

**CITY of RALEIGH**

**REQUEST for LETTERS of INTEREST (RFLOI)**

**Construction Engineering and Inspection Services for City of Raleigh  
2020 LAPP Projects**

TITLE: CEI for 2020 LAPP Projects (U-5530OB, C-5604OC, C-5604OD AND C-5604OE)

ISSUE DATE: April 06, 2020

SUBMITTAL DEADLINE: May 04, 2020

ISSUING AGENCY: City of Raleigh

**SYNOPSIS**

**SUBCONSULTANTS ARE PERMITTED UNDER THIS CONTRACT.**

This contract shall be partially reimbursed with Federal-aid funding through the North Carolina Department of Transportation (hereinafter referred to as the Department). The solicitation, selection, and negotiation of a contract shall be conducted in accordance with all Department requirements and guidelines.

The primary and/or subconsultant firm(s) shall be pre-qualified by the Department to perform ALL of the Discipline Codes listed below for the City of Raleigh. Discipline Codes required are:

- 00195 Roadway Construction Engineering and Inspection
- 00233 Structures Construction Engineering and Inspection

**WORK CODES** for each primary and/or subconsultant firm(s) **SHALL** be listed on the respective RS-2 FORMS (see section 'SUBMISSION ORGANIZATION AND INFORMATION REQUIREMENTS').

This RFLOI is to solicit responses (LETTERS of INTEREST, or LOIs) from qualified firms to provide professional consulting services to:

## **PROPOSED CONTRACT SCOPE SUMMARY.**

The City of Raleigh is seeking Construction Administration/Construction Engineering Inspections (CA/CEI) services for the following projects: Leesville Safe Routes to School (NCDOT TIP # U-5530OB), Walnut Creek Greenway (C-5604OC), Crabtree Creek West Greenway (C-5604OD) and Gorman Street Connector (C-5604OE). The scope of these construction projects includes pavement marking removal and installation, signage, asphalt paving, concrete flat work, concrete curb ramp installation, signal improvements, wooden boardwalks and pre-manufactured pedestrian bridges.

Electronic versions of the LOIs should be submitted separately on a USB drive in .pdf format using software such as Adobe, CutePDF PDF Writer, Docudesk deskPDF, etc. Hard copy LOIs are still required to be submitted as outlined below.

LOIs SHALL be received **BY MAIL OR HAND-DELIVERY no later than 2:00 PM, May 04, 2020.**

**The address for mailings is:**

**Jeanna Benoy  
City of Raleigh Roadway Design and Construction  
222 W. Hargett St, 4th Floor  
Raleigh, NC 27601**

**The address for hand-deliveries is:**

**Jeanna Benoy  
City of Raleigh Roadway Design and Construction  
222 W. Hargett St, 4th Floor  
Raleigh, NC 27601**

**LOIs received after this deadline will not be considered.**

Except as provided below any firm wishing to be considered must be properly registered with the Office of the Secretary of State and with the North Carolina Board of Examiners for Engineers and Surveyors. Any firm proposing to use corporate subsidiaries or subcontractors must include a statement that these companies are properly registered with the North Carolina Board of Examiners for Engineers and Surveyors and/or the NC Board for Licensing of Geologists. The Engineers performing the work and in responsible charge of the work must be registered Professional Engineers in the State of North Carolina and must have a good ethical and professional standing. It will be the responsibility of the selected private firm to verify the registration of any corporate subsidiary or subcontractor prior to submitting a Letter of Interest. Firms which are not providing engineering services need not be registered with the North Carolina Board of Examiners for Engineers and Surveyors. Some of the services being solicited may not require a license. It is the responsibility of each firm to adhere to all laws of the State of North Carolina.

The firm must have the financial ability to undertake the work and assume the liability. The selected firm(s) will be required to furnish proof of Professional Liability insurance coverage in the minimum amount of \$1,000,000.00. The firm(s) must have an adequate accounting system to identify costs chargeable to the project.

## **SCOPE OF WORK**

The **City of Raleigh** is soliciting proposals for the services of a firm/team for the following contract scope of work:

### **PROPOSED CONTRACT SCOPE**

The scope below covers four federally funded projects being separately bid by the City in 2020. The City will select up to four firms to provide Construction Engineering and Inspections (CEI) services for these projects. Based on project location and firm capabilities, the City may award multiple projects to a single firm. Firms that have provided design services on any of these projects have received an exemption, if requested, from NCDOT to submit proposals for CEI Services.

The U-5530OB Leesville Safe Routes to School Project includes pedestrian and bicycle improvements along portions of Oneal Road, Leesville Road, Pride Way and Country Trail adjacent to the Leesville Schools Campus. The project includes concrete flatwork, concrete curb ramps, pavement markings, signage, storm drain modifications, public utilities and signal improvements. The tentative construction start date is July 2020, and the tentative construction completion date is July 2021.

