

CITY OF HIGH POINT

AGENDA ITEM



Title: Sign Regulations Rewrite

From: Lee Burnette, Planning and Development
Director

Meeting Date: June 4, 2018

Public Hearing: No

Advertising Date:

N/A

Advertised By:

N/A

Attachments: Scope of Services

PURPOSE: To enter into a contract with Cooper Consulting Company to rewrite the sign regulations.

BACKGROUND: The City's new Development Ordinance went in effect on January 1, 2017. The sign regulations contained in the Ordinance were reformatted, but not rewritten due to the potential size of this project. The sign regulations have not been rewritten since 1992 and are in need of updating, especially considering recent court cases. The Planning and Development Department issued an RFQ on February 1, 2018 and recommends hiring Cooper Consulting Company to conduct an assessment and rewrite of the sign regulations.

BUDGET IMPACT: \$98,645 Funds will be available in the FY17/18 and FY18/19 budgets.

RECOMMENDATION / ACTION REQUESTED: Staff recommends *approval* of this contract.

**Scope of
Work and
Budget**

DEVELOPMENT ORDINANCE SIGN REGULATIONS ASSESSMENT AND REWRITE

Submitted to

City of High Point, NC



**cooper
consulting
company**

Submitted by

**CONNIE B. COOPER, FAICP
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IN ASSOCIATION WITH ERIC DAMIAN KELLY, J.D., PH.D., FAICP

MAY 21, 2018

Table of Contents

Scope of Services	1
Part 1: Planning Assessment.....	1
Part 2: Legal Assessment	3
Part 3: Preparation of New Sign Regulations Based on Assessments and Public Forums	4
Additional Services.....	5
Project Schedule and City Support	5
Proposed Draft Budget	5

SCOPE OF SERVICES

In assessing and rewriting the City of High Point's Development Ordinance's sign regulations Connie B. Cooper, FAICP and Eric Damian Kelly, J.D., PH.D., FAICP (CONSULTANT TEAM) will provide the Scope of Services as outlined below:

PART 1: PLANNING ASSESSMENT

RFQ TASK DESCRIPTION:

The sign regulations need to be assessed based on public input and community preferences, current best practices, and changes in sign types and technology.

DETAILED SCOPE:

The CONSULTANT TEAM will undertake a Planning Assessment that includes the following key components:

1. Prior to the first site visit, City staff will provide the CONSULTANT TEAM with a summary of what issues and/or concerns staff and the public have with the current sign regulations, including copies of amendments to the sign regulations since their adoption in 1992, variances cases or litigation related to the sign regulations. The CONSULTANT TEAM will review these materials as well as the City existing sign regulations as an initial assessment of the regulations and in preparation of the upcoming site visit. As with all planned site visits, the TEAM will work with City staff in scheduling visits on dates that are acceptable to all.
2. The CONSULTANT TEAM'S initial site visit (two days) will kick-off with a brief driving tour conducted by staff to identify preferred signage types and characteristics and sign elements that are less desirable or problematic. The tour will be followed by a series of general intake meetings conducted with planning, permitting and enforcement staffs to obtain an internal assessment of issues, strengths and weaknesses of the current sign regulations. This will be followed by meetings with members of the City Council and appointed boards to fully understand their concerns with the current sign regulations and expectations related to new sign regulations. The CONSULTANT TEAM will conclude the site visit with a wrap-up meeting with staff to summarize what has been learned from the visit and confirm general impressions related to sign regulations.
3. The CONSULTANT TEAM'S second site visit (two days) will include an extensive sign reconnaissance tour and stakeholder meetings.
 - a. The CONSULTANT TEAM will conduct a sign reconnaissance driving tour of major commercial corridors, large commercial developments, institutional campuses, multi-family developments and residential communities within the City. The TEAM will photo-document sign-related conditions and gather overall impressions of sign issues. The TEAM will photo-document signage examples within the City that it views as appropriate in scale, type, location and design. Examples from other jurisdictions will be used to illustrate signage that may be less desirable; however, no final conclusions will be reached until after completion of the public input and community preference process.

