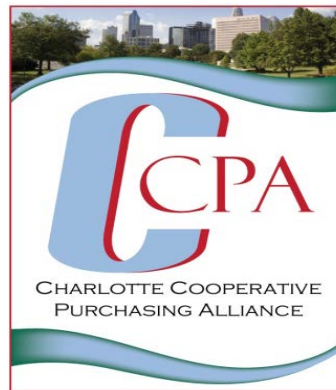


REQUEST FOR PROPOSALS
TECHNOLOGY PRODUCTS AND RELATED
SERVICES

RFP # 269-2019-117



CITY OF CHARLOTTE
NORTH CAROLINA

AUGUST 21, 2019

REQUEST FOR PROPOSALS
RFP # 269-2019-117
Technology Products and Related Services

AUGUST 21, 2019

Dear Sir or Madam:

The City of Charlotte, on behalf of itself, South Carolina entities to include Beaufort County, Buffalo-Mt. Pisgah Fire Department, Burton Fire District, Cherokee Springs Fire Department, City of Charleston, City of Greenville, City of Greer, City of Marion, City of Mullins, City of Myrtle Beach, City of North Myrtle Beach, City of Spartanburg, City of West Columbia, County of Lexington, Darlington County, Duncan Fire Department, Florence County, Georgetown County, Horry County, Lancaster County, Oconee County, Richland County School District One, Rock Hill School District Three, Surfside Beach Fire Department, Town of Aynor, Town of Pamplico, and Ware Shoals Fire Department, and all local government agencies and non-federal government agencies within Arizona, California, Connecticut, District of Columbia, Florida, Georgia, Illinois, Maryland, Massachusetts, Michigan, Missouri, New York, North Carolina, Ohio, Tennessee, Texas, Virginia, Washington, and West Virginia is accepting Proposals for Technology Products and Related Services to satisfactorily support the City, and other public agencies supported under this contract. This Request for Proposals (the "RFP") issued on behalf of the Charlotte Cooperative Purchasing Alliance (CCPA) through group purchasing clause, which provides that any county, city, special district, local government, school district, private K-12 school, technical or vocational school, higher education institution (including community colleges, colleges, and universities, both public and private), state, other government agency or nonprofit organization may purchase Products and Services through this contract. Therefore, respondents to this RFP must give due consideration to the potential market. The requirements for submitting a Proposal are stated in the following RFP. Please review them carefully.

A **Non-Mandatory** Pre-Proposal Conference for the purpose of reviewing the RFP and answering questions regarding the Services will be held on **SEPTEMBER 4, 2019 at 2:00 p.m.**, at the Charlotte-Mecklenburg Government Center (CMGC), 600 East Fourth Street, Charlotte, North Carolina 28202, 9th Floor Large Conference Room 986 or via teleconference at 704-336-5479. Please bring a copy of the RFP with you at that time. All interested Companies should return a completed Request For Proposals Acknowledgement Form (see Section 6, Form 1) by the date stated in the schedule in Section 2.1 of this RFP.

An electronic copy of the RFP in Microsoft Word format may be obtained by contacting Judson P. Cross at Judson.Cross@CharlotteNC.gov.

All Proposals are due to City of Charlotte Department of General Services, City Procurement, 9th Floor, CMGC 600 East Fourth Street, Charlotte, North Carolina 28202, no later than **SEPTEMBER 18, 2019 at 2:00 p.m.**

One (1) electronic copy of the Proposal on a CD or flash drive in a searchable format such as MS Word or Adobe Acrobat and one (1) original Proposal signed in ink by a company official authorized to make a legal and binding offer, plus five (5) copies of your Proposal must be submitted in a sealed box or opaque envelope plainly marked with the Proposal number and service description as follows:

Request for Proposals
Attention: Judson P. Cross
[Name of Company Submitting Proposal]
Technology Products and Related Services
RFP # 269-2019-117

RFP questions must be directed to Judson P. Cross, Department of General Services – City Procurement, per the enclosed instructions in Section 2.3. The City is an equal opportunity purchaser.

Sincerely,

Kay Elmore
Chief Procurement Officer

cc: RFP Project Team
RFP file

Checklist for submitting a Proposal:

Step 1-Read the document fully.