**PROPOSED CONTRACT TIME: TWELVE MONTHS; and EXTENSION(S) if NEEDED**

**PROPOSED CONTRACT PAYMENT TYPE: COST-PLUS**

The C-5604OC Walnut Creek Greenway Project provides an approximately 750-foot trail extension from the existing Walnut Creek Trail to Trailwood Drive. The project includes an asphalt trail, storm drain modifications, site furnishings, a pre-manufactured pedestrian bridge and bridge end bents. The tentative construction start date is August 2020, and the tentative construction completion date is December 2021.

**PROPOSED CONTRACT TIME: EIGHTEEN MONTHS; and EXTENSION(S) if NEEDED**

**PROPOSED CONTRACT PAYMENT TYPE: COST-PLUS**

The C-5604OD Crabtree Creek West Greenway Project completes the corridor by extending the trail from Lindsay Drive to the eastern boundary of Ulmstead State Park on Ebenezer Church Road. The project includes approximately 5,900 feet of trail from Ebenezer Church Road to Duraleigh Road and an additional 3,500 feet of trail from Duraleigh Road to Lindsay Drive. The project also includes six boardwalks, five pedestrian abridges, asphalt paving, concrete flatwork, pavement marking, signage, landscaping, site furnishings, and retaining walls. The tentative construction start date is August 2020, and the tentative construction completion date is August 2022.

**PROPOSED CONTRACT TIME: TWENTY-FOUR MONTHS; and EXTENSION(S) if NEEDED**

**PROPOSED CONTRACT PAYMENT TYPE: COST-PLUS**

The C-5604OE Gorman Street Connector includes pedestrian and bicycle improvements along Gorman Street from Hillsborough Street to Ligon Street. The project includes replacement of the existing sidewalk on either side of the railroad bridge with a keyed concrete median on the bridge to allow for separation of bicycle traffic. The project will also include new pavement markings, signage, concrete curb ramps and storm drain modifications. The tentative construction start date is July 2020, and the tentative construction completion date is July 2021.

**PROPOSED CONTRACT TIME: TWELVE MONTHS; and EXTENSION(S) if NEEDED**

**PROPOSED CONTRACT PAYMENT TYPE: COST-PLUS**

The selected firm(s) will be responsible for providing engineers and technicians with the appropriate skills and qualifications to ensure construction contract compliance. The selected firm must demonstrate the ability to provide Construction Technicians with the appropriate skills and qualifications to perform inspection, materials sampling, materials testing, surveying grade verification, documentation of pay quantities, safety compliance and claims avoidance.

**SUBMITTAL REQUIREMENTS**

All LOIs are limited to **TWENTY (20)** pages (RS-2 forms are not included in the page count) inclusive of the cover sheet, and shall be typed on 8-1/2" x 11" sheets, single-spaced, one-sided.

*Fold out pages are not allowed. In order to reduce costs and to facilitate recycling; binders, dividers, tabs, etc. are prohibited. One staple in the upper left-hand corner is preferred.*

LOIs containing more than TWENTY (20) pages will not be considered.

***TWO (2) total copies of the LOI should be submitted, along with ONE (1) electronic copy on a USB storage device.***

**Firms submitting LOIs are encouraged to carefully check them for conformance to the requirements stated above. If LOIs do not meet ALL of these requirements they will be disqualified. No exception will be granted.**

**SELECTION PROCESS**

Following is a general description of the selection process:

- The LGA's Selection Committee will review all qualifying LOI submittals.
- For Limited Services Contracts (On-Call type contracts), the LGA's Selection Committee MAY, at the LGA's discretion, choose any number of firms to provide the services being solicited.

- For Project-Specific Contracts (non On-Call type contracts), the LGA's Selection Committee MAY, at the LGA's discretion, shortlist a minimum of three (3) firms to be interviewed. IF APPLICABLE, dates of shortlisting and dates for interviews are shown in the section SUBMISSION SCHEDULE AND KEY DATES at the end of this RFLOI.
- In order to be considered for selection, consultants must submit a complete response to this RFLOI prior to the specified deadlines. Failure to submit all information in a timely manner will result in disqualification.

## **TITLE VI NONDISCRIMINATION NOTIFICATION**

The LGA in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all RESPONDENTS that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit LETTERS of INTEREST (LOIs) in response to this ADVERTISEMENT and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

## **SMALL PROFESSIONAL SERVICE FIRM (SPSF) PARTICIPATION**

The Department encourages the use of Small Professional Services Firms (SPSF). Small businesses determined to be eligible for participation in the SPSF program are those meeting size standards defined by Small Business Administration (SBA) regulations, 13 CFR Part 121 in Sector 54 under the North American Industrial Classification System (NAICS). The SPSF program is a race, ethnicity, and gender neutral program designed to increase the availability of contracting opportunities for small businesses on federal, state or locally funded contracts. SPSF participation is not contingent upon the funding source.

The Firm, at the time the Letter of Interest is submitted, shall submit a listing of all known SPSF firms that will participate in the performance of the identified work. The participation shall be submitted on the Department's Subconsultant Form RS-2. RS-2 forms may be accessed on the Department's website at [NCDOT Connect Guidelines & Forms](#).

The SPSF must be qualified with the Department to perform the work for which they are listed.

