adjustments in the period of services and in compensation shall be in accordance with applicable paragraphs and sections of this Agreement. Any proposed fees by ENGINEER are estimates to perform the services required to complete the project as ENGINEER understands it to be defined. For those projects involving conceptual or process development services, activities often are not fully definable in the initial planning. In any event, as the project progresses, the facts developed may dictate a change in the services to be performed, which may alter the scope. ENGINEER will inform OWNER of such situations so that changes in scope and adjustments to the time of performance and compensation can be made as required. If such change, additional services, or suspension of services results in an increase or decrease in the cost of or time required for performance of the services, an equitable adjustment may be made, and the Agreement modified accordingly.

13. CONTROLLING AGREEMENT

These Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice-to-proceed, or like document.

14. EQUAL EMPLOYMENT AND NONDISCRIMINATION

In connection with the services under this Agreement, ENGINEER agrees to comply with the applicable provisions of federal and state Equal Employment Opportunity for individuals based on color, religion, sex, or national origin, or disabled veteran, recently separated veteran, other protected veteran and armed forces service medal veteran status, disabilities under provisions of executive order 11246, and other employment, statutes and regulations, as stated in Title 41 Part 60 of the Code of Federal Regulations § 60-1.4 (a-f), § 60-300.5 (a-e), § 60-741 (a-e).

ENGINEER shall comply with NC's e-verify program.

15. HAZARDOUS MATERIALS

OWNER represents to ENGINEER that, to the best of its knowledge, no hazardous materials are present at the project site. However, in the event hazardous materials are known to be present, OWNER represents that to the best of its knowledge it has disclosed to ENGINEER the existence of all such hazardous materials, including but not limited to asbestos, PCB's, petroleum, hazardous waste, or radioactive material located at or near the project site, including type, quantity and location of such hazardous materials. It is acknowledged by both parties that ENGINEER's scope of services do not include services related in any way to hazardous materials. In the event ENGINEER or any other party encounters undisclosed hazardous materials, ENGINEER shall have the obligation to notify OWNER and, to the extent required by law or regulation, the appropriate governmental officials, and ENGINEER may, at its option and without liability for delay, consequential or any other damages to OWNER, suspend performance of services on that portion of the project affected by hazardous materials until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the hazardous materials; and (ii) warrants that the project site is in full compliance with all applicable laws and regulations. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous materials, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the project site in connection with ENGINEER's services under this Agreement. If ENGINEER's services hereunder cannot be performed because of the existence of hazardous materials, ENGINEER shall be entitled to terminate this Agreement for cause on 30 days written notice. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, its officers, directors, partners, employees, and subconsultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from hazardous materials, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's sole negligence or willful misconduct.

16. EXECUTION

This Agreement, including the exhibits and schedules made part hereof, constitute the entire Agreement between ENGINEER and OWNER, supersedes and controls over all prior written or oral understandings. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by the parties.

17. ALLOCATION OF RISK

OWNER and ENGINEER have evaluated the risks and rewards associated with this project, including ENGINEER'S fee relative to the risks assumed, and agree to allocate certain of the risks, so, to the fullest extent permitted by law, the total aggregate liability of Engineer (and its related corporations, subconsultants, and employees) to OWNER and third parties granted reliance is limited to its fee, for any and all injuries, damages, claims, losses, or expenses (including attorney and expert fees) arising out of ENGINEER's services or this Agreement regardless of cause(s) or the theory of liability, including negligence, indemnity, or other recovery. This limitation shall not apply to the extent the damage is paid under Engineer's commercial general liability insurance policy.

18. LITIGATION SUPPORT

In the event ENGINEER is required to respond to a subpoena, government inquiry or other legal process related to the services in connection with a legal or dispute resolution proceeding to which ENGINEER is not a party or negligent in the performance of services rendered, OWNER shall reimburse ENGINEER for reasonable costs in responding and compensate ENGINEER at its then standard rates for reasonable time incurred in gathering information and documents and attending depositions, hearings, and trial.

19. UTILITY LOCATION

If underground sampling/testing is to be performed, a local utility locating service shall be contacted to make arrangements for all utilities to determine the location of underground utilities. In addition, OWNER shall notify ENGINEER of the presence and location of any underground utilities located on the OWNER's property which are not the responsibility of private/public utilities. ENGINEER shall take reasonable precautions to avoid damaging underground utilities that are properly marked.

