

REQUEST FOR PROPOSAL
Purchasing Department

Town of Mooresville
Healthcare Benefits Consultant
RFP 011-01-0008
Issued January 31, 2011



Proposals Required by
January 17th, 2011
2:00 PM

Town of Mooresville
Town Hall
413 N. Main St
Mooresville, North Carolina 28115

TABLE OF CONTENTS

	Page
I. INTRODUCTION	
A. Purpose	2
B. Background	2
II. SCHEDULE AND SUMITTAL	
A. RFP Schedule	2
B. Written Questions	3
C. Proposal Submittal	3
III. GENERAL INSTRUCTIONS	
A. Town Contact Person	3
B. Oral Communications	3
C. Authorization to Do Business	3
D. Pre-Contractual Expenses	4
E. Withdrawal; Proposal Irrevocable for 90 Days	4
F. Standard Agreement	4
G. Term of Contract	4
H. Contractor Evaluation	5
IV. PROPOSAL FORMAT AND CONTENT	
A. General	5
B. Cover Letter	5
C. Table of Contents	5
D. Qualifications, Related Experience and References	5
E. Staffing and Project Organization	6
F. Work Plan / Technical Approach	7
G. Fee	7
H. Appendices	7
V. PROPOSAL EVALUATION AND CONTRACT AWARD	
A. General	8
B. Evaluation Procedures	8
C. Evaluation Criteria	8
VI. SCOPE OF WORK	
A. Contractor's Responsibilities	9
Exhibit A Professional Services Agreement	

**REQUEST FOR PROPOSAL FOR
EMPLOYEE BENEFITS INSURANCE BROKER AND CONSULTING SERVICES**

I. INTRODUCTION

A. PURPOSE

The purpose of this Request for Proposal (RFP) is to solicit offers from qualified insurance brokers to provide brokerage and consulting services to the Town of Mooresville in support of the Town's health and welfare benefit programs. Such services will include, but not be limited to: (1) reviewing and evaluating current benefits coverage and plan designs and advising on appropriate insurance coverage; (2) risk identification; (3) marketing and placement of insurance, including issuance of requests for proposals, as required, for both fully and self-insured markets; (4) reviewing vendor contracts and evidence of coverage; (5) coordinating with other benefit service providers; (6) attending and presenting information to the Town Board of Commissioners; (7) acting as a liaison and an advocate for the Town with insurance companies; (8) developing and producing communications materials; and (9) ensuring compliance with benefit laws and regulations.

Current benefit programs include group medical, dental, life/accidental death and dismemberment (AD&D) insurance, short term disability, and flexible spending accounts (FSAs).

B. BACKGROUND

The Town of Mooresville is located in the piedmont of North Carolina in the County of Iredell. The Town has a current work force of approximately 340 fulltime employees. The Town offers a PPO medical plan; a voluntary dental plan; a basic life and accidental death and dismemberment (AD&D) term insurance plan; a dependent life insurance plan; and a short-term disability plan. Also offered are flexible spending accounts for healthcare and dependent care. All plans are offered on the fiscal year.

Currently, approximately 400 full-time employees and their dependents and 43 retirees and their dependents are enrolled in one or more of the benefit plans. All medical, basic life and AD&D, dependent life, and short-term disability premiums are 100% paid by the Town of Mooresville for full-time benefited employees and eligible retirees.

The Town currently contracts with several service providers to support the Town's benefits programs, with whom the broker/consultant will need to coordinate.

For additional information on the Town's health and welfare benefit programs and the scope of work for the selected broker/consultant, please see Section VI of this RFP.

II. SCHEDULE AND SUBMITTAL

A. RFP SCHEDULE

Issued: January 31, 2011

Written Questions Due: January 14, 2011, 2:00 p.m.

Submittal: January 17, 2011, 2:00 p.m.