## **PREQUALIFICATION**

The Department maintains on file the qualifications and key personnel for each approved discipline, as well as any required samples of work. Each year on the anniversary date of the company, the firm shall renew their prequalified disciplines. If your firm has not renewed its application as required by your anniversary date or if your firm is not currently prequalified, please submit an application to the Department **prior to submittal of your LOI**. An application may be accessed on the Department's website at [Prequalifying Private Consulting Firms](#) -- Learn how to become Prequalified as a Private Consulting Firm with NCDOT. Having this data on file with the Department eliminates the need to resubmit this data with each letter of interest.

Even though specific DBE/MBE/WBE goals are not required for this project, the Department of Transportation is committed to providing opportunity for small and disadvantaged businesses to perform on its contracts through established Department goals. The Firm, sub-consultant and

sub-firm shall not discriminate on the basis of race, religion, color, national origin, age, disability or sex in the performance of this contract.

## **DIRECTORY OF FIRMS AND DEPARTMENT ENDORSEMENT**

Real-time information about firms doing business with the Department, and information regarding their prequalifications and certifications, is available in the Directory of Transportation Firms. The Directory can be accessed on the Department's website at [Directory of Firms](#) -- Complete listing of certified and prequalified firms.

The listing of an individual firm in the Department's directory shall not be construed as an endorsement of the firm.

## **SELECTION CRITERIA**

**All prequalified firms who submit responsive letters of interest will be considered.**

In selecting a firm/team, the selection committee will take into consideration qualification information including such factors as:

1. **CRITERIA NUMBER 1 30%** = TEAM QUALIFICATIONS: This criterion evaluates a firm's experience, knowledge, familiarity and past performance with street construction and CEI services. Firm resources, references, and descriptions of work performed on similar projects within the last seven (7) years will be considered.
2. **CRITERIA NUMBER 2 30%** = TEAM EXPERIENCE: This criterion evaluates the experience of the firm's proposed staff to perform the type of work required. Team member availability and past project experiences will be considered.
3. **CRITERIA NUMBER 3 30%** = TECHNICAL APPROACH: This criterion evaluates a firm's understanding of the project specific issues and their responsibility in delivering services for the advertised project and their responsibility with regard to safety, contract administration, environmental responsibility, claims, and project delivery. The project-specific narrative of the firm's approach to this project will be considered as well as any innovative approaches being used.
4. **CRITERIA NUMBER 4 10%** = OTHER RELEVANT FACTORS: This criterion evaluates the overall quality of the proposal, the level of participation from Small Professional Services Firms (SPSF), and other relevant information not covered in the other criteria may be considered.

After reviewing qualifications, if firms are equal on the evaluation review, then those qualified firms with proposed SPSF participation will be given priority consideration.

## **SUBMISSION ORGANIZATION AND INFORMATION REQUIREMENTS**

The LOI should be addressed to **Chad Cantrell, Senior Engineer** and must include the name, address, telephone number, and e-mail address of the prime consultant's contact person for this RFLOI.

The LOI must also include the information outlined below:

Chapter 1 - Introduction

The Introduction should demonstrate the consultant's overall qualifications to fulfill the requirements of the scope of work and should contain the following elements of information:

- Expression of firm's interest in the work;
- Statement of whether firm is on register;
- Date of most recent private engineering firm qualification;
- Statement regarding firm's(') possible conflict of interest for the work; and
- Summation of information contained in the letter of interest.

Chapter 2 - Team Qualifications

This chapter should elaborate on the general information presented in the introduction, to establish the credentials and experience of the consultant to undertake this type of effort. The following must be included:

1. Identify recent, similar projects the firm, acting as the prime contractor, has conducted which demonstrates its ability to conduct and manage the project. Provide a synopsis of each project and include the date completed, and contact person.
2. If subconsultants are involved, provide corresponding information describing their qualifications as requested in bullet number 1 above.

Chapter 3 - Team Experience

This chapter must provide the names, classifications, and location of the firm's North Carolina employees and resources to be assigned to the advertised work; and the professional credentials and experience of the persons assigned to the project, along with any unique qualifications of key personnel. Although standard personnel resumes may be included, identify pertinent team experience to be applied to this project. Specifically, the Department is interested in the experience, expertise, and total quality of the consultant's proposed team. If principals of the firm will not be actively involved in the study/contract/project, do not list them. The submittal shall clearly indicate the Consultant's Project Manager, other key Team Members and his/her qualifications for the proposed work. Also, include the team's organization chart for the Project / Plan. A Capacity Chart / Graph (available work force) should also be included. Any other pertinent information should also be listed in this section.

**Note:** If a project team or subconsultant encounters personnel changes, or any other changes of significance dealing with the company, NCDOT should be notified immediately.

Chapter 4 - Technical Approach

The consultant shall provide information on its understanding of, and approach to accomplish, this project, including their envisioned scope for the work and any

innovative ideas/approaches, and a schedule to achieve the dates outlined in this RFLOI (if any project-specific dates are outlined below).

APPENDICES-

CONSULTANT CERTIFICATION Form RS-2

Completed Form RS-2 forms SHALL be submitted with the firm's letter of interest. This section is limited to the number of pages required to provide the requested information.