Step 2-If you plan on submitting a Proposal then fax or email Form 1 in Section 6 to the number or email address listed on the sheet.

Steps 3-If you have any questions send them before the deadline listed in Section 2.3.

If you plan to submit a Proposal you must follow this checklist, and must include everything detailed below.

Proposal Copies - Please provide the specified number for each format

- 1 Copy on CD or flash drive
- 1 Copy marked "Original"
- 5 Copies marked "Copy"

Proposal Format - Proposals should be formatted as follows:

- Cover Letter per **Section 4.1.1**
- Proposed Solution per **Section 4.1.2**
- Section 6, Form 2, Addenda Receipt Confirmation**
- Section 6, Form 3, Proposal Submission**
- Section 6, Form 4, Pricing Worksheet**
- Section 6, Form 5, MWSBE Utilization**
- Section 6, Form 6, Company Background and Experience**
- Section 6, Form 7, References**
- Section 6, Form 8, Additional Company Questions**
- Section 6, Form 9, Certification Regarding Debarment, Suspension and Other Responsibility Matters**
- Section 6, Form 10, Byrd Anti-Lobbying Certification**
- Section 6, Form 11, CCPA Plan**
- Section 6, Form 12, Environmental Purchasing Responses**
- Exceptions to any part of the RFP (If you take any exceptions to anything in this document list it in a category in your Proposal called "Exceptions" and offer an alternative solution).

The above items constitute all that must be included in the Proposal. If awarded a contract, you will be required to provide an insurance certificate that meets or exceeds the requirements set forth in Section 7.

It is the Company's responsibility to check www.ips.state.nc.us or the City's [Contract Opportunities Site](http://www.cityofraleigh.com/contractopportunities), and/or <https://ncadmin.nc.gov/businesses/hub/events> for any addenda or changes to this Project. Search for bid # 269-2019-117 to find if any documents or changes have been posted.

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Introduction and General Information

1. INTRODUCTION.

1.1. Objective.

The objective of this RFP is to solicit Proposals that will enable the City to determine which Company will best meet the City's needs for Technology Products and Services.

1.2. Definitions.

As used in this RFP, the following terms shall have the meanings set forth below:

Acceptance: Refers to receipt and approval by the City of a Deliverable or Service in accordance with the acceptance process and criteria in the Contract.

Administrative Fee: Refers to a fee paid to the City for all expenditures made by the City and Participating Public Agencies per Section 6, Form 4.

Affiliates: Refers to all departments or units of the City and all other governmental units, boards, committees or municipalities for which the City processes data or performs services.

Biodegradable: Refers to the ability of an item to be decomposed by bacteria or other living organisms.

Charlotte Business Inclusion (CBI): Refers to the Charlotte Business Inclusion office of the City of Charlotte.

CCPA: Refers to the Charlotte Cooperative Purchasing Alliance.

Charlotte Combined Statistical Area (CSA): Refers to the area consisting of the North Carolina counties of Anson, Cabarrus, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanly, and Union, and the South Carolina counties of Chester, Lancaster, and York; a criteria used by Charlotte Business INclusion to determine eligibility to participate in the program.

City: Refers to the City of Charlotte, North Carolina.

City Project Manager: Refers to a specified City employee representing the City's best interests in this Project.

Company: During the solicitation process, refers to a company that has interest in providing the Services. After the solicitation process, refers to a company that has been selected by the City to provide the Services.

Company Project Manager: Refers to a specified Company employee representing the best interests of the Company for this Project.

Contract: Refers to a written agreement executed by the City and the Company for all or part of the Services.

Deliverables: Refers to all tasks, reports, information, designs, plans, and other items that the Company is required to deliver to the City in connection with the Contract.

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

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any component thereof, and which are provided to the City by the Company or its subcontractors, including without limitation all end user manuals, training manuals, guides, program listings, data models, flow charts, and logic diagrams.

Environmentally

Preferable Products: Refers to products that have a lesser or reduced effect on human health and the environment when compared with competing products that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product.

Evaluation Committee: Refers to a City appointed committee that will evaluate Proposals and identify the Company(-ies) best meeting the needs of the City.

Minority Business

Enterprise/MBE: Refers to a business enterprise that: (i) is certified by the State of North Carolina as a Historically Underutilized Business (HUB) within the meaning of N.C. Gen. Stat. § 143-128.4; (ii) is at least fifty-one percent (51%) owned by one or more persons who are members of one of the following groups: African American or Black, Hispanic, Asian, Native American or American Indian; and (iii) has significant business presence in the Charlotte Combined Statistical Area.

MWSBE:

Refers to SBEs, MBEs and WBEs, collectively.

MWSBE Goal:

If an RFP or Contract has separate Subcontracting Goals for MBEs, WBEs, and/or SBEs, the term MWSBE is a shorthand way to refer collectively to all MBE, WBE, and SBE Goals set for the RFP. In some instances, the City may set one combined goal for MBEs, WBEs, and/or SBEs, in which event the term MWSBE Goal refers to that one, combined goal. In the latter instance, calculated as a percentage, the MWSBE Goal represents the total dollars spent with MBEs, WBEs, and SBEs as a portion of the total Proposal amount, including any contingency.

Participating Public

Agency:

Refers to a public entity, county, city, special district, local government, school district, private K-12 school, technical or vocational school, higher education institution (including community colleges, colleges and universities, both public and private), other government agency or nonprofit organization.

Post-Consumer

Recycled Material:

Refers to material and by-products which have served their intended end-use by a consumer and have been recovered or diverted from solid waste. It does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

Products/Technology

Products:

Refers to products purchased from the Company as defined in Section 3.

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<i>Project:</i>	Refers to the City's need for a company to provide Technology Products and Related Services for the City.
<i>Proposal:</i>	Refers to the proposal submitted by a Company for the Services as outlined in this RFP.
<i>Recyclability:</i>	Refers to products or materials that can be collected, separated or otherwise recovered from the solid waste stream for reuse, or used in the manufacture or assembly of another package or product, through an established recycling program. For products that are made of both recyclable and non-recyclable components, the recyclable claim should be adequately qualified to avoid consumer deception about which portions or components are recyclable.
<i>Recycled Material:</i>	Refers to material and by-products which have been recovered or diverted from solid waste for the purpose of recycling. It does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.
<i>Services:</i>	Refers to the Technology Products and Related Services as requested in this RFP.
<i>Small Business Enterprise/SBE:</i>	Refers to a business enterprise that is certified by the City of Charlotte under Part E of the CBI Policy as meeting all of the requirements for SBE certification.
<i>Specifications and Requirements:</i>	Refers to all definitions, descriptions, requirements, criteria, warranties, and performance standards relating to the Deliverables and Services that are set forth or referenced in: (i) this RFP, including any addenda; (ii) the Documentation; and (iii) any functional and/or technical specifications that are published or provided by the Company or its licensors or suppliers from time to time with respect to all or any part of the Deliverables or Services.
<i>Subcontracting Goals:</i>	Refers to the SBE, MBE, WBE, and MWSBE Goals established by the City for an RFP and resulting Contract.
<i>Trade Secrets:</i>	Information of the City or any of its suppliers, contractors or licensors: (a) that derives value from being secret; and (b) that the owner has taken reasonable steps to keep confidential. See N.C. Gen. Stat. § 66-152 et seq. Examples of trade secrets include information relating to proprietary software, new technology, new products or services, flow charts or diagrams that show how things work, manuals that tell how things work and business processes and procedures.
<i>Women Business Enterprise (WBE):</i>	Refers to a business enterprise that: (i) is certified by the State of North Carolina as a Historically Underutilized Business (HUB) within the meaning of N.C. Gen. Stat. § 143-128.4; (ii) is at least fifty-one percent (51%) owned by one or more persons who are female; and (iii) has significant business presence in the Charlotte Combined Statistical Area.

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Work Product: Refers to the Deliverables and all other programs, algorithms, reports, information, designs, plans and other items developed by the Company in connection with this RFP, and all partial, intermediate or preliminary versions of any of the foregoing.

1.3. Accuracy of RFP and Related Documents.

Each Company must independently evaluate all information provided by the City. The City makes no representations or warranties regarding any information presented in this RFP, or otherwise made available during this procurement process, and assumes no responsibility for conclusions or interpretations derived from such information. In addition, the City will not be bound by or be responsible for any explanation or conclusions regarding this RFP or any related documents other than those provided by an addendum issued by the City. Companies may not rely on any oral statement by the City or its agents, advisors, or consultants.

If a Company identifies potential errors or omissions in this RFP or any other related documents, the Company should immediately notify the City of such potential discrepancy in writing. The City may issue a written addendum if the City determines clarification necessary. Each Company requesting an interpretation will be responsible for delivering such requests to the City's designated representative as directed in RFP Section 2.

1.4. City's Rights and Options.

The City reserves the right, at the City's sole discretion, to take any action affecting this RFP, this RFP process, or the Services or facilities subject to this RFP that would be in the best interests of the City, including:

- 1.4.1. To supplement, amend, substitute, or otherwise modify this RFP, including the schedule, or to cancel this RFP, at any time;
- 1.4.2. To require any Companies to supplement or clarify its Proposal or provide additional information relating to its Proposals;
- 1.4.3. To investigate the qualifications, experience, capabilities, and financial standing of each Company submitting a Proposal;
- 1.4.4. To waive any defect or irregularity in any Proposal received;
- 1.4.5. To reject any or all Proposals;
- 1.4.6. To share the Proposals with City employees and contractors in addition to the Evaluation Committee as deemed necessary by the City;
- 1.4.7. To award all, none, or any part of the Services and enter into Contracts with one or more of the responding Companies deemed by the City to be in the best interest of the City, which may be done with or without re-solicitation;
- 1.4.8. To discuss and negotiate with any Company(-ies) their Proposal terms and conditions, including but not limited to financial terms; and
- 1.4.9. To terminate discussions and negotiations with any Company at any time and for any reason.

1.5. Expense of Submittal Preparation.

The City accepts no liability, and Companies will have no actionable claims, for reimbursement of any costs or expenses incurred in participating in this solicitation process. This includes expenses and costs related to Proposal submission, submission of written questions, attendance at pre-proposal meetings or evaluation interviews, contract negotiations, or activities required for contract execution.

Section 1

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1.6. Proposal Conditions.

The following terms are applicable to this RFP and the Company's Proposal.

1.6.1. RFP Not an Offer.

This RFP does not constitute an offer by the City. No binding contract, obligation to negotiate, or any other obligation shall be created on the part of the City unless the City and the Company execute a Contract. No recommendations or conclusions from this RFP process concerning the Company shall constitute a right (property or otherwise) under the Constitution of the United States or under the Constitution, case law, or statutory law of North Carolina.

1.6.2. Trade Secrets and Personal Identification Information.

Definition.

Upon receipt by City Procurement, all materials submitted by a Company (including the Proposal) are considered public records except for (1) material that qualifies as "trade secret" information under N.C. Gen. Stat. § 66-152 et seq. ("Trade Secrets") or (2) "personally identifiable information" protected by state or federal law, to include, but not be limited to, Social Security numbers, bank account numbers, and driver's license numbers ("Personally Identifiable Information" or "PII").

Instructions for Marking and Identifying Trade Secrets.

If any Proposal contains Trade Secrets or PII, such Trade Secrets and PII must specifically and clearly be identified in accordance with this Section 1.6.2 by clearly separating them from the rest of the Proposal. For hard copy documents, it must be submitted in a separate, sealed envelope, marked either "Personally Identifiable Information – Confidential" or "Trade Secret—Confidential and Proprietary Information." For electronic submissions it must also be submitted on a separate CD or flash drive. In both hard copy or electronic format, the confidentiality caption stated above must appear on each page of the Trade Secret or PII materials.

Availability of Proposals to City Staff and Contractors.

By submitting a Proposal, each Company agrees that the City may reveal any Trade Secret materials and PII contained therein to all City staff and City officials involved in the selection process, and to any outside consultant or other third parties who serve on the Evaluation Committee or who are hired or appointed by the City to assist in the evaluation process.

Availability of Proposals via Public Records Requests.

Any person or entity (including competitors) may request Proposals submitted in response to an RFP. Only those portions of RFPs properly designated as Trade Secret or PII are not subject to disclosure. The public disclosure of the contents of a Proposal or other materials submitted by a Company is governed by N.C. Gen. Stat. § 132 and 66-152, et seq.

When determining whether to mark materials as Trade Secret, please note the following:

- Entire Proposals may not be marked as Trade Secret
- Pricing may not be marked as Trade Secret

The City may disqualify and Company that designates its entire Proposal as a trade secret, or any portion thereof that clearly does not qualify under applicable law as a Trade Secret or PII. Each Company agrees to indemnify, defend, and hold harmless the City and each of its officers, employees, and agents from all costs, damages, and

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expenses incurred in connection with refusing to disclose any material that the Company has designated as a Trade Secret or PII. This includes an obligation on the part of the Company to defend any litigation brought by a party that has requested Proposals or other information that the Company has marked Trade Secret or PII.

1.6.3. Amendments to RFP.

If the City amends this RFP, addenda will be posted to the IPS website at www.ips.state.nc.us and the City's [Contract Opportunities Site](#). Companies are required to acknowledge receipt of each addendum by including the Addenda Receipt Confirmation Form (Section 6, Form 2) with their Proposals.

1.6.4. Proposal Terms Firm and Irreversible.

The signed Proposal shall be considered a firm offer on the part of the Company. The City reserves the right to negotiate price and other terms. All Proposal elements (including all statements, claims, declarations, prices, and specifications) shall be considered firm and irrevocable for purposes of future Contract negotiations unless specifically waived in writing by the City. The Company chosen for award should be prepared to have its Proposal and any relevant correspondence incorporated into the Contract, either in part or in its entirety, at the City's election.

1.6.5. Proposal Binding for 180 Days.

Section 6, Form 3 contains a statement to the effect that the Proposal is a firm offer for one-hundred-eighty (180) calendar day period from the date of the opening. This statement must be signed by an individual authorized to bind the Company. All prices quoted shall be firm and fixed for the full Contract period. The City shall have the option to accept subject to exception by Contract.

1.6.6. Charlotte Business INclusion Program.

Pursuant to Charlotte City Council's adoption of the Charlotte Business INclusion (CBI) Policy, the CBI program promotes diversity, inclusion, and local business opportunities in the City's contracting and procurement process for Minority, Women, and Small Business Enterprises (MWSBEs) with a significant business presence in the Charlotte Combined Statistical Area (CSA). The CBI Policy is posted at: www.charlottebusinessinclusion.com.

The City is committed to promoting opportunities for maximum participation of certified MWSBEs on City funded contracts at both the Prime and Subcontract level. For MWSBE participation to count towards a Goal, MWSBEs must meet both the certification and geographic requirements as detailed throughout this solicitation and in the CBI Policy.

The City intends to negotiate utilization of MWSBE(s). The Company is required to submit Section 6, Form 5 attached herein. Failure to submit this form with the Proposal shall render the Proposal non-responsive.

1.6.7. Subcontracting.

The Company given contract award shall be the prime contractor and shall be solely responsible for contractual performance. In the event of a subcontracting relationship, the Company shall remain the prime contractor and will assume all responsibility for the performance of the Services that are supplied by all subcontractors. The City retains the right to approve all subcontractors.

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- 1.6.8. Equal Opportunity.
The City has an equal opportunity purchasing policy. The City seeks to ensure that all segments of the business community have access to supplying the goods and services needed by City programs. The City provides equal opportunity for all businesses and does not discriminate against any Companies regardless of race, color, religion, age, sex, and national origin or disability.
- 1.6.9. Use of City's Name.
No advertising, sales promotion, or other materials of the Company or its agents or representatives may identify or reference the City in any manner absent the prior written consent of the City.
- 1.6.10. Withdrawal for Modification of Proposals.
Companies may change or withdraw a previously-submitted Proposal at any time prior to the Proposal due date. Only formal written requests addressed in the same manner as the Proposal and received by the City prior to the Proposal due date will be accepted. The request must be in a sealed envelope that is plainly marked "**Modifications to Proposal.**" No oral modifications will be allowed. If the Company complies with this Section, after the Proposal due date, the Proposal, will be withdrawn or corrected in accordance with the written request(s).
- 1.6.11. No Bribery.
In submitting a response to this RFP, each Company certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the foregoing has bribed, or attempted to bribe, an officer or employee of the City in connection with the Contract.
- 1.6.12. Exceptions to the RFP.
Other than exceptions that are stated in compliance with this Section and Section 4.1.4, each Proposal shall be deemed to agree to comply with all terms, conditions, specifications, and requirements of this RFP including the Sample Contract language included in Section 7. An "exception" is defined as the Company's inability or unwillingness to meet a term, condition, specification, or requirement in the manner specified in the RFP including the Sample Contract language included as in Section 7. All exceptions taken must be identified and explained in writing in your Proposal and must specifically reference the relevant section(s) of this RFP. If the Company provides an alternate solution when taking an exception to a requirement, the benefits of this alternative solution and impact, if any, on any part of the remainder of the Company's solution, must be described in detail.
- 1.6.13. Fair Trade Certifications.
By submitting a Proposal, the Company certifies that:
- The prices in its Proposal have been arrived at independently, without consultation, communication, or agreement with anyone, as to any matter relating to such prices for the purpose of restricting competition;
 - Unless otherwise required by law, the prices quoted in its Proposal have not been knowingly disclosed by the Company and will not knowingly be so disclosed prior to the Proposal due date; and
 - No attempt has been made or will be made by the Company to induce any other person or firm to submit or not to submit a Proposal for the purpose of restricting competition.

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- 1.6.14. Companies' Obligation to Fully Inform Themselves.
Companies or their authorized representatives must fully inform themselves as to all conditions, requirements, and specifications of this RFP before submitting Proposals. Failure to do so will be at the Company's own risk.

1.7. Charlotte Cooperative Purchasing Alliance.

The Charlotte Cooperative Purchasing Alliance ("CCPA") is a cooperative purchasing program established by the City of Charlotte with the specific purpose of reducing procurement costs by leveraging aggregate purchasing volume to receive better pricing.

CCPA serves as a government cooperative purchasing organization for government agencies and all contracts are publicly solicited, awarded, and held by the City of Charlotte, North Carolina. CCPA contracts are available for use and benefit all entities that must comply with state purchasing laws.

The City of Charlotte is referred to in this procurement as "City." The other government entities and nonprofits that may participate in a CCPA contract are referred to as "Participating Public Agencies," and may include any county, city, special district, local government, school district, private K-12 school, technical or vocational school, higher education institution (including community colleges, colleges and universities, both public and private), other government agency or nonprofit organization that elects to access the CCPA Contract.

Except as specifically set forth in the Company's Proposal, the terms and conditions of the Contract entered into with the Company may be extended to other public entities that are or at any time in the future become members of the CCPA. Except as prohibited in the Proposal, and subject to the City and the Company entering into an administrative agreement that includes a fee payable to the City, Participating Public Agencies will have the right to enter into contracts with the Company at the same prices, discounts and other terms as are in the Company's Contract with the City.

If a Participating Public Agency decides to take advantage of this option, the Company may opt to enter into a separate contract with that public entity, and must deal directly with that public entity concerning the placement of orders, issuance of purchase orders, contractual disputes, invoicing and payment. The City of Charlotte acts only as the entity conducting the initial procurement.

The Company may notify other public entities of the availability of the Contract for use under the CCPA. Other public entities desiring to procure Products and Services under the terms set forth in the City's Contract will need to make their own legal determinations as to whether the use of this Contract is consistent with their laws, regulations, and other policies.

The City of Charlotte shall not be held liable for any costs or damages incurred by any other public entity or the Company as a result of any contract or other arrangement entered into between that public entity and the Company.

Any subsequent contract(s) between a Participating Public Agency and an awarded Company shall be construed to be in accordance with and governed by the laws of the State in which the Participating Public Agency exists.

1.8. Title VI Solicitation Notice.

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 proposers 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

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proposals in response to this request and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Section 2 Procurement Process

2. PROCUREMENT PROCESS.

This Section 2 contains information about the procurement process for this Project.

