

Professional Service Agreement

Scope of Work and Terms Document

City of Fayetteville, NC

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“Agreement”) is made as of February 1, 2019 by and between the City of Fayetteville, a North Carolina City and Municipal Corporation (“City”), and SchraderGroup.

In consideration of mutual promises and covenants in this Agreement, the parties agree as follows:

ARTICLE 1. Services

1.1 Background. The City desires to engage SchraderGroup to provide certain professional services as fully described and outlined in the Fee Proposal (Exhibit 1) which is attached hereto and fully incorporated into this Agreement by reference. SchraderGroup is willing to provide such services as outlined in the Fee Proposal on the terms and conditions stated in this Agreement.

1.2 Scope of Work. SchraderGroup will furnish the services as set forth in the Fee Proposal which is incorporated by reference herein.

1.3 Time of Performance. SchraderGroup will perform the services promptly and according to the project schedule noted in the Fee Proposal. The City will cooperate with SchraderGroup as reasonably required to complete the services outlined in the Fee Proposal. Both parties acknowledge that changes from or delays in the timeline may extend the date(s) for delivery of the service(s).

1.4 Term. The term of this Agreement shall begin on the date expressed in the introductory paragraph of this Agreement and shall continue until terminated based upon the completion of services by SchraderGroup as outlined in the Fee Proposal.

ARTICLE 2. Payment

2.1 Basis of Compensation: The City shall pay SchraderGroup for services rendered under this Agreement in amounts tied to the various project milestones as set forth in the Fee Proposal. Each payment shall be invoiced upon completion of each successive milestone and the City shall pay within thirty (30) days. In no event shall the payment for all work performed pursuant to this Agreement exceed the amount of \$146,245.50 without prior written authorization of the City. Such payment shall be full compensation for all work performed and for all labor, materials, supplies, equipment and incidentals necessary to complete the work.

2.2. Records. SchraderGroup shall keep records and accounts pertaining to this Agreement available for inspection by the City for a period of three (3) years after final payment. Copies of records and accounts pertaining to this Agreement shall be made available to the City upon request.

ARTICLE 3. Termination

3.1 Breach: If either party materially breaches a material provision of this Agreement, the other party may terminate this Agreement upon 30 days' notice unless the breach is cured within the notice period. Upon termination of this Agreement by either party for any reason prior to completion of the work:

- a) SchraderGroup shall deliver to City a copy of all work product completed through the date of the termination together with a written summary of the work.
- b) City shall pay SchraderGroup all sums due under this Agreement for the work completed through the date of termination in accordance with the Fee Proposal.

ARTICLE 4. Indemnification

4.1 Indemnification. To the extent allowed by North Carolina law, in the event that the City, its elected officials, officers, directors, employees or agents are made parties to any judicial or administrative proceeding arising in whole or in part out of the negligent performance, nonperformance, or omission by SchraderGroup and/or its agents of any of its obligations under this Agreement, then SchraderGroup shall indemnify and hold City harmless for any and all judgments, settlements, and costs (including reasonable attorneys' fees) which City incurs or pays in connection therewith except that SchraderGroup shall not be required to reimburse for such amounts if the court rendering the judgment or the agency making the award determines that the liability underlying the judgment or award (or attorneys' fees) was caused by the gross negligence, fraud or criminal conduct of the City, its elected officials, agents, employees, officers or directors.

ARTICLE 5. Other

5.1 Assignment. It is the intent of this Agreement to secure the services of SchraderGroup and failure of SchraderGroup for any reason to make the personal services available to the City for the purposes described in this Agreement and Fee Proposal shall be cause for termination of this Agreement. SchraderGroup shall not assign this Agreement without prior written consent of the City. Should SchraderGroup find it necessary to hire other employees or independent contractors to assist with the duties under this Agreement, SchraderGroup shall use its best efforts and all due

diligence to ensure that said employee or independent contractor is of high moral character and has not engaged in any misconduct involving children.

5.2 Non-Appropriation. Notwithstanding any other provisions of this Agreement, the parties agree that payments due hereunder from the City are from appropriations and monies from the City Council and other governmental entities. In the event sufficient appropriations or monies are not made available to the City to pay the terms of this Agreement for any fiscal year, this Agreement shall terminate immediately without further obligation of the City.

5.3. Default. In the event of substantial failure by SchraderGroup to perform in accordance with the terms of this contract, the City shall have the right to terminate SchraderGroup upon ten (10) days written notice in which event SchraderGroup shall have neither the obligation nor the right to perform further services under this contract nor shall the City be obligated to make any further payment for work that has not been performed.

5.4. Governing Law. The validity, interpretation, and execution of this Agreement and the performance of and rights accruing under this Agreement are all to be governed by the laws of the State of North Carolina.

5.5 Venue. Exclusive venue for litigation arising from this Agreement shall be a court of competent jurisdiction in Cumberland County, North Carolina.

5.6 Non Discrimination. SchraderGroup agrees not to discriminate by reason of age, race, religion, color, sex, national origin, disability or other applicable law while performing the services required herein.

5.7 Compliance with Laws. SchraderGroup agrees to comply with all applicable statutes, ordinances, and regulations of the United States, the State of North Carolina, the City and units of local government.

