

Town of Blowing Rock

Request for Council Action

FROM: Town Manager
SUBJECT: Sunset Drive Streetscape & Gateway Design Agreement - Draft
TO: Town Council
DATE: March 14, 2017
REQUESTED BY: Manager Evans & Destination by Design

Public Hearing Yes No Not required
Properly Advertised Yes No Not required

BACKGROUND:

Having completed preliminary concepts for improving the streetscape and gateway elements on Sunset Boulevard, Destination by Design has outlined their next Scope of Work in a draft agreement attached for review.

ATTACHMENTS:

1. Draft Design Agreement

COUNCIL ACTION:

Accept or reject the draft Design Agreement from Destination by Design

Blowing Rock Sunset Drive Streetscape & Gateway
Design Agreement –DRAFT

THIS AGREEMENT entered into this ___ day of _____, 2017, by and between the Town of Blowing Rock, hereinafter referred to as the "Owner" whose address is 1036 Main St. Blowing Rock, NC 28605, and Destination by Design Planning, LLC., a professional consulting firm, hereinafter referred to as the "Consultant" of "DbD", whose address is 815 W. King Street, Boone, NC 28607.

1.0 Project Description and Location

1.1 Destination by Design, (DbD) presented preliminary concepts for improving the streetscape and gateway elements on Sunset Boulevard at the Town of Blowing Rock Council Retreat on January 17, 2017. The Town of Blowing Rock now wishes to develop the concepts further in preparation for stakeholder and public meetings in the Spring/Summer of 2017.

1.2 The proposed study area is Sunset Boulevard between Valle Boulevard (U.S. 321) and Main Street.

1.3 The Consultant shall take direction from the Town Manager, Ed Evans, ("Project Director").

1.4 The Consultant shall provide the Owner one (1) digital file at each milestone.

1.5 The intent of the project is to utilize the services of the Consultant Team for the duration of the project development, and for the project to be completed to the satisfaction of the Town. Additional assignments, above and beyond those listed in 1.1 above and 2.0 below, may be added to the scope of services, schedule, and fees at the discretion of the Owner. Approval to proceed with additional or future work shall be by addendum to this agreement, and may include future phases and facilities.

2.0 Scope of Work

2.1 Concept Plan with Associated Images

2.1.1 DbD will refine the preferred concepts based upon comments and input during the Council Retreat and update Conceptual Construction Cost Estimates.

2.1.2 DbD will develop a complete conceptual plan for Sunset Drive from Valley Boulevard to Main Street.

2.1.3 DbD will illustrate alternative scenarios using photo-realistic renderings of the proposed future condition (1 additional illustration showing the planted median in Phase I).

2.1.4 The final deliverables will include electronic copies of the total plan and renderings along with a 36"x48" board that will be used during the workshops described below.

2.2 Stakeholder & Public Workshop

2.2.1 DbD staff will present the updated plan to Blowing Rock Town Council during a regular session.

2.2.2 DbD will conduct two "drop-in" style meetings: one for stakeholders (identified by Town of Blowing Rock) and one for the general public with the purpose of gaining "buy-in" for the proposed preferred concept. (Town of Blowing Rock to conduct advertising).

2.2.4 DbD will provide a final update to the Blowing Rock Town Council on the results/comments of stakeholder and public workshops.

2.2.4 DbD will compile the comments of the two workshops and present these to the Town Council.

2.3 Optional Services: Final Design & Engineering for Phase I: Sunset Ave. from Valley Boulevard to Ransom St.

- 2.3.1 Design Development (30% submittal). Using survey data provided by the Owner, The Consultant will prepare the necessary design plans, documenting in text and graphic formats the intent and nature of the project. Design documents will include plans, elevations, sections, details and materials relevant.
- 2.3.2 Based on the approved design plan, the Consultant shall prepare and submit complete final design drawings and technical specifications.
- 2.3.3 Milestone submittals for all final design documents shall be submitted to the Owner for review as follows:
- A. 90% Final design drawings in plan, section, elevation, detail, schedule and material selection. Plan set to include:
 - Cover Sheet
 - Streetscape Plan View –for staking and layout.
 - Hardscape Plan including custom gateway elements
 - Landscape Plan
 - Lighting Plan for pedestrian-scale lighting
 - Technical Specifications
 - Grading Plan
 - Erosion and Sediment Control Plans – including an initial, intermediate, and final erosion and sediment control plan for the proposed project as required by the local jurisdiction and NPDES.
 - Construction Details – including special construction details, typical sections, drainage details, erosion control details, and any other applicable jurisdictional details.
 - B. 100% Ready for bid. Based on final review by the Town and County.

