

City of Charlotte N.C.

REQUEST for LETTERS of INTEREST (RFLOI)

CONTRACT TYPE CEI (On-Call)

TITLE: On-Call Construction Engineering and Inspection (CEI) Services
ISSUE DATE: 1/8/2025
SUBMITTAL DEADLINE: 2/6/2025
ISSUING AGENCY: City of Charlotte

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) (*if Subconsultants are allowed under this RFLOI*) shall be pre-qualified by the Department to perform any combination of the Discipline Codes listed below for the City of Charlotte. Discipline Codes required are:

- 195 Roadway Construction Engineering & Inspection
- 233 Structure Construction Engineering & Inspection
- 289 Signal Systems Inspection

WORK CODES for each primary and/or subconsultant firm(s) (*if Subconsultants are allowed under this RFLOI*) **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 Charlotte (City) is soliciting Letter of Intent (LOIs) from firms/teams (Firms) to provide On Call Construction Engineering and Inspection (CEI) Services (Services) for the Unspecified Transportation Projects (Project). The City is seeking firms whose combination of experience and expertise will provide timely, professional services to the City. The City reserves the right to enter into one or more contracts with any firm selected under this LOI process.

Electronic LOIs should be submitted in .pdf format using software such as Adobe, CutePDF PDF Writer, Docudesk desk PDF, etc.

LOIs SHALL be received **ELECTRONICALLY** no later than **2:00 p.m., 2/6/2025**.

The link for electronic deliveries is: [On-call Construction, Engineering, and Inspection \(CEI\) Services \(bonfirehub.com\)](https://bonfirehub.com)

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 and pre-qualified with the North Carolina Department of Transportation (NCDOT). 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 pre-qualified with the North Carolina Department of Transportation (NCDOT). 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. Additional insurance coverages listed in Section 2.17 Insurance Requirements of the attached RFQ 269-2025-082.

SCOPE OF WORK

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

[PROPOSED CONTRACT SCOPE]

1.0 SCOPE – Horizontal:

Provide qualified personnel to perform services as defined by each task order, utilizing the referenced manuals, and procedures. The City of Charlotte follows NCDOT specifications, procedures, and practices unless otherwise noted. Therefore, NCDOT specifications, procedures, and manuals as well as City of Charlotte standards and manuals are included by reference. This scope of services shall apply for any projects utilizing this on-call contract.

Consultant inspectors will be required to be certified in the particular area in which they will be inspecting. These include but are not limited to the following NCDOT Certifications: QMS Roadway, Conventional Density, Borrow Pit Sampling, Chemically Stabilized Subgrade/Base, QMS Density Gauge, Concrete Field Technician, ABC Sampling, Special Inspections – Rebar, Footing/Foundations, Bolted Connections, etc. These inspectors will be responsible for highly technical and specialized inspection and testing procedures in the areas of concrete, foundations, highway structures, soils, earthwork, asphalt roadway, erosion control, signal installations, survey verification, etc. The consultant inspector will be charged with monitoring the work of the contractor to ensure compliance with the plans and specifications as well as sampling and testing procedures as outlined in the NCDOT Construction Manual. The consultant will oversee the City's independent testing lab to ensure samples are taken and required tests are performed with qualified technicians. In addition, the consultant will be required to verify quantities installed by the contractor and prepare the monthly pay estimate utilizing the City's proprietary software program. The consultant inspector will furnish all necessary equipment, including but not limited to vehicles, to fulfill their inspection responsibilities other than the equipment supplied by the City. The consultant inspector will function as an extension of City staff and report to the Construction, Survey and Utilities Program Manager or his appointed designee.

In the event the Contractor submits a claim for additional compensation and/or time, the CEI shall assist City staff in analyzing the claim, engaging in negotiations leading to settlement of the claim, preparing and processing the required documentation to close out the claim and any other tasks that arise from such claim.

A more detailed scope of services will be determined on a project-by-project basis as projects are assigned on an on-call basis via work order or task order.

Should a project be federally funded, the consultant inspector will be responsible for collecting and reviewing the required documentation per NCDOT specifications and LGA/LPA requirements for NCDOT auditors for reimbursement. The City may also request a Project Manager be provided for federally funded projects in order to monitor the LGA/LAP requirements of the NCDOT auditors. (Per Section 106-3 of NCDOT Standard Specifications for Roads and Structures and LGA/LPA requirements)

Services provided by the Consultant shall comply with current City of Charlotte, NCDOT, and if applicable FHWA, manuals, procedures, and memorandums found on the City of Charlotte, NCDOT and FHWA websites.

On a single Construction Contract, it is a conflict of interest for a professional firm to receive compensation from both the City of Charlotte and the Contractor either directly or indirectly. It is also considered a conflict for a professional firm to receive compensation from the Engineer of Record for the project.

The Consultant must perform to the satisfaction of the City's representatives for consideration of additional CEI services.

2. ITEMS TO BE FURNISHED BY THE CITY TO THE CONSULTANT:

- A. The City, on an as-needed basis, will furnish the following for each project assigned. Documents may be provided in either paper or electronic format:
1. Construction Plans
 2. Executed Construction Contract including Specifications Package
 3. Computer/Laptop with access to the City's Proprietary Software Program
 4. Either a cell phone or an electronic key for the consultant's cell phone to access the City laptop and network
 5. Access to the Charlotte Mecklenburg Government Center (CMGC)
 6. Any other pertinent project information necessary.
- B. Any equipment provided by the City shall remain with the Consultant at all times during the duration of the project. The Consultant shall retain responsibility for risk of loss or damage to said equipment during performance of this Agreement. All equipment to be returned to the City at the end of the Task Order agreement and prior to approval of final invoice for services rendered.
1. Quality Assurance:
 - Ensure that project schedules adhere to industry standards and best practices.
 - Conduct periodic reviews of project schedules to identify areas for improvement or optimization.
 - Verify the accuracy of schedule data and resolve any discrepancies or inconsistencies.
 2. Stakeholder Coordination:
 - Collaborate with project stakeholders, including clients, contractors, and regulatory agencies, to address scheduling issues and concerns.
 - Facilitate meetings and discussions to ensure alignment on project schedules and objectives.
 - Provide support and guidance to project teams to help them understand and adhere to schedule requirements.
 3. Documentation and Record-Keeping:
 - Maintain accurate records of project schedules, revisions, and updates.

4. Document decisions, agreements, and actions related to schedule management.
5. Ensure compliance with relevant documentation standards and requirements.

PROPOSED CONTRACT TIME: 3 Year with (1) one-(2) two-year renewal

PROPOSED CONTRACT PAYMENT TYPE: Hourly Rate

PROPOSED CONTRACT PAYMENT TYPE: Task Order

The desired services include Construction Engineering and Inspection (CEI) and construction contract administration for On-Call Construction Engineering and Inspection (CEI) Services Tasks to be performed include, but are not necessarily limited to:

- Producing an Inspector's Daily Report giving a detailed account of all activities during the life of the project.
- Maintaining a Project Diary with Inspector's Daily Reports and other required information.
- Maintaining Pay Records.
- Attend preconstruction conference and assist City staff in ensuring proper execution of all contract documents.
- Reviewing and verifying contractor pay applications.
- Maintaining written correspondence with the Contractor.
- Completing and maintaining minutes of all project meetings.
- Ensuring Contractor compliance with Buy America provisions in 23 U.S.C. Sec. 313 and 23 C.F.R. Sec. 635.410.
- Ensuring timely Contractor/Subcontractor submission of Certified Payrolls, ensuring Certified Payrolls include all required information, and maintaining Certified Payrolls in the project file.
- Verifying certified payrolls to assist City in making payments to the Contractor.
- Performing calendar year quarterly Wage Rate Interviews and other employee interviews as necessary to ensure proper Contractor and-or Subcontractor employee classification and compensation and proper inclusion of employees on Contractor and-or Subcontractor Certified Payrolls; notifying the City of any and all complaints by Contractor/Subcontractor employees related to payment or employment classification; and coordinating with the City as needed to investigate and-or report complaints to NCDOT or other applicable agencies.
- Ensuring that appropriate federal posters are displayed on the jobsite and accessible to all employees on the jobsite.
- Processing all Change Orders and Supplemental Agreements for project construction.
- Processing all Requests for Extensions in Contract Time and Additional Compensation claims.
- Ensuring prompt payment by the Contractor to any Subcontractors.
- Ensuring Contractor submittal, with each pay request, of accounting of payments made to DBE firms, including material suppliers and contractors at all levels (prime, subcontractor or second tier subcontractor); comparing final payments to DBE firms with project commitments (see below); and, as needed, obtaining explanations of DBE payment shortfalls.

- Performing final inspection and when work is to contract standards recommending acceptance of the project to the City.
- Working with the NCDOT Materials and Tests Unit in ensuring that all project materials and products meet the required criteria; and providing and/or maintaining required materials and testing documentation.
- Completing and/or reviewing of Materials Received Reports (MRRs) for any non-exempt materials to be temporarily or permanently incorporated in the construction; and, as needed, assisting the City in investigation and follow-up action in the event one or more materials fail tests.
- Communicating with City, NCDOT and-or FHWA regarding Independent Assurance testing of materials.
- Ensuring Contractor/Subcontractor compliance with the conditions in the Permit to Construct issued by the City or the Department, covering construction activities in the Department's easement, and the City's and the Department's standards, specifications, and procedures, to the extent not already conducted by the Department's designated construction inspector; and coordinating as appropriate with the Department's designated construction inspector.
- As needed, working with the City to keep in communication with appropriate staff from other Stakeholders and NCDOT regarding project progress.
- Submitting original project materials records to the NCDOT Materials and Tests Unit.
- Inspecting erosion control devices to ensure they are properly installed and maintained.
- Maintain erosion control Records.
- Inspecting Traffic Control for compliance with CDOT, NCDOT, MUTCD/Traffic Control Plan and maintain documentation.
- Coordinating with the City in arranging reimbursement requests from NCDOT and ensuring that the Contractor and-or Subcontractors do not engage in any activity in violation of a provision in the Municipal Agreement or Supplemental Agreements. These documents will be provided to the selected firm.
- In general, ensuring Contractor/Subcontractor compliance with approved plans and specifications.
- Miscellaneous communication with the City and NCDOT relating to the tasks listed above or other matters pertinent to the CEI services.

SUBMITTAL REQUIREMENTS

All LOIs are limited to fifteen (15) 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.

LOIs containing more than fifteen (15) pages will not be considered.

One (1) total copy of the LOI should be submitted.

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

Professional Services Contracts are race and gender neutral and do not contain goals. However, the Respondent is encouraged to give every opportunity to allow Disadvantaged, Minority-Owned and Women-Owned Business Enterprises (DBE/MBE/WBE) subconsultant utilization on all LOIs, contracts and supplemental agreements. The Firm, subconsultant 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 60%** = Qualifications and Relevant Experience of Firm and Key Team Members in Providing Similar Services for Similar Projects
2. **CRITERIA NUMBER 2 15%** = Availability of the Firm and Key Team Members for This Project.
3. **CRITERIA NUMBER 3 20%** = Project Understanding, Methodology and Approach
4. **CRITERIA NUMBER 4 5%** = Required Forms

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 Kimberly S. Brown, AES, Procurement Officer 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 **Kimberly S. Brown** at City of Charlotte - [On-call Construction, Engineering, and Inspection \(CEI\) Services \(bonfirehub.com\)](#).

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, via Bonfire 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 **1/23/25**. The last addendum will be issued no later than **1/29/2025**.

SUBMISSION SCHEDULE AND KEY DATES

RFLOI Release – **1/8/2025**

Pre-Proposal Meeting – **1/21/2025**

Deadline for Questions – **1/23/25**

Issue Final Addendum – **1/29/2025**

Deadline for LOI Submission – **2/6/2025**

Firm Selection and Notification ****** – **2/19/2025**

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

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

REQUEST FOR QUALIFICATIONS



ON-CALL CONSTRUCTION ENGINEERING AND INSPECTION (CEI) SERVICES

FOR

UNSPECIFIED TRANSPORTATION (HORIZONTAL) PROJECTS

FEDERALLY FUNDED

RFQ# 269-2025-082

Date Issued:

January 8, 2025

RFQ # 269-2025-082

On-Call Construction Engineering And Inspection (CEI) Services

January 8, 2025

Interested Company:

The City of Charlotte, North Carolina, is now accepting Proposals for Department of General Services for On-Call Construction Engineering and Inspection (CEI) Services for Unspecified Transportation Projects. The requirements for submitting a Proposal are stated in the attached Request for Qualifications (the "RFQ"). Please review them carefully.

The City of Charlotte is using the Bonfire e-Procurement Portal ("Procurement Portal" - <https://charlottenc.bonfirehub.com>) to accept and evaluate proposals for this RFQ. Proposals must be submitted electronically through the Procurement Portal on or before the Due Date in order to be accepted.

A **Non-Mandatory** Pre-Proposal Conference for the purpose of reviewing the RFQ and answering questions regarding the Services will be held on **Tuesday, January 21, 2025, 10 a.m. at Charlotte Metro Government Center Room 266**. While attendance at the Pre-Proposal Conference is not mandatory, all interested Service Provider(s) are encouraged to participate. **There is no virtual option for this meeting.**

Please have a copy of the RFQ available for reviewing during the Pre-Proposal Conference. Proposal submissions are due no later than Friday, **February 6, 2026, 2 p.m.**

The City is an equal opportunity purchaser.

Sincerely,

Kimberly S. Brown

Kimberly S. Brown
AES Procurement Officer

Checklist for submitting a Proposal:

Step 1 Read the document fully.

Step 2 Review the solicitation timeline and upcoming events in the Procurement Portal and download copies of any documents if you plan to submit a Proposal.

Step 3 (Optional) Submit any questions via the Procurement Portal by the deadline(s) noted for the solicitation.

Step 4 Conduct a thorough review of the Sample Contract. Any exceptions to the Sample Contract must be uploaded in word format (with redlines/tracked changes)

Step 5 Monitor the Procurement Portal for any addendums and/or responses to questions.

If you plan to submit a Proposal, you must submit all required documents and respond to all questions within the Procurement Portal for the RFQ.

If awarded a contract, your company will be required to provide an insurance certificate(s) that meets or exceeds the requirements set forth in the Sample Contract.

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1 REQUEST FOR QUALIFICATIONS (RFQ) INSTRUCTIONS

1.1 Public Notice

The City of Charlotte (City) is soliciting Statements of Qualifications (SOQs) from firms/teams (Firms) to provide On Call Construction Engineering and Inspection (CEI) Services (Services) for the Unspecified Transportation Projects (Project). The City is seeking firms whose combination of experience and expertise will provide timely, professional services to the City. The City reserves the right to enter into one or more contracts with any firm selected under this RFQ process.

Information related to this solicitation, including any addenda, will be posted electronically through the Bonfire e-Procurement Portal ("Procurement Portal" - <https://charlottenc.bonfirehub.com>). Questions related to this solicitation must be submitted the following way:

Submit your question via the **Vendor Discussion** section on the [Procurement Portal](#):

The screenshot shows the 'Messages' section of the Bonfire e-Procurement Portal. At the top, there are two tabs: 'Public Notices (1*)' and 'Vendor Discussions (0)'. The 'Vendor Discussions (0)' tab is highlighted with a red circle. Below the tabs is a search bar with the text 'Search...'. To the right of the search bar is a button labeled 'Start a new Vendor Discussion', which is also circled in red. Below the search bar is a large grey area with the text 'No messages'. To the right of this area is a form with a 'Subject' field and a 'Message' field with the placeholder text 'Type your Message here'. A 'Send' button is located at the bottom right of the form.

1.2 Project Overview

These services may include but not be limited to the services to perform inspection and testing on various projects in the areas of concrete, foundation, earthwork, drainage and base, erosion control, traffic control, asphalt roadway, highway structures, signal installation, survey verification, etc.

A task order scope will be provided to the Consultant and will be the basis of negotiations between the City Project Manager and the Consultant regarding: fee; scheduling of the proposed task; personnel and labor hours; an itemized list of deliverables; and other expenses (such as reimbursables) deemed necessary to accomplish the proposed work. Each task order may include any or all of the work elements as outlined herein in **Exhibit A, Scope of Work**, and may be modified to add or delete certain elements at the discretion of the City Project Manager. This Contract does not grant the Consultant exclusive right to provide the specified services to the City. Similar services may be obtained from sources other than the Consultant at the discretion of the City.

1.3 RFQ Schedule of Events and SOQ Submission

Provided below is the anticipated schedule of events. The City reserves the right to adjust the schedule and to add/remove specific events to meet the unique needs of this Project.

Advertisement of RFQ:	Tuesday, January 8, 2025
Pre-Proposal Meeting:	Tuesday, January 21, 2025, 10 a.m.
Deadline for Questions:	Thursday, January 23, 2025
DUE DATE & TIME FOR SUBMITTALS:	Thursday, February 6, 2025, 2 p.m.
Evaluation Meeting:	Tuesday February 18, 2025, 10 a.m. (anticipated)
Selection Announcement:	Wednesday, February 19, 2025, (anticipated)

Attendance at the pre-submittal meeting is not mandatory but is highly recommended.

SOQs shall be submitted electronically through the [Procurement Portal](#). It is the sole responsibility of the firm to ensure that the SOQ package is uploaded and submitted to the Procurement Portal no later than the established due date and time. SOQs received after the due date and time will not be considered. SOQs submitted by any other means will not be accepted.

1.4 Evaluation Criteria and Process

Firms will not be considered unless the following minimum qualifications are met:

- Firm must be properly registered with the Office of the Secretary of State of North Carolina (as applicable);
- Firm must be licensed by the North Carolina Board of Examiners for Engineers & Surveyors and pre-qualified with the North Carolina Department of Transportation (NCDOT);

Evaluation criteria consist of:

- Qualifications and Relevant Experience of Firm and Key Team Members in Providing Similar Services for Similar Projects;
- Availability of the Firm and Key Team Members for This Project;
- Project Understanding, Methodology and Approach; and
- Small Professional Service Firms

CRITERIA NUMBER 1 60% = Qualifications and Relevant Experience of Firm and Key Team Members in Providing Similar Projects

CRITERIA NUMBER 2 15% = Availability of the Firm and Key Team Members for This Project

CRITERIA NUMBER 3 20% = Project Understanding, Methodology and Approach

CRITERIA NUMBER 4 5% = Required Forms

The City will appoint an evaluation committee whose responsibilities will include performing technical evaluations of each SOQ and making selection recommendations based on the evaluation criteria provided above. Evaluations will focus on identifying the relative strengths, weaknesses, deficiencies, and risks associated with each SOQ. Interviews are not anticipated but may be held at the discretion of the evaluation committee. The City reserves the right to obtain clarification or additional information from any firm regarding to its SOQ.

The City reserves the sole right to select the most qualified consultant(s) on the basis of best overall SOQ (s) that is most advantageous to the City. Firms that submit SOQs will be notified of the selection results. Final approval of any selected firm is subject to the approval of City Council and/or City officials.

1.5 **SOQ Format**

The SOQ package should consist of a cover letter, responses to the specific inquiries in Section 1.6 below, and a set of completed forms, as required. Interested Firms must submit these materials in PDF format.