5.8 Severability. The parties agree that if any provision of this Agreement shall be held invalid for any reason, the remaining provisions shall not be affected if they may continue to conform to the purposes of this Agreement and the requirements of applicable law.

5.9 Amendment. The City and SchraderGroup may, from time to time, request changes in services to be performed by SchraderGroup. Any such changes that are mutually agreed upon by the City and SchraderGroup shall be incorporated herein by written amendment to this Agreement. It is mutually agreed and understood that no alteration or validation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and that any oral

understanding or agreements not incorporated herein, unless made in writing and signed by the parties hereto, shall not be binding.

5.10 Entire Agreement. This Agreement constitutes the entire agreement between the parties. Any proposed change to this Agreement shall be submitted to the City for its prior approval. No modification, addition, deletion, etc., to this Agreement shall be effective unless and until such changes are reduced to writing and executed by the authorized officers of each party.

5.11 E-Verify. SchraderGroup hereby acknowledges that "E-Verify" is the federal E-Verify program operated by the US Department of Homeland Security and other federal agencies which is used to verify the work authorization of newly hired employees pursuant to federal law and in accordance with Article 2, Chapter 64 of the North Carolina General Statutes. SchraderGroup further acknowledges that all employers, as defined by Article 2, Chapter 64 of the North Carolina General Statutes, must use E-Verify and after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS §64-26(a). SchraderGroup hereby pledges, attests and warrants through execution of this Agreement that SchraderGroup complies with the requirements of Article 2 of Chapter 64 of North Carolina General Statutes and further pledges, attests and warrants that any subcontractors currently employed by or subsequently hired by SchraderGroup shall comply with any and all E-Verify requirements. Failure to comply with the above requirements shall be considered a breach of this Agreement.

5.12 Iran Divestment Act. As mandated by N.C.G.S. 147-86.59(a), SchraderGroup hereby certifies that it is not listed on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58. SchraderGroup further certifies that in accordance with N.C.G.S. 147-86.59(b) that it shall not utilize any subcontractor found on the State Treasurer's Final Divestment List. SchraderGroup certifies that the signatory to this Agreement is authorized by SchraderGroup to make the foregoing statement.

ATTEST:

Jay Toland

By: [Signature]
(Name) DAVID SUPADET
(Title) MANAGING PARTNER

ATTEST:

Pamela J. Megill 2/11/2019
PAMELA MEGILL, City Clerk

CITY OF FAYETTEVILLE
By: [Signature]
DOUGLAS J. HEWETT, ICMA-CM,
City Manager

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

Jay Toland

JAY TOLAND, INTERIM CFO
City of Fayetteville



CITY OF FAYETTEVILLE

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

[Signature]
Jay Toland, Special Assistant to CEO

EXHIBIT 1

FEE PROPOSAL

CLIENT: Fayetteville County
 PROJECT: Assessment/Feasibility Study for Police & Fire Dept's Facilities
 DATE: 28-Jan-19

PROJECT START (est): 1-Feb-19
 PROJECT COMPLETE (est): 30-Apr-19

Task		Anticipated Hours	Total
Task #1			
* Intro., Goals, Space Needs Workshop	Schradergroup	114	\$ 19,338.00
* Site/Building Facility Assessment	ADW	76	\$ 9,384.00
* Threat & Vulnerability Assessment	Stanford White	144	\$ 10,800.00
	Gordon Johnson	16	\$ 2,800.00
* Analysts of community growth & development patterns	Timmons	28	\$ 3,560.00
* Deliverable-Needs Report			
	Subtotal	378	\$ 45,882.00
Task #2			
* Project Identification	Schradergroup	160	\$ 29,280.00
* Option Development	ADW	148	\$ 15,720.00
* Concept/Schematic Design	Stanford White	48	\$ 3,600.00
* Analysts comparing remodel vs new facility	Gordon Johnson	16	\$ 2,800.00
* Preliminary budgeting for construction and operational costs	Timmons	21.5	\$ 2,520.00
* Analysts contrasting the developed alternatives			
* Timing recommendations over the 15 year period			
* Deliverable-Project Alternatives Report			
	Subtotal	393.5	\$ 53,920.00
Task #3			
* Completion of a financial forecast	Schradergroup	32	\$ 5,560.00
* Land acquisition and preparation costs	ADW	32	\$ 3,904.00
* Construction estimates	Stanford White	32	\$ 2,400.00
* Equipment and operational costs	Gordon Johnson	16	\$ 2,800.00
* Sources to meet initial and ongoing costs	Timmons	6	\$ 807.50
* Deliverable - Funding Plan			
	Subtotal	118	\$ 15,471.50
Task #4			
* Assemble Final Study	Schradergroup	40	\$ 5,876.00
* Deliverable - Final Report	ADW	4	\$ 544.00
* Presentation	Stanford White	8	\$ 1,400.00
	Gordon Johnson	10	\$ 1,750.00
	Timmons	2	\$ 270.00
	Subtotal	64	\$ 9,840.00
Other			
* Expenses	Travel Time (PIC)	32	\$ 6,944.00
	Travel Time (PM)	32	\$ 5,440.00
	Travel Expenses (4 trips)	0	\$ 6,698.00
	Misc. Reimbursable Expenses	0	\$ 2,050.00
	Subtotal	64	\$ 21,132.00
	TOTAL HOURS	1,018	
	TOTAL FEES		\$ 146,245.50