B. WRITTEN QUESTIONS

Questions or comments regarding this RFP (except to inquire about the number of addenda issued) must be put in writing and received by Town of Mooresville no later than 2:00 p.m., January 14, 2011. Written questions are to be: (1) mailed to the Purchasing Director at the address shown below for proposal submittal, or (2) e-mailed to dwhitaker@ci.mooresville.nc.us, or (3) faxed to (704) 799-4135, attention Purchasing Director. Proposers shall respond via fax or email with their intent to bid so they may receive any forthcoming addenda.

Any needed clarification to the proposal will be posted on the Town's webpage at www.ci.mooresville.nc.us. The Town shall not be obligated to answer any questions received after the above-specified deadline or any questions submitted in a manner other than as instructed above.

C. PROPOSAL SUBMITTAL

1. General

Proposals must be received by 2:00 p.m., January 17, 2011. Any proposal received after this date and time will not be considered.

2. Method of Submittal

The proposal may be submitted in paper form in an envelope marked "RFP – Employee Benefits Insurance Broker and Consulting Services" and delivered to: Town of Mooresville, Purchasing Department, 413 N. Main St., PO Box 878, Mooresville, NC 28115 Attention: David Whitaker, Purchasing Director. Proposals may be mailed, sent by private carrier or delivered in person during normal business hours, which are 8:30 a.m. to 5:00 p.m., Monday through Friday. Faxed copies will not be accepted. Please include one original and two (2) copies.

III. GENERAL INSTRUCTIONS

A. TOWN CONTACT PERSON

Mr. David Whitaker, Purchasing Director
413 North Main Street
PO Box 878
Mooresville, NC 28115
704-662-8534

B. ORAL COMMUNICATIONS

Any oral communications by the Town's Contact Person or designee concerning this RFP is not binding and shall in no way modify the RFP or the obligations of the Town, Proposer or Contractor.

C. AUTHORIZATION TO DO BUSINESS

The Proposer must be authorized to do business in the State of North Carolina. If a Proposer is a sole proprietorship or partnership, the Proposer should furnish with its proposal a copy of a current

business license issued in North Carolina. If the Proposer is a corporation, it must be approved by the North Carolina Secretary of State to do business in North Carolina and should furnish with its proposal the corporate number issued by the Secretary of State.

D. PRE-CONTRACTUAL EXPENSES

The Town shall not be liable for pre-contractual expenses incurred by the Proposer in the preparation of its proposal and Proposers shall not include any such expenses in their offers. Pre-contractual expenses are defined as expenses incurred by the Proposer to: (1) prepare and submit its offer to the Town; (2) negotiate with the Town on any matters related to this RFP; and (3) any other expenses incurred by the Proposer prior to the date of award, if any.

Issuance of this RFP and receipt of proposals does not commit the Town to award a contract. The Town reserves the right to postpone the award for its own convenience, to accept or reject any or all proposals received in response to this RFP, to negotiate with more than one Proposer simultaneously, or to cancel all or part of this RFP.

E. WITHDRAWAL; PROPOSAL IRREVOCABLE FOR 90 DAYS

A Proposer may withdraw its proposal at any time prior to the submittal deadline by sending the Town a request in writing from the same person who signed the submitted proposal. No withdrawn proposal can be resubmitted. As of the deadline for submittal, any proposal received by the Town and not withdrawn becomes an irrevocable offer available for acceptance by the Town immediately and for ninety (90) days thereafter. The Proposer is responsible for the accuracy of the proposal submitted, and no allowance will be made for errors or price increases that the Proposer later alleges are retroactively applicable.

F. STANDARD AGREEMENT

The Proposer selected for contract award through this RFP shall be required to enter into a written agreement with the Town. The Standard Agreement for professional services presented in Exhibit A of this RFP is the contract proposed for execution. It may be modified to incorporate other pertinent terms and conditions set forth in this RFP, including those added by addendum, and to reflect the Proposer's offer or the outcome of contract negotiations, if any. Exceptions and requested changes to the terms and conditions of the Standard Agreement, or the Proposer's inability or unwillingness to comply with any of the provisions of the Standard Agreement, must be declared in the proposal and will be considered as part of the proposal-evaluation process.