SOQs are limited to a maximum of **15** numbered pages. Type size should be no smaller than 11 points for narrative sections, but may be reduced for captions, footnotes, etc., while maintaining legibility. Required forms, resumes, covers, sub-tabs and dividers do not count toward the page limit. Non-conforming submissions may be removed from consideration at the sole discretion of the City.

1.6 **SOQ Content**

SOQ packages should be arranged as follows:

Cover Letter: General Information

- A. Describe your interest in this Project and the unique advantage your firm and team brings.
- B. What challenges or impediments could affect the schedule or budget for the project? How do you propose to address and mitigate these? Give examples of similar challenges on your past projects.
- C. State any conflicts of interest your firm or any key team member may have with this Project.
- D. Identify and describe any pending claims, disputes, and/or litigation and any that occurred within the past five (5) years involving your firm or any of your proposed subconsultants. With respect to resolved matters, describe the outcome.
- E. Provide a description of the company that will enter into the contract(s) with the City, including origin, background, current size, financial capacity, available resources, general organization, and company headquarters. Identify the name and title of the person authorized to enter into the contract(s) with the City.
- F. List exceptions to the City's standard contract terms and conditions. A sample contract is incorporated as Exhibit B & C.

Tab 1: Qualifications and Relevant Experience of Firm and Key Team Members in Providing Similar Services for Similar Projects

- A. List a maximum of 5 relevant, similar projects, either currently in progress or having been completed *in the past 5 years*, containing work comparable to this specific Project, including any projects with the City, as follows:
- List only projects involving the key team members or subcontractors proposed for this Project.
 - List projects in date order with newest projects listed first and include the following:
 - Brief project description;
 - Owner's representative having knowledge of the firm's work, include the contact's name, phone, email, address;
 - Contract dollar amount and total time period involved. Demonstrate your firm's previous successes in being able to deliver similar projects on time and at or under budget;
 - Discuss the methods, approach and controls used on the project in order to complete it in an effective, timely, economical and professional manner.
- B. Provide an organization chart of all key team members who will be directly involved in providing services, including any subcontractors, to be assigned specifically to this project. Identify the Project Manager who will be empowered to make decisions for and act on behalf of the firm. Identify any member of the team that is certified as a minority, women or small business firm.
- C. Discuss your firm's/team's qualifications and previous experience on similar or related projects, specifically:
- Services to perform inspection and testing on various projects in the areas of concrete, foundation, earthwork, drainage and base, erosion control, traffic control, asphalt roadway, highway structures, signal installation, survey verification, etc.
 - Scheduling services for vertical construction which may include but not be limited to project planning, schedule development, resource allocations, progress tracking and reporting, risk management, quality assurance, stakeholder coordination, and record keeping.
- D. Describe any previous collaboration(s) between key team members, the responsibilities of each team member during these collaborations, and the project(s) outcome. Cite any significant achievements reached as a result of this collaboration. Discuss the successes of the team collaboration, and any problems encountered and methods used to mitigate issues.
- E. Resumes may be submitted for each proposed key team member who will participate in the project on a daily basis (ex. Project Manager, Project Engineer, etc.). Resumes will not be counted towards the page limit.

Tab 2: Availability of the Firm and Key Team Members for This Project

- A. Describe a specific project or example that illustrates your team availability and responsiveness.
- B. Discuss availability of key team members by providing a list of current projects/work for each key team member.

Tab 3: Project Understanding, Methodology and Approach

- A. Discuss the Firm's understanding of the Project objectives and describe the proposed project approach to deliver the Services in an effective, timely and professional manner. Describe any methods the firm intends to use to reduce project costs. Outline the project plans, structure, and services to be provided and how and when these services shall be provided. This description should fully and completely demonstrate the proposer's intended methods for servicing the requirements of all aspects of the Project set forth herein.
- B. Describe any support needed from City staff in order to execute the Services.
- C. Describe the firm's Project Management and Quality Control procedures, processes for performance, and past involvement in projects of similar nature to those anticipated as a result of this solicitation.
- D. Discuss the firm's Management and Quality Control procedures related to subconsultants.
- E. Discuss the firm's processes and procedures for meeting schedules and budgets.

Tab 4: Required Forms

Forms provided with this RFQ shall be completed and submitted with the SOQ. Required Forms will not be counted towards the page limit. Failure to submit required forms may be grounds for rejection of submission at the sole discretion of the City.

2 REPRESENTATIONS, CONDITIONS, AND OTHER REQUIREMENTS

2.1 Communications

All communication of any nature with respect to this RFQ shall be addressed to the Contracts Administrator identified in this RFQ. Firms and their staffs are prohibited from communicating with elected City officials, City staff and any evaluation committee member regarding this RFQ or SOQ from the time the RFQ is released until the selection results are publicly announced. These restrictions include “thank you” letters, phone calls, emails, and any contact that results in the direct or indirect discussion of this RFQ and/or the SOQ submitted by the firm/team. Violation of this provision may lead to disqualification of the firm’s SOQ for consideration.

2.2 Duties and Obligations of Firms in the RFQ Process

Interested firms are expected to fully inform themselves as to all conditions, requirements, and specifications of this RFQ before submitting a proposal. Firms must perform their own evaluation and due diligence verification of all information and data provided by the City. The City makes no representations or warranties regarding any information or data provided by the City. Firms are expected to promptly notify the City in writing to report any ambiguity, inconsistency, or error in this RFQ. Failure to notify the City accordingly will constitute a waiver of claim of ambiguity, inconsistency, or error.

2.3 Addenda

In order to clarify or modify any part of this RFQ, addenda may be issued and posted at [the City’s Procurement Portal](#). Any requests for additional information or clarifications should be submitted through the **Vendor Discussion** section on the Procurement Portal or via email by the “Deadline for Questions” stated in **Section 1.3 – RFQ Schedule of Events**.

2.4 No Collusion, Bribery, Lobbying or Conflict of Interest

By responding to this RFQ, the firm shall be deemed to have represented and warranted that its SOQ submittal is not made in connection with any competing firm submitting a separate response to this RFQ and is in all respects fair and without collusion or fraud. Furthermore, the firm certifies that neither it, any of its affiliates or subconsultants, nor any employees of any of the foregoing has bribed, or attempted to bribe, an officer or employee of the City in connection with this RFQ.

2.5 Public Records

Upon receipt by the City, each SOQ becomes the property of the City and is considered a public record except for material that qualifies as “Trade Secret” information under North Carolina General Statute 66-152 et seq. SOQs will be reviewed by the City’s evaluation committee, as well as other City staff and members of the general public who submit public record requests after a selection result has been announced to the public. To properly designate material as a trade secret under these circumstances, each firm must take the following precautions: (a) any trade secrets submitted by the firm must specifically and clearly be identified by separating them from the rest of the Proposal and marked as “Trade Secret – Confidential and Proprietary Information – Do Not Disclose Except for the Purpose of Evaluating this SOQ” on each page of the trade secret and (b) the document(s) containing the trade secret designations must be uploaded separately in the Procurement Portal.

In submitting an SOQ, each firm agrees that the City may reveal any trade secret materials contained in such response to all City staff and City officials involved in the evaluation process and to any outside consultant or other third parties who serve on the evaluation committee or who are hired by the City to assist in the evaluation process. Furthermore, each firm agrees to indemnify and hold harmless the City and each of its officers, employees and agents from all costs, damages and expenses incurred in connection with refusing to disclose any material that the firm has designated as a trade secret. Any firm that designates its entire SOQ as a trade secret may be disqualified from consideration.

2.6 Cost of SOQ Preparation

The City shall not be liable for any expenses incurred by any firm responding to this RFQ. Firms submitting a SOQ in response to this RFQ agree that the materials and submittals are prepared at the firm's own expense with the express understanding that the firm cannot make any claims whatsoever for reimbursement from the City for the costs and expense associated with preparing and submitting a SOQ. Each firm shall hold the City harmless and free from any and all liability, costs, claims, or expenses incurred by, or on behalf of, any person or firm responding to this RFQ.

2.7 Advertising

In submitting a SOQ, the firm agrees not to use the results therefrom as part of any commercial advertising without prior written approval of the City of Charlotte.

2.8 Vendor Registration with City of Charlotte

The selected firm and subcontractors must be registered in the City's Vendor Registration System in order to receive payment for services and/or supplies provided under any City contract.

2.9 Registration with Secretary of State for North Carolina; Licensed Engineers/Architects

Any firm wishing to be considered for the Services must be properly registered with the Office of the Secretary of State and with either the North Carolina Board of Registration for Professional Engineers and Land Surveyors or the North Carolina Board of Architecture, as applicable, at the time of submission of the SOQ. The firm(s) selected under this RFQ will be responsible for providing all professional, technical, managerial, and administrative staff with the appropriate skills and qualifications to perform the required Services. The person in responsible charge of the work must be a registered professional in the State of North Carolina and must have good ethical and professional standing.

Any firm proposing to use corporate subsidiaries or subcontractors must include a statement that these companies are properly registered with the NC Board of Registration for Professional Engineers and Land Surveyors or North Carolina Board of Architecture, as applicable. It will be the responsibility of the prime firm to verify the registration of any corporate subsidiary or subcontractor prior to submitting a SOQ. For detailed licensing requirements, refer to North Carolina General Statutes (<http://www.ncbels.org/rulesandlaws.html>).

2.10 Financial Capacity; Insurance Requirements

The selected firm must have the financial capacity to undertake the work and assume associated liability.

2.11 Ownership of Work Products

The City shall have exclusive ownership of all intellectual property rights in all designs, plans and specifications, documents and other work product prepared by, for, or under the direction of the selected firm pursuant to any contract under this RFQ (collectively, the “Intellectual Property”), including without limitation the right to copy, use, disclose, distribute, and make derivations of the Intellectual Property for any purpose or to assign such rights to any third party. The Intellectual Property shall be prepared in the City’s name and shall be the sole and exclusive property of the City, whether or not the work contemplated therein is performed. The City will grant the firm a royalty-free, non-exclusive license to use and copy the Intellectual Property to the extent necessary to perform the contract.

2.12 City Rights and Reservations

The City expects to select one or more firms but reserves the right to request substitutions of any key team member, including staff and subcontractors. The City reserves the right to contact any firm/team for any additional information including but not limited to experience, qualifications, abilities, equipment, facilities, and financial standing. The City reserves the right to modify any part of this RFQ as issued with an addendum. The City, at its sole discretion, reserves the right to reject any or all responses to the RFQ, to cancel the RFQ, to re-advertise for new RFQ responses either with identical or revised specifications, or to accept any RFQ response, in whole or part, deemed to be in the best interest of the City. The City reserves the right to waive technicalities and informalities.

A response to this RFQ shall not be construed as a contract, nor indicate a commitment of any kind. The City reserves the sole right to award a contract or contracts to the most qualified firm(s) on the basis of best overall SOQ that is most advantageous to the City. The City also reserves the right to make multiple awards, based on experience and qualifications if it is deemed in the City’s best interest.

2.13 Contract

The contents of this RFQ and all provisions of the successful SOQ deemed responsive by the City may be incorporated, either in whole or in part, into a contract and become legally binding when approved and executed by both parties. Contents of the contract may contain changes from the City’s perspective as a result of the RFQ process and SOQ(s) received. The final negotiated contract may include the scope of work as outlined in this RFQ along with the successful firm’s submittal and any additions or deletions made at the discretion of the City as a result of the RFQ process.

2.14 Equal Opportunity

The firm will ensure that employees and applicants for employment are not unfairly discriminated against because of their race, color, religion, sex, national origin, disability, or veteran status.

2.15 E-Verify Certification

The firm shall comply with requirements of Article 2 of Chapter 64 of the North Carolina General Statutes and shall require each of its subcontractors to do so as well.

2.16 Familiarity and Compliance with Laws and Ordinances

The firm shall make itself aware of and comply with and shall cause each of its subcontractors to comply with, all applicable federal, state, and local laws and regulations, including obtaining all required permits and licenses.

2.17 Insurance Requirements

The consultant selected under this RFQ will be required, during the life of the contract with the City, to purchase and maintain the following insurance with a company acceptable to the City and authorized to do business with the State of North Carolina:

- **Automobile Liability Insurance:** Bodily injury and property damage liability covering all owned, non-owned, and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limit each occurrence/aggregate.
- **Comprehensive General Liability:** Bodily injury and property damage liability as shall protect the consultant and any subcontractor performing work under the agreement from claims of bodily injury or property damage which arise from operation of this agreement whether such operations are performed by the consultant, any subcontractor, or any person directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products/completed operation, personal injury liability and contractual liability assumed under the indemnity provision of the agreement.
- **Worker's Compensation and Occupation Disease Insurance:** In conformance with State law, in an amount of \$100,000 each accident and disease for each employee, and \$500,000 disease policy limit providing coverage for employees and owners.
- **Professional Liability Insurance:** In an amount of not less than \$1,000,000 each claim and \$1,000,000 aggregate.

The City shall be exempt from, and in no way liable for, any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Developer and/or subconsultant providing such insurance.

The City shall be named as additional insured under the commercial general liability insurance for operations and services rendered under a contract. At the time of execution of the contract, certificates of all required insurance shall be furnished to the City and shall contain the provision that the City will be given thirty (30) day written notice of any intent to amend or terminate by either the insured or the insuring company.

2.18 Background Checks

Certain City facilities require a background check of all company employees before they are allowed into the facility. The Charlotte-Mecklenburg Police Department will conduct these background checks as needed.

2.19 North Carolina Prohibition on Contracts with Companies that Invest in Iran or Boycott Israel

The Consultant certifies that: (i) it is not identified on the Final Divestment List or any other list of prohibited investments created by the NC State Treasurer pursuant to N.C.G.S. 147-86.58 (collectively, the “Treasurer’s IDA List”); (ii) it has not been designated by the NC State Treasurer pursuant to N.C.G.S. 147-86.81 as a consultant engaged in the boycott of Israel (such designation being referred to as the “Treasurer’s IB List”); and (iii) it will not take any action causing it to appear on the Treasurer’s IDA List or the Treasurer’s IB List during the term of this Contract. In signing this Contract consultant further agrees, as an independent obligation, separate and apart from this Contract, to reimburse the City for any and all damages, costs and attorneys’ fees incurred by the City in connection with any claim that this Contract or any part thereof is void due to consultant appearing on the Treasurer’s IDA List or the Treasurer’s IB List at any time before or during the term of this Contract.

2.20 Small Professional Service Firms

NCDOT encourages the use of Small Professional Service Firms (SPSF). Small businesses determined to be eligible for participation in the SPSF program are those meeting size standards defined by the 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 Consultant, at the time the qualification package 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 Form D-1 (Prime Consultant – SPSF) and Form D-2 (Subconsultant – SPSF). The SPSF must be qualified with NCDOT to perform the work for which they are listed. Both forms must be completed for your proposal package to be complete.

Real-time information about firms doing business with NCDOT and firms that are SPSF certified through the Contractual Services Unit is available in the Directory of Transportation Firms. The directory can be accessed at the link on the NCDOT’s homepage or by entering <https://www.ebs.nc.gov/VendorDirectory/default.html> in the address bar of your web browser. The listing of an individual firm in the NCDOT’s directory shall not be construed as an endorsement of the firm.

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3 FEDERAL CONTRACT TERMS AND CONDITIONS

This exhibit must be included in all solicitations, including those where federal funds may be used to fund purchases of products, services, or construction solicited by this solicitation document. This Exhibit is attached and will be incorporated into the contract between the City and the selected consultant. Capitalized terms not defined in this Exhibit shall have the meanings assigned to such terms in the Contract. In the event of a conflict between this Exhibit and the terms of the main body of the Contract or any other exhibit or appendix, the terms of this Exhibit shall govern.

Contracts resulting from this solicitation process will be for a fixed price and task orders may be issued with federal funds. The provisions required under 2 CFR §200.326 and as provided under 2 CFR Part 200, Appendix II, among other provisions, are incorporated herein by reference.

- 3.1 **Debarment and Suspension.** The Company represents and warrants that, as of the Effective Date of the Contract, neither the Company nor any subcontractor or subconsultant performing work under this Contract (at any tier) is included on the federally debarred bidder's list listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." If at any point during the Contract term the Company or any subcontractor or subconsultant performing work at any tier is included on the federally debarred bidder's list, the Company shall notify the City immediately. The Vendor Debarment Certification to be completed by the firm is attached hereto and should be submitted with Proposal.
- 3.2 **Record Retention.** The Company certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. The Company further certifies that it will retain all records as required by 2 CFR § 200.333 for a period of three (3) years after it receives City notice that the City has submitted final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.
- 3.3 **Procurement of Recovered Materials.** The Company represents and warrants that in its performance under the Contract, the Company shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 3.4 **Clean Air Act and Federal Water Pollution Control Act.** The Company agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

- 3.5 **Energy Efficiency.** The Company certifies that the Company will be in compliance with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
- 3.6 **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** The Company certifies that:
- 3.6.1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Company, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal Loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of and Federal contract, grant, loan, or cooperative agreement.
- 3.6.2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Company shall complete and submit Standard Form "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96)].
- 3.6.3. The Company shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- 3.6.4. The "Byrd Anti-Lobbying Certification" Form to be completed by the firm is attached hereto and should be submitted with Proposal.
- 3.7 **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** If the Contract is in excess of \$100,000 and involves the employment of mechanics or laborers, the Company must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, the Company is required to compute the wages of every mechanic and laborer on the basis of a standard work week of forty (40) hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of forty (40) hours in the work week. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or purchases of transportation or transmission of intelligence.
- 3.8 **Right to Inventions.** If the federal award is a "funding agreement" under 37 CFR 401.2 and the City wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment of performance or experimental, developmental or research work thereunder, the City must comply with 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

- 3.9 **DHS Seal, Logo, and Flags.** The Company shall not use the Department of Homeland Security (“DHS”) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- 3.10 The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the City, Company, or any other party pertaining to any matter resulting from the Contract.

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PAT McCRORY
Governor
NICHOLAS J. TENNYSON
Secretary

Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

NCDOT is providing the following list of contract provisions (as noted by the US Code or the Code of Federal Regulations) that should be included in all contracts or subcontracts that include federal funding.

- Title 2 CFR 200 is the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* and is applicable government-wide to any contract with Federal Funding. Appendix II contains a list of contract provisions that should be included in contracts.
- Title 23 CFR 172 is the *Procurement, Management, and Administration of Engineering and Design Related Services*, subject to the provisions of 23 USC 112(a) – related to construction. Contract provisions that are not already included in 2 CFR 200, are listed below. These should be included in all professional engineering contracts.
- Construction Contracts, funded under Title 23 of the US Code (Federal-aid Highway Program), have specific required contract provisions. Resources to build the contract proposal and include appropriate provisions are listed below.

IMPORTANT: It is the Local Government Agency responsibility to ensure all provisions are included in relevant contracts, in which federal funds are participating. You may need to consult with your legal representative or contracts office to ensure your contracts are in compliance.

ALL CONTRACTS AND SUB-CONTRACTS WITH FEDERAL FUNDS

Pursuant to Title 2 Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, **the following list of contract provisions should be incorporated into every sub-recipient contract, if federal funds will be used on the contract.** Please note applicability requirements.