Submit Form RS-2 forms for the following:

- **Prime Consultant firm**
  - Prime Consultant Form RS-2 Rev 1/14/08; and
- **ANY/ALL Subconsultant firms** (*If Subconsultants are allowed under this RFLOI*) to be, or anticipated to be, utilized by your firm.
  - Subconsultant Form RS-2 Rev 1/15/08.
  - In the event the firm has no subconsultant, it is required that this be indicated on the Subconsultant Form RS-2 by entering the word "None" or the number "ZERO" and signing the form.

Complete and sign each Form RS-2 (instructions are listed on the form).

The required forms are available on the Department's website at:

<https://connect.ncdot.gov/business/consultants/Pages/Guidelines-Forms.aspx>

[Prime Consultant Form RS-2](#)

[Subconsultant Form RS-2](#)

All submissions, correspondence, and questions concerning this RFLOI should be directed to **Chad Cantrell** at [chad.cantrell@raleighnc.gov](mailto:chad.cantrell@raleighnc.gov).

IF APPLICABLE, questions may be submitted electronically only, to the contact above. Responses will be issued in the form of an addendum available to all interested parties. Interested parties should also send a request, by email only, to the person listed above to be placed on a public correspondence list to ensure future updates regarding the RFLOI or other project information can be conveyed. Questions must be submitted to the person listed above no later than **4:00 PM, April 20, 2020**. The last addendum will be issued no later than **4:00 PM, April 23, 2020**.



## **SUBMISSION SCHEDULE AND KEY DATES**

RFLOI Release – **April 06, 2020**

Deadline for Questions - **4:00 PM, April 20, 2020**

Issue Final Addendum - **4:00 PM, April 23, 2020**

Deadline for LOI Submission - **2:00 PM, May 04, 2020**

Shortlist Announced \* - **May 15, 2020, IF NECESSARY**

Interviews - the week of **May 18, 2020, IF NECESSARY**

Firm Selection and Notification \*\* - **May 21, 2020**

Anticipated Notice to Proceed - **July/August 2020**

\* Notification will **ONLY** be sent to shortlisted firms.

\*\* Notification will **ONLY** be sent to selected firms.

## **ATTACHMENTS**

1. City of Raleigh Standard Professional Services Contract

TO: PROSPECTIVE CONSULTANTS/SUBCONSULTANTS

RE: CEI for 2020 LAPP Projects (U-5530OB, C-5604OC, C-5604OD AND C-5604OE) - ADDENDUM NO. 1

The following changes and clarifications are applicable to the referenced project and are now a part of its contract documents. Where any article, division, or subparagraph of the original contract documents or other addenda is supplemented herein, the provisions of the original documents shall remain in effect. All the supplemental provisions shall be considered as added thereto. Where any such article, division, or subparagraphs are amended, voided, or superseded thereby, the provisions of such article, division, or subparagraph not so specifically amended, voided, or superseded shall remain in effect.

### **Item 1: Addendum 1 Questions**

The following are additional questions received from prospective Consultants/Subconsultants:

- 1.1. Are plans available for review? **Plans, specifications and estimates will be provided to the selected consultants for the construction project they are selected for.**
- 1.2. Are electronic submittals an option? **Due to the restricted access to City facilities, all proposals must be submitted electronically. The section related to hard copy submittals on page 2 of the RFLOI is to be replaced entirely with:**  
  

**Please submit a digital version of the proposal in Adobe Acrobat Portable Document Format (.PDF) to [DC.Proposals@raleighnc.gov](mailto:DC.Proposals@raleighnc.gov) by email entitled “CEI for 2020 LAPP Projects (U-5530OB, C-5604OC, C-5604OD AND C-5604OE)” as an attachment of 10MB or less or with a digital download link to an FTP or file share site. Proposals must be received no later than **2:00 p.m. on May 4, 2020**. The City reserves the right to reject any or all proposals.**
- 1.3. Is private utility coordination required for inspector? **Private utility coordination will be provided by the contractor. Daily records from the inspector should indicate which private utility contractors are on site during construction.**
- 1.4. Will the CEI team be responsible for a testing lab, or will we have access to utilize the NCDOT lab? **CEI team will be responsible for testing lab.**
- 1.5. The RFLOI only lists roadway CEI and structures CEI prequalifications. Are there any other work codes that we should anticipate, including materials testing and surveying? **CEI team will be responsible for material testing. Surveying to be provided by others.**
- 1.6. Do covers count toward the page limit? **A cover doesn't count towards the page limit.**
- 1.7. Are we allowed to use the City's tree logo in our proposal? **The City's oak tree seal may be used on the proposal. Note that the current City logo is trademarked and can't be used.**
- 1.8. What, if any, pre-construction services are anticipated under this contract? (i.e. utility relocation coordination services)? **A public pre-construction meeting and separate pre-construction meeting with the contractor are the only pre-construction services anticipated at this time. The public pre-construction meeting will be run**

by the City with the selected consultant available for questions.