G. TERM OF CONTRACT

If a contract is awarded through this RFP, it will be effective upon full execution of the agreement for an initial term commencing July 1, 2011 and ending June 30, 2012, unless terminated earlier in accordance with the provisions specified in the Town's Standard Agreement. Thereafter, the Town reserves the right, at its sole option, to renew the contract up to a maximum of four (4) additional one-year terms extending through June 30, 2016.

H. CONTRACTOR EVALUATION

At the conclusion of the contract, the Town may evaluate the Contractor's performance. The results of this evaluation may be considered by the Town in evaluating future proposals from the Contractor and may be shared with other parties considering engaging the Contractor.

IV. PROPOSAL FORMAT AND CONTENT

A. GENERAL

Proposals are to be submitted in 8½" x 11" size, typed and, if submitted in paper form, bound with a simple method of fastening. Lengthy narrative is discouraged; presentations should be brief and concise and not include extraneous or unnecessarily elaborate promotional material.

B. COVER LETTER

The letter of transmittal shall, at a minimum, contain the following:

- Identification of the Proposer, including business name, address and telephone number;
- Name, title, address, telephone number, fax number, and e-mail address of a contact person during the period of proposal evaluation;
- Acknowledgement of RFP addenda received, if any;
- A statement that the proposal shall remain valid for a period of not fewer than ninety (90) days from the due date for proposals;
- Identification of any information contained in the proposal which the Proposer deems to be, and establishes as, confidential or proprietary and wishes to be withheld from disclosure to others under the North Carolina Public Records Act or as allowed by law (a blanket statement that all contents of the proposal are confidential or proprietary will not be honored by the Town); and
- Signature of a person authorized to bind the offering firm to the terms of the proposal.

C. TABLE OF CONTENTS

Immediately following the introduction and cover letter, insert a complete table of contents for material included in the proposal, including page numbers.

D. QUALIFICATIONS, RELATED EXPERIENCE AND REFERENCES

1. Overview: This section should establish the ability of the Proposer (and its subcontractors, if any) to satisfactorily perform the required work by reasons of: licensure, demonstrated competence in the services to be provided; the nature and relevance of similar work (scope and size) currently being performed or recently completed as outlined in this RFP; record of meeting schedules and deadlines of other clients; competitive advantages over other firms in the same industry; strength and stability as a business concern; and supportive client references. Information should be furnished for both the Proposer and any subcontractors included in the offer.

2. Furnish background information about your firm, including date of founding, legal form (i.e., sole proprietorship, partnership, LLC, corporation/state of incorporation), number and location of offices, principal lines of business, number of employees, days/hours of operation and other

pertinent data. Disclose any conditions (e.g., bankruptcy or other financial problems, pending litigation, planned office closures, impending merger) that may affect the Proposer's ability to perform contractually. Certify that the firm is not debarred, suspended or otherwise declared ineligible to contract by any federal, state or local public agency. Confirm that you serve as a consultant or broker, independently, and are not affiliated with any insurance company, third party administrative agency or provider network.

3. Describe your firm's most noteworthy qualifications for providing the required services to the Town. Specifically highlight those qualifications that distinguish you from your competitors.

4. List all North Carolina local government clients to which your firm has provided employee benefits insurance broker and consulting services; must have acted as a full-service agent/broker for a local government, preferably municipal, for at least five (5) years and have expertise and training in the fields of group self-insured health, life, and related insurance programs. Professional designations in the benefit field (i.e. CEBS – Certified Employee Benefit Specialist, RHU – Registered Health Underwriter) and financial planning field (i.e. CFP – Certified Financial Planner, ChFC – Chartered Financial Consultant) are a plus.

5. Identify at least three (3) current and three (3) former clients the Town may contact as references and who can independently evaluate the Proposer's expertise in this area. Describe the work performed and include the name, job title, address and telephone number of a contact person for each reference.

6. Identify all lost or terminated accounts within the past three years. For each account, identify the account's line of business, describe the services your firm provided, and state the reasons for the end of your working relationship.

7. Describe other lines of business in which your firm is engaged.

8. If your organization is a subsidiary or division of a parent firm, provide similar background information on the parent company and identify any other affiliated companies.