2 CFR 200, Appendix II

<https://www.gpo.gov/fdsys/pkg/CFR-2014-title2-vol1/xml/CFR-2014-title2-vol1-part200-appII.xml>

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.



State of North Carolina | Department of Transportation |
 Transportation Program Management Unit 1020 Birch Ridge Drive |
 1595 Mail Service Center | Raleigh, NC 27699-1595

919 707 6600 T | 919 212 5711 F

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage.

determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor

regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(I) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(K) See §200.322 Procurement of recovered materials.

PROFESSIONAL SERVICES CONTRACTS

Pursuant to Title 23 CFR 172, *Procurement, Management, and Administration of Engineering and Design Related Services*, the following contract provisions should be included, either by reference or by physical incorporation into the language of each contract or subcontract, as applicable. Provisions that are **not** already noted in 2 CFR 200 are in **bold**.

- (i) Administrative, contractual, or legal remedies in instances where consultants violate or breach contract terms and conditions, and provide for such sanctions and penalties as may be appropriate;
- (ii) Notice of contracting agency requirements and regulations pertaining to reporting;
- (iii) Contracting agency requirements and regulations pertaining to copyrights and rights in data;
- (iv) Access by recipient, the subrecipient, FHWA, the U.S. Department of Transportation's Inspector General, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the consultant which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions;
- (v) Retention of all required records for not less than 3 years after the contracting agency makes final payment and all other pending matters are closed;
- (vi) Standard DOT Title VI Assurances (DOT Order 1050.2);
- (vii) Disadvantaged Business Enterprise (DBE) assurance, as specified in 49 CFR 26.13(b);
- (viii) Prompt pay requirements, as specified in 49 CFR 26.29;
- (ix) Determination of allowable costs in accordance with the Federal cost principles;
- (x) Contracting agency requirements pertaining to consultant errors and omissions;
- (xi) Contracting agency requirements pertaining to conflicts of interest, as specified in 23 CFR 1.33 and the requirements of this part; and
- (xii) A provision for termination for cause and termination for convenience by the contracting agency including the manner by which it will be effected and the basis for settlement.
- (xiii) All contracts and subcontracts exceeding \$100,000 shall contain, either by reference or by physical incorporation into the language of each contract, a provision for lobbying certification and disclosure, as specified in 49 CFR part 20.

CONSTRUCTION CONTRACTS

NCDOT has developed guidance to help Local Government Agencies build a contract proposal for highway construction projects that complies with applicable federal and state requirements. City should reference this website first for assistance and direction on developing contract documents:

<https://connect.ncdot.gov/municipalities/Pages/Bid-Proposals-for-LGA.aspx>

For other non-highway construction or service contracts, please reference FHWA's Contract Provision matrix, noting applicability requirements:
<http://www.fhwa.dot.gov/construction/contracts/provisions.cfm>

4 UNITED STATES DEPARTMENT OF TRANSPORTATION (USDOT) - FEDERAL HIGHWAY ADMINISTRATION (FHWA) REQUIREMENTS

The Services to be performed under the contract will be financed in whole or in part with federal funding. As such, federal laws, regulations, policies, and related administrative practices apply to the contract. The most recent of such federal requirements, including any amendments made after the execution of the contract, shall govern the contract, unless the federal government determines otherwise. This Section identifies the federal requirements that are applicable to this contract. The company is responsible for complying with all applicable provisions.

To the extent applicable, the federal requirements contained in the most recent version of the Federal Highway Administration (FHWA) Master Agreement, as amended (the "Master Agreement"), including any certifications and contractual provisions required by any federal statutes, or regulations referenced therein, to be included in this contract, are deemed incorporated into the contract by reference and shall be incorporated into any sub-agreement or subcontract executed by the company pursuant to its obligations under the contract. The company and its subcontractors, if any, hereby represent and covenant that they have complied and shall comply in the future with the applicable provisions of the Master Agreement then in effect and with all applicable federal, state, and local laws, regulations, and rules and local policies and procedures, as amended from time to time, relating to the Services to be performed under the contract. Notwithstanding anything to the contrary herein, all FHWA mandated terms shall be deemed to control in the event of a conflict with other applicable provisions contained in the contract. The company shall not perform any act, fail to perform any act, or refuse to comply with any City requests, which would cause the City to be in violation of the FHWA terms and conditions.

4.1 ENERGY CONSERVATION

42 U.S.C. § 6321, et seq., 49 CFR 18

The company agrees to comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. § 6321, et seq. This requirement extends to all third-party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract.

4.2 CLEAN WATER

33 U.S.C. § 1251

The company agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, et seq. The company agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FHWA and the appropriate Environmental Protection Agency (EPA) Regional Office. This requirement extends to all third-party contractors and their contracts; this clause shall be included in all subcontracts in excess of one hundred thousand dollars (\$100,000) executed in furtherance of this Contract.

4.3 CLEAN AIR

42 U.S.C. § 7401, et seq., 40 CFR § 31.36, 49 CFR 18

The company agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401, et seq. The company agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FHWA and the appropriate EPA Regional Office. This requirement extends to all third-party contractors and their contracts; this clause shall be included in all subcontracts in excess of one hundred thousand dollars (\$100,000) executed in furtherance of this contract.

4.4 RECYCLED PRODUCTS

42 U.S.C. § 6962, 40 CFR 247, Executive Order No. 12873

The company agrees to comply with all requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. § 6962, including, but not limited to, the regulatory provisions of 40 CFR 247 and Executive Order No. 12873, as they apply to the procurement of the items designated in Part B of 40 CFR 247.

This requirement extends to all third-party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract.

4.5 CIVIL RIGHTS REQUIREMENTS

29 U.S.C. § 623; 42 U.S.C. §§ 2000, 6102, 12112, 12132; 49 U.S.C. § 5332; 29 CFR 1630; 41 CFR 60 et seq.; 23 CFR 200; 49 CFR 21; 23 CFR § 200.9

The following requirements apply to the contract:

Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d; Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102; Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132; and federal law at 49 U.S.C. § 5332, the company agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the company agrees to comply with applicable federal implementing regulations and other implementing requirements FHWA may issue, as applicable.

Equal Employment Opportunity. The following Equal Employment Opportunity requirements apply to the contract:

Race, Color, Creed, National Origin, Sex - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and federal laws at 49 U.S.C. § 5332, the company agrees to comply with all applicable equal employment opportunity requirements of United States Department of Labor (USDOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR 60, et seq., (which implements Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of this Project. The company agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without

regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the company agrees to comply with any implementing requirements FHWA may issue, as applicable.

Age - In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, and federal law at 49 U.S.C. § 5332, the company agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the company agrees to comply with any implementing requirements FHWA may issue, as applicable.

Disability – In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 USC § 12112, the company agrees that it will comply with the requirements of United States Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR 1630, pertaining to employment of persons with disabilities. In addition, the company agrees to comply with any implementing requirements FHWA may issue, as applicable.

These requirements extend to all third-party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract.

4.6 DISADVANTAGED BUSINESS ENTERPRISES

49 CFR 26

The contract is subject to the requirements of 49 CFR 26, Participation by Disadvantaged Business Enterprises (DBE) in Department of Highway Administration Financial Assistance Programs. The City's overall goal for participation of DBE is 0%. A separate contract goal will be established for each contract.

The company shall not discriminate on the basis of race, color, national origin, or sex in the performance of the contract. The company shall carry out applicable requirements of 49 CFR 26 in the award and administration of the contract. Failure by the company to carry out these requirements is a material breach of the contract, which may result in the termination of the contract or such other remedy as the City deems appropriate. Each subcontract the company signs with any subcontractors must include the assurance in this paragraph (see 49 CFR § 26.13(b)).

The company is required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR § 26.55. Award of the contract is conditioned upon the submission of the following, concurrent with and accompanying an initial proposal prior to award: (i) the names and addresses of DBE companies that will participate in the contract; (ii) a description of the work each DBE will perform; (iii) the dollar amount of the participation of each DBE company participating; (iv) written documentation of the company's commitment to use DBE subcontractors whose participation it submits to meet the contract goal; (v) written confirmation from the DBE that it is participating in the contract as provided in the company's commitment; and (vi) if the contract goal is not met, evidence of good faith efforts to do so must be provided. The company shall present the information required above as a matter of responsiveness (see 49 CFR § 26.53(3)).

The company is required to pay its subcontractors performing work related to the contract for satisfactory performance of that work no later than seven (7) days after the company's receipt of payment for that work from the City. In addition, the company is required to return any retainage payments to subcontractors within thirty (30) days after incremental acceptance of subcontractors' work by the City.

The company must promptly notify the City whenever a DBE subcontractor performing work related to the contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The company may not terminate any DBE subcontractors and perform that work through its own forces or those of an affiliate without prior written consent of the City.

4.7 ACCESS TO RECORDS AND REPORTS

49 U.S.C. § 5325(g), 49 CFR § 18.36(i), 49 CFR § 18.42

The City is not a State but a local government and is the FHWA recipient or a sub-grantee of the FHWA recipient, in accordance with 49 CFR §18.42. As applicable, the company agrees to provide the City, the FHWA Administrator, the Comptroller General of the United States, or any of their authorized representatives, access to any books, documents, papers, and records of the company which are directly pertinent to the contract for the purposes of making audits, examinations, excerpts, and transcriptions. The company also agrees to provide the FHWA Administrator or his authorized representatives, including any PMO company, access to the company's records and construction sites pertaining to a major capital project, which is receiving federal financial assistance.

As applicable, the company shall also make available records related to the contract to the City, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection. The company agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The company agrees to maintain all books, records, accounts and reports required under the contract for a period of not less than three years after the date of termination or expiration of the contract, except in the event of litigation or settlement of claims arising from the performance of the contract, in which case the company agrees to maintain same until the City, the FHWA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims, or exceptions related thereto, 49 CFR § 18.42.

This requirement extends to all third-party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract.

4.8 PRIVACY ACT

5 U.S.C. § 552

The following requirements apply to the company and its employees that administer any system of records on behalf of the federal government under any contract:

The company agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552(a). The company agrees to obtain the express consent of the federal government before the company or its employees operate a system of records on behalf of the federal government. The company understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

This requirement extends to all third-party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract.

4.9 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

18 U.S.C. § 1020, 23 CFR § 635.119

The company acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 18 U.S.C. § 1020, and USDOT regulations, "Program Fraud Civil Remedies," 23 CFR § 635.119, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the company certifies or affirms the truthfulness and accuracy of any statement it has made, makes, or causes to be made, pertaining to the underlying contract or an FHWA-assisted project for which the Services are being performed. In addition to other penalties that may be applicable, the company further acknowledges that if it has made, makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the federal government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the company to the extent the federal government deems appropriate.

These requirements extend to all third-party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract. It is further agreed that the clauses shall not be modified except to identify subcontractors who will be subject to the provisions.

4.10 GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

49 CFR 29

The contract is a covered transaction for purposes of 49 CFR 29. As such, the company is required to verify that neither it, nor its principals (as defined at 49 CFR § 29.995) or affiliates (as defined at 49 CFR § 29.905) is excluded or disqualified (as defined at 49 CFR §§ 29.940, 29.945).

The company is required to comply with 49 CFR 29, Subpart C, and must include the requirement to comply with 49 CFR 29, Subpart C, in any covered transaction into which it enters. By signing and submitting its proposal, the company certifies as follows: "The certification in this clause is a material representation of fact relied upon by the City. If it is later determined that the company knowingly rendered an erroneous certification, in addition to remedies available to the City, the federal government may pursue available remedies, including, but not limited to, suspension and/or debarment. The company agrees to comply with the requirements of 49 CFR 29, Subpart C, while this RFP is valid and throughout the period of any contract that may arise from this RFP. The company further agrees to include a provision requiring such compliance in its covered transactions." This requirement extends to all third-party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract.

4.11 FEDERAL ACQUISITION REGULATIONS (FAR) COMPLIANCE

23 U.S.C. § 112(b), 48 CFR 31

The company's compensation, or any adjustment to the company's compensation, under the contract shall include only costs and other compensation that are allowable, allocable, and reasonable as provided elsewhere herein, or otherwise by law, and that are allowable, allocable, and reasonable under the Contract Cost Principles of the FAR System, 48 CFR 31, and any implementing guidelines or regulations issued by the said system administration. This requirement extends to all third-party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract.

4.12 LOBBYING

31 U.S.C. § 1352, 49 CFR 19, 49 CFR 20

The company agrees to comply with the provisions of the Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as in force or as it may hereafter be amended. The company and all subcontractors shall file the certification required by 49 CFR 20, "New Restrictions on Lobbying." Each subcontractor certifies that it has not and will not use federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each subcontractor shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-federal funds with respect to any federal contract, grant, or award covered by 31 U.S.C. § 1352. Such disclosures must be forwarded from the company to the City. This requirement extends to all third-party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract.

4.13 FEDERAL CHANGES

2 CFR 200

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as

amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(I) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.” The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(K) See §200.322 Procurement of recovered materials.

4.14 CONTRACT WORK HOURS AND SAFETY STANDARDS

Overtime Requirements – The company or any of its subcontractors contracting for any part of the Services which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic to work more than forty (40) hours in any work week in which he or she is employed on such work unless such laborer or mechanic receives compensation at a rate not less than one and one-half (1 1/2) times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.

Violation, Liability for Unpaid Wages, Liquidated Damages – In the event of any violation of the overtime requirements clause set forth in this section, the company, or any of its subcontractors responsible for the violation, shall be liable for the unpaid wages. In addition, the company and any of its subcontractors shall be liable to the federal government for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the Overtime Requirements clause set forth in this section, in the sum of ten dollars (\$10) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the overtime requirements clause set forth in this section.

Withholding for Unpaid Wages and Liquidated Damages – The City shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work performed by the company or any of its

subcontractors under any such contract or any other federal contract with the same company, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same company, such sums as may be determined to be necessary to satisfy any liabilities of the company or any of its subcontractors for unpaid wages and liquidated damages as provided in the Violation, Liability for Unpaid Wages, Liquidated Damages clause set forth in this section.

Subcontracts – The company, or any of its subcontractors, shall insert in any subcontracts the clauses set forth in this section and also a clause requiring subcontractors to include these clauses in any subcontracts. The company shall be responsible for compliance by any subcontractors with the clauses set forth in this section.

4.15 NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The City and the company acknowledge and agree that, notwithstanding any concurrence by the federal government in, or approval of, the solicitation or award of the underlying contract, absent the express written consent by the federal government, the federal government is not a party to this RFP or the contract and shall not be subject to any obligations or liabilities to the City, the company, or any other party (whether or not a party to the contract) pertaining to any matter resulting from the underlying contract. This requirement extends to all third-party contractors and their contracts; this clause shall be included in all subcontracts executed in furtherance of the contract. It is further agreed that the clause shall not be modified except to identify subcontractors who will be subject to its provisions.

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DISADVANTAGED BUSINESS ENTERPRISE**City Of Charlotte: Charlotte Area Transit System (CATS)**

DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACT PROVISIONS & FORMS

THE DBE GOAL FOR THIS CONTRACT IS: 0.0%

This Contract is subject to the requirements of 49 C.F.R. Part 26 *Participation by DBE in Department of Transportation Financial Assistance Programs.*

- (a) **Policy.** As a recipient of funds from the Federal Transit Administration (“FTA”), the City has established a Disadvantaged Business Enterprise Program (“DBE Program”) in accordance with regulations of the U.S. Department of Transportation (“DOT”), 49 C.F.R. Part 26 and has committed to ensuring compliance on all FTA-funded projects through monitoring, reporting, and goal-setting. As used in this Section, Contractor shall mean Consultant and subcontractor shall mean subconsultant.
- (b) The DBE Program is incorporated into and made a part of the Bidding Documents and resulting Contract. Copies of the DBE Program may be obtained online at <http://charmbeck.org/city/charlotte/cats/about/Business/procurement/Pages/dbesbe.aspx>; under “City of Charlotte’s DBE Program (document)” on the www.ridetransit.org “Doing Business with CATS as a DBE/SBE” page.

It is the policy of the City to ensure that DBEs, as defined in 49 C.F.R. Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. The City’s objectives are as follows

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 C.F.R. Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The CATS Civil Rights Officer has been designated as the DBE Liaison Officer (“DBELO”). In that capacity, he/she is responsible for implementing all aspects of the DBE Program. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations incurred by the City in its financial assistance agreements with the DOT.

- (c) **DBE Assurances.** The Contractor and its subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of this DOT-assisted Contract. Failure by

the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the City deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

1. The paragraph above shall be included in each subcontract the Contractor signs with any subcontractor, both DBE or non-DBE subcontractor
- (d) **Prompt Payment.** The Contractor is required to pay each subcontractor (DBEs and non-DBEs) under this Contract for satisfactory performance of its contract no later than seven (7) days from receipt of each progress payment or final payment the full amount the Contractor receives from the City for each subcontractor's work and materials under the subcontract. Any delay or postponement of payment from the above referenced time frame may result in liquidated damages and/or sanctions as stipulated in Contract Documents. Exceptions may occur only for good cause following written approval by the City.

The Contractor is required to return retainage payments to each subcontractor within seven (7) after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City.

1. The paragraphs above apply to both DBE and non-DBE subcontractors.
 2. For purposes of this Section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the City. When the City has made incremental acceptance of a portion of the Contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.
- (e) **DBE Goal.** The City has established a race neutral overall DBE goal of 17.2% for fiscal years 2014-2016. Although the City has not established a DBE goal for this Contract, DBE firms and small businesses shall have an equal opportunity to participate in this Contract. The Contractor shall adhere to the following:
1. Take affirmative steps to use as many of the race-neutral means of achieving DBE participation identified in 49 CFR 26.51(b) as practicable to afford opportunities to DBEs to participate in this Contract. A race-neutral measure is one that is, or can be, used to assist all small businesses.
 2. A DBE firm must perform commercially useful function, i.e. must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work; and
 3. A DBE firm must be certified by NC-DOT before its participation is reportable under paragraph (d) below.
- (f) **Report to the City.** Even though no separate goal has been set for this Contract, the Bidder must submit its proposed DBE (if any) and non-DBE utilization on **LIST OF SUBCONTRACTORS/SUPPLIERS – FORM A** listing **ALL** subcontractors and suppliers that will be providing goods or services under the Contract. This form is to include all subcontractors the Bidder proposes to use, not just the DBE subcontractors (if any). Bidders are required to list the names, contact information, annual gross receipts, age of firm, respective scope of work/service to be performed, NAICS Code, NCDOT Reporting Number, the dollar values of each subcontract that the Bidder proposes for participation in the Contract work, and the dollar value of total DBE participation for the Contract. **LIST OF SUBCONTRACTORS/SUPPLIERS – FORM A** is attached in Form 7

Even though no separate goal has been set for this Contract, the Contractor shall report its DBE participation obtained through race-neutral means throughout the period of performance. The Contractor shall submit

a monthly report on DBE Participation with each request for payment from the City. Such information shall be provided for both DBE and non-DBE subcontractors on **MONTHLY PAYMENT TO SUBCONTRACTORS/SUPPLIERS – FORM B**. Failure to submit this form with every request for payment will result in delays in payment. The **MONTHLY PAYMENT TO SUBCONTRACTORS/SUPPLIERS – FORM B** is attached in Form 8.