- 1.9. We provide construction engineering and inspection services, in addition to materials sampling and testing at our fully accredited Raleigh lab. Are we permitted under the subject RFLOI to provide materials testing & sampling as a subconsultant on a team while pursuing selection as a prime? [Consultants may provide both testing services as part of a team and propose as the prime consultant.](#)
- 1.10. Under Submission Organization and Information Requirements, Chapter 4, it asks for a schedule if any dates are specified. Since the only dates below are the dates for submission, is it correct there is no schedule to be submitted? [A schedule isn't required as part of the submittal.](#)
- 1.11. Can the City's standard professional services contract be provided? [Template of the City's professional services contract is included.](#)

NORTH CAROLINA  
WAKE COUNTY

CONTRACT FOR ENGINEERING SERVICES

THIS CONTRACT is entered into by and between \_\_\_\_\_, hereinafter referred to as the “Engineer”, and the City of Raleigh, a North Carolina municipal corporation, hereinafter referred to as the “City”.

WITNESSETH:

WHEREAS, the City desires to procure an Engineer to perform services; and

WHEREAS, the City has completed necessary steps for retention of professional and other services under applicable City policies; and

WHEREAS, the City has agreed to engage the Engineer, and the Engineer has agreed to contract with the City, for performance of services as described, and according to the further terms and conditions, set forth herein.

NOW THEREFORE, in consideration of sums to be paid to the Engineer, and other good and valuable consideration, the Engineer and City do contract and agree as follows:

1. Scope of Services/Description of Project

The City desires to

The Engineer will serve as the City's professional engineering representative in those tasks of the project to which this Contract applies and will give consultation and advice to the City during the performance of their services.

The Engineer will provide services as described in the following Exhibits, which are attached to and made part of this Contract:

The Engineer now has or will secure at their expense, including subconsultants, all personnel and facilities required to perform the services to be rendered under this Contract. Such personnel are not employees of, nor have they any direct contractual relationship with the City.

The Engineer is authorized to engage subconsultants, including surveyors, geotechnical and materials testing firms, etc., to assist in the work included under this contract to the extent such services are included herein. No subcontract work is authorized for which the City will incur any costs beyond those agreed upon and set forth in Section 4.

2. Services Provided by the City

It is understood that certain services, as required, may be performed and/or furnished by the City. These services may include the following:

Assist the Engineer by placing at their disposal all available information pertinent to the project, including previous reports and other relative data.

Assist in gaining access to and making all provisions for the Engineer to enter upon public and private property as required for performance of their services described herein.

Examine all studies, reports, sketches, drawings, specifications, proposals, and other documents prepared by the Engineer, obtaining advice of legal counsel and/or such other consultants as the City deems appropriate for such

examination and rendering in writing decisions pertaining thereto within a reasonable time so as not to delay the service of the Engineer.

Give prompt written notice to the Engineer whenever the City observes or otherwise becomes aware of any problems or changed circumstances in the project.

Furnish the Engineer in a timely manner with copies of pertinent correspondence relating to this project, which would not have otherwise been delivered to the Engineer.

Designate in writing a person to act as City's representative with respect to the work to be performed under this Contract; such person(s) shall have complete authority to transmit instructions, receive information, interpret and define City's policies and decisions with respect to materials, equipment, elements and systems pertinent to the services covered by this Contract.

The City shall provide to the Engineer such information as is available to the City for rendering of services hereunder. The Engineer may rely on the sufficiency of such information.

Insofar as any of the above services are necessary for the Engineer's performance of their obligations under this Contract, the City shall be responsible for providing such services in a satisfactory and timely manner so as not to delay the Engineer in their performance thereof.

### 3. Schedule/Time of Performance

The work to be performed and the services rendered under this Contract shall commence as directed by the City. In performing the services described in this Contract, it is mutually agreed that time is of the essence. The Engineer shall complete work under the Contract by \_\_\_\_\_.

### 4. Compensation; Time of Payment

For services to be performed hereunder, the City shall pay the Engineer a not to exceed total contract amount \$ \_\_\_\_\_, unless changed by a duly authorized amendment. The standard City of Raleigh payment term is NET 30 days from the date of invoice. **For prompt payment you may email all invoices to [accountspayable@raleighnc.gov](mailto:accountspayable@raleighnc.gov) or mail all invoices to the City of Raleigh, Accounts Payable, PO Box 590, Raleigh, North Carolina 27602-0590. All invoices must include the following Purchase Order Number \_\_\_\_\_.** Invoices submitted without the correct purchase order number will result in delayed payment.

### 5. Standard of Care

Engineer shall perform for or furnish to City professional engineering and related services in all phases of the project to which this Contract applies as hereinafter provided. Engineer shall serve as City's prime design professional and engineering representative for the project providing professional engineering consultation and advice with respect thereto. Engineer may employ such Engineer's Consultants as Engineer deems necessary to assist in the performance or furnishing of professional engineering and related services hereunder. Engineer shall not be required to employ any Engineer's Consultant unacceptable to Engineer.

The standard of care for all professional engineering and related services performed or furnished by Engineer under this Contract will be the care and skill ordinarily used by members of Engineer's profession practicing under similar conditions at the same time and in the same locality.