2.1. Schedule and Process.

The following chart shows the schedule of events for the conduct of this RFP. The key events and deadlines for this process are as follows, some of which are set forth in more detail in the Sections that follow:

DATE	EVENT
AUGUST 21, 2019	<i>Issuance of RFP.</i> The City issues this RFP.
AUGUST 28, 2019	<i>Request for Proposals Acknowledgement.</i> Companies that intend to submit a Proposal shall submit the RFP Acknowledgement Form on this date to the email or fax number listed in Section 2.2.
AUGUST 28, 2019	<i>Submission of Written Questions Prior to Pre-Proposal Conference.</i> Companies are permitted to submit written questions for purposes of clarifying this RFP. All submissions must be pursuant to the instructions in Section 2.3 by 4:00 p.m.
SEPTEMBER 4, 2019	<i>Non-Mandatory Pre-Proposal Conference</i> to be held at the location indicated in Section 2.4 at 2:00 p.m.
SEPTEMBER 18, 2019	<i>Proposal Submission.</i> Proposals are due by 2:00 p.m. at City Procurement, CMGC 9 th Floor.
SEPTEMBER 18, 2019 – OCTOBER 29, 2019	<i>Evaluation.</i> The Evaluation Committee will assess each Proposal and conduct evaluation activities with Companies.
DECEMBER 9, 2019	<i>Contract Award by Council.</i>
JANUARY 9, 2020	<i>Services commence.</i> Company begins providing the Services.

2.2. Intent to Propose.

Please acknowledge receipt of this RFP via email or facsimile by **AUGUST 28, 2019** using the Request for Proposals Acknowledgement Form located in Section 6, Form 1. Complete the form in its entirety advising the City of your firm's intention to submit or not submit a Proposal. Email or fax a copy of the completed and signed form to the email address or number below. The City strongly encourages Companies to submit this form prior to the Pre-Proposal conference but Companies shall not be precluded from submitting a Proposal if they fail to submit this form.

2.3. Interpretations and Addenda.

There are two (2) ways to ask questions about this RFP: (1) submit a question in writing to the Procurement Officer at the e-mail address listed below; or (2) ask a question at the Pre-Proposal Conference. Other than these permitted methods, Companies should refrain from contacting City staff prior to the Proposal deadline. **The City is not bound by any statements, representations or clarifications regarding this RFP other than those provided in writing by the Procurement Officer.**

Section 2

Procurement Process

Judson P. Cross
City of Charlotte
City Procurement
600 East 4th Street, CMGC 9th Floor
Charlotte, NC 28202
RFP # 269-2019-117
Fax: 704.632.8584
E-mail: Judson.Cross@CharlotteNC.gov

When submitting questions, please reference the RFP page and topic number. In order for questions to be addressed at the Pre-Proposal Conference, they must be submitted by **4:00 p.m. on AUGUST 28, 2019**.

In the case of questions not submitted by the deadline, the Procurement Officer will, based on the availability of time to research and communicate an answer, decide whether an answer can be given before the Proposal deadline. When responding to Company questions or issuing addenda to the RFP, the City will post the answer or information to the Internet at <http://www.ips.state.nc.us> and the City's [Contract Opportunities Site](https://ncadmin.nc.gov/businesses/hub/events), and/or <https://ncadmin.nc.gov/businesses/hub/events> referencing solicitation # 269-2019-117. Companies are required to acknowledge their receipt of each addenda by including in the Proposal a completed Addenda Receipt Confirmation Form (Section 6, Form 2).

2.4. Pre-Proposal Conference.

A Non-Mandatory Pre-Proposal Conference will be conducted on **SEPTEMBER 4, 2019 at 2:00 p.m.** The meeting will be held at the Charlotte-Mecklenburg Government Center (CMGC), 600 East Fourth Street, Charlotte, North Carolina 28202, 9th Floor Large Conference Room 986 or via teleconference by calling 704-336-5479.

While attendance at the Pre-Proposal Conference is not mandatory, all interested Companies are encouraged to attend. If special accommodations are required for attendance, please notify Judson P. Cross in advance of the conference date and time identifying the special accommodations required.

2.5. Submission of Proposals.

Proposals must be in the format specified in Section 4 of this RFP. One (1) electronic copy on a CD or flash drive in a searchable format such as MS Word or Adobe Acrobat and one (1) original Proposal signed in ink by a company official authorized to make a legal and binding offer, plus five (5) copies shall be submitted to the address listed in Section 2.3 above by **SEPTEMBER 18, 2019 on or before but no later than 2:00 p.m.** The original Proposal and each of the copies shall be complete and unabridged, and shall not refer to any other copy of the signed and sealed original for any references, clarifications, or additional information.