2.4 Optional Services -- Bidding and Construction Phase

- 2.4.1 Advisory Services During Bidding: If requested by Owner in writing, the Consultant shall assist Owner in the development of a bid form for the project. Furthermore, the Consultant will participate in a pre-bid conference, provide clarifications to documents, and issue any addenda regarding such clarifications. The Consultant shall also assist in the evaluation of the bidders and their bids.
- 2.4.2 Construction Observation Services
- A. Pre-Construction Meeting: The Consultant shall assist Owner in conducting a pre-construction conference with the contractor awarded the project. The Consultant shall review the contractor's construction schedule, work plan and schedule of values as applicable.
 - B. Site Visits: The Consultant shall make periodic site visits to observe the construction progress, as requested by Owner. During these visits the Consultant will determine if the construction is proceeding in accordance with the contract documents. Furthermore, the Consultant shall assist in solving problems that may arise concerning the installation of the improvements shown on the construction plans and endeavor to guard Owner against defects and deficiencies in work or delays of the contractor. Written reports will be submitted to the Owner within four days of each site inspection.
 - C. Shop Drawing Review: The Consultant shall review and take appropriate action on shop drawings, requests for substitutions and change orders supplied by the contractor or Owner only for conformance with the design concept of the project and with the information and requirements set forth in the contract documents.

- D. Substantial & Final Inspections: The Consultant shall conduct one (1) inspection with the Owner at substantial completion of the project, issue recommendations in writing to the Owner regarding acceptability of the substantially completed facility and prepare a list of items (punch list) for correction or completion. The Consultant shall conduct a final inspection with the Owner to verify that the "punch list" items were satisfactorily completed and if appropriate, issue a Certificate of Completion.

3.0 Schedule of Fees, Reimbursable Expenses, and Hourly Rates

3.1 Lump Sum Fees, Optional Services and Allowances

A. Services Included	
1.	Concept Plan for entire corridor \$ 5,200.00
2.	Additional Photo-renderings (1) \$ 800.00
3.	Workshops (2) Stakeholder & Public \$ 3,040.00
4.	Preparing & Updating Council –including summary \$ 855.00
3.	Total Fee \$ 9,895.00
B. Optional Services	
1.	Construction Documents for Phase I \$ 61,200.00
2.	Bidding and Construction Oversight HOURLY

3.2 Hourly Rates

If requested in writing by the Owners Project Director, the Consultant shall provide additional services at the hourly rates listed below.

A. Destination by Design	
Principal	\$ 105/hour
Associate	\$ 85/hour
Structural Engineer	\$ 105/hour

4.0 Payment Schedule

- 4.1 The Consultant shall make monthly billings not to exceed the amounts listed for each phase or total lump sum fee, unless approved in advance by the Owner. The Consultant shall be paid within fifteen (15) days of receipt of a detailed invoice.
- 4.2 Consultant's services under the phases listed in 2.0 above, shall each be considered complete at the earlier of: 1) the date when the submissions for that phase have been accepted by the Owner; or 2) thirty (30) days after the date when such submissions are delivered to the Owner for final acceptance.
- 4.3 The Consultant or the Owner shall be allowed to renegotiate this Agreement upon substantial change in the project budget, scope of service, or schedule.
- 4.4 Hourly rates to be in effect until December 31, 2015, at such time all uncompleted work shall be billed at revised rates which shall include appreciation of direct and indirect expenses, plus inflation. All hourly work or additional services, shall be approved in writing by the Project Director prior to proceeding. Any such changes shall not alter the fixed amount portions of this contract.