### 6. Opinions of Probable Construction Cost

Engineer's opinions of probable Construction Cost provided for herein are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional engineer generally familiar with the construction industry. 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 cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by the Engineer. If the City wishes greater assurance as to probable Construction Cost, City may employ an independent cost estimator.

## 7. Notices

All notices, requests for payment, or other communications arising hereunder shall be sent to the following:

City of Raleigh	Engineer
Attn:	
Telephone:	
P.O. Box 590	
Raleigh, NC 27602	

## 8. Non-Discrimination

To the extent permitted by North Carolina law, the parties hereto for themselves, their agents, officials, employees and servants agree not to discriminate in any manner on the basis of race, color, creed, national origin, sex, age, handicap, or sexual orientation with reference to the subject matter of this Contract. The parties further agree, to the extent permitted by law, to conform with the provisions and intent of City of Raleigh Ordinance 1969-889, as amended. This provision is hereby incorporated into this Contract for the benefit of the City of Raleigh and its residents, and may be enforced by action for specific performance, injunctive relief, or other remedy as provided by law. This provision shall be binding on the successors and assigns of the parties with reference to the subject matter of this Contract.

## 9. Minority and Women Owned Business Enterprise

The City of Raleigh prohibits discrimination in any manner on the basis of race, color, creed, national origin, sex, age or handicap or sexual orientation and will pursue an affirmative policy of fostering, promoting and conducting business with women and minority owned business enterprises. The City of Raleigh encourages participation by certified minority and women-owned businesses. If there are any questions, Contact the MWBE Program Manager, PO BOX 590 Raleigh, NC 27602, [mwbe@raleighnc.gov](mailto:mwbe@raleighnc.gov), or 919-996-4330.

## 10. Assignment

Neither the City nor the Engineer will assign, sublet, or transfer their interest, duties, or obligations hereunder without the prior written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto, nor shall it create any rights or benefits to parties other than the City and the Engineer, except such other rights as may be specifically called for herein.

## 11. Applicable Law

All matters relating to this Contract shall be governed by the laws of the State of North Carolina, without regard to its choice of law provisions, and venue for any action relating to this Contract shall be Wake County Civil Superior Court or the United States District Court for the Eastern District of North Carolina, Western Division.

## 12. Insurance

Engineer agrees to maintain, on a primary basis and at its sole expense, at all times during the life of this Contract the following coverages and limits. The requirements contained herein, as well as City's review or acceptance of insurance maintained by Engineer is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Engineer under this Contract.

**Commercial General Liability** – Combined single limit of no less than \$1,000,000 each occurrence and \$2,000,000 aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability.

**Automobile Liability** – Limits of no less than \$1,000,000 Combined Single Limit. Coverage shall include liability for Owned, Non-Owned and Hired automobiles. In the event Engineer does not own automobiles, Engineer agrees to maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Auto Liability policy. Automobile coverage is only necessary if vehicles are used in the provision of services under this Contract and/or are brought on a COR site.

**Worker's Compensation & Employers Liability** – Engineer agrees to maintain Worker's Compensation Insurance in accordance with North Carolina General Statute Chapter 97 with statutory limits and employees liability of no less than \$1,000,000 each accident.

**Additional Insured** – Engineer agrees to endorse the City as an Additional insured on the Commercial General Liability, Auto Liability and Umbrella Liability if being used to meet the standard of the General Liability and Automobile Liability. The Additional Insured shall read '**City of Raleigh is named additional insured as their interest may appear**'.

**Certificate of Insurance** – Engineer agrees to provide COR a Certificate of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect, and Certificates of Insurance shall provide a minimum thirty (30) day endeavor to notify, when available, by Engineer's insurer. If Engineer receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, Engineer agrees to notify the City within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance. **The Certificate Holder address should read:**

**City of Raleigh  
Post Office Box 590  
Raleigh, NC 27602-0590**

**Umbrella or Excess Liability** – Engineer may satisfy the minimum liability limits required above under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability, however, the Annual Aggregate limits shall not be less than the highest 'Each Occurrence' limit for required policies. Engineer agrees to endorse City of Raleigh as an 'Additional Insured' on the Umbrella or Excess Liability, unless the Certificate of Insurance states the Umbrella or Excess Liability provides coverage on a 'Follow-Form' basis.

**Professional Liability** – Limits of no less than \$1,000,000 each claim. This coverage is only necessary for professional services such as engineering, architecture or when otherwise required by the City. All insurance companies must be authorized to do business in North Carolina and be acceptable to the City of Raleigh's Risk Manager.

13. Indemnity

- a. To the fullest extent allowed by law, Engineer shall indemnify and hold harmless the City, its officers, officials, employees, agents, or indemnities (collectively called "Indemnified Parties") from and against those Losses, liabilities, damages, and costs proximately caused by, arising out of, or resulting from the sole negligence of the Engineer, the Engineer's agents, or the Engineer's employees.