- (g) **Records.** On request, the Contractor shall make available for inspection, and assure that its subcontractors make available for inspection:
1. Records of prompt payments made in accordance with paragraph (c) above;
 2. The names and addresses of DBE subcontractors, vendors, and suppliers under this Contract;
 3. The dollar amount and nature of work of each DBE subcontractor;
 4. The social/economic disadvantaged category of the DBE firms, i.e. Black American, Hispanic American, Native American, Subcontinent Asian American, Asian Pacific American, Non-Minority Women, or Other; and
 5. Other related materials and information.
- (h) **Performance.** The Contractor must promptly notify the City whenever a DBE subcontractor performing work related to this Contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor shall also promptly notify the City of a DBE subcontractor's inability or unwillingness to perform and provide reasonable documentation. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of City.
- (i) **Information.**
1. A directory of DBEs may be accessed at the following website:
<https://partner.ncdot.gov/VendorDirectory/default.html>
 2. If you have any questions concerning the required documentation listed above, or concerning the DBE requirements in general, contact:

CATS Civil Rights Officer

Arlanda Rouse,
Charlotte Area Transit System
600 East Fourth Street
Charlotte, NC 28202
704-432-2566, arouse@charlottenc.gov

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Form – Execution of SOQ

On-Call Construction Engineering and Inspection (CEI) Services Project

The person executing the SOQ, on behalf of the Consultant, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee of the Consultant has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of full and open competition in connection with any proposal or contract, that the Consultant has not been convicted of violating North Carolina General Statute 133-24 within the last three years, and that the Consultant intends to do the work with its own bona fide employees or subcontractors and is not proposing for the benefit of another company.

Submission of a response to this RFQ constitutes certification that the Consultant and all proposed team members are not currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Project by any State or Federal department or agency. Submission is also agreement that the City will be notified of any change in this status.

NC General Statute 133-32 and City Policy prohibit any gift from anyone with a contract with the City, or from any person seeking to do business with the City. By execution of this SOQ, you attest, for your organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

The information contained in this SOQ, including its forms and other documents, delivered or to be delivered to the City, is true, accurate, and complete. This SOQ includes all information necessary to ensure that the statements therein do not in whole or in part mislead the City as to any material facts.

- Type of Consultant:** **Sole Proprietor**
(check 1 box) **Partnership**
 Corporation _____ *(identify the State of incorporation)*
 Limited Liability Company _____ *(identify the State of incorporation)*

Company Legal Name: _____

Mailing Address: _____

City/State/Zip: _____

Phone: _____ Email: _____

Printed Name: _____ Title: _____

Signature: _____ Date: _____

SMALL PROFESSIONAL SERVICE FIRMS

NCDOT encourages the use of Small Professional Service Firms (SPSF). Small businesses determined to be eligible for participation in the SPSF program are those meeting size standards defined by the 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 Consultant, at the time the qualification package 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 Form D-1 (Prime Consultant – SPSF) and Form D-2 (Subconsultant – SPSF). The SPSF must be qualified with NCDOT to perform the work for which they are listed. Both forms must be completed for your proposal package to be complete.

Real-time information about firms doing business with NCDOT and firms that are SPSF certified through the Contractual Services Unit is available in the Directory of Transportation Firms. The directory can be accessed at the link on the NCDOT's homepage or by entering <https://www.ebs.nc.gov/VendorDirectory/default.html> in the address bar of your web browser. The listing of an individual firm in the NCDOT's directory shall not be construed as an endorsement of the firm.

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FORM D-1
PRIME CONSULTANT
SMALL PROFESSIONAL SERVICE FIRM CERTIFICATION

Project:		
Consultant Name:		
Service Description:	Anticipated Utilization:	
	Total Utilization: <i>(Dollars or Percent)</i>	
Submitted by Consultant		
<i>Signature</i>	<i>Date</i>	<i>Title</i>
SPSF Status:	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Instructions for Completing Form D-1:

1. Complete Form D-1 for the prime consultant firm; fill in consultant name.
2. Enter Service Description – describe work to be performed by the prime firm.
3. Enter Anticipated Utilization – Insert dollar value or percent of work anticipated to be performed by the prime consultant.
4. Signature of the prime consultant **is required** on each Form D-1 submitted with the qualification package to be considered for selection.
5. Fill in title and date of certification.
6. Complete “SPSF Status” section - Check the appropriate box regarding SPSF Status, check Yes if SPSF, or No if not SPSF.

**FORM D-2
SUBCONSULTANT
SMALL PROFESSIONAL SERVICE FIRM CERTIFICATION**

Project:		
Consultant Name:		
Subconsultant Name:		
Service Description:	Anticipated Utilization:	
	Total Utilization:	
	<i>(Dollars or Percent)</i>	
Submitted by Subconsultant		
<i>Signature</i>	<i>Date</i>	<i>Title</i>
SPSF Status:	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Recommended by Consultant		
<i>Signature</i>	<i>Date</i>	<i>Title</i>

Instructions for completing the Form D-2:

1. Complete Form D-2 for each subconsultant firm; fill in prime consultant and subconsultant name.
2. Enter Service Description – describe work to be performed by the subconsultant firm.
3. Enter Anticipated Utilization – Insert dollar value or percent of work anticipated to be performed by the subconsultant.
4. Signatures of both the subconsultant and prime consultant **are required** on each Form D-2 submitted with the qualification package to be considered for selection.
5. Fill in title and date of certification.
6. Complete “SPSF Status” section – Subconsultant shall check the appropriate box regarding SPSF Status, check Yes if SPSF, or No if not SPSF.
7. In the event the prime consultant firm has no subconsultant, it is required that this be indicated on Form D-2 form by entering the word “None” or the number “ZERO” and having the prime consultant sign and submit Form D-2.

State of North Carolina
Department of Transportation
Subcontractor Payment Information

Submit with Invoice to: Invoice Coordinator
North Carolina Department of Transportation
Division/Branch
Address
Raleigh, NC XXXXX-XXXX

Firm Invoice. No. Reference _____
WBS No. (State Project No.) _____
Date of Invoice _____
Signed _____

Invoice Line-Item Reference	Payer Name	Payer Federal Tax ID	Subcontractor/ Subconsultant/ Material Supplier Name	Subcontractor/	Amount Paid to	Date Paid to
				Subconsultant/ Material Supplier Federal Tax ID	Subcontractor/ Subconsultant/ Material Supplier This Invoice	Subcontractor/ Subconsultant/ Material Supplier This Invoice
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

Total Amount Paid to Subcontractor Firms			\$		

Note: These documents are scanned into our Fiscal program. Please do not highlight or shade the figures.

I certify that this information accurately reflects actual payments made and the dates the payments were made to Subcontractors/Subconsultants/Material Suppliers on the above-referenced project.

Signature: _____

Title:

Print Name: _____

Date: _____

Field	Instructions
Subgrantee Letterhead / Name & Address Goes Here	Enter the name and address of the company, firm, governmental entity or subgrantee requesting payment from the North Carolina Department of Transportation
Submit with Invoice To:	Update this section with the name and address of the NCDOT representative that is responsible for processing payment requests for your contracts.
Firm Invoice No. Reference	Enter the invoice number that was submitted to NCDOT that corresponds with the payment information contained on this form.
NCDOT PO / Contract Number	Enter the NCDOT Purchase Order or Contract number that corresponds with the information contained on this form.
WBS No. (State Project No.)	Enter the NCDOT WBS element number assigned to this project.
Date of Invoice	Enter the date of the invoice that was submitted for payment.
Signed	Enter the name of the person responsible for the validity of the information contained on this form.
Invoice Line-Item Reference	Enter the invoice line item or pay item that the DBE payment information is related to.
Payer Name	Enter the name of the company, firm, governmental entity or subgrantee that is responsible for paying the DBE subcontractor.
Payer Federal Tax Id	Enter the Federal Tax Identification number of the Payer (See Payer Name)

SMALL PROFESSIONAL SERVICE FIRMS

<p>Subcontractor / Subconsultant/ Material Supplier Name</p>	<p>Enter the name of the DBE Subcontractor, Subconsultant or Material Supplier that is being paid for goods or services related to the NCDOT PO / Contract Number.</p>
<p>Subcontractor / Subconsultant/ Material Supplier Federal Tax Id</p>	<p>Enter the Federal Tax Identification number of the DBE Subcontractor, Subconsultant or Material Supplier that is being paid for goods or services related to the NCDOT PO / Contract Number.</p>
<p>Amount Paid To Subcontractor / Subconsultant / Material Supplier This Invoice</p>	<p>Enter the amount paid to the DBE Subcontractor, Subconsultant or Material Supplier for the invoice referenced.</p>
<p>Date Paid To Subcontractor / Subconsultant / Material Supplier This Invoice</p>	<p>Enter the date that the Subcontractor / Subconsultant / Material Supplier was paid for the items referenced on the invoice.</p>
<p>Total Amount Paid to DBE Firms</p>	<p>Enter the total payments made to all DBE Subcontractor / Subconsultant / Material Supplier for the invoice referenced.</p>

Form – Commercial Non-Discrimination Certification

Project Name: On-Call Construction Engineering And Inspection (CEI) Services Project
Consultant’s Name: _____

The undersigned Consultant hereby certifies and agrees that the following information is correct:

1. In preparing its Bid, the Bidder has considered all bids submitted from qualified, potential subcontractors and suppliers, and has not engaged in or condoned discrimination, as defined in Section 2 below.
2. For purposes of this form, discrimination means discrimination in the solicitation, selection, or treatment of any subcontractor, vendor, supplier, or commercial customer on the basis of a person’s race, color, gender, religion, national origin, ethnicity, age, familial status, sex (including sexual orientation, gender identity and gender expression), veteran status, pregnancy, natural hairstyle or disability, or any otherwise unlawful form of discrimination. Without limiting the foregoing, discrimination also includes retaliating against any person or other entity for reporting any incident of discrimination.
3. Without limiting any other remedies that the City may have for a false certification, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the City to reject the SOQ submitted with this certification and terminate any contract awarded based on such SOQ. It shall also constitute a violation of the City’s Commercial Non-Discrimination Ordinance and shall subject the Consultant to any remedies allowed thereunder, including possible disqualification from participating in City contracts for up to two years.
4. As a condition of contracting with the City, the Consultant agrees to promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation and selection of subcontractors and suppliers. Failure to maintain or failure to provide such information shall constitute grounds for the City to reject the SOQ and to terminate any contract awarded on such SOQ. It shall also constitute a violation of the City’s Commercial Non-Discrimination Ordinance and shall subject the Consultant to any remedies that are allowed thereunder.
5. As part of its bid/proposal, the Consultant shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against the Consultant in a legal or administrative proceeding alleging that the Consultant discriminated against its subcontractor, vendors, suppliers, or commercial customers, and a description of the status or resolution of that complaint, including any remedial action taken.
6. As a condition of submitting a bid/proposal to the City, the Consultant agrees to comply with the City’s Commercial Non-Discrimination Policy as described in Section 2, Article V of the Charlotte City Code, and consents to be bound by the award of any arbitration conducted thereunder.

By: _____
SIGNATURE OF AUTHORIZED OFFICIAL

Title: _____

Form – Vendor Debarment Certification

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

The bidder, contractor, or subcontractor, as appropriate, certifies to the best of its knowledge and belief that neither it nor any of its officers, directors, or managers who will be working under this Agreement, or persons or entities holding a greater than 10% equity interest in it (collectively “Principals”):

1. Are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency in the United States;
2. Have within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust or procurement statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are presently indicted for or otherwise criminally or civilly charged by a government entity, (federal, state, or local) with commission of any of the offenses enumerated in paragraph 2 of this certification; and
4. Have within a three-year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award or in some instances, criminal prosecution.

I hereby certify as stated above:

(Print Name)

Signature

Title

Date

I am unable to certify to one or more the above statements. Attached is my explanation. [Check box if applicable]

(Print Name)

Signature

Title

Date

Form – Byrd Anti-Lobbying Certification

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of and Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions [as amended by “Government wide Guidance for New Restrictions on Lobbying,” 61 Fed. Reg. 1413 (1/19/96)].
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including all subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

_____ (the “Company”), certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Company understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

(Print Name)

Company Name

Authorized Signature

Address

Date

City/State/Zip

Form – Key Team Member Matrix

(Attach additional sheets as necessary)

KEY TEAM MEMBERS	Key Team Member 1	Key Team Member 2	Key Team Member 3
Name			
Professional Certifications/Licenses <i>(include Certification/License #)</i>			
Relevant Academic Degree(s)			
Proposed Role/Function for Projects	Project Manager		
Office Location (City, State)			
Number of Years with Current Firm			
Number of Years of Relevant Experience			
Availability to provide Services for this Project			
List Notable Projects/Experience			

Exhibit A – SCOPE OF WORK

CONSTRUCTION ENGINEERING AND INSPECTION SERVICES

2.0 PURPOSE:

The City of Charlotte is seeking qualifications from interested consulting firms experienced in performing Construction Engineering and Inspection (CEI) Services. These services may include but not be limited to the services to perform inspection and testing on various projects in the areas of concrete, foundation, earthwork, drainage, erosion control, bolted connections, traffic control, asphalt roadway, highway structures, signal installation, survey verification, etc.

These services will be provided under a three (3) year On-Call contract on an “as needed” basis with up to two one-year renewals. Work under this on-call contract will be assigned based on the consultant’s qualifications for the project being assigned for an individual task order/ work order.

Work awarded under this solicitation will include projects with Local Government Agency / Locally Administered Projects (LGA/LAP) agreements between NCDOT and the City of Charlotte.

3.0 SCOPE – Horizontal:

Provide qualified personnel to perform services as defined by each task order, utilizing the referenced manuals, and procedures. The City of Charlotte follows NCDOT specifications, procedures, and practices unless otherwise noted. Therefore, NCDOT specifications, procedures, and manuals as well as City of Charlotte standards and manuals are included by reference. This scope of services shall apply for any projects utilizing this on-call contract.

Consultant inspectors will be required to be certified in the particular area in which they will be inspecting. These include but are not limited to the following NCDOT Certifications: QMS Roadway, Conventional Density, Borrow Pit Sampling, Chemically Stabilized Subgrade/Base, QMS Density Gauge, Concrete Field Technician, ABC Sampling, Special Inspections – Rebar, Footing/Foundations, Bolted Connections, etc. These inspectors will be responsible for highly technical and specialized inspection and testing procedures in the areas of concrete, foundations, highway structures, soils, earthwork, asphalt roadway, erosion control, signal installations, survey verification, etc. The consultant inspector will be charged with monitoring the work of the contractor to ensure compliance with the plans and specifications as well as sampling and testing procedures as outlined in the NCDOT Construction Manual. The consultant will oversee the City’s independent testing lab to ensure samples are taken and required tests are performed with qualified technicians. In addition, the consultant will be required to verify quantities installed by the contractor and prepare the monthly pay estimate utilizing the City’s proprietary software program. The consultant inspector will furnish all necessary equipment, including but not limited to vehicles, to fulfill their inspection responsibilities other than the equipment supplied by the

City. The consultant inspector will function as an extension of City staff and report to the Construction, Survey and Utilities Program Manager or his appointed designee.

In the event the Contractor submits a claim for additional compensation and/or time, the CEI shall assist City staff in analyzing the claim, engaging in negotiations leading to settlement of the claim, preparing and processing the required documentation to close out the claim and any other tasks that arise from such claim.

A more detailed scope of services will be determined on a project-by-project basis as projects are assigned on an on-call basis via work order or task order.

Should a project be federally funded, the consultant inspector will be responsible for collecting and reviewing the required documentation per NCDOT specifications and LGA/LPA requirements for NCDOT auditors for reimbursement. The City may also request a Project Manager be provided for federally funded projects in order to monitor the LGA/LAP requirements of the NCDOT auditors. (Per Section 106-3 of NCDOT Standard Specifications for Roads and Structures and LGA/LPA requirements)

Services provided by the Consultant shall comply with current City of Charlotte, NCDOT and FHWA manuals, procedures, and memorandums found on the City of Charlotte, NCDOT and FHWA websites.

On a single Construction Contract, it is a conflict of interest for a professional firm to receive compensation from both the City of Charlotte and the Contractor either directly or indirectly. It is also considered a conflict for a professional firm to receive compensation from the Engineer of Record for the project.

The Consultant must perform to the satisfaction of the City's representatives for consideration of additional CEI services.

2.1 ITEMS TO BE FURNISHED BY THE CITY TO THE CONSULTANT:

- C. The City, on an as-needed basis, will furnish the following for each project assigned. Documents may be provided in either paper or electronic format:
1. Construction Plans
 2. Executed Construction Contract including Specifications Package
 3. Computer/Laptop with access to the City's Proprietary Software Program
 4. Either a cell phone or an electronic key for the consultant's cell phone to access the City laptop and network
 5. Access to the Charlotte Mecklenburg Government Center (CMGC)

6. Any other pertinent project information necessary.
- D. Any equipment provided by the City shall remain with the Consultant at all times during the duration of the project. The Consultant shall retain responsibility for risk of loss or damage to said equipment during performance of this Agreement. All equipment to be returned to the City at the end of the Task Order agreement and prior to approval of final invoice for services rendered.
- needed to minimize disruptions.
5. Quality Assurance:
 - Ensure that project schedules adhere to industry standards and best practices.
 - Conduct periodic reviews of project schedules to identify areas for improvement or optimization.
 - Verify the accuracy of schedule data and resolve any discrepancies or inconsistencies.
 6. Stakeholder Coordination:
 - Collaborate with project stakeholders, including clients, contractors, and regulatory agencies, to address scheduling issues and concerns.
 - Facilitate meetings and discussions to ensure alignment on project schedules and objectives.
 - Provide support and guidance to project teams to help them understand and adhere to schedule requirements.
 7. Documentation and Record-Keeping:
 - Maintain accurate records of project schedules, revisions, and updates.
 - Document decisions, agreements, and actions related to schedule management.
 - Ensure compliance with relevant documentation standards and requirements.

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CONTRACT NUMBER: 2025xxxxxx

AWARD DATE: _____

EXPIRATION DATE: _____



SAMPLE CONTRACT

MASTER AGREEMENT FOR PROFESSIONAL SERVICES

SERVICES:

On-call Construction, Engineering, and Inspection (CEI) Services

for

Unspecified Transportation (Horizontal) Projects

(Federally Funded)

OWNER:

City of Charlotte

CONSULTANT:

TBD

This **MASTER AGREEMENT**, made and entered into this _____ day of _____ 2024, (“Effective Date”), by and between the CITY OF CHARLOTTE, a North Carolina municipal corporation, hereinafter referred to as the “City,” and TBD, a North Carolina professional corporation, hereinafter referred to as the “Consultant.”