9. Describe your firm's policy on accepting contingent commissions, or any other sources of income, revenue, consideration, compensation or overrides, in connection with services provided to your clients. Describe your firm's disclosure policy.

10. Disclose any existing or potential conflicts of interest between the scope of work required by the Town and your firm's other business activities.

11. Furnish certificates of insurance showing the types and amounts of insurance carried by your firm.

E. STAFFING AND PROJECT ORGANIZATION

1. **Overview:** This section should discuss the staff who would be assigned to service the Town's account, their projected levels of work, and their reporting relationships.

2. Identify the key personnel from your firm who would be assigned to this project. Include a brief description of their qualifications, current job functions (including other accounts to which they are committed), proposed roles on the Town account team, and office location(s). Designate a principal of the firm who would be ultimately responsible for the relationship and an Account Manager who would provide day-to-day direction of the required work. Furnish brief resumes (not more than two pages long) for all key personnel; include these as an appendix, not in the body of the proposal.

3. If more than two people will be assigned to the Town's project, include a simple organization chart that clearly delineates communication and reporting relationships among the project staff.

F. WORK PLAN / TECHNICAL APPROACH

1. Overview: This section should establish the Proposer's understanding of the Town's requirements, demonstrate the Proposer's ability to meet those requirements and outline clearly and concisely the plan for accomplishing the specified work.

2. Describe succinctly how your firm would accomplish the work. If appropriate, divide the work into segments or tasks to represent milestones for measuring progress.

3. Attach as an appendix a sample insurance renewal proposal your firm prepared for a client of the size and complexity of the Town. You may de-identify the client and otherwise exclude information deemed proprietary to the client.

G. FEE

1. Overview: This section should outline and detail the fees for employee benefit consulting services as set forth in this RFP, both now and in the future. Disclose all charges to be assessed the Town for the Scope of Work.

Do not include the fee data in the actual body of the proposal. Instead, write the following verbiage in this section, "See attached section G. FEE information in the enclosed sealed envelope". Then include the section G. Fee information in a separate sealed envelope within the RFP envelope. Write "G. FEE" on this sealed envelope.

2. If your firm works on a fee-only basis, please itemize any service levels for which there would be an additional fee and describe how additional fees are calculated.

3. In lieu of a fee-only basis, describe any other proposed fee structure on which you would be willing to provide consulting services, including how the compensation is determined and calculated. Itemize any service levels for which there would be an additional fee and describe how additional fees are calculated. Please note that the Town of Mooresville will require complete disclosure of any and all fees / commissions / contingent commissions / overrides / bonuses your organization receives each year as a result of your organization's work on its behalf.

H. APPENDICES

1. Furnish as appendices those supporting documents (e.g., staff resumes) requested in the preceding instructions.

2. Include any additional information you deem essential to a proper evaluation of your proposal and which is not solicited in any of the preceding sections. Proposers are cautioned, however, that this does not constitute an invitation to submit large amounts of extraneous material; appendices should be relevant and brief.

V. PROPOSAL EVALUATION AND CONTRACT AWARD

A. GENERAL

All proposals received in accordance with these RFP instructions will be evaluated to determine if they are complete and meet the requirements specified in this RFP. An award will be made to the Proposer whose offer is judged to be the most advantageous to the Town. The Town expressly reserves the right to reject all proposals and make no award under this RFP.

B. EVALUATION PROCEDURES

1. Process

All proposals received in accordance with these RFP instructions will be reviewed, analyzed, evaluated and scored in accordance with the criteria described below. If needed, additional information may be requested from one or more Proposers. Interviews and contract negotiations may be conducted with one or more Proposers. The evaluators will then select a Proposer for award. Any selection and contract award is subject to review by the Town's Manager and authorization by the Mooresville Board of Commissioners.

2. Request for Additional Information

During the evaluation the Town may require supplemental information in order to fairly evaluate a Proposer's offer. For this purpose, the Town may request such information, including a best and final offer, from the Proposer after the initial submittal. If such information is required, the Proposer will be notified in writing (or by e-mail) and will be permitted a reasonable period of time to submit the information.