- b. In matters other than those covered by subsection 13.a, above, and to the fullest extent allowed by law, Engineer shall indemnify and hold harmless the Indemnified Parties from and against those Losses, liabilities, damages, and costs caused by, arising out of, resulting from, or in connection with the execution of the work provided for in this Agreement when the Fault of the Engineer or its Derivative Parties is a proximate cause of the Loss, liability, damage, or expense indemnified.
- c. Costs and expenses shall include attorneys' fees, litigation or arbitration expenses, or court costs actually incurred by the Indemnified Parties to defend against third-party claims alleged in any court, tribunal, or alternative dispute resolution procedure required of any of the Indemnified Parties by law or by contract, only if the Fault of the Engineer or its Derivative Parties is a proximate cause of the attorney's fees, litigation or arbitration expenses, or court costs to be indemnified.
- d. Only to the extent provided pursuant to a policy of insurance, Engineer shall defend the Indemnified Parties against claims alleged in any court, tribunal, or alternative dispute resolution procedure if the Fault of the Engineer or its Derivative Parties is a proximate cause of such claims.
- e. The Engineer's duty to indemnify, defend, and hold harmless described hereinabove shall survive the termination or expiration of this Contract.
- f. Definitions:
  - 1. For the purposes of this Paragraph 13, the term "Fault" shall mean any breach of contract; negligent, reckless, or intentional act or omission constituting a tort under applicable statutes or common law; or violation of applicable statutes or regulations.
  - 2. For the purposes of this Paragraph 13, the term "Loss" or "Losses" shall include, but not be limited to, fines, penalties, and/or judgments issued or levied by any local, state, or federal governmental entity.
  - 3. For the purposes of this Paragraph 13, the term "Derivative Parties" shall mean any of the Engineer's subcontractors, agents, employees, or other persons or entities for which the Engineer may be liable or responsible as a result of any statutory, tort, or contractual duty.

#### 14. Intellectual Property

Any information, data, instruments, documents, studies, reports or deliverables given to, exposed to, or prepared or assembled by the Engineer under this Contract shall be kept as confidential proprietary information of the City and not divulged or made available to any individual or organization without the prior written approval of the City. Such information, data, instruments, documents, studies, reports or deliverables will be the sole property of the City and not the Engineer.

The Engineer shall maintain the right of reuse to any drawings or specifications provided or furnished by the Engineer. The City acknowledges that such drawings or specifications are not intended or represented to be suitable for reuse by the City or others on extensions of the project or on any other project.

All intellectual property, including, but not limited to, patentable inventions, patentable plans, copyrightable works, mask works, trademarks, service marks and trade secrets invented, developed, created or discovered in performance of this Contract shall be the property of the City.

Copyright in and to any copyrightable work, including, but not limited to, copy, art, negatives, photographs, designs, text, software, or documentation created as part of the Engineer's performance of this project shall vest in the City. Works of authorship and contributions to works of authorship created by the Engineer's performance of this project are hereby agreed to be 'works made for hire' within the meaning of 17 U.S.C. 201.



## 15. Force Majeure

Except as otherwise provided in any environmental laws, rules, regulations or ordinances applicable to the parties and the services performed under this Contract, neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by an act of war, hostile foreign actions, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God. Either party to the Contract must take reasonable measures and implement reasonable protections when a weather event otherwise defined as a force majeure event is forecast to be eligible to be excused from the performance otherwise required under this Contract by this provision.

## 16. Advertising

The Engineer shall not use the existence of this Contract, or the name of the City of Raleigh, as part of any advertising without the prior written approval of the City.

## 17. Cancellation

The City may terminate this Contract at any time by providing thirty (30) days written notice to the Engineer. In addition, if Engineer shall fail to fulfill in timely and proper manner the obligations under this Contract for any reason, including the voluntary or involuntary declaration of bankruptcy, the City shall have the right to terminate this Contract by giving written notice to the Engineer and termination will be effective upon receipt. Engineer shall cease performance immediately upon receipt of such notice.

In the event of early termination, Engineer shall be entitled to receive just and equitable compensation for costs incurred prior to receipt of notice of termination and for the satisfactory work completed as of the date of termination and delivered to the City. Notwithstanding the foregoing, in no event will the total amount due to Engineer under this section exceed the total amount due Engineer under this Contract. The Engineer shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract, and the City may withhold any payment due to the Engineer for the purpose of setoff until such time as the City can determine the exact amount of damages due the City because of the breach.

Payment of compensation specified in this Contract, its continuation or any renewal thereof, is dependent upon and subject to the allocation or appropriation of funds to the City for the purpose set forth in this Contract.

## 18. Laws/Safety Standards

The Engineer shall comply with all laws, ordinances, codes, rules, regulations, safety standards and licensing requirements that are applicable to the conduct of its business, including those of Federal, State, and local agencies having jurisdiction and/or authority.

Engineer must comply with *North Carolina Occupational Safety and Health Standards for General Industry, 29CFR 1910*. In addition, Engineer shall comply with all applicable occupational health and safety and environmental rules and regulations.

Engineer shall effectively manage their safety and health responsibilities including:

### a. Accident Prevention

Prevent injuries and illnesses to their employees and others on or near their job site. Engineer managers and supervisors shall ensure personnel safety by strict adherence to established safety rules and procedures.