GENERAL RECITALS

WHEREAS, the City advertised Request for Qualifications RFQ269-2025-082 for **On-Call Construction, Engineering, And Inspection (CEI) Services for Unspecified Transportation Projects**, dated May 25, 2024;

WHEREAS, the Consultant submitted a proposal in response to the Request for Qualification;

WHEREAS, the City desires to engage the Consultant, as needed, to provide construction, engineering, and inspection services for unspecified transportation projects and unspecified vertical construction projects as outlined hereinafter upon the terms and conditions as set out herein;

WHEREAS, the Consultant desires to provide such professional services as outlined hereinafter upon the terms and conditions set out herein;

WHEREAS, the City is authorized by the City Council to enter into an Agreement for performance of such professional services;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and further consideration of the covenants and representation contained herein, the parties agree as follows:

AGREEMENT

1. INCORPORATION OF EXHIBITS

The following exhibits are attached to this Agreement and are incorporated into and made a part of this Agreement:

- EXHIBIT A: Scope of Work
- EXHIBIT B: Project Schedule
- EXHIBIT C: Unit Costs
- EXHIBIT D: Key Personnel
- EXHIBIT E: Small Professional Service Firms
- EXHIBIT F: Commercial Non-Discrimination Certification

EXHIBIT G: Federal Contract Terms
EXHIBIT H: Certificate of Insurance
EXHIBIT I: Task Order

2. DEFINITIONS

ACCEPTANCE refers to the receipt and approval by the City of a Deliverable or Service in accordance with the acceptance process and criteria set forth in this Agreement.

AGREEMENT refers to this written agreement executed by the City and the Consultant for the Services as outlined herein.

CONTRACT PERIOD refers to the number of calendar days or specified date set forth in the Agreement for completion of the Services, including authorized amendments or modifications thereto; also referred to as Time of Completion.

CITY refers to the City of Charlotte, North Carolina.

CITY PROJECT MANAGER refers to the specified City employee representing the best interests of the City for the Services.

CONSULTANT PROJECT MANAGER refers to the specified Consultant employee representing the best interests of the Consultant for the Services.

DELIVERABLES refer to all tasks, reports, information, designs, plans, specifications, documents and other items, which the Consultant is required to complete and deliver to the City in connection with Task Orders issued under this Agreement.

DEPARTMENT refers to a department within the City of Charlotte.

DOCUMENTATION refers to all written, electronic, or recorded works, that describe the use, functions, features, or purpose of the Deliverables or Services or any component thereof, and which are published or provided to the City by the Consultant or its subcontractors, including without limitation all end user manuals, training manuals, guides, program listings, data models, flow charts, logic diagrams, and other materials related to or for use with the Deliverables or Services.

SERVICES refer to the services to be performed by the Consultant pursuant to this Agreement.

SPECIFICATIONS AND REQUIREMENTS refer to all definitions, descriptions, requirements, criteria, warranties and performance standards relating to the Deliverables and Services which are set forth or referenced in: (i) this Agreement, (ii) the Documentation; and (iii) any functional and/or technical specifications which are published or provided by the Consultant or its licensors or suppliers from time to time with respect to all or any part of the Deliverable or Services.

WORK PRODUCT refers to the Deliverables and all other reports, information, designs, plans and other items developed by the Consultant in connection with this Agreement, and all partial, intermediate or preliminary versions of any of the foregoing.

3. **DESCRIPTON OF SERVICES**

The City and the Consultant will negotiate the details of Task Orders for specific projects under this Agreement. The Consultant will execute and submit to the City a proposed Task Order in the form of **Exhibit I** for each scope of work that the Consultant proposes to provide to the City under this Agreement. The City may accept the proposed Task Order by issuing a purchase order. Upon issuance of such purchase order, the Task Order and the purchase order shall be deemed incorporated into and made a part of this Agreement, and each reference to an accepted Task Order in this Agreement shall be deemed to include both the Task Order in the form accepted by the City and the purchase order. In the event of a conflict between the main body of this Agreement and the Task Order, the main body of this Agreement shall prevail. In the event of a conflict between the City's purchase order and the main body of this Agreement, the main body of this Agreement shall prevail. In the event of a conflict between the City's purchase order and the remainder of the Task Order, the City's purchase order will prevail. The City will not be legally obligated by a Task Order absent a City issued purchase order. This Agreement is for an indefinite quantity with no minimum purchase requirement. The Consultant is not approved to start work until receipt of a purchase order.

The Consultant shall perform the services detailed in the Task Order and generally described in **Exhibit A – Scope of Work**, attached to this Agreement and incorporated herein by reference (the "Services"). Unless otherwise provided in the Task Order, the Consultant shall obtain and provide all labor, materials, equipment, transportation, facilities, services, permits, and licenses necessary to perform the Services.

The Consultant will comply with the schedule set forth in each Task Order issued during the Agreement Period. All references to days in this Agreement (including the exhibits) shall refer to

calendar days rather than business days, unless a provision specifically uses the term “business days.” Any references to “business days” shall mean the days that the City’s offices are open for the public to transact business.

4. COMPENSATION

4.1. FEES AND CHARGES

The City agrees to pay the Consultant for actual Services performed in an amount not to exceed \$_____, and to reimburse reasonable expenses incurred, in accordance with Task Orders issued under this Agreement. Fees provided in Task Orders shall be calculated using the hourly and unit rates set forth in **Exhibit C**.

The City will pay for the Services at the rates set forth in **Exhibit C** and these rates shall remain firm for the initial term of the Contract. For any renewal terms, Company may propose a price increase by submitting legitimate, bona fide documentation sufficient to demonstrate the price increase is necessary. The City may approve such price increase for the remaining term of the renewal period or for a shorter specified period, in the City's sole discretion. No proposed price increase shall be valid unless accepted by the City in writing. If the City rejects such price increase, the Company shall continue the performance of this Contract.

4.2. REIMBURSABLE EXPENSES

Reimbursable expenses shall be limited to the actual expenditures made by the Consultant during the performance of the Services. The following expenses may be reimbursed at cost:

Travel

- a. Vehicular transportation at the rate established by the Internal Revenue Service current at the time the travel occurs; and
- b. Parking fees.

Communications

- a. Long-distance phone call expenses; and
- b. Postage including express mail costs for sending Project documents.

Permitting Fees

- a. Permit costs and fees paid for securing approval of authorities having jurisdiction over the Project.

Reprographics, Renderings, and Models

- a. Copying and binding expenses for drawings, specifications, reports and other Project documents;
- b. Photography as approved by the City's Project Manager; and
- c. Renderings and models requested by the City if not specifically included in basic services.

4.3. *INVOICES*

Each month after Services have been performed, the Consultant shall submit an invoice to the City stating the nature and quantity of Services performed and accompanied by proper supporting documentation as the City may require, including a monthly project status report. Hourly rates, unit prices, and reimbursable expenses, as applicable, shall be itemized on each invoice. The Consultant shall charge the City at regular hourly billing rates for any overtime hours worked (as defined by the Fair Labor Standards Act).

The Consultant may submit invoices using one of the following options:

OPTION 1:

The Consultant shall email all invoices to cocap@charlottenc.gov

OR

OPTION 2:

The Consultant shall mail all invoices to:

City of Charlotte AP

Attn: Chris Jiles - Department of General Services - Construction, Survey and Utility Division

P.O. Box 37979

Charlotte, NC 28237-7979

Each invoice must contain the following information:

Purchase Order Number: Individually assigned

Agreement Number: 2025000XXX

City Contact Name: Chris Jiles

City Contact Department: Department of General Services-Construction, Survey and Utility Division

The City will pay accurate, undisputed, properly submitted invoices within thirty (30) days after the receipt from the Consultant. An undisputed properly submitted invoice is defined as an invoice that indicates only those items that have been satisfactorily completed and accepted by the City.

As a condition of payment, the Consultant must invoice the City for Services within sixty (60) days after such Services are performed. The Consultant waives the right to payment for any Services that have not been invoiced to the City within sixty (60) days after such Services were rendered.

4.4. *PRE-CONTRACT COSTS*

The City shall not be charged for any Services or other work performed by the Consultant prior to the Effective Date of this Agreement.

4.5. *COST OVERRUNS*

If it appears during the course of performance of the Services that any of the estimated fees and allowances in a Task Order may be exceeded, the Consultant shall immediately notify the City's Project Manager in writing. The estimated fees and allowances shall not be exceeded except by written amendment to the Task Order. Any work performed without prior written approval shall be at the Consultant's expense.

4.6. *ACCOUNTING AND AUDITING*

The Consultant shall maintain complete and accurate records, using Generally Accepted Accounting Principles (GAAP), of all costs related to this Agreement and all Task Orders issued under this Agreement. Such records shall be open to inspection and subject to audit and/or reproduction, during normal working hours, by the City's agent or authorized representative to the extent necessary to adequately permit evaluation and verification of any invoices, payments, or claims submitted by the Consultant or any of his payees in connection with this Agreement and all Task Orders issued under this Agreement. Records subject to examination will include, but are not limited to, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement and all Task Orders issued under this Agreement.

For the purpose of such inspections, the City's agent or authorized representative shall have access to said records from the Effective Date of this Agreement, for the duration of the Services, and until three (3) years after the date of final payment by the City to the Consultant pursuant to this Agreement.

The City's agent or authorized representative shall have access to the Consultant's facilities and shall be provided an adequate and appropriate workplace, in order to conduct audits in compliance with this Section. The City will give the Consultant reasonable advance notice of planned inspections. If, as the result of an audit hereunder, the Consultant is determined to have charged the City for amounts that are not allocable or verifiable, the Consultant shall promptly reimburse the City for said amount.

4.7. WITHHOLDING OF PAYMENTS

The parties agree that the City shall be entitled to withhold payments, including final payment, due to the Consultant under this Agreement until the City has received in a form satisfactory to the City all claim releases and other documentation, including but not limited to the City's Small Professional Service Firm Program.

4.8. PAYMENT REPORTING

Payment Reporting. As a condition for receiving payments under this Agreement, the Contractor agrees to submit any payment record into InclusionCLT, or any subsequent system designated by the City, detailing the amounts paid by the Contractor to all subcontractors and suppliers receiving payment in connection with this Contract.

4.9. PROMPT PAYMENT TO SUBCONTRACTORS

The Consultant shall pay subcontractors for satisfactory performance of their subcontracts within seven (7) days after the City has paid the Consultant for such work. If the Consultant withholds any retainage pending final completion of any subcontractor's work, the Consultant is required to pay the retainage so withheld within seven (7) days after such subcontractor completes his work satisfactorily.

4.10. NON-APPROPRIATION OF FUNDS

If the Charlotte City Council does not appropriate the funding needed by the City to make payments under this Agreement for any given fiscal year, the City will not be obligated to pay amounts due beyond the end of the last fiscal year for which funds were appropriated. In such event, the City will promptly notify the Consultant of the non-appropriation and this Agreement will be terminated at the end of the fiscal year for which the funds were appropriated. No act or omission by the City, which is attributable to non-appropriation of funds shall constitute a breach of or default under this Agreement.

4.11 *PRE-AUDIT CERTIFICATE*

No pre-audit certificate is required under NCGS 159-28(a) because this Agreement is for an indefinite quantity with no minimum purchase requirement. Notwithstanding anything contained herein to the contrary, this Agreement does not require the City to purchase a single product or service, and a decision by the City to not make any purchase hereunder will violate neither this Agreement nor any implied duty of good faith and fair dealing. The City has no financial obligation under this Agreement absent the City's execution of a valid and binding purchase order containing a pre-audit certificate.

5. **CONTRACT PERIOD**

This Agreement shall commence on the Effective Date and shall continue in full force until **DECEMBER 31, 2027**. Any unexpended funds remaining in Task Orders at the end of the Contract term shall be liquidated.

6. **CONSULTANT'S RESPONSIBILITIES**

Upon receipt of a written Task Order and Notice to Proceed, Consultant shall:

- a. Provide for the City professional services in all phases of the Project to which this Agreement applies;
- b. Serve as City's professional for the Project as directed by the City's Project Manager;
- c. Furnish professional consultation and advice and furnish customary services incidental to the Project;
- d. Review available data and consult with City to clarify and define the City's requirements;
- e. Obtain that information, conduct those investigations, and undertake other reasonable efforts necessary for the Consultant to become conversant with the philosophy and purpose of the Project and to carry out its responsibilities; and
- f. Identify and analyze requirements of governmental authorities having jurisdiction and assist the City in obtaining required approval from such authorities.

7. **DUTY OF CONSULTANT TO IDENTIFY AND REQUEST INFORMATION, PERSONNEL AND FACILITIES**

The Consultant shall identify and request in writing from the City in a timely manner: (i) all information reasonably required by the Consultant to perform the Services, (ii) a list of the City's personnel whose presence or assistance reasonably may be required by the Consultant to perform the Services, and (iii) any other equipment, facility or resource reasonably required by the Consultant to perform the Services. Notwithstanding the foregoing, the Consultant shall not be entitled to request that the City provide information, personnel, or facilities other than those

which **Exhibit A** specifically requires the City to provide. The Consultant shall not be relieved of any failure to perform under this Agreement by virtue of the City's failure to provide any information, personnel, equipment, facilities, or resources: (i) that the Consultant failed to identify and request in writing from the City pursuant to this Section; or (ii) which the City is not required to provide pursuant to this Agreement. In the event the City fails to provide any information, personnel, facility, or resource that it is required to provide under this Section, the Consultant shall notify the City in writing immediately in accordance with the notice provision of this Agreement. Failure to do so shall constitute a waiver by Consultant of any claim or defense it may otherwise have based on the City's failure to provide such information, personnel, facility, or resource.

8. POINTS OF CONTACT; NOTIFICATIONS

8.1. CITY PROJECT MANAGER

The duties of the City Project Manager include:

- a. Examining the documents submitted by the Consultant and expediting decisions concerning the documents in order to avoid unreasonable delay in the progress of the Consultant's Services;
- b. Ensuring that the Consultant delivers all requirements and specifications outlined in this Agreement, including all Task Orders issued under this Agreement;
- c. Coordinating the City's resource assignment as required to fulfill the City's obligations pursuant to this Agreement;
- d. Promptly responding to the Consultant's Project Manager when consulted in writing or by email with respect to Project issues; and
- e. Acting as the City's point of contact for all aspects of the Project including contract administration and coordination of communication with the City's staff.

The City Project Manager is:

Chris Jiles
Asst. Construction Program Manager
City of Charlotte
Department of General Services
600 E. 4th Street, 12th Fl
Charlotte, NC 28202
704-634-4881
Chris.Jiles@charlottenc.gov

The Consultant shall contact the City Project Manager prior to all meetings involving City personnel.

8.2. CONSULTANT PROJECT MANAGER

The duties of the Consultant Project Manager include, but are not limited to:

- a. Coordinating Project schedules and the Consultant's resource assignment based upon the City's requirements and schedule constraints;
- b. Managing the overall Project by monitoring and reporting on the status of the Project and on actual versus projected progress, and by consulting with the City Project Manager when deviations occur and by documenting all such deviations in accordance with agreed upon change control procedures;
- c. Providing consultation and advice to the City on matters related to Project implementation strategies, key decisions and approaches, and Project operational concerns/issues and acting as a conduit to the Consultant's specialist resources that may be needed to supplement the Consultant's normal implementation staff;
- d. Acting as the Consultant's point of contact for all aspects of contract administration, including invoicing for Services, and status reporting;
- e. Facilitating review meetings and conferences between the City and the Consultant's staff when scheduled or requested by the City;
- f. Communicating among and between the City and the Consultant's staff;
- g. Promptly responding to the City's Project Manager when consulted in writing or by email with respect to Project deviations and necessary documentation;
- h. Identifying and providing the City with timely written notice of all issues that may threaten the Consultant's Services in the manner contemplated by the Agreement (with "timely" meaning immediately after the Consultant becomes aware of them);
- i. Ensuring that adequate quality assurance procedures are in place throughout the Project; and
- j. Meeting with other entities working on City projects that relate to this effort as necessary to resolve problems and coordinating the Services.

The Consultant Project Manager is:

Name
Title
Company Name
Address
City, State, Zip Code

Phone

TBD@email.com

8.3. NOTICES AND PRINCIPAL CONTACTS

Any notice, consent or other communication required or contemplated by this Agreement shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by telefax to the intended recipient at the address set forth below:

For the City:

Chris Jiles
Asst. Construction Program Manager
City of Charlotte
Department of General Services
600 E. 4th Street, 12th Fl
Charlotte, NC 28202
704-634-4881
Chris.Jiles@charlottenc.gov

For the Consultant:

Name
Title
Company Name
Address
City, State, Zip Code
Phone
TBD@email.com

Notice shall be effective upon the date of receipt by the intended recipient; provided that any notice that is sent by telefax or electronic mail shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier. Each party may change its address for notification purposes by giving the other party written notice of the new address and the date upon which it shall become effective.

9. REMOVAL, REPLACEMENT AND PROMOTION OF CONSULTANT PERSONNEL

The City will have the right to require the removal and replacement of any personnel of the Consultant or the Consultant's subcontractors who are assigned to perform Services for the City.

The City shall be entitled to exercise such right in its sole discretion by providing written notice to the Consultant.

The City must approve in writing any hires or transfers of personnel to “Key Personnel” positions on the Project, and the City shall have the right to interview all personnel that the Consultant proposes to hire or transfer to such positions. As used in this Agreement, the term “Key Personnel” shall mean any personnel of the Consultant or its subcontractors who are identified as Key Personnel in **Exhibit D** to the Agreement, or whom the City from time to time designates in writing to the Consultant as fulfilling a key role in the Project. Unless approved by the City in writing, the Consultant will not: (i) remove the Consultant’s Key Personnel from the Project or permit its subcontractors to remove Key Personnel from the Project; or (ii) materially reduce the involvement of the Consultant’s Key Personnel in the Project or allow its subcontractors to materially reduce the involvement of Key Personnel in the Project.

The Consultant will replace any personnel who leave the Project with equivalently qualified persons. The Consultant will replace such personnel as soon as reasonably possible, and in any event within thirty (30) days after the Consultant first receives notice that the person will be leaving the Project.

If the Consultant falls more than 7 days behind in completing any Deliverable required by this Agreement, the Consultant will devote all personnel assigned to the Project to working on the Project on a first priority basis. As used in this Agreement, the term “personnel” includes all staff provided by the Consultant or its subcontractors, including but not limited to Key Personnel.

10. PROGRESS REPORTS

The Consultant shall prepare and submit to the City, at such times as may be agreed under a specific Task Order, written progress reports, which accomplish each of the following:

- a. Update the project schedule, indicating progress for each task and Deliverable.
- b. Identify all information, personnel, equipment, facilities and resources of the City that will be required for the Consultant to perform the Services for the subsequent month.
- c. Identify and report the status of all tasks and Deliverables that have fallen behind schedule.

- d. Identify and summarize all risks and problems identified by the Consultant, which may affect the performance of the Services.
- e. For each risk and problem, identify the action and person(s) responsible for mitigating the risk and resolving the problem.
- f. For each risk and problem identified, state the impact on the project schedule.

11. QUALITY CONTROL PROGRAM

The Consultant shall establish and follow a quality control program throughout duration of the Agreement. The Quality Control Program will identify review personnel and describe the procedures to be used to verify, to independently check, and to review all Deliverables prepared, as well as any function, activity, or task as part of this Agreement. The Quality Control Program will specify the manner for documenting the check and review processes, recording required procedures, and verification of work activities. It will provide for internal reviews and will detail the frequency and types of reviews to be conducted for the specific job to ensure compliance with quality standards. The City Project Manager, at his/her sole discretion, may request a copy of the Quality Control Program from the Consultant.

Throughout the Agreement duration, the Consultant will maintain quality control procedures as covered in the approved Quality Control Program and documentation of the Consultant's internal reviews for inspection by the City Project Manager. The City Project Manager will have the option to review proposed Deliverables in the Consultant's office periodically to verify that proper quality control procedures are employed in the development process.

12. ACCEPTANCE OF DELIVERABLES

If the City Project Manager is not satisfied that the Deliverable(s) have been met, a notice of rejection (a "Rejection Notice") shall be submitted to the Consultant by the City Project Manager that specifies the nature and scope of the deficiencies that require correction. Upon receipt of a Rejection Notice, the Consultant shall: (a) act diligently and promptly to correct all deficiencies identified in the Rejection Notice, and (b) immediately upon completing such corrections give the City a written, dated certification that all deficiencies have been corrected (the "Certification"). In the event the Consultant fails to correct all deficiencies identified in the Rejection Notice and provide a Certification within fifteen (15) days after receipt of the Rejection Notice, the City shall

be entitled to terminate this Agreement for default without further obligation to the Consultant and without obligation to pay for the defective work.

Upon receipt of the corrected Deliverable(s), or a Certification, whichever is later, the above-described Acceptance procedure shall recommence. The City shall not be obligated to allow the Consultant to recommence curative action with respect to any deficiency previously identified in a Rejection Notice, or more than once for any given Deliverable and shall be entitled to terminate this Agreement for default if the Consultant does not meet this time frame.

13. NON-EXCLUSIVITY

The Consultant acknowledges that it is one of several providers of professional services to the City and the City does not represent that it is obligated to contract with the Consultant for any particular project.

14. REPRESENTATIONS AND WARRANTIES OF CONSULTANT

14.1. GENERAL WARRANTIES.

- a. The Services shall satisfy all requirements set forth in the Agreement and the Task Orders, including but not limited to the attached Exhibits;
- b. The Consultant has taken and will continue to take precautions sufficient to ensure that it will not be prevented from performing all or part of its obligations under the Agreement by virtue of interruptions in the computer systems used by the Consultant;
- c. All Services performed by the Consultant and/or its subcontractors pursuant to this Agreement shall meet the customary industry standards and shall be performed in a professional and workmanlike manner by staff with the necessary skills, experience, and knowledge;
- d. Neither the Services, nor any Deliverables provided by the Consultant under this Agreement will infringe or misappropriate any patent, copyright, trademark, or trade secret rights of any third party. The Consultant shall not violate any non-compete agreement or any other agreement with any third party by entering into or performing this Agreement;
- e. The Consultant and each employee provided by the Consultant to the City for this Project shall have the qualifications, skills, and experience necessary to perform the Services described or referenced in **Exhibit A**;
- f. All information provided by the Consultant about each employee is accurate; and
- g. Each employee is an employee of the Consultant, and the Consultant shall make all payments and withholdings required for by law for the Consultant for such employee.

14.2. ADDITIONAL WARRANTIES

The Consultant further represents and warrants that:

- a. It is a legal entity and if incorporated, duly incorporated, validly existing and in good standing under the laws of the state of its incorporation or licensing and is qualified to do business in North Carolina;
- b. It has all the requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement;
- c. The execution, delivery, and performance of this Agreement have been duly authorized by the Consultant;
- d. No approval, authorization, or consent of any governmental or regulatory authority is required to be obtained or made by it in order for it to enter into and perform its obligations under this Agreement;
- e. In connection with its obligations under this Agreement, it shall comply with all applicable federal, state, and local laws and regulations and shall obtain all applicable permits and licenses; and
- f. The performance of this Agreement by the Consultant and each employee provided by the Consultant will not violate any contracts or agreements with third parties or any third-party rights (including but not limited to non-compete agreements, non-disclosure agreements, patents, trademarks or intellectual property rights).

15. OTHER OBLIGATIONS OF THE CONSULTANT**15.1. WORK ON CITY PREMISES**

The Consultant will, whenever on the City premises, obey all instructions and City policies that the Consultant is made aware of with respect to performing work on the City premises.

15.2. RESPECTFUL AND COURTEOUS BEHAVIOR

The Consultant shall assure that its employees interact with City employees and with the public in a courteous, helpful, and impartial manner. All employees of the Consultant in both field and office shall refrain from belligerent behavior and/or profanity. Correction of any such behavior and language shall be the responsibility of the Consultant.

15.3. REGENERATION OF LOST OR DAMAGED DATA

If the Consultant loses or damages any data in the City's possession, the Consultant shall, at its own expense, promptly replace or regenerate such data from the City machine-readable supporting material, or obtain, at the Consultant's own expense, a new machine-readable copy of lost or damaged data from the City data sources.

15.4. REPAIR OR REPLACEMENT OF DAMAGED EQUIPMENT OR FACILITIES

In the event that the Consultant causes damage to the City equipment or facilities, the Consultant shall, at its own expense, promptly repair or replace such damaged items to restore them to the same level of functionality that they possessed prior to the Consultant's action.

16. REMEDIES

16.1. RIGHT TO COVER

If the Consultant fails to meet any completion date or resolution time set forth in a Task Order under this Agreement (including the Exhibits), the City may take any of the following actions with or without terminating this Agreement, and in addition to and without limiting any other remedies it may have:

- a. Employ such means as it may deem advisable and appropriate to perform itself or obtain the Services from a third party until the matter is resolved and the Consultant is again able to resume performance under this Agreement; and
- b. Deduct any and all expenses incurred by the City in obtaining or performing the Services from any money then due or to become due to the Consultant and, should the City's cost of obtaining or performing the Services exceed the amount due the Consultant, collect the amount due from the Consultant.

16.2. RIGHT TO WITHHOLD PAYMENT

If the Consultant breaches any provision of this Agreement, the City shall have a right to withhold all payments due to the Consultant until such breach has been fully cured.

16.3. OTHER REMEDIES

Upon breach of this Agreement, each party may seek all legal and equitable remedies to which it is entitled. The remedies set forth herein shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy.

17. TERMINATION OF CONTRACT

17.1. TERMINATION FOR CONVENIENCE

The City may terminate this Agreement for convenience at any time, for any reason or no reason, by giving thirty (30) days' prior written notice to the Consultant. In the event the Agreement is terminated pursuant to this Section, the Consultant shall continue performing the Services under authorized Task Orders until the termination date designated in the termination notice. As soon as practicable after written notice of termination without cause, Consultant shall submit a statement to the City showing in detail the authorized Services performed under this Agreement

through the date of termination. In the event of termination without cause pursuant to this Section, the City agrees to: (i) pay the Consultant for authorized Services rendered through the termination date at the rates set forth in **Exhibit C**. The foregoing payment obligation is contingent upon: (i) the Consultant having fully complied with this Section; and (ii) the Consultant having provided the City with written documentation reasonably adequate to verify the number of hours of Services rendered by each person through the termination date and the percentage of completion of each Deliverable.

Nothing in this Section shall be construed as limiting any right of either party in the event of a breach.

17.2. TERMINATION FOR DEFAULT

By giving written notice to the Consultant, the City may terminate the Agreement upon the occurrence of one or more of the following events:

- a. The Consultant fails to complete a particular task by the completion date set forth in a Task Order;
- b. The Consultant makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this Agreement, or any covenant, agreement, obligation, term or condition contained in this Agreement or any Task Orders under this Agreement; or
- c. The Consultant takes or fails to take any action which constitutes grounds for immediate termination under the terms of the Agreement, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by the Agreement, or failure to provide the proof of insurance as required by the Agreement.
- d. The Consultant violates or fails to perform any covenant, provision, obligation, term or condition contained in the Agreement, provided that, unless otherwise stated in the Agreement, such failure or violation shall not be cause for termination if both of the following conditions are satisfied: (i) such default is reasonably susceptible to cure; and (ii) the other party cures such default within fifteen (15) days of receipt of written notice of default from the non-defaulting party;

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- e. The Consultant attempts to assign, terminate or cancel the Agreement contrary to the terms hereof;
 - f. The Consultant ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under the Agreement shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of the Consultant's assets or properties.

Any notice of default shall identify this Section of the Agreement and shall state the City's intent to terminate the Agreement if the default is not cured within the specified period.

Notwithstanding anything contained herein to the contrary, upon termination of this Agreement by the City for default, the Consultant shall continue to perform the Services required by this Agreement: (i) for six (6) months after the date of written termination notice; (ii) until the date on which the City completes its transition to a new service provider; or (iii) until a date specified by the City in the written termination notice.

17.3. CANCELLATION OF ORDERS AND SUBCONTRACTS

In the event this Agreement is terminated by the City for any reason prior to the end of the term, the Consultant shall upon termination immediately discontinue all service in connection with this Agreement and promptly cancel all existing orders and subcontracts, which are chargeable to this Agreement. As soon as practicable after receipt of notice of termination, the Consultant shall submit a statement to the City showing in detail the authorized Services performed under this Agreement to the date of termination.

17.4. AUTHORITY TO TERMINATE

The following persons are authorized to terminate this Agreement on behalf of the City: (a) the City Manager; (b) any Assistant City Manager; or (c) the Department Director of the City Department responsible for administering this Agreement.

17.5. OBLIGATIONS UPON EXPIRATION OR TERMINATION

Upon expiration or termination of this Agreement, the Consultant shall promptly return to the City (i) all computer programs, files, documentation, media, related material and any other

material and equipment that is owned by the City; (ii) all Deliverables that have been completed or that are in process as of the date of termination; and (iii) a written statement describing in detail all work performed with respect to Deliverables which are in process as of the date of termination.

17.6. NO EFFECT ON TAXES, FEES, CHARGES OR REPORTS

Termination of this Agreement shall not relieve the Consultant of the obligation to pay any fees, taxes, or other charges then due to the City, nor relieve the Consultant of the obligation to file any daily, monthly, quarterly, or annual reports nor relieve the Consultant from any claim for damages previously accrued or then accruing against the Consultant.

17.7. TRANSITION SERVICES UPON TERMINATION

Upon termination or expiration of this Agreement, the Consultant shall cooperate with the City to assist with the orderly transfer of the Services provided by the Consultant to the City. Prior to termination or expiration of this Agreement, the City may require the Consultant to perform and, if so required, the Consultant shall perform certain transition services, necessary to shift the Services of the Consultant to another provider or to the City itself as described below (the "Transition Services"). Transition Services may include but shall not be limited to the following:

- a. Working with the City to jointly develop a mutually agreed upon Transition Services Plan to facilitate the termination of the Services;
- b. Notifying all affected service providers and subcontractors of the Consultant;
- c. Performing the Transition Service Plan activities;
- d. Answering questions regarding the Services on an as-needed basis; and
- e. Providing such other reasonable services needed to effectuate an orderly transition to a new service provider.

18. CHANGES

In the event changes to the Services (collectively "Changes"), become necessary or desirable to the parties, the parties shall follow the procedures set forth in this Section. A Change shall be effective only when documented in writing which expressly references and is attached to this Agreement (an "Amendment"). The Amendment shall set forth in detail: (i) the Change requested, including all modifications of the duties of the parties; (ii) the reason for the proposed Change; and (iii) a detailed analysis of the impact of the Change on the results of the Services and time for completion of the Services, including the impact on all milestones and delivery dates and any associated price.

In the event either party desires a Change, the Project Manager for such party shall submit to the other party's Project Manager a proposed Amendment. If the receiving party does not accept the Amendment in writing within ten (10) days, the receiving party shall be deemed to have rejected the Amendment. If the parties cannot reach agreement on a proposed Change, the Consultant shall nevertheless continue to render performance under this Agreement in accordance with its (unchanged) terms and conditions.

19. RELATIONSHIP OF THE PARTIES

The relationship of the parties established by this Agreement is solely that of independent contractors. Nothing contained in this Agreement shall be construed to (i) give any party the power to direct or control the day-to-day administrative activities of the other; or (ii) constitute such parties as partners, co-owners or otherwise as participants in a joint venture. Neither party nor its agents or employees is the representative of the other for any purpose, and neither party has power or authority to act for, bind, or otherwise create or assume any obligation on behalf of the other.

20. CITY OWNERSHIP OF WORK PRODUCT

The parties agree that the City shall have exclusive ownership of all reports, documents, designs, ideas, materials, reports, concepts, plans, specifications, creative works, software, data, programming code, documents and other work product developed for or provided to the City in connection with this Agreement, and all patent rights, copyrights, trade secret rights and other intellectual property rights relating thereto (collectively the "Intellectual Property"). The Consultant hereby assigns and transfers all rights in the Intellectual Property to the City. The Consultant further agrees to execute and deliver such assignments and other documents as the City may later require to perfect, maintain and enforce the City's rights as sole owner of the Intellectual Property, including all rights under patent and copyright law. The Consultant hereby appoints the City as attorney in fact to execute all such assignments and instruments and agrees that its appointment of the City as an attorney in fact is coupled with an interest and is irrevocable.

The City grants the Consultant a royalty-free, non-exclusive license to use and copy the Intellectual Property to the extent necessary to perform this Agreement. The Consultant shall not be entitled to use the Intellectual Property for other purposes without the City's prior written consent.

The Consultant represents and warrants that the Intellectual Property will not infringe or misappropriate the intellectual property or other rights of any person or entity, and that the City

shall have the unrestricted right to use the Intellectual Property for any purpose. The Consultant further represents and warrants that it has the right to grant the rights granted to the City in this Section on behalf of the Consultant subcontractors.

The City recognizes that the Intellectual Property may be generated, stored, transmitted or published in various media, including, but not limited to traditional hard-copy (i.e., blue prints), CADD formats, via Internet or Extranet websites or other electronic or other media and such Intellectual Property may be subject to unauthorized tampering, modifications and alterations (collectively hereinafter referred to as "Unauthorized Use") by parties over whom the Consultant has no control. The Intellectual Property is also subject to discrepancies as a result of numerous factors, including without limitation, transmission and translation errors resulting from differences in computer software, hardware and equipment-related problems, disk malfunctions, and user error (collectively hereinafter referred to as "Discrepancies").

Accordingly, the Consultant has no responsibility for any Discrepancies in the Intellectual Property that are beyond the Consultant's reasonable control. The Consultant shall maintain a hard copy of the Intellectual Property for three (3) years from the date it completes all work under this Agreement. If requested, the Consultant shall provide the City with the Intellectual Property in electronic form, and the City agrees to release the Consultant from all claims, causes of action, suits, demands and damages, arising from or relating to any Discrepancies in such Intellectual Property that are beyond the Consultant's reasonable control.

21. LICENSING

The Consultant may be required to provide evidence of all valid licenses and certificates required for performance of the Services. Such evidence shall be delivered to the City no later than ten (10) days after the Consultant receives the notice requesting such information from the City. Licenses and certificates required for this Agreement include, by way of illustration and not limitation, licenses pertaining to or that may be required to be held by field professionals participating in the contract work.

22. INDEMNIFICATION

To the fullest extent permitted by law, the Consultant shall indemnify, defend and hold harmless each of the "Indemnitees" (as defined below) from and against any and all "Charges" (as defined below) paid or incurred as a result of any claims, demands, lawsuits, actions, or proceedings: (i) alleging violation, misappropriation or infringement of any copyright, trademark, patent, trade

secret or other proprietary rights with respect to the Services or any products or deliverables provided to the City pursuant to this Contract (“Infringement Claims”); (ii) seeking payment for labor or materials purchased or supplied by the Consultant or its subcontractors in connection with this Contract; (iii) arising from the Consultant’s failure to perform its obligations under this Contract, or from any act of negligence or willful misconduct by the Consultant or any of its agents, employees or subcontractors relating to this Contract, including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness or disease to any person(s) or damage or destruction to any property, real or personal, tangible or intangible; or (iv) arising from any claim that the Consultant or an employee or subcontractor of the Consultant is an employee of the City, including but not limited to claims relating to worker’s compensation, failure to withhold taxes and the like. For purposes of this Section: (a) the term “Indemnitees” means the City, any federal agency that funds all or part of this Contract, and each of the City’s and such federal agency’s officers, officials, employees, agents and independent contractors (excluding the Consultant); and (b) the term “Charges” means any and all losses, damages, costs, expenses (including reasonable attorneys’ fees), obligations, duties, fines, penalties, royalties, interest charges and other liabilities (including settlement amounts).

If an Infringement Claim occurs, the Consultant shall either: (i) procure for the City the right to continue using the affected product or service; or (ii) repair or replace the infringing product or service so that it becomes non-infringing, provided that the performance of the overall product(s) and service(s) provided to the City shall not be adversely affected by such replacement or modification. If the Consultant is unable to comply with the preceding sentence within thirty (30) days after the City is directed to cease use of a product or service, the Consultant shall promptly refund to the City all amounts paid under this Contract.

23. SUBCONTRACTING

Should the Consultant choose to subcontract, the Consultant shall remain fully responsible for performance of all obligations, which it is required to perform under the Agreement. Any subcontract entered into by Consultant shall name the City as a third party beneficiary.

24. INSURANCE

Throughout the term of this Agreement, the Consultant shall comply with the insurance requirements described in this Section. In the event the Consultant fails to procure and maintain each type of insurance required by this Agreement, or in the event the Consultant fails to provide

the City with the required certificates of insurance, the City shall be entitled to terminate this Agreement immediately upon written notice to the Consultant.

24.1. General Requirements

The Consultant shall not commence any work in connection with this Agreement until it has obtained all of the types of insurance set forth in this Section and the City has approved such insurance. The Consultant shall not allow any subcontractor to commence work on its subcontract until all insurance required of the subcontractor has been obtained and approved.

All insurance policies required by this Section shall be with insurers qualified and doing business in North Carolina recognized by the Secretary of State and the Insurance Commissioner's Office. The Consultant shall name the City as an additional insured under the commercial general liability policy required by this Section.

The Consultant's insurance shall be primary of any self-funding and/or insurance otherwise carried by the City for all loss or damages arising from the Consultant's operations under this agreement. The Consultant and each of its subcontractors shall and does waive all rights of subrogation against the City and each of the Indemnitees (as defined in **Section 22**).

The City shall be exempt from, and in no way liable for any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Consultant and/or subcontractor providing such insurance.

Prior to execution of this Agreement, the Consultant shall provide the City with certificates of insurance documenting that the insurance requirements set forth in this Section have been met, and that the City be given thirty (30) days' written notice of any intent to amend coverage or make material changes to or terminate any policy by either the insured or the insurer. The Consultant shall further provide such certificates of insurance to the City at any time requested by the City after execution of this Agreement and shall provide such certificates within five (5) days after the City's request. The City's failure to review a certificate of insurance sent by or on behalf of the Consultant shall not relieve the Consultant of its obligation to meet the insurance requirements set forth in this Agreement.

Should any or all of the required insurance coverage be self-funded/self-insured, the Consultant shall furnish to the City a copy of the Certificate of Self-Insurance or other documentation from the North Carolina Department of Insurance.