- b. The CONSULTANT TEAM will conduct a series of one-hour stakeholder meetings with commercial and neighborhood interest groups (conducted separately). The TEAM would like to meet with a variety of commercial stakeholders such as small business owners highly dependent on signage; major retail developers and retailers; sign contractors active in High Point; large office complexes; and institutional uses, like hospitals and educational institutions. Stakeholder meetings would include organizations such as High Point Chamber of Commerce, High Point Area Home Builders Association and High Point Association of Realtors. The CONSULTANT TEAM will also conduct stakeholder meetings with community interest groups and neighborhood organizations that may have an interest in sign regulations. The TEAM will defer to City staff as to the appropriate combination of interests to be included within respective stakeholder meetings.
 - c. The CONSULTANT TEAM will conclude the site visit with a wrap-up meeting with staff to summarize what has been learned from reconnaissance tour and stakeholder meetings and discuss questions that may have arisen.
4. The CONSULTANT TEAM will prepare a Draft Planning Assessment Report that will be in conjunction with the Legal Assessment described in Part 2 of the Scope of Services. The TEAM will include a generalized set of recommendations within the Report to obtain an early read of support and/or opposition to changes to sign standards. The Draft Planning Assessment will be forwarded to City staff for review and edits prior to public dissemination by the City.
5. The CONSULTANT TEAM'S third site visit (two days) will include meetings with City staff, elected and appointed officials to review the Draft Planning and Legal Assessment Report. This will be followed by two public meetings with business and community groups to review the Draft Planning and Legal Assessment Report. As a part of these public meetings, the CONSULTANT TEAM will ask participants their views on changes to the current sign regulations. The TEAM recognizes there will be redundancy in viewpoints already provided during previous stakeholder meetings, but this will provide another opportunity for the TEAM to gauge public support or resistance to changes in the sign regulations – and such dialogue will help reduce the risk of surprises at the point of issuing the draft regulations for adoption. It is unlikely that any consultant, no matter how experienced and talented, will be able to propose a set of recommendations that makes everyone happy – but it is useful to know some of the flash points before entering the drafting stage. The CONSULTANT TEAM will conclude the site visit with a wrap-up meeting with staff to summarize what has been learned from the public forums and meetings with elected and appointed officials and request staff forward any Report revisions to the TEAM.
6. Upon completion of the City meetings, the public forums and receipt of staff revisions to the Draft Planning and Legal Assessment Report, the CONSULTANT TEAM will finalize the Planning and Legal Assessment Report and forward it to the City.

DELIVERABLES:

Draft and Final Planning and Legal Assessment Report (see Part 2 for Legal Assessment)

PART 2: LEGAL ASSESSMENT

RFQ TASK DESCRIPTION:

The sign regulations need to be reviewed to see where changes may be needed to comply with recent court decisions, e.g. Reed vs. Gilbert. There also needs to be an overall legal assessment and a review of the administration and enforcement of the existing regulations.

DETAILED SCOPE:

Concurrent with the Planning Assessment, the CONSULTANT TEAM will review the City's current sign regulations in the context of court decisions that have occurred since the City's sign regulations were adopted 25 years ago. The TEAM will review sign cases that may have gone to the Board of Adjustment in recent years and any litigation related to signs. During the site visits described in the Planning Assessment, the TEAM will meet with the City's legal counsel to discuss sign-related matters particularly in context with elements that will be included in the Legal Assessment.

The Supreme Court's well-publicized 2015 decision in *Reed v. Town of Gilbert* is one of a series of decisions invalidating sign ordinances with content-based distinctions. The Legal Assessment will include an assessment of relevant court cases and the direction lower courts are taking regarding First Amendment protected speech. High Point is fortunate to be in the Fourth Circuit, a federal court of appeals that has been friendlier to local governments than some other circuits, but that simply provides a nuance to legal review of the sign regulations – not a certainty of government-friendly decisions.

As important as the content of the sign regulations are sign review and approval procedures; in recent years a number of local governments have lost challenges to procedures that courts have found unconstitutional – particularly regarding First Amendment protected speech. The CONSULTANT TEAM will review the City's current sign approval procedures, discuss procedural processes including enforcement with City staff and make general recommendations for legally-defensible procedures as a part of the Legal Assessment.

The CONSULTANT TEAM will provide a Draft Legal Assessment to the City for review and upon incorporation of City-requested edits, a Final Legal Assessment will be prepared to be part of the consolidated Planning and Legal Assessment Report for distribution at public forums as discussed in Part 1 of the Scope of Services.

DELIVERABLES:

The CONSULTANT TEAM will deliver a Draft and Final Legal Assessment in conjunction with the Planning Assessment described in Part 1. The Legal Assessment will be combined with the Planning Assessment as a consolidated report to allow the combined assessments to reflect on each other.

NOTE: If the TEAM finds something that is legally problematic during the Legal Assessment, a confidential memo may be submitted to the City's legal counsel addressing the issue. Also, the law on some sign issues is not entirely clear and it will be important for the CONSULTANT TEAM to discuss some risk assessment on certain elements with the City's legal counsel before going forward with draft sign regulations.

PART 3: PREPARATION OF NEW SIGN REGULATIONS BASED ON ASSESSMENTS AND PUBLIC FORUMS

RFQ TASK DESCRIPTION:

The planning consulting firm will rewrite the sign regulations to incorporate the recommendations of the legal and planning assessments to make them user-friendly by simplifying the language and using graphics to illustrate the regulations wherever possible.

DETAILED SCOPE:

Following completion of the Legal and Planning Assessment Report, the CONSULTANT TEAM will prepare Draft Sign Regulations.