5.0 Abandonment of Improvements

If the Owner finds it necessary to abandon the project, the Consultant shall be given seven (7) days written notice and compensated for all work completed under 2.0 above and according to the schedule of payments designated under 3.0 above. Scheduled items not completed but upon which work has been performed, shall be paid for upon the basis of estimated extent of completion.

6.0 Insurance, Indemnification, Consequential Damages

6.1 Insurance

The Consultant shall secure and maintain insurance coverages indicated as follows:

<u>Coverage</u>	<u>Liability Limits</u>	
Professional Liability	\$ 1,000,000	per claim/aggregate
Commercial General Liability	\$ 1,000,000	per occurrence
Comprehensive Automobile Liability	\$ 1,000,000	per accident
Workers Compensation	statutory limits	

6.2 Consequential Damages

The Owner and Consultant waive consequential damages for claims, disputes, or other matters in question which arise out of or are related to this Agreement, including but not limited to consequential damages due to the termination of this Agreement by either party in accordance with the provisions of 5.0 and 9.0 hereof.

7.0 OWNERSHIP OF DOCUMENTS

7.1 The Consultant shall be deemed the author and owner of all deliverables provided to the Owner, including but not limited to plans, drawings, specifications, Construction Documents, displays, graphic art, photographs, and other images and devices of any medium, including electronic data or files, which are developed, created, or derived pursuant to this Agreement by the Consultant (collectively, the "Deliverables").

7.2 Subject to payment by the Owner of all fees and costs owed to the Consultant, the Consultant grants to the Owner a nonexclusive license to reproduce the Design Materials solely for the construction and use of the Project. Termination of this Agreement prior to the completion of the Project shall terminate this license; all Design Materials and copies thereof in the Client's possession or control shall be returned to the Consultant within 21 days of the notice of termination.

7.3 The Owner, to the fullest extent permitted by law, shall indemnify and hold harmless the Consultant for any costs, including legal fees or defense costs, liability or loss, which result from any unauthorized modification of the Deliverables or the use of the Deliverables for any purpose other than the Project.

7.4 In the event this Agreement is terminated prior to the completion of the Project, the Consultant shall have no liability to the Owner or to anyone claiming through the Owner for any claims, liabilities, or damages resulting from the use, misuse, or modification of the Deliverables without the Consultant's approval, and the Owner agrees to indemnify and defend the Consultant against all such claims.

8.0 OTHER PARTIES

It is mutually agreed that this Agreement is not transferable by either signatory to a third party without the consent of the other principal party. Plans and specifications are instruments of service and remain the property of the Consultant.

9.0 TERMINATION

This Agreement shall be terminated at any time by the Owner or the Consultant upon giving written notice. Termination by the Owner shall comply with 5.0 above. This Agreement, unless previously terminated by written notice, shall be terminated by the final payment for the finished work.

10.0 Force Majeure

Either party shall be relieved of its obligations hereunder in the event and to the extent that performance hereunder is

delayed or prevented by any cause beyond its control and not caused by the party claiming relief hereunder, including, without limitation, acts of God, public enemies, war, insurrection, acts or orders of governmental authorities, fire, flood, explosion, or the recovery from such cause ("Force Majeure"). The parties agree to make all reasonable efforts to mitigate the delays and damages of Force Majeure.

11.0 Severability

If any term or provision of this Agreement shall be found to be invalid or unenforceable, the remaining provisions shall, to the fullest extent permitted by law, remain in full force and effect.

12.0 Governing Law

This Agreement shall be governed by the laws of the State of North Carolina. The parties agree that the state courts located in Avery County, North Carolina shall be the exclusive venue for the resolution of any disputes which may arise from this Contract.

13.0 Complete Agreement

This Agreement represents the entire understanding between the Owner and the Consultant and supersedes all prior negotiations, representations, or agreements, whether written or oral. This Agreement only may be amended in writing signed by both the Owner and the Consultant.

14.0 Signatures

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Witness:

Signature Date

Town of Blowing Rock

Signature

Title Date

Witness:

Signature Date

Destination by Design Planning, LLC

Signature

Title Date