### b. Environmental Protection

Protect the environment on, near, and around their work site by compliance with all applicable environmental regulations.

### c. Employee Education and Training

Provide education and training to all engineers employees before they are exposed to potential workplace or other hazards as required by specific OSHA Standards.

## 19. Applicability of North Carolina Public Records Law

Notwithstanding any other provisions of this Contract, this Contract and all materials submitted to the City by the Engineer are subject to the public records laws of the State of North Carolina and it is the responsibility of the Engineer to properly designate materials that may be protected from disclosure as trade secrets under North Carolina law as such and in the form required by law prior to the submission of such materials to the City. Engineer understands and agrees that the City may take any and all actions necessary to comply with federal, state, and local laws and/or judicial orders and such actions will not constitute a breach of the terms of this Contract. To the extent that any other provisions of this Contract conflict with this paragraph, the provisions of this section shall control.

## 20. Miscellaneous

The Engineer shall be responsible for the proper custody and care of any property furnished or purchased by the City for use in connection with the performance of this Contract, and will reimburse the City for the replacement value of its loss or damage.

The Engineer shall be considered to be an independent contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. Nothing herein is intended or will be construed to establish any agency, partnership, or joint venture. Engineer represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such employees shall not be employees of or have any individual contractual relationship with the City.

This Contract may be amended only by written agreement of the parties executed by their authorized representatives.

## 21. Right of Audit and Examination of Records

- a. The City may conduct an audit of any services performed and fees paid subject to this Contract. The City, or its designee, may perform such an audit throughout the contract period and for three (3) years after termination thereof or longer if otherwise required by law.
- b. The Engineer and its agents shall maintain all books, documents, papers, accounting records, contract records and such other evidence as may be appropriate to substantiate costs incurred under this Contract. The City, or its designee, shall have the right to, including but not limited to: review and copy records; interview current and former employees; conduct such other investigation to verify compliance with contract terms; and conduct such other investigation to substantiate costs incurred by this Contract.
- c. "Records" shall be defined as data of every kind and character, including but not limited to books, documents, papers, accounting records, contract documents, information, and materials that, in the City's sole discretion, relate to matters, rights, duties or obligations of this Contract.
- d. Records and employees shall be available during normal business hours upon advanced written notice. Electronic mail shall constitute written notice for purposes of this section.
- e. Engineer shall provide the City or its designee reasonable access to facilities and adequate and appropriate workspace for the conduct of audits.
- f. The rights established under this section shall survive the termination of the Contract, and shall not be deleted, circumvented, limited, confined, or restricted by contract or any other section, clause, addendum, attachment, or the subsequent amendment of this Contract.

- g. The Engineer shall reimburse the City for any overcharges identified by the audit within ninety (90) days of written notice of the City's findings.

22. E – Verify

Engineer shall comply with E-Verify, the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law and as in accordance with N.C.G.S. §64-25 et seq. In addition, to the best of Engineer's knowledge, any subcontractor employed by Engineer as a part of this contract shall be in compliance with the requirements of E-Verify and N.C.G.S. §64-25 et seq.

23. Iran Divestment Act Certification

Engineer certifies that, as of the date listed below, it is not on the Final Divestment List as created by the State Treasurer pursuant to N.C.G.S. § 147-86.55, *et seq.* In compliance with the requirements of the Iran Divestment Act and N.C.G.S. § 147-86.59, Engineer shall not utilize in the performance of the contract any subcontractor that is identified on the Final Divestment List.

24. Companies Boycotting Israel Divestment Act Certification

Engineer certifies that it has not been designated by the North Carolina State Treasurer as a company engaged in the boycott of Israel pursuant to N.C.G.S. 147-86.81.

25. Incorporation of Documents/Complete Agreement

This Contract, and any documents incorporated below, represent the entire Contract between the parties and suspend all prior oral or written statements, agreements or Contracts.

Specifically incorporated into this Contract are the following attachments, or if not physically attached, are incorporated fully herein by reference: (*delete this paragraph if no additional documents are incorporated*)

- 

In cases of conflict between this Contract and any of the above incorporated attachments or references, the terms of this Contract shall prevail.

*The remainder of this page remains blank intentionally.*

THIS CONTRACT is entered into this        day of        , 20        .

IN WITNESS WHEREOF, the Engineer has executed the foregoing with the signature(s) of its duly authorized officer(s), under seal, and the City has executed with the signature of its City Manager, attested by its (Assistant/Deputy) Clerk-Treasurer, with the official seal affixed, the day and year first above written.

**ENGINEER:**

**CITY OF RALEIGH**

By:

By:

\_\_\_\_\_

\_\_\_\_\_  
City Manager or Authorized Designee

\_\_\_\_\_  
Printed Name/Title

(If corporate)

ATTEST:

ATTEST:

By: \_\_\_\_\_

By: \_\_\_\_\_  
(Deputy) Clerk-Treasurer

\_\_\_\_\_  
Printed Name/Title  
(Affix Seal)

(Affix Seal)

THIS INSTRUMENT APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney