

ADVERTISEMENT

CITY OF RALEIGH
REQUEST FOR QUALIFICATIONS

The City of Raleigh Engineering Services Department, Design/Construction Division invites qualified civil engineering firms to submit their Statement of Qualification for providing Professional Design services for **Construction Engineering and Inspection Services for City of Raleigh LAPP Funded Project – Lake Boone Trail Improvements Project**. Copies of the detailed Request for Qualification letter are available for pickup in the office of the Roadway Design and Construction Division, Room 400, 222 W. Hargett Street, Raleigh, North Carolina. Proposals must be received no later than 2:00 pm on **August 4, 2022** in order to be considered. Questions may be directed to the office of the Design/Construction Division Manager at 919-996-4173.

To be published in the City of Raleigh on Wednesday, July 6, 2022.

Richard Kelly, PE
Engineering Services Director
City of Raleigh
919-996-5575

CITY of RALEIGH

REQUEST for LETTERS of INTEREST (RFLOI)

Construction Engineering and Inspection (CEI) Services for Lake Boone Trail Improvements Project (HL-0032)

TITLE: CEI Services for Lake Boone Trail Improvements Project (HL-0032)

ISSUE DATE: July 6, 2022

SUBMITTAL DEADLINE: August 4, 2022

ISSUING AGENCY: City of Raleigh

SYNOPSIS

SUBCONSULTANTS ARE PERMITTED UNDER THIS CONTRACT.

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

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

- **00195 Roadway Construction Engineering and Inspection**

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

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

PROPOSED CONTRACT SCOPE SUMMARY

The City of Raleigh is seeking Construction Administration/Construction Engineering Inspections (CA/CEI) services for the following project: Lake Boone Trail Improvements (NCDOT TIP # HL-0032). The scope of these construction projects includes pavement maintenance such as asphalt repairs and

resurfacing, concrete curb ramps and flat work, pavement markings, signal modifications, and a road diet east of the I-440 EB Ramps.

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

LOIs SHALL be received **ELECTRONICALLY no later than 2:00 PM, August 4, 2022.**

The address for electronic deliveries is: *DC.Proposals@raleighnc.gov*

LOIs received after this deadline will not be considered.

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

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

SCOPE OF WORK

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

PROPOSED CONTRACT SCOPE

The scope below covers one federally funded project being separately bid by the City. The City will select (1) one firm to provide Construction Administration/Construction Engineering Inspections (CA/CEI) services for this project. All work performed by the selected firm will include contract administration, project management, and all required project documentation in accordance with NCDOT Standard Specifications and NCDOT Construction Manual.

The HL-0032 Lake Boone Trail Safety Improvements Project is a Complete Streets project from I-440 to Ridge Road. The project includes pavement maintenance such as asphalt repairs and resurfacing of 0.5 miles of existing 4 lane roadway, concrete curb ramps and flat work, pavement markings, signal modifications, and a road diet east of the I-440 EB Ramps. The road diet will convert a 4-lane section of roadway to a 3-lane facility with on street bike lanes. Additional information and roll maps can be found on the [Project Website](#). The tentative construction start date is Spring 2023, and the tentative construction completion date is Fall 2023.

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

PROPOSED CONTRACT PAYMENT TYPE: COST-PLUS

a

SUBMITTAL REQUIREMENTS

All LOIs are limited to **FIFTEEN (15)** pages including the cover sheet and shall be typed on 8-1/2" x 11" sheets, single-spaced, one-sided (RS-2 forms are not included in the page count).

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

ONE (1) electronic copies 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 LGA's Selection Committee will review all qualifying LOI submittals.
- For Limited Services Contracts (On-Call type contracts), the LGA's Selection Committee MAY, at the LGA's discretion, choose any number of firms to provide the services being solicited.
- For Project-Specific Contracts (non On-Call type contracts), the LGA's Selection Committee MAY, at the LGA's discretion, shortlist a minimum of three (3) firms to be interviewed. IF APPLICABLE, dates of shortlisting and dates for interviews are shown in the section SUBMISSION SCHEDULE AND KEY DATES at the end of this RFLOI.
- In order to be considered for selection, consultants must submit a complete response to this RFLOI prior to the specified deadlines. Failure to submit all information in a timely manner will result in disqualification.