C. EVALUATION CRITERIA

Proposals will be evaluated by the Town against the factors specified below. The relative weights of the criteria—based on a 100-point scale—are shown in parentheses. Within each evaluation criterion listed, the sub criteria to be considered are those described in the "Proposal Format and Content" section of this RFP.

- Qualifications/related experience/references (25 points)
- Staffing/project organization (25 points)
- Work plan/technical approach (20 points)
- Fee (25 points)
- Miscellaneous (5 points)

{Completeness of proposal, adherence to RFP instructions, responsiveness to client needs, and other relevant factors not considered elsewhere}

VI. SCOPE OF WORK

A. CONTRACTOR'S RESPONSIBILITIES

1. Serve as designated insurance broker of record for benefit programs.
2. Analyze benefit plan designs and historical claims data, provide recommendations in plan design to meet objectives.
3. Negotiate and place employee benefit plans as directed by the Mooresville Board of Commissioners or designee(s).
4. Analyze insurance proposals according to criteria approved by the Mooresville Board of Commissioners or designee(s) and present the results of such analysis to the appropriate parties.
5. Negotiate the lowest costs for all insurance renewals, to include premiums, reinsurance, and administrative fees for benefit plans and TPA's; meet directly with insurance company underwriters and place insurance as directed.
6. Analyze claims experience and fixed costs for all insurance coverages, identify incurred but not reported (IBNR) amounts for maturing claim projections, develop premium equivalents for budget and payroll deductions, and recommend stop loss insurance amounts to manage risks.
7. Prepare monthly claims information and summary reports in accordance with parameters and criteria established by the Town.
8. Manage risk of self-funded plan, including partnership with an actuary.
9. Prepare annual reports, in any reasonable annual format requested in advance by the Town, for each line of coverage, analyzing financial developments, network utilization, insurer cost structures, etc., and make recommendations regarding changes, modifications and/or benefit enhancements.
10. Meet quarterly with Town Human Resources staff, take and distribute meeting notes, prepare financial reports, interpret and distribute carrier reports.
11. Evaluate the appropriateness of self-funding dental and vision care benefits.
12. In accordance with parameters and criteria established by the Town, make recommendations regarding various benefit and insurance plans, insurance carriers, administrators and benefit service providers.
13. Review all insurance, benefit and administrative service documents for accuracy and adherence to prior agreements (but not perform a legal review).
14. Provide open enrollment support, including, but not limited to, developing timeline, assisting with the development of open enrollment materials and coordinating and participating in open enrollment meetings as reasonably requested.

15. Assist with budget projections on future costs of benefit programs.
16. Review contracts with providers for accuracy in rates, benefits, eligibility, and coverage definitions.
17. Review evidences of coverage (EOC) for accuracy, make recommendations regarding changes, modifications and/or benefit enhancements, and negotiate changes with carriers.
18. Assist with claims and billing issues or other administrative questions and issues as requested.
19. Assist with the implementation/transitioning of carriers/administrators.
20. Alert the Town of legislative mandates and ensure compliance to include HIPAA, COBRA, USERRA, Medicare Modernization Act, ARRA, and future healthcare reform legislation.
22. Advise the Town on disease/care management, wellness initiatives, health education and communication, and assist in implementing programs.
23. Attend meetings of the Mooresville Board of Commissioners or with the Town Manager as requested.
24. Provide retiree/dependent counseling to include personal attention and assistance during the transition from the group health plan to the Medicare retiree plans.
25. Prepare and release request for proposals as needed or as directed by the Town. Analyze insurance proposals according to criteria approved by the Town and present the results of such analysis to the appropriate parties.
26. In coordination with others, develop, produce and coordinate the printing and distribution of benefits communication materials including four (4) newsletters per year and one (1) annual highlights booklet detailing insurance plans offered and eligibility requirements. Newsletters are mailed to all benefit subscribers and the highlights booklet is mailed to all benefit eligible employees.
27. Provide other such services consistent with devising, adopting, administering or revising plans of insurance coverage for the Town

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT

STATE OF NORTH CAROLINA

TOWN OF MOORESVILLE

THIS AGREEMENT entered into this 1st day of July 2011 by and between Town of Mooresville (herein called the "Town") and "CONTRACTOR" (herein called "Contractor").