If any part of the work under this Agreement is sublet, the subcontractor shall be required to meet all insurance requirements set forth in this Section, provided that the amounts of the various types of insurance shall be such amounts as are approved by the City in writing. However, this will in no way relieve the Consultant from meeting all insurance requirements or otherwise being responsible for the subcontractor.

24.2. *Types of Insurance*

Consultant shall obtain and maintain during the life of this Agreement, with an insurance company authorized to do business in the State of North Carolina and acceptable to the Charlotte-Mecklenburg, Risk Management Division, the following insurance:

Automobile Liability. Bodily injury and property damage liability covering all owned, non-owned and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limit - bodily injury and property damage.

Commercial General Liability. Bodily injury and property damage liability as shall protect the Consultant and any subcontractor performing work under this Agreement, from claims of bodily injury or property damage which arise from operation of this Agreement, whether such operations are performed by the Consultant, any subcontractor, or anyone directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate, or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products, operations, personal injury liability and contractual liability, assumed under the indemnity provision of this Agreement. The City of Charlotte shall be listed as an additional insured under this coverage.

Workers' Compensation Insurance. The Consultant shall meet the statutory requirements of the State of North Carolina, \$100,000 per accident limit, \$500,000 disease per policy limit, \$100,000 disease each employee limit.

Professional Liability Insurance in an amount of not less than \$1,000,000 each claim and \$1,000,000 aggregate.

25. BACKGROUND CHECKS

Prior to starting work under this Agreement, the Consultant is required to conduct a background check on each Consultant employee assigned to work under the Agreement and shall require its subcontractors (if any) to perform a background check on each of their employees assigned to work under the Agreement (collectively, the "Background Checks"). Each Background Check must include: (a) the person's criminal conviction record from the states and counties where the person lives or has lived in the past seven years; and (b) a reference check.

After starting work under this Agreement, the Consultant is required to perform a Background Check for each new Consultant employee assigned to work under the Agreement and shall require its subcontractors (if any) to do the same for each of their new employees. If the Consultant undertakes a new project under the Agreement, then prior to commencing performance of the project the Consultant shall perform a Background Check for each Consultant employee assigned to work on the project and shall require its subcontractors (if any) to do the same for each of their employees.

If a person's duties under the Agreement fall within the categories described below, the Background Checks that the Consultant will be required to perform (and to have its subcontractors perform) shall also include the following additional investigation:

- a. If the job duties require driving: A motor vehicle records check.
- b. If the job duties include responsibility for initiating or affecting financial transactions: A credit history check.
- c. If job duties include entering a private household or interaction with children: A sexual offender registry check.

The Consultant must follow all State and Federal laws when conducting Background Checks, including but not limited to the Fair Credit Reporting Act requirements, and shall require its subcontractors to do the same.

The Consultant shall notify the City of any information discovered in the Background Checks that may be of potential concern for any reason.

The City may conduct its own background checks on principals of the Consultant as the City deems appropriate. By operation of the public records law, background checks conducted by the City are subject to public review upon request.

26. COMMERCIAL NON-DISCRIMINATION POLICY

As a condition of entering into this Contract, the Consultant represents and warrants that it will fully comply with the City's Commercial Non-Discrimination Policy, as described in Section 2, Article V of the Charlotte City Code, and consents to be bound by the award of any arbitration conducted thereunder. As part of such compliance, the Consultant shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, age or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors or suppliers in connection with a City contract or contract solicitation process, nor shall the Consultant retaliate against any person or entity for reporting instances of such discrimination. The Consultant shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its subcontracting and supply opportunities on City contracts, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace. The Consultant understands and agrees that a violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of the Consultant from participating in City contracts, or other sanctions.

As a condition of entering into this Contract, the Consultant agrees to: (a) promptly provide to the City in a format specified by the City all information and documentation that may be requested by the City from time to time regarding the solicitation, selection, treatment and payment of subcontractors in connection with this Contract; and (b) if requested, provide to the City within sixty days after the request a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Consultant has used on City contracts in the past five years, including the total dollar amount paid by Consultant on each subcontract or supply contract. The Consultant further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Non-Discrimination Policy, to provide any documents relevant to such investigation that are requested by the City, and to be bound by the award of any arbitration conducted under such Policy.

The Consultant agrees to provide to the City from time to time on the City's request, payment affidavits detailing the amounts paid by Consultant to subcontractors and suppliers in connection with this Contract within a certain period of time. Such affidavits shall be in the format specified by the City from time to time.

The Consultant understands and agrees that violation of this Commercial Non-Discrimination provision shall be considered a material breach of this Contract and may result in contract termination, disqualification of the Consultant from participating in City contracts and other sanctions.

27. MISCELLANEOUS

27.1. ENTIRE AGREEMENT

This Agreement is the entire agreement between the parties with respect to its subject matter, and there are no other representations, understandings, or agreements between the parties with respect to such subject matter. This Agreement supersedes all prior agreements, negotiations, representations, and proposals, written or oral.

27.2. CHANGE IN CONTROL

In the event of a change in "Control" of the Consultant (as defined below), the City shall have the option of terminating this Agreement by written notice to the Consultant. The Consultant shall notify the City within ten (10) days of the occurrence of a change in control. As used in this Agreement, the term "Control" shall mean the possession, direct or indirect, of either:

- a. The ownership of or ability to direct the voting of, as the case may be, fifty-one percent (51%) or more of the equity interests, value or voting power in the Consultant; or
- b. The power to direct or cause the direction of the management and policies of the Consultant whether through the ownership of voting securities, by contract or otherwise.

27.3. GOVERNING LAW, JURISDICTION AND VENUE

North Carolina law shall govern interpretation and enforcement of this Agreement and any other matters relating to this Agreement (all without regard to North Carolina conflicts of law principles). Any and all legal actions or proceedings relating to this Agreement shall be brought in a state or federal court sitting in Mecklenburg County, North Carolina. By the execution of this Agreement, the parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all objections that they may have with respect to venue in any court sitting in Mecklenburg County, North Carolina. This Section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this Section.

27.4. BINDING NATURE AND ASSIGNMENT

This Agreement shall bind the parties and their successors and permitted assigns. Neither party may assign this Agreement without the prior written consent of the other. Any assignment attempted without the written consent of the other party shall be void.

27.5. CITY NOT LIABLE FOR SPECIAL OR CONSEQUENTIAL DAMAGES

The City shall not be liable to the Consultant, its agents or representatives or any subcontractor for or on account of any stoppages or delay in the performance of any obligations of the City, or any other consequential, indirect or special damages or lost profits related to this Agreement.

27.6. SEVERABILITY

The invalidity of one or more of the phrases, sentences, clauses, or sections contained in this Agreement shall not affect the validity of the remaining portion of the Agreement so long as the material purposes of the Agreement can be determined and effectuated. If any provision of this Agreement is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

27.7. NO PUBLICITY

No advertising, sales promotion or other materials of the Consultant or its agents or representations may identify or reference this Agreement or the City in any manner absent the written consent of the City. Notwithstanding the forgoing, the parties agree that the Consultant may list the City as a reference in responses to requests for proposals and may identify the City as a customer in presentations to potential customers.

27.8. NO BRIBERY OR LOBBY

The Consultant certifies that to the best of its knowledge, information, and belief, neither it, nor any of its affiliates or subcontractors, or any employees of any of the forgoing has bribed or lobbied, or attempted to bribe or lobby, an officer or employee of the City in connection with this Agreement.

27.9. APPROVALS

All approvals or consents required under this Agreement must be in writing.

27.10. WAIVER

No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party waiving the rights. No delay or omission by either party to exercise any right or remedy it has under this

Agreement shall impair or be construed as a waiver of such right or remedy. A waiver by either party of any covenant or breach of this Agreement shall not be constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant.

27.11. SURVIVAL OF PROVISIONS

All provisions of this Agreement which by their nature and effect are required to be observed, kept, or performed after termination of this Agreement shall survive the termination of this Agreement and remain binding thereafter, including but not limited to the following:

Section "Representations and Warranties of Consultant"

Section "Termination of Agreement"

Section "City Ownership of Work Product"

Section "Indemnification"

Section "Notices and Principal Contacts"

Section "Miscellaneous"

27.12. FAMILIARITY AND COMPLIANCE WITH LAWS AND ORDINANCES

The Consultant agrees to make itself aware of and comply with all local, state and federal ordinances, statutes, laws, rules and regulations applicable to the Services. The Consultant further agrees that it will at all times during the term of this Agreement be in compliance with all applicable federal, state and/or local laws regarding employment practices. Such laws will include, but shall not be limited to workers' compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and all OSHA regulations applicable to the work.

27.13. TAXES

Except as specifically stated elsewhere in this Agreement, the Consultant shall pay all applicable federal, state, and local taxes which may be chargeable against the performance of the Services. The Consultant consents to and authorizes the City to collect any and all delinquent taxes and related interest, fines, or penalties of the Consultant by reducing any payment, whether monthly, quarterly, semi-annually, annually, or otherwise, made by the City to the Consultant pursuant to this Agreement for an amount equal to any and all taxes and related interest, fines, or penalties owed by the Consultant to the City. The Consultant hereby waives any requirements for notice under North Carolina law for each and every instance that the City collects delinquent taxes pursuant to this paragraph. This paragraph shall not be construed to prevent the Consultant from

filing an appeal of the assessment of the delinquent tax if such appeal is within the time prescribed by law.

27.14. CONSTRUCTION OF TERMS

Each of the parties has agreed to the use of the particular language of the provisions of this Agreement and any questions of doubtful interpretation shall not be resolved by any rule or interpretation against the drafters, but rather in accordance with the fair meaning thereof, having due regard to the benefits and rights intended to be conferred upon the parties hereto and the limitations and restrictions upon such rights and benefits intended to be provided.

27.15. TRAVEL UPGRADES

The City has no obligation to reimburse the Consultant for any travel or other expenses incurred in connection with this Agreement unless this Agreement specifically requires reimbursement. If this Agreement requires reimbursement by the City: (a) the City will only pay coach/economy rate airline fares, and (b) the Consultant's invoices shall include sufficient detail of travel expenses to demonstrate that fares were at coach/economy rates. Notwithstanding the forgoing, nothing in this provision shall preclude complimentary upgrades to first class or business class seating, mileage, points, or credits-based upgrades, or upgrades paid for by the Consultant so long as the City is not charged for or asked to reimburse the upgrade charge or the value of the miles, points, or credits used.

27.16. DELAYS AND EXTENSIONS

Reasonable extensions of time for unforeseen or unavoidable delays may be made by mutual consent of the parties involved.

27.17. FORCE MAJEURE

The Consultant shall not be liable for any failure or delay in the performance of its obligations pursuant to this Agreement and such failure or delay shall not be deemed a default of this Agreement or grounds for termination hereunder, except as set forth below, if all of the following conditions are satisfied:

- a. If such failure or delay could not have been prevented by reasonable precautions;
- b. If such failure or delay cannot reasonably be circumvented by the non-performing party through the use of alternate sources, work-around plans, or other means; and

- c. If and to the extent such failure or delay is caused by fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions, or revolutions, strikes, lockouts or court order (each, a "Force Majeure Event").

Upon the occurrence of a Force Majeure Event, the Consultant shall be excused from any further performance of those of its obligations pursuant to this Agreement affected by the Force Majeure Event for as long as: (i) such Force Majeure Event continues and (ii) the Consultant continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

The Consultant shall promptly notify the City by telephone or other means available (to be confirmed by written notice within five (5) business days of the inception of the failure or delay) of the occurrence of a Force Majeure Event and describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event prevents the Consultant from performing its obligations for more than thirty (30) days, the City may terminate this Agreement.

27.18. ENDORSEMENT OF DOCUMENTS

The Consultant shall sign and seal, or cause to be signed and sealed, with the appropriate North Carolina Professional Seal, all plans, specifications, calculations, reports, plats, and construction documents prepared by the Consultant under this Agreement.

27.19. CADD STANDARDS; FINAL PLANS

The Consultant shall perform all Services in accordance with the current version of the City's CADD standards.

27.20. CORRECTION OF DEFECTS AND FAILURES

Any defective designs, specifications, plats, or surveys furnished by the Consultant and any failure of any Services performed by the Consultant to comply with any requirements set forth in this Agreement shall be promptly corrected by the Consultant at no cost to the City. The City's approval, acceptance, use of, or payment for all or any part of the Consultant's Services or of the Project itself shall in no way alter the Consultant's obligations or the City's rights under this Agreement.

28. DISPUTE RESOLUTION

It is understood and agreed that projects subject to NCGS 143-128(g-h) require that disputes arising under a Agreement subject to a dispute resolution process specified by the Owner (i.e.,

the City). In compliance with this statutory provision, the City specifies this Article as the dispute resolution process to be used on this Project, regardless of if the Project is or is not subject to NCGS 143-128(g-h). It is further understood and agreed that this dispute resolution process is based on non-binding mediation and will only be effective to the extent that the Parties to any mediated dispute participate in the mediation in good faith. It is also understood and agreed that the City is under no obligation under any circumstance to secure or enforce the participation of any other Party in the mediation of any dispute subject to this Article and NCGS 143-128(g-h).

- 28.1 Any dispute arising between or among the Parties listed in Section 28.3 of this Article that arises from an agreement to perform services in conjunction with the Project, including without limitation a breach of such agreement, shall be subject to non-binding mediation administered by the American Arbitration Association under the industry appropriate Mediation Rules (“Rules”). To the extent any provision of the Rules is inconsistent with the provisions of this Article, the provisions of this Article shall control. The mediation provided in this Article shall be used pursuant to this Agreement and NCGS 143-128(g-h) and is in lieu of any dispute resolution process adopted by any other government entity, which process shall not apply to this Project.
- 28.2 For purposes of this Article the following definitions shall apply:
- a. Party or Parties refers to the parties listed in Section 28.3 of this Article.
 - b. Project means project pursuant to this Agreement.
- 28.3 The City and any Party contracting with the City or with any first-tier or lower-tier subcontractor for the performance of the Project agree to participate in good faith in any mediation of a dispute subject to this Article and NCGS 143-128(g-h), including without limitation the following Parties (if any): Consultant, independent contractor(s) of the City, surety(ies), subcontractor(s), and supplier(s).
- 28.4 The Consultant and all other Parties shall include this Article in every agreement to which it (any of them) is a Party in performing the Services of the Project without variation or exception. Failure to do so will constitute a breach of this Agreement, and the Contractor or other Party failing to include this Article in any agreement required by this Article shall indemnify and hold harmless the remaining Parties from and against any and all claims, including without limitation reasonable attorney fees and other costs of litigation, arising in any manner from such breach. Notwithstanding the foregoing provisions of this Section, it is expressly understood and agreed

that the Parties are intended to be and shall be third-party beneficiaries of the provisions of this Article and can enforce the provisions hereof.

- 28.5 The following disputes are not subject to mediation: (i) a dispute seeking a non-monetary recovery; and (ii) a dispute seeking a monetary recovery of \$15,000 or less.
- 28.6 A dispute seeking the extension of any time limit set forth in an agreement to perform the Services for the Project shall be subject to mediation pursuant to this Article and NCGS 143-128(g-h), but only if the damages which would be suffered by the Party seeking the extension would exceed \$15,000 if the disputed extension is denied. To the extent that liquidated damages are set forth in such agreement as the measurement of damages for failure by such Party to meet such time limit, such liquidated damages shall be the exclusive standard for determining the amount of damages associated with such dispute.
- 28.7 For purposes of this Article, a dispute is limited to the recovery of monetary damages from the same transaction or occurrence against a single Party or two or more Parties alleged to be liable jointly, severally or in the alternative. Two or more disputes may not be consolidated or otherwise combined without the consent of all Parties to such disputes.
- 28.8 In addition to such matters as are required by the Rules, a request for mediation shall include the amount of the monetary relief requested.
- 28.9 Prior to requesting mediation, a Party must form a good faith belief that it is entitled under applicable law to recover the monetary amount to be included in the request from one or more of the remaining Parties. Such belief must be based on a reasonable and prudent investigation into the dispute that is the subject of the request. The request for mediation must be based on such investigation and may not include any amount or the name of any remaining Party, unless supported by such investigation and good faith belief by the Party requesting the mediation.
- 28.10 If a Party breaches any provision of Section 28.9 of this Article, it shall indemnify and hold harmless all other Parties from any costs, including reasonable attorney fees and other costs of litigation, and damages incurred by such other Parties that arise from such breach.
- 28.11 All expenses incurred by a Party to a dispute in preparing and presenting any claim or defense at the mediation shall be paid by the Party. Such expenses include without limitation preparation and production of witnesses and exhibits and attorney fees. All other expenses of the mediation,

including filing fees and required traveling and other expenses of the mediator, shall be borne as follows: one half by the Party requesting the mediation, with the remaining parties paying equal shares of the remaining expenses and costs; provided that, if the City is named as a party to the mediation, the City shall pay at least one-third of the mediation expenses and costs divided among the Parties. If more than one Party to a dispute requests a mediation, the mediation expenses and costs to be divided among the Parties shall be borne equally by the Parties to the dispute; provided that, if the City is named as a Party to the mediation, the City shall pay at least one-third of the mediation expenses and costs divided among the Parties.

- 28.12 The mediation shall be held at a location agreeable to the mediator and all of the Parties; provided that, if no agreement can be reached, the mediation will be held at such location in Mecklenburg County as the mediator shall determine.
- 28.13 The provisions of this Article are subject to any other provision of this Agreement concerning the submission, documentation and/or proof of any claim or dispute. Such other provisions shall apply in full force and shall be satisfied as a condition precedent to mediation pursuant to this Article.
- 28.14 The Parties understand and agree that mediation in accordance with this Article shall be a condition precedent to institution of any legal or equitable proceeding seeking monetary recovery based on any dispute that is subject to mediation pursuant to this Article.

29. NORTH CAROLINA PROHIBITION ON CONTRACTS WITH COMPANIES THAT INVEST IN IRAN OR BOYCOTT ISRAEL

Consultant certifies that: (i) it is not identified on the Final Divestment List or any other list of prohibited investments created by the NC State Treasurer pursuant to N.C.G.S. 147-86.58 (collectively, the "Treasurer's IDA List"); (ii) it has not been designated by the NC State Treasurer pursuant to N.C.G.S. 147-86.81 as a company engaged in the boycott of Israel (such designation being referred to as the "Treasurer's IB List"); and (iii) it will not take any action causing it to appear on the Treasurer's IDA List or the Treasurer's IB List during the term of this Contract. In signing this Contract Consultant further agrees, as an independent obligation, separate and apart from this Contract, to reimburse the City for any and all damages, costs and attorneys' fees incurred by the City in connection with any claim that this Contract or any part thereof is void due to Consultant appearing on the Treasurer's IDA List or the Treasurer's IB List at any time before or during the term of this Contract.

30. E-VERIFY

The Consultant shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes and shall require each of its subconsultants to do so as well.

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THIS **AGREEMENT**, entered into as of the day and year first written above for **On-call Construction Engineering and Inspection (CEI) Services**, Agreement Number **2025000XXX**.