TITLE VI NONDISCRIMINATION NOTIFICATION

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

SMALL PROFESSIONAL SERVICE FIRM (SPSF) PARTICIPATION

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

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

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

PREQUALIFICATION

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

Even though specific DBE/MBE/WBE goals are not required for this project, the Department of Transportation is committed to providing opportunity for small and disadvantaged businesses to perform on its contracts through established Department goals. The Firm, sub-consultant and sub-firm shall not discriminate on the basis of race, religion, color, national origin, age, disability or sex in the performance of this contract.

DIRECTORY OF FIRMS AND DEPARTMENT ENDORSEMENT

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

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

SELECTION CRITERIA

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

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

1. **CRITERIA NUMBER 1 25%** = TEAM QUALIFICATIONS: This criterion evaluates a firm's experience, knowledge, familiarity and past performance with street construction and CEI services. Firm resources, references, and descriptions of work performed on similar projects within the last seven (7) years will be considered.

2. **CRITERIA NUMBER 2 25%** = TEAM EXPERIENCE: This criterion evaluates the experience of the firm's proposed staff to perform the type of work required. Team member availability and past project experiences will be considered.
3. **CRITERIA NUMBER 3 40%** = TECHNICAL APPROACH: This criterion evaluates a firm's understanding of the project specific issues and their responsibility in delivering services for the advertised project and their responsibility with regard to safety, contract administration, environmental responsibility, claims, and project delivery. The project-specific narrative of the firm's approach to this project will be considered as well as any innovative approaches being used.
4. **CRITERIA NUMBER 4 10%** = OTHER RELEVANT FACTORS: This criterion evaluates the overall quality of the proposal, the level of participation from Small Professional Services Firms (SPSF), and other relevant information not covered in the other criteria may be considered.

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

SUBMISSION ORGANIZATION AND INFORMATION REQUIREMENTS

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

The LOI must also include the information outlined below:

Chapter 1 - Introduction

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

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

Chapter 2 - Team Qualifications

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

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

Chapter 3 - Team Experience

This chapter must provide the names, classifications, and location of the firm's North Carolina employees and resources to be assigned to the advertised work; and the professional credentials and experience of the persons assigned to the project, along with any unique qualifications of key personnel. Although standard personnel resumes may be

included, identify pertinent team experience to be applied to this project. Specifically, the Department is interested in the experience, expertise, and total quality of the consultant's proposed team. If principals of the firm will not be actively involved in the study/contract/project, do not list them. The submittal shall clearly indicate the Consultant's Project Manager, other key Team Members and his/her qualifications for the proposed work. Also, include the team's organization chart for the Project / Plan. A Capacity Chart / Graph (available work force) should also be included. Any other pertinent information should also be listed in this section.

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

Chapter 4 - Technical Approach

The consultant shall provide information on its understanding of, and approach to accomplish, this project, including their envisioned scope for the work and any innovative ideas/approaches, and a schedule to achieve the dates outlined in this RFLOI (if any project-specific dates are outlined below).

APPENDICES-

CONSULTANT CERTIFICATION Form RS-2

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

Submit Form RS-2 forms for the following:

- **Prime Consultant firm**
 - Prime Consultant Form RS-2 Rev 7/15/20; 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 7/15/20.
 - 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>

All submissions, correspondence, and questions concerning this RFLOI should be directed to **Brian Roth-Roffy** at **brian.roth-roffy@raleighnc.gov**.

Questions may be submitted electronically only, to the contact above. Responses will be issued in the form of an addendum available to all interested parties. Interested parties should also send a request, by email only, to the person listed above to be placed on a public correspondence list to ensure future updates regarding the RFLOI or other project information can be conveyed. Questions must be submitted to the person listed above no later than **4:00 PM, July 20, 2022**. The last addendum will be issued no later than **4:00 PM, July 28, 2022**.

SUBMISSION SCHEDULE AND KEY DATES

RFLOI Release – **July 6, 2021**

Deadline for Questions - **4:00 PM, July 20, 2022**

Issue Final Addendum - **4:00 PM, July 28, 2022**

Deadline for LOI Submission - **2:00 PM, August 4, 2022**

Shortlist Announced * - **August 18, 2022, IF NECESSARY**

Interviews - the week of **August 22, 2022, IF NECESSARY**

Firm Selection and Notification ** - **September 1, 2022**

Anticipated Notice to Proceed - **Spring 2023**

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

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

ATTACHMENTS

1. City of Raleigh Standard Professional Services Contract

NORTH CAROLINA
WAKE COUNTY

CONTRACT FOR ENGINEERING SERVICES

THIS CONTRACT (the "Contract") is entered into by and between _____, hereinafter referred to as the "Engineer", and the City of Raleigh, a North Carolina municipal corporation, hereinafter referred to as the "City".

WITNESSETH:

WHEREAS, for purposes of this Contract, the Engineer is a person or entity which is licensed under and provides professional services regulated by Chapters 83A, 89A, 89C, 89E, or 89F of the General Statutes of North Carolina, or any such other statute or regulation hereafter enacted that regulates the practice of architecture, landscape architecture, engineering, land surveying, geology, or soil science in the state of North Carolina; and

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

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

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

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

1. Scope of Services/Description of Project

The City desires to _____.

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

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

-

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

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

2. Services Provided by the City

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

- a. Assist the Engineer by placing at their disposal all available information pertinent to the project, including previous reports and other relative data.
- b. Assist in gaining access to and making all provisions for the Engineer to enter upon public and private property as required for performance of their services described herein.
- c. Examine all studies, reports, sketches, drawings, specifications, proposals, and other documents prepared by the Engineer, obtaining advice of legal counsel and/or such other consultants as the City deems appropriate for such examination and rendering in writing decisions pertaining thereto within a reasonable time so as not to delay the service of the Engineer.
- d. Give prompt written notice to the Engineer whenever the City observes or otherwise becomes aware of any problems or changed circumstances in the project.
- e. Furnish the Engineer in a timely manner with copies of pertinent correspondence relating to this project, which would not have otherwise been delivered to the Engineer.
- f. Designate in writing a person to act as City's representative with respect to the work to be performed under this Contract; such person(s) shall have complete authority to transmit instructions, receive information, interpret and define City's policies and decisions with respect to materials, equipment, elements and systems pertinent to the services covered by this Contract.
- g. The City shall provide to the Engineer such information as is available to the City for rendering of services hereunder. The Engineer may rely on the sufficiency of such information.

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

3. Schedule/Time of Performance

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

4. Compensation; Time of Payment

For services to be performed hereunder, the City shall pay the Engineer a not to exceed total contract amount \$ _____, unless changed by a duly authorized amendment. The standard City of Raleigh payment term is NET 30 days from the date of invoice. **For prompt payment you may email all invoices to accountspayable@raleighnc.gov or mail all invoices to the City of Raleigh, Accounts Payable, PO Box 590,**

Raleigh, North Carolina 27602-0590. All invoices must include the following Purchase Order Number _____. Invoices submitted without the correct purchase order number will result in delayed payment.

5. Standard of Care

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

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

6. Opinions of Probable Construction Cost

Engineer's opinions of probable Construction Cost provided for herein are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional engineer generally familiar with the construction industry. However, since Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by the Engineer. If the City wishes greater assurance as to probable Construction Cost, City may employ an independent cost estimator.

7. Notices

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

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

8. Non-Discrimination

To the extent permitted by North Carolina law, the Parties for themselves, their agents, officials, directors, officers, members, representatives, employees, and contractors agree not to discriminate in any manner or in any form based on actual or perceived age, mental or physical disability, sex, religion, creed, race, color, sexual orientation, gender identity or expression, familial or marital status, economic status, veteran status or national origin in connection with this Contract or its performance.

The Parties agree to conform with the provisions and intent of Raleigh City Code §4-1004 in all matters related to this Contract. This provision is incorporated into the Contract for the benefit of the City of Raleigh and its residents and may be enforced by an action for specific performance, injunctive relief, or

any other remedy available at law or equity. This section shall be binding on the successors and assigns of all parties with reference to the subject matter of the Contract.

9. Minority and Women Owned Business Enterprise

The City of Raleigh prohibits discrimination in any manner against any person based on actual or perceived age, race, color, creed, national origin, sex, mental or physical disability, sexual orientation, gender identity or expression, familial or marital status, religion, economic status, or veteran status. The City maintains an affirmative policy of fostering, promoting, and conducting business with women and minority owned business enterprises.

10. Assignment

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

11. Applicable Law

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

12. Insurance

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

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

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

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

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

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

The Certificate Holder address should read:

City of Raleigh

Post Office Box 590

Raleigh, NC 27602-0590

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

Professional Liability – Limits of no less than \$1,000,000 each claim. This coverage is only necessary for professional services regulated by Chapters 83A, 89A, 89C, 89E, or 89F of the General Statutes of North Carolina or when otherwise required by the City. All insurance companies must be authorized to do business in North Carolina and be acceptable to the City’s risk manager.

13. Indemnity

- A. To the fullest extent allowed by law, the Engineer shall indemnify and hold harmless the City, its officers, officials, employees, agents, or indemnities (collectively called “Indemnified Parties”) from and against those Losses, liabilities, damages, and costs proximately caused by, arising out of, or resulting from the sole negligence of the Engineer, the Engineer’s agents, or the Engineer’s employees.
- B. In matters other than those covered by subsection 13.A. above, and to the fullest extent allowed by law, the Engineer shall indemnify and hold harmless the Indemnified Parties from and against those Losses, liabilities, damages, and costs caused by, arising out of, resulting from, or in connection with the execution of the work provided for in this contract when the Fault of the Engineer or its Derivative Parties is a proximate cause of the Loss, liability, damage, or expense indemnified.
- C. Costs and expenses shall include attorneys’ fees, litigation or arbitration expenses, or court costs actually incurred by the Indemnified Parties to defend against third-party claims alleged in any court, tribunal, or alternative dispute resolution procedure required of any of the Indemnified Parties by law or by contract, only if the Fault of the Engineer or its Derivative Parties is a proximate cause of the attorney’s fees, litigation or arbitration expenses, or court costs to be indemnified.
- D. Only to the extent provided pursuant to a policy of insurance, the Engineer shall defend the Indemnified Parties against claims alleged in any court, tribunal, or alternative dispute

resolution procedure if the Fault of the Engineer or its Derivative Parties is a proximate cause of such claims.

E. The Engineer's duty to indemnify, defend, and hold harmless described hereinabove shall survive the termination or expiration of this Contract.

F. Definitions:

1. For the purposes of this Section 13, the term "Fault" shall mean any breach of contract; negligent, reckless, or intentional act or omission constituting a tort under applicable statutes or common law; or violation of applicable statutes or regulations.
2. For the purposes of this Section 13, the term "Loss" or "Losses" shall include, but not be limited to, fines, penalties, and/or judgments issued or levied by any local, state, or federal governmental entity.
3. For the purposes of this Section 13, the term "Derivative Parties" shall mean any of the Engineer's subcontractors, agents, employees, or other persons or entities for which the Engineer may be liable or responsible as a result of any statutory, tort, or contractual duty.