20. PROFESSIONAL LICENSURE

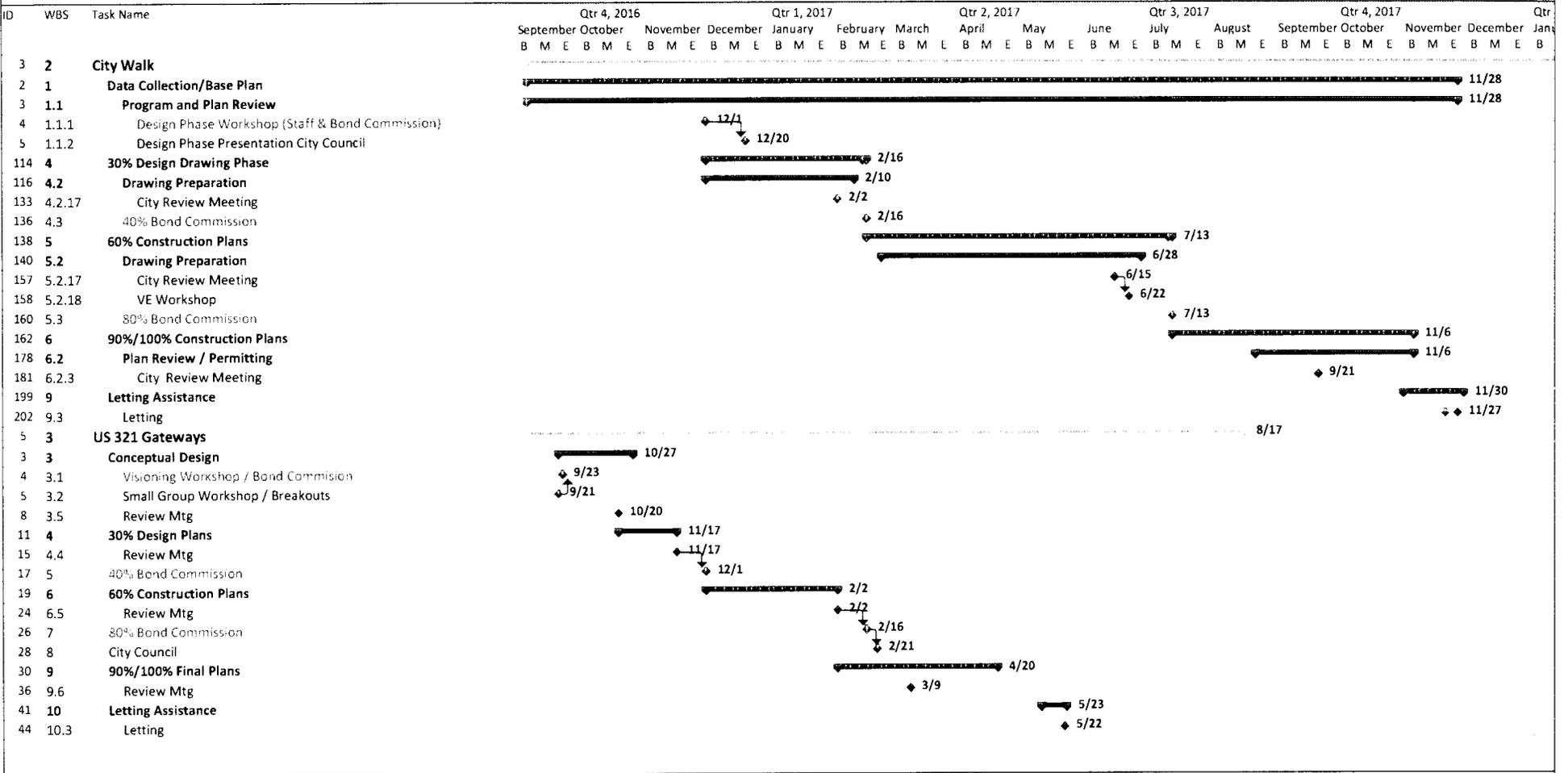
All work shall be sealed by a properly licensed design professional in North Carolina doing business in the state of North Carolina. These shall include but not be limited to: Engineer, Landscape Architect, Surveyor, Architect, Geologist, etc.

21. IRAN DIVESTMENT ACT

By executing this Agreement/Contract, Contractor hereby certifies that Contractor is not listed on the Iran Final Divestment List ("List") created by the State Treasurer pursuant to N.C.G.S. 147-86.58, Iran Divestment Act ("Act"). In compliance with the Act's requirement and N.C.G.S. § 147-86.59, Contractor shall not utilize in the performance of this agreement/contract any subcontractor that is identified on the List. The List can be found on the State Treasurer's website at the address www.nctreasurer.com/Iran and should be updated at least every 180 days.

City Walk and US 321 Gateways, City of Hickory

Mon 9/5/16



Project: Hickory Master Date: Mon 9/5/16 	Task		Project Summary		Inactive Milestone		Manual Summary Rollup		Deadline	
	Split		External Tasks		Inactive Summary		Manual Summary		Progress	
	Milestone		External Milestone		Manual Task		Start-only		Task, Critical	
	Summary		Inactive Task		Duration-only		Finish-only		Milestone, Critical	