WITNESSETH THAT:

RECITALS

WHEREAS, the Town may contract for professional services to the extent permitted by law; and WHEREAS, the Contractor has represented itself to be specially licensed and/or certified and/or trained, experienced and competent to perform the services described herein; NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereby agree as follows:

AGREEMENT

1. SERVICES. The Contractor shall perform the Services set forth in the "Scope of Work" (the "Services") in compliance with the specifications and standards set forth. The Town shall have the right to order, in writing, changes in the Scope of Work or under the Services to be performed with any applicable version of the compensation paid hereunder agreed upon by the Town and the Contractor. Any adjustment to fees, rate schedules, or schedule of performance can only be adjusted pursuant to written agreement between the parties. In performing the Services, Contractor hereby designates the following as "Key Personnel" under this Agreement. Contractor shall not reassign, replace or reduce the labor commitment of any Key Personnel without the prior written consent of the Town.

<u>Key Personnel</u>	<u>Contractual Function</u>	<u>Number Estimated Hours</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. WARRANTIES. The Contractor warrants and represents that it is specially trained, qualified, duly licensed, experienced, and competent to provide the Services. The Contractor warrants that Services (and any goods in connection therewith) furnished hereunder will conform to the requirements of this Agreement (including all descriptions, specifications and drawings made a part hereof) and in the case of goods will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship and to the extent not manufactured pursuant to detailed designs furnished by the Town, free from defects in design. The Town's approval of designs or specifications furnished by the Contractor shall not relieve the Contractor of its obligations under this warranty. All warranties, including special warranties specified elsewhere herein, shall inure to the Town, its successors, assigns, and users of the goods or services.

3. FEES. The Town shall pay the Contractor the fees set forth in accordance with the terms and conditions of this Agreement. The Contractor represents that such fees do not exceed the Contractor's customary current price schedule.

4. EXPENSES. The Contractor shall assume all expenses incurred in connection with performance except as otherwise provided in this Agreement.

5. TERM OF AGREEMENT. This Agreement shall be for the term effective July 1, 2011 – June 30, 2012, unless sooner terminated pursuant to the terms hereof. Thereafter, the Town reserves the right, at its sole option, to renew the contract up to a maximum of four (4) additional one-year terms extending through June 30, 2016.

6. TERMINATION OF AGREEMENT. This Agreement may be terminated by the Town by providing 30 days' prior written notice to the Contractor or immediately upon breach of this Agreement by the Contractor.

7. DOCUMENTATION. The Contractor agrees to provide to the Town, at no charge, a sufficient number of nonproprietary manuals and other printed materials, as used in connection with the Services, and updated versions thereof, which are necessary or useful to the Town in its use of the Services provided hereunder.

8. RIGHTS IN DATA. All technical communications and records originated or prepared by the Contractor pursuant to this Agreement including papers, reports, charts, computer programs, and other documentation, but not including the Contractor's administrative communications and records relating to this Agreement shall be delivered to and shall become the exclusive property of the Town and may be copyrighted by the Town. The ideas, concepts, know-how, or techniques relating to data processing, developed during the course of this Agreement by the Contractor or jointly by the Contractor and the Town can be used by either party in any way it may deem appropriate. All inventions, discoveries or improvements of the computer programs developed pursuant to this Agreement shall be the property of the Town. During the term of this Agreement, certain information which the Town deems confidential ("Confidential Information") might be disclosed to the Contractor. The Contractor agrees not to divulge, duplicate or use any Confidential Information obtained by the Contractor during the Contractor's engagement. Such Confidential Information may include, but is not limited to, student and employee information, computer programs, and data in the Town's written records or stored on the Town's computer systems.