14. Intellectual Property

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

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

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

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

15. Acknowledgement of City Brand and Tree Logo Ownership and Restrictions

The City of Raleigh has developed proprietary branding (the "City Brand") centered around the Raleigh tree mark logo (the "Tree Logo"). The City's exclusive rights and ownership in and to the Tree Logo are protected under trademark and copyright, including U.S. Copyright Reg. No. VAu1-322-896, N.C. State Trademark Registration Reg. No. T-23070 and Federal Trademark Registration Reg. No. 5,629,347, as well as under other federal and state laws. Contractor acknowledges and understands that the City is not conferring any license to Contractor under this Agreement to use or depict the Tree Logo or other aspects

of the City Brand. Contractor shall not make any use or depiction of the Tree Logo or other aspects of the City Brand without the prior express written approval of the City. In this regard, should any materials being produced by Contractor for the City under this Agreement contemplate use or depiction of the Tree Logo, including, but not limited to, printed materials, digital media, signage and/or display materials, Contractor shall proceed under the auspices and direction of the City's Communications Department and shall comply with all guidelines and restrictions governing use or depiction of the Tree Logo.

16. Force Majeure

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

17. Advertising

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

18. Cancellation

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

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

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

19. Laws/Safety Standards

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

Engineer must comply with *North Carolina Occupational Safety and Health Standards for General Industry 13 NCAC 07F (29CFR 1910)*. In addition, Engineer shall comply with all applicable occupational health and safety and environmental rules and regulations.

Engineer shall effectively manage its safety and health responsibilities including:

- a. Accident Prevention
Prevent injuries and illnesses to its employees and others on or near the job site. Engineer managers and supervisors shall ensure personnel safety by strict adherence to established safety rules and procedures.
- b. Environmental Protection
Protect the environment on, near, and around the work site by compliance with all applicable environmental regulations.
- c. Employee Education and Training
Provide education and training to all subconsultant employees before they are exposed to potential workplace or other hazards as required by specific OSHA Standards.

20. Applicability of North Carolina Public Records Law

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

21. Miscellaneous

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

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

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

22. Right of Audit and Examination of Records

- a. The City may conduct an audit of any services performed and fees paid subject to this Contract. The City, or its designee, may perform such an audit throughout the Contract period and for three (3) years after termination thereof or longer if otherwise required by law.
- b. The Engineer and its agents shall maintain all books, documents, papers, accounting records, contract records and such other evidence as may be appropriate to substantiate costs incurred under this Contract. The City, or its designee, shall have the right to, including but not limited to: review and copy records; interview current and former employees; conduct such other

investigation to verify compliance with Contract terms; and conduct such other investigation to substantiate costs incurred by this Contract.

- c. "Records" shall be defined as data of every kind and character, including but not limited to books, documents, papers, accounting records, contract documents, information, and materials that, in the City's sole discretion, relate to matters, rights, duties or obligations of this Contract.
- d. Records and employees shall be available during normal business hours upon advanced written notice. Electronic mail shall constitute written notice for purposes of this section.
- e. Engineer shall provide the City or its designee reasonable access to facilities and adequate and appropriate workspace for the conduct of audits.
- f. The rights established under this section shall survive the termination of the Contract, and shall not be deleted, circumvented, limited, confined, or restricted by contract or any other section, clause, addendum, attachment, or the subsequent amendment of this Contract.
- g. The Engineer shall reimburse the City for any overcharges identified by the audit within ninety (90) days of written notice of the City's findings.
- h. Contractor shall, upon request, provide any records associated with this engagement to the North Carolina State Auditor that are necessary to comply with the provisions of G.S. §147-64.7.

23. E – Verify

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

24. Iran Divestment Act Certification

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

25. Companies Boycotting Israel Divestment Act Certification

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

26. Incorporation of Documents/Complete Agreement

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

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

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

The remainder of this page remains blank intentionally.

IN WITNESS WHEREOF, the parties hereto have executed this Contract by digital signature, under seal, on the respective dates below, and this Contract shall be effective upon the date of the City's signature.

ENGINEER:

CITY:

CITY OF RALEIGH
a North Carolina municipal corporation

By:

By:

_____(SEAL)
Signature

Signature

Name

Name

Title

Choose an item.

Title

Choose an item.

Department

Date of Signature

Date of Signature

ATTEST:

ATTEST:

Signature

_____(SEAL)
City Clerk (or designee)

Name

Title

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

Chief Financial Officer (or designee)

City of Raleigh Contract Number xxxxxxxxxx