1. The Sign Regulations will be in a format that will be easily incorporated into the City's Development Ordinance. The Draft Sign Regulations will incorporate recommendations that have come forward during the assessment process, with an emphasis in creating regulations that are user-friendly and graphically illustrated. The TEAM'S graphic designer will develop illustrations depicting the range of sign types, locational conditions, and dimensional standards, and as needed, illustrating conditions that are not permitted by the new sign regulations. Line graphics will be supplemented by images of actual sign types permitted by the sign regulations. Definitions of sign types and terms related to sign characteristics will be included in the regulations and illustrations of these definitions will be provided where necessary. The Draft Sign Regulations will also include procedural provisions for regulating signage consistent with current legal standards of review.
2. Upon completion of the Draft Sign Regulations, the CONSULTANT TEAM will forward the draft to the City for review and scheduling of a "GoToMeeting" type conference call with City staff and legal counsel. Following the conference call, requested edits will be incorporated into a proposed public draft of the Sign Regulations and recirculated for staff review and comment. Depending on the level of comments, an additional draft may be required.
3. Upon final staff acceptance of the Draft Sign Regulations for public dissemination, the CONSULTANT TEAM will schedule a fourth site visit (two days), to hold a series of public forums to discuss the Draft Sign Regulations. This will include discussion of the purpose for the proposed changes within the Draft Sign Regulations and an explanation of key elements contained within the draft. The TEAM will conclude the site visit with a wrap-up meeting to discuss any revisions to the Draft Sign Regulations that have come forward from the public forums.
4. Following input by the City staff, legal counsel and the public forums during the fourth site visit, the CONSULTANT TEAM will prepare the Final Draft Sign Regulations and forward to City staff and legal counsel for review. The TEAM will incorporate requested edits into the Final Draft and schedule a fifth and final site visit (day and a half) where a member of the CONSULTANT TEAM will to hold a combined workshop with the Planning and Zoning Commission and City Council, with appropriate notice to the public, to provide an opportunity for everyone to more fully understand the proposed Sign Regulations that will come before them at the Public Hearings. The site visit will conclude with a wrap-up meeting to discuss any revisions to the Final Draft Sign Regulations that have come forward from the workshop.

5. The CONSULTANT TEAM will revise the Final Draft Sign Regulations, transmit to City staff and legal counsel for final review, and upon review comments being incorporated the TEAM will deliver the Final Sign Regulations ready for Planning and Zoning Commission and City Council Public Hearings.

DELIVERABLES:

The CONSULTANT TEAM will deliver a Draft Sign Ordinance, a Final Draft Sign Ordinance, and a Final Sign Ordinance based on final revisions suitable for Planning and Zoning Commission and City Council Public Hearings.

ADDITIONAL SERVICES

The CONSULTANT TEAM is available to provide the City of High Point with Additional Services beyond the above outlined Scope of Services. Such services may include a member of the TEAM attending the Planning and Zoning Commission and/or City Council Public Hearings related to adoption of the sign regulations or providing additional analysis of a subject matter that may be directly or indirectly related to the Scope of Services but not specifically included in the budgeted Scope. Such services will be provided by the CONSULTANT TEAM based on the TEAM'S hourly rate of \$200 per hour or a pre-agreed lump sum, plus expenses, upon a request by the City for such Additional Services.

PROJECT SCHEDULE AND CITY SUPPORT

The CONSULTANT TEAM anticipates completing the above Scope of Services within 270 calendar days – unless unforeseen opposition to the Draft Sign Ordinance delays the process, requiring substantial more drafts and public meetings than what is included within the Scope of Services.

In coordination with CONSULTANT TEAM, the City staff will expeditiously schedule requested internal and external meetings, and provide public notices/publicity, meeting facilities, copies of handouts and required audio and visual support. It is also anticipated that staff will schedule additional public outreach meetings to supplement those scheduled with the CONSULTANT TEAM. City staff and legal counsel will provide CONSULTANT TEAM with requested supporting documents and provide prompt review of CONSULTANT TEAM'S draft documents forwarded to them for review.

PROPOSED DRAFT BUDGET

The CONSULTANT TEAM'S anticipated budget for completion of the City of High Point's new Sign Regulations, a contract that is anticipated to span 270 days, is budgeted at **\$98,645**.

BUDGET PART 1: PLANNING ASSESSMENT – \$34,820 (INCLUDES 3 SITE VISITS)

BUDGET PART 2: LEGAL ASSESSMENT – \$12,800 (SITE VISITS ARE INCLUDED IN PART 1 BUDGET)

BUDGET PART 3: PREPARATION OF NEW SIGN REGULATIONS – \$51,025 (INCLUDES 2 SITE VISITS)

It should be noted that revising a City's sign regulations affects every element of private and public property rights. It is an intensive process and frequently requires substantial modifications to respective drafts of the sign regulations to come to a final draft that is acceptable by the City, the business community and the general public. The above Scope of Services and Budget reflect a level of effort that will be needed to adequately respond to all constituent groups.