9. CONTRACTOR ACCOUNTING RECORDS. Records of the Contractor's directly employed personnel, other consultants and reimbursable expenses pertaining to the work and records of account between the Town and the Contractor shall be maintained on an accounting basis acceptable to the Town and shall be available for examination by the Town or its authorized representative(s) during regular business hours within one (1) week following a request by the Town to examine such records. Failure by the Contractor to permit such examination within one (1) week of a request shall permit the Town to withhold all further payments until such examination is completed unless an extension of time for examination is authorized by the Town in writing.

10. RELATIONSHIP OF PARTIES. With regard to performance hereunder, the Contractor is an independent contractor and not an officer, agent, partner, joint venturer, or employee of the Town. The Contractor shall not, at any time, or in any manner, represent that it or any of its agents or employees is in any manner agents or employees of the Town.

11. TOWN CONTACT. The Human Resources Director or his or her designee shall be the contact person for the Town and shall represent the Town in the implementation of this Agreement.

Keli Greer
Human Resources Director
PO Box 878
Mooreville, NC 28115
(704) 662-8721

12. WAIVER OF DAMAGES; INDEMNITY. The Contractor hereby waives and releases the Town from any claims the Contractor may have at any time arising out of or relating in any way to this Agreement, except to the extent caused by the Town's willful misconduct. Notwithstanding the foregoing, the parties agree that in no event shall the Town be liable for any loss of the Contractor's business, revenues or profits, or special, consequential, incidental, indirect or punitive damages of any nature, even if the Town has been advised in advance of the possibility of such damages. This shall constitute the Town's sole liability to the Contractor and the Contractor's exclusive remedies against the Town. Except for the sole negligence or willful misconduct of the Town, the Contractor shall indemnify, hold harmless and defend the Town and its Council members, officers, employees, and agents from any liability, losses, costs, damages, claims, and obligations relating to or arising from this Agreement.

Without limiting the foregoing, the Contractor shall indemnify and hold harmless the Town, and its Council members, officers, employees, and agents from all liability, losses, costs, damages, claims, and obligations of any nature or kind, including attorneys' fees, costs, and expenses, for infringement or use of any copyrighted or non-copyrighted composition, secret process, patented or unpatented invention, article or appliance, registered or unregistered trademark, service mark, or trade name, furnished or used in connection with this Agreement. The Contractor, at its own expense, shall defend any action brought against the Town to the extent that such action is based upon a claim that the goods or software supplied by the Contractor or the operation of such goods infringes a patent, trademark, or copyright or violates a trade secret.

13. INSURANCE. Without limiting the Contractor's indemnification of the Town and as a material condition of this Agreement, the Contractor shall procure and maintain at its sole expense, for the duration of this Agreement, insurance coverage with limits, terms and conditions at least as broad as

set forth in this section. The Contractor shall secure and maintain, at a minimum, insurance as set forth below, with insurance companies acceptable to the Town to protect the Town from claims which may arise from operations under this Agreement, whether such operations be by the Contractor or any subcontractor or anyone directly or indirectly employed by any of them. As a material condition of this Agreement, the Contractor shall furnish to the Town certificates of such insurance and endorsements, which shall include a provision for a minimum thirty-days notice to the Town prior to cancellation of or a material change in coverage.

The Contractor shall provide the following insurance:

a) Commercial General Liability Insurance, "occurrence" form only, to provide defense and indemnity coverage to the Contractor and the Town for bodily injury and property damage. Such insurance shall name the Town as an additional named insured and shall have a combined single limit of not less than one million dollars (\$1,000,000) per occurrence. The policy so secured and maintained shall include personal injury, contractual or assumed liability insurance; independent contractors; premises and operations; products liability and completed operation; broad form property damage; broad form liability; and owned, hired and non-owned automobile insurance. The policy shall be endorsed to provide specifically that any insurance carried by the Town which may be applicable to any claim or loss shall be deemed excess and non-contributory, and the Contractor's insurance primary, despite any provisions in the Contractor's policy to the contrary.

b) Professional Liability insurance in an amount not less than one million dollars (\$1,000,000) per incident. If the policy is written on a claims made form, such insurance shall be endorsed to provide an extended reporting period of not less than two (2) years following the termination of this Agreement.

c) Workers' Compensation insurance with limits as required by the Labor Code of the State of North Carolina and Employers Liability insurance limits of not less than one million dollars (\$1,000,000) per accident.

d) Business Automobile liability coverage covering owned, non-owned, and hired automobiles with a combined single limit of not less than one million dollars (\$1,000,000) per accident and aggregate. The Town shall be endorsed as an additional insured.

Failure to maintain the insurance and furnish the required documents may terminate this Agreement without waiver of any other remedy the Town may have under law.

14. AMENDMENTS. This Agreement is the entire agreement between the parties as to its subject matter and supersedes all prior or contemporaneous understandings, negotiations, or agreements between the parties, whether written or oral, with respect thereto. This Agreement may be amended only in a writing signed by both parties.

15. ASSIGNMENT. This Agreement may not be assigned or otherwise transferred, in whole or in part, by either the Town or the Contractor without prior written consent of the other.

16. GOVERNING LAW. This Agreement shall be deemed to have been executed and delivered within the State of North Carolina, and the rights and obligations of the parties hereunder, and any action arising from or relating to this Agreement, shall be construed and enforced in accordance

with, and governed by, the laws of the State of North Carolina or United States law, without giving effect to conflict of laws principles. Any action or proceeding arising out of or relating to this Agreement shall be brought in the county of Iredell, State of North Carolina, and each party hereto irrevocably consents to such jurisdiction and venue, and waives any claim of inconvenient forum.

17. NONDISCRIMINATION. The Contractor hereby certifies that in performing work or providing services for the Town, there shall be no discrimination in its hiring, employment practices, or operation because of age, sex, race, color, creed, religion, disability, political affiliation or national origin. The Contractor shall comply with applicable federal and North Carolina anti-discrimination laws and the provisions of the Civil Rights Act of 1964, as amended. The Contractor agrees to require compliance with this nondiscrimination policy by all subcontractors employed in connection with this Agreement.

18. SAFEGUARDING CLIENT INFORMATION. The Contractor, in the execution of this Agreement, agrees to safeguard confidential information, including Protected Health Information (PHI), in accordance with applicable laws and regulations.

19. ATTORNEYS' FEES AND COSTS. If either party shall bring any action or proceeding against the other party arising from or relating to this Agreement, each party shall bear its own attorneys' fees and costs, regardless of which party prevails.

20. SEVERABILITY. The Contractor and the Town agree that if any part, term, or provision of this Agreement is found to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect other parts, terms, or provisions of this Agreement, which shall be given effect without the portion held invalid, illegal, or unenforceable, and to that extent the parts, terms, and provisions of this Agreement are severable.

21. TERMINATION FOR NON-APPROPRIATION OF FUNDS. If the term of this Agreement extends into fiscal years subsequent to that in which it is approved, such continuation of the Agreement is contingent on the appropriation and availability of funds for such purpose, as determined in good faith by the Town. If funds to affect such continued purpose are not appropriated or available as determined in good faith by the Town, this Agreement shall automatically terminate and the Town shall be relieved of any further obligation.

22. NOTICE. Any notice required to be given pursuant to the terms of this Agreement shall be in writing and served personally or by deposit in the United States mail, postage and fees fully prepaid, addressed to the applicable address set forth above. Service of any such notice if given personally shall be deemed complete upon delivery, and if made by mail shall be deemed complete on the day of actual receipt or at the expiration of 2 business days after the date of mailing, whichever is earlier.

23. CONFLICTS OF INTEREST. The Contractor agrees not to accept any employment or representation during the term of this Agreement which is or may likely make the Contractor “financially interested” in any decision made by the Town on any matter in connection with which the Contractor has been retained pursuant to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in Mooresville, North Carolina, on the date set forth above.

CONTRACTOR

TOWN OF MOORESVILLE

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

By: _____

Name: _____

Title: _____