VENDOR NAME

By:

Signature

Print Name

Title

Date

CITY OF CHARLOTTE

By:

Signature

Print Name

Title

Date

EXHIBIT A – SCOPE OF WORK

1.0 PURPOSE:

The City of Charlotte is seeking qualifications from interested consulting firms experienced in performing Construction Engineering and Inspection (CEI) Services. These services may include but not be limited to the services to perform inspection and testing on various projects in the areas of concrete, foundation, earthwork, drainage and base, erosion control, traffic control, asphalt roadway, highway structures, signal installation, survey verification, etc.

These services will be provided under a three (3) year On-Call contract on an “as needed” basis with up to two one-year renewals. Work under this on-call contract will be assigned based on the consultant’s qualifications for the project being assigned for an individual task order/ work order.

Work awarded under this solicitation will include projects with Local Government Agency / Locally Administered Projects (LGA/LAP) agreements between NCDOT and the City of Charlotte.

2.0 SCOPE - Horizontal:

Provide qualified personnel to perform services as defined by each task order, utilizing the referenced manuals, and procedures. The City of Charlotte follows NCDOT specifications, procedures, and practices unless otherwise noted. Therefore, NCDOT specifications, procedures, and manuals as well as City of Charlotte standards and manuals are included by reference. This scope of services shall apply for any projects utilizing this on-call contract.

Consultant inspectors will be required to be certified in the particular area in which they will be inspecting. These include but are not limited to the following NCDOT Certifications: QMS Roadway, Conventional Density, Borrow Pit Sampling, Chemically Stabilized Subgrade/Base, QMS Density Gauge, Concrete Field Technician, ABC Sampling, Special Inspections – Rebar, Footing/Foundations, Bolted Connections, etc. These inspectors will be responsible for highly technical and specialized inspection and testing procedures in the areas of concrete, foundations, highway structures, soils, earthwork, asphalt roadway, erosion control, signal installations, survey verification, etc. The consultant inspector will be charged with monitoring the work of the contractor to ensure compliance with the plans and specifications as well as sampling and testing procedures as outlined in the NCDOT Construction Manual. The consultant will oversee the City’s independent testing lab to ensure samples are taken and required tests are performed with qualified technicians. In addition, the consultant will be required to verify quantities installed by the contractor and prepare the monthly pay estimate utilizing the City’s proprietary software

program. The consultant inspector will furnish all necessary equipment, including but not limited to vehicles, to fulfill their inspection responsibilities other than the equipment supplied by the City. The consultant inspector will function as an extension of City staff and report to the Construction, Survey and Utilities Program Manager or his appointed designee.

In the event the Contractor submits a claim for additional compensation and/or time, the CEI shall assist City staff in analyzing the claim, engaging in negotiations leading to settlement of the claim, preparing and processing the required documentation to close out the claim and any other tasks that arise from such claim.

A more detailed scope of services will be determined on a project-by-project basis as projects are assigned on an on-call basis via work order or task order.

Should a project be federally funded, the consultant inspector will be responsible for collecting and reviewing the required documentation per NCDOT specifications and LGA/LPA requirements for NCDOT auditors for reimbursement. The City may also request a Project Manager be provided for federally funded projects in order to monitor the LGA/LAP requirements of the NCDOT auditors. (Per Section 106-3 of NCDOT Standard Specifications for Roads and Structures and LGA/LPA requirements)

Services provided by the Consultant shall comply with current City of Charlotte, NCDOT and FHWA manuals, procedures, and memorandums found on the City of Charlotte, NCDOT and FHWA websites.

On a single Construction Contract, it is a conflict of interest for a professional firm to receive compensation from both the City of Charlotte and the Contractor either directly or indirectly. It is also considered a conflict for a professional firm to receive compensation from the Engineer of Record for the project.

The Consultant must perform to the satisfaction of the City's representatives for consideration of additional CEI services.

2.1 ITEMS TO BE FURNISHED BY THE CITY TO THE CONSULTANT:

- A. The City, on an as-needed basis, will furnish the following for each project assigned. Documents may be provided in either paper or electronic format:

1. Construction Plans
 2. Executed Construction Contract including Specifications Package
 3. Computer/Laptop with access to the City's Proprietary Software Program
 4. Either a cell phone or an electronic key for the consultant's cell phone to access the City laptop and network
 5. Access to the Charlotte Mecklenburg Government Center (CMGC)
 6. Any other pertinent project information necessary.
- B. Any equipment provided by the City shall remain with the Consultant at all times during the duration of the project. The Consultant shall retain responsibility for risk of loss or damage to said equipment during performance of this Agreement.

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EXHIBIT B – PROJECT SCHEDULE

Task Orders Schedules

For Services required by a Task Order issued by the City, the Consultant shall complete the Services described in the Task Order by the milestone date identified therein.

EXHIBIT C – FEE/COST BREAKDOWN

Hourly and Unit Price Rates

Prime Consultant Name		
Job Classification	Employee Name	Hourly Rate
Sub 1 Name		
Job Classification	Employee Name	Hourly Rate
Sub 2 Name		
Job Classification	Employee Name	Hourly Rate

EXHIBIT D – KEY PERSONNEL

EXHIBIT E – SMALL PROFESSIONAL SERVICE FIRMS (SPSF)

NCDOT encourages the use of Small Professional Service Firms (SPSF). Small businesses determined to be eligible for participation in the SPSF program are those meeting size standards defined by the 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 Consultant, at the time the qualification package 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 Form D-1 (Prime Consultant – SPSF) and Form D-2 (Subconsultant – SPSF). The SPSF must be qualified with NCDOT to perform the work for which they are listed. Both forms must be completed for your proposal package to be complete.

Real-time information about firms doing business with NCDOT and firms that are SPSF certified through the Contractual Services Unit is available in the Directory of Transportation Firms. The directory can be accessed at the link on the NCDOT's homepage or by entering <https://www.ebs.nc.gov/VendorDirectory/default.html> in the address bar of your web browser. The listing of an individual firm in the NCDOT's directory shall not be construed as an endorsement of the firm.

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FORM D-1

**PRIME CONSULTANT
SMALL PROFESSIONAL SERVICE FIRM CERTIFICATION**

Project:		
Consultant Name:		
Service Description:	Anticipated Utilization:	
	Total Utilization:	
	<i>(Dollars or Percent)</i>	
Submitted by Consultant		
<i>Signature</i>	<i>Date</i>	<i>Title</i>
SPSF Status:	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Instructions for Completing Form D-1:

1. Complete Form D-1 for the prime consultant firm; fill in consultant name.
2. Enter Service Description – describe work to be performed by the prime firm.
3. Enter Anticipated Utilization – Insert dollar value or percent of work anticipated to be performed by the prime consultant.
4. Signature of the prime consultant **is required** on each Form D-1 submitted with the qualification package to be considered for selection.
5. Fill in title and date of certification.
6. Complete “SPSF Status” section - Check the appropriate box regarding SPSF Status, check Yes if SPSF, or No if not SPSF.

**FORM D-2
SUBCONSULTANT
SMALL PROFESSIONAL SERVICE FIRM CERTIFICATION**

Project:		
Consultant Name:		
Subconsultant Name:		
Service Description:	Anticipated Utilization:	
	Total Utilization:	
	<i>(Dollars or Percent)</i>	
Submitted by Subconsultant		
<i>Signature</i>	<i>Date</i>	<i>Title</i>
SPSF Status:	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Recommended by Consultant		

<i>Signature</i>	<i>Date</i>	<i>Title</i>
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Instructions for completing the Form D-2:

1. Complete Form D-2 for each subconsultant firm; fill in prime consultant and subconsultant name.
2. Enter Service Description – describe work to be performed by the subconsultant firm.
3. Enter Anticipated Utilization – Insert dollar value or percent of work anticipated to be performed by the subconsultant.
4. Signatures of both the subconsultant and prime consultant **are required** on each Form D-2 submitted with the qualification package to be considered for selection.
5. Fill in title and date of certification.
6. Complete “SPSF Status” section – Subconsultant shall check the appropriate box regarding SPSF Status, check Yes if SPSF, or No if not SPSF.
7. In the event the prime consultant firm has no subconsultant, it is required that this be indicated on Form D-2 form by entering the word “None” or the number “ZERO” and having the prime consultant sign and submit Form D-2.

**State of North Carolina
 Department of Transportation
 Subcontractor Payment Information**

Submit with Invoice to: Invoice Coordinator
 North Carolina Department of Transportation
 Division/Branch
 Address
 Raleigh, NC XXXXX-XXXX

Firm Invoice. No. Reference _____
 WBS No. (State Project No.) _____
 Date of Invoice _____
 Signed _____

Invoice Line-Item Reference	Payer Name	Payer Federal Tax ID	Subcontractor/ Subconsultant/ Material Supplier Name	Subcontractor/ Subconsultant/ Material Supplier Federal	Amount Paid to	Date Paid to
				Tax ID	Subcontractor/ Subconsultant/ Material Supplier This Invoice	Subcontractor/ Subconsultant/ Material Supplier This Invoice
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

Total Amount Paid to Subcontractor Firms			\$		

Note: These documents are scanned into our Fiscal program. Please do not highlight or shade the figures.

I certify that this information accurately reflects actual payments made and the dates the payments were made to Subcontractors/Subconsultants/Material Suppliers on the above-referenced project.

Signature: _____

Title: _____

Print Name: _____

Date: _____

Field	Instructions
Subgrantee Letterhead / Name & Address Goes Here	Enter the name and address of the company, firm, governmental entity or subgrantee requesting payment from the North Carolina Department of Transportation
Submit with Invoice To:	Update this section with the name and address of the NCDOT representative that is responsible for processing payment requests for your contracts.
Firm Invoice No. Reference	Enter the invoice number that was submitted to NCDOT that corresponds with the payment information contained on this form.
NCDOT PO / Contract Number	Enter the NCDOT Purchase Order or Contract number that corresponds with the information contained on this form.
WBS No. (State Project No.)	Enter the NCDOT WBS element number assigned to this project.
Date of Invoice	Enter the date of the invoice that was submitted for payment.

Signed	Enter the name of the person responsible for the validity of the information contained on this form.
Invoice Line-Item Reference	Enter the invoice line item or pay item that the DBE payment information is related to.
Payer Name	Enter the name of the company, firm, governmental entity or subgrantee that is responsible for paying the DBE subcontractor.
Payer Federal Tax Id	Enter the Federal Tax Identification number of the Payer (See Payer Name)
Subcontractor / Subconsultant/ Material Supplier Name	Enter the name of the DBE Subcontractor, Subconsultant or Material Supplier that is being paid for goods or services related to the NCDOT PO / Contract Number.
Subcontractor / Subconsultant/ Material Supplier Federal Tax Id	Enter the Federal Tax Identification number of the DBE Subcontractor, Subconsultant or Material Supplier that is being paid for goods or services related to the NCDOT PO /Contract Number.
Amount Paid To Subcontractor / Subconsultant / Material Supplier This Invoice	Enter the amount paid to the DBE Subcontractor, Subconsultant or Material Supplier for the invoice referenced.
Date Paid To Subcontractor / Subconsultant / Material Supplier This Invoice	Enter the date that the Subcontractor / Subconsultant / Material Supplier was paid for the items referenced on the invoice.
Total Amount Paid to DBE Firms	Enter the total payments made to all DBE Subcontractor / Subconsultant / Material Supplier for the invoice referenced.

EXHIBIT F – COMMERCIAL NON-DISCRIMINATION CERTIFICATION

Project: Construction Engineering and Inspection (CEI) Services

Name of Company _____

The undersigned Consultant hereby certifies and agrees that the following information is correct:

1. In preparing the proposal, the Consultant has considered all proposals submitted from qualified, potential subcontractors and suppliers and has not engaged in discrimination as defined in Section 2.
2. For purposes of this certification *discrimination* means discrimination in the solicitation, selection, or treatment of any subcontractor, vendor, or supplier on the basis of race, ethnicity, gender, age, or disability or any otherwise unlawful form of discrimination. Without limiting the foregoing, *discrimination* also includes retaliating against any person or other entity for reporting any incident of discrimination.
3. Without limiting any other remedies that the City may have for a false certification, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the City to reject the proposal submitted with this certification and terminate any contract awarded based on such proposal. It shall also constitute a violation of the City’s Commercial Non-Discrimination Ordinance and shall subject the Consultant to any remedies allowed thereunder, including possible disqualification from participating in City contracts for up to two years.
4. As a condition of contracting with the City, the Consultant agrees to promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation and selection of subcontractors in connection with this contract. Failure to maintain or failure to provide such information shall constitute grounds for the City to reject the proposal submitted by the Bidder and terminate any contract awarded on such proposal. It shall also constitute a violation of the City’s Commercial Non-Discrimination Ordinance and shall subject the Consultant to any remedies allowed thereunder.
5. As part of its proposal, the Consultant shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against the Consultant in a legal or administrative proceeding alleging that the Consultant discriminated against its subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.

6. As a condition of submitting a proposal to the City, the Consultant agrees to comply with the City's Commercial Non-Discrimination Policy as described in Section 2, Article V of the Charlotte City Code, and consents to be bound by the award of any arbitration conducted thereunder.

By: _____
Signature of Consultant's Authorized Representative

Title: _____

Date: _____

EXHIBIT G - FEDERAL CONTRACTING TERMS

FEDERAL CONTRACTING TERMS

This Attachment is attached and incorporated into the {---Contract Title---} (the "Contract") between the City of Charlotte and {---Vendor Legal Name---} ("---Vendor Reference Name---"). Capitalized terms not defined in this Attachment shall have the meanings assigned to such terms in the Contract. In the event of a conflict between this Attachment and the terms of the main body of the Contract or any other Attachment or appendix, the terms of this Attachment shall govern. Unless if indicated to the contrary, these provisions will not apply to {---Vendor Legal Name---} while doing work for Aviation (the Charlotte Douglas International Airport).

1. Debarment and Suspension. {---Vendor Reference Name---} represents and warrants that, as of the Effective Date of the Contract, neither {---Vendor Reference Name---} nor any subcontractor or subconsultant performing work under this Contract (at any tier) is included on the federally debarred bidder's list listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." If at any point during the Contract term {---Vendor Reference Name---} or any subcontractor or subconsultant performing work at any tier is included on the federally debarred bidder's list, {---Vendor Reference Name---} shall notify the City immediately. The Company's completed Vendor Debarment Certification is incorporated herein as provided in this Attachment below.
2. Record Retention. {---Vendor Reference Name---} certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. {---Vendor Reference Name---} further certifies that it will retain all records as required by 2 CFR § 200.333 for a period of three (3) years after it receives City notice that the City has submitted final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.
3. Procurement of Recovered Materials. {---Vendor Reference Name---} represents and warrants that in its performance under the Contract, {---Vendor Reference Name---} shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of

the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

4. Clean Air Act and Federal Water Pollution Control Act. {---Vendor Reference Name---} agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

5. Energy Efficiency. {---Vendor Reference Name---} certifies that {---Vendor Reference Name---} will be in compliance with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). {---Vendor Reference Name---} certifies that:

6.1. No federal appropriated funds have been paid or will be paid, by or on behalf of {---Vendor Reference Name---}, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal Loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of and Federal contract, grant, loan, or cooperative agreement.

6.2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, {---Vendor Reference Name---} shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96)].

6.3. {---Vendor Reference Name---} shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under

grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

6.4. {---Vendor Reference Name---}'s completed Byrd Anti-Lobbying Certification is incorporated herein as provided in this Attachment below.

7. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). If the Contract is in excess of \$100,000 and involves the employment of mechanics or laborers, {---Vendor Reference Name---} must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, {---Vendor Reference Name---} is required to compute the wages of every mechanic and laborer on the basis of a standard work week of forty (40) hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of forty (40) hours in the work week. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or purchases of transportation or transmission of intelligence.

8. Right to Inventions. If the federal award is a "funding agreement" under 37 CFR 401.2 and the City wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment of performance or experimental, developmental or research work thereunder, the City must comply with 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

9. DHS Seal, Logo, and Flags. {---Vendor Reference Name---} shall not use the Department of Homeland Security ("DHS") seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

10. Federal Government Not a Party. The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the City, {---Vendor Reference Name---}, or any other party pertaining to any matter resulting from the Contract.

11. Domestic Preferences For Procurements. As appropriate and to the extent consistent with law, the {---Vendor Reference Name---} should, to the greatest extent practicable under the Contract, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the united states (including, but not limited to iron, aluminum, steel, cement, and other manufactured products). For the purposes of this clause, (i) "produced in the United States" means, for iron and steel products,

that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the united states, and (ii) "manufactured products" means items and construction materials composed in whole or in part of non-ferrous materials such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

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EXHIBIT H – CERTIFICATE OF INSURANCE

EXHIBIT I – TASK ORDER TEMPLATE

TASK ORDER FOR CONTRACT 2025000XXX

Pursuant to the Contract for On-call Construction Engineering and Inspection (CEI) Services (“Master Agreement”), Contract Number 2025000XXX this Task Order (“Task Order”) is made by and between the City of Charlotte (“City”) and _____ [*insert name of company*] (“Company”).

1. PURPOSE

This Task Order specifies the services to be provided by the Company, the schedule, cost, invoicing requirements, and other matters.

2. TECHNICAL COORDINATORS

For the Company:

Contact Name
Title
Company Name
Street
City, State, Zip
Phone
Fax
Email

For the City:

Chris Jiles
Asst. Construction Program Manager
City of Charlotte - Department of General Services
Construction, Survey and Utility Division
600 E. 4th Street, 12th Fl
Charlotte, NC 28202
704-634-4881
Chris.Jiles@charlottenc.gov

3. SERVICES TO BE PERFORMED

[*Insert description of service/scope of work*]

4. PLACE OF PERFORMANCE

[*Insert description or address where work will be performed*]

5. TIMEFRAME

[*Insert schedule. Include beginning/ending dates or number of days or hours. Include working days and hours, i.e., Monday-Friday, 8-5*]

6. PERSONNEL ASSIGNED TO PERFORM THE SERVICES [*Insert name(s) of staff*]

7. ALLOCATED FUNDING

[*Insert fee schedule, hourly billing rate(s), limitations on the number of hours per week, state whether or not overtime applies, list total maximum dollar amount for task order – should match the amount in the PO.*]

8. INVOICING

Each invoice must contain the following information accompanied by appropriate supporting documentation:

- Invoice Amount
- Cumulative Amount Billed
- Purchase Order Number

Submit invoices for this Task Order using **one** of the following options:

Option 1 – E-mail invoices to cocap@ci.charlotte.nc.us

Option 2 – Mail invoices to our P.O. Box

City of Charlotte – Accounts Payable
Attn: Chris Jiles
Department of General Services
P.O. Box 37979
Charlotte, NC 28237-7979

9. TERMINATION BY THE CITY.

The City may terminate this Task Order at any time without cause by giving written notice to the Company. If the City terminates a Task Order without cause, the City shall pay the Company for Work rendered under that Task Order through the date of termination.

The Company acknowledges and agrees to be bound by the terms and conditions stated in the Master Agreement and this Task Order.

_____ *[insert Company name]*

By: _____

Title: _____

Date: _____

The City shall signify acceptance of the terms and conditions stated herein through the issuance of a Purchase Order that incorporates this Task Order.

[List any attachments to the Task Order. Attach the entire Task Order as an "Attachment" to the PO in Munis]