When received, all Proposals and supporting materials, as well as correspondence relating to this RFP, shall become the property of the City. **Proposals sent by fax or email will not be accepted.**

Due to security requirements at the Charlotte-Mecklenburg Government Center (CMGC), sealed box(es), including any portions marked as Confidential/Trade Secret, may be searched and thoroughly inspected prior to admittance. Please allow time for this search to take place and to re-seal the box if delivering your Proposal in person to the CMGC.

Do not arrive at City Procurement on the Proposal due date for the purposes of reviewing your competitors' Proposals. The Proposals will not be read aloud or made available to inspect or

Section 2

Procurement Process

copy until any trade secret issues have been resolved. All Proposals will be time-stamped upon receipt and held in a secure place until opening.

2.6. Correction of Errors.

The person signing the Proposal must initial erasures or other corrections in the Proposal. The Company further agrees that in the event of any obvious errors, the City reserves the right to waive such errors in its sole discretion. The City, however, has no obligation under any circumstances to waive such errors.

2.7. Evaluation.

As part of the evaluation process, the Evaluation Committee may engage in discussions with one or more Companies. Discussions might be held with individual Companies to determine in greater detail the Company's qualifications, to explore with the Company the scope and nature of the required contractual Services, to learn the Company's proposed method of performance and the relative utility of alternative methods, and to facilitate arriving at a Contract that will be satisfactory to the City.

The City may in its discretion require one or more Companies to make presentations to the Evaluation Committee or appear before the City and/or its representatives for an interview. During such interview, the Company may be required to orally and otherwise present its Proposal and to respond in detail to any questions posed. Additional meetings may be held to clarify issues or to address comments, as the City deems appropriate. Companies will be notified in advance of the time and format of such meetings.

Since the City may choose to award a Contract without engaging in discussions or negotiations, the Proposals submitted shall state the Company's best offer for performing the Services described in this RFP.

2.8. Contract Award by Council.

As soon as practical after opening the Proposals, the name of the apparent successful Company will be submitted to the Council for final approval of award and the Procurement Officer will provide Contract documents to the Company. In the event the Council approval is not received within one hundred eighty (180) calendar days after opening of the Proposals, the Company may request that it be released from the Proposal.

2.9. Vendor Inclusion.

The City's vendor management philosophy supports a fair, open, and inclusive process that offers the same access and information to all Companies. Although Companies are not required to be registered in the City's vendor registration system prior to submitting a Proposal, in order to execute a contract with the City and receive payment from the City, all Companies must register with the City's vendor registration system.

Your registration provides the City with baseline information for your company including location, contact and demographic information, as well as your areas of expertise with specific commodity and/or service descriptions. You will also have the opportunity to complete any applicable certifications if your company desires to establish itself as an SBE, MBE, or WBE. The link below will provide you with the opportunity to complete your registration on-line with the City.

<http://charlottenc.gov/vendors>

3. SCOPE OF TECHNOLOGY PRODUCTS AND RELATED SERVICES.

3.1. General Scope.

The City and Participating Public Agencies requires multiple Companies to provide various technology Products and applicable Services. While the Participating Public Agencies is flexible with respect to certain elements of the Technology Products and Related Services, the following specific requirements and preferences apply.

3.2. Technology Products.

The Products required include, but are not limited to:

- Desktop printers
- Scanners
- Projectors
- Smartboards
- Plotters
- Tablet computers (e.g., Microsoft SurfacePro®)
- Ruggedized tablet and laptop computers (e.g., Panasonic Toughbooks® and ToughPads®)
- Security cameras and components
- Wireless cameras and components
- Servers
- Computer peripherals (e.g., keyboards, mice, speakers, cords, adapters)
- Power protection (uninterruptable power supply)
- Audio/visual equipment (e.g., televisions, speakers, amplifiers, switching, video and audio recording and microphones)
- Mobile and wireless communications equipment and related peripherals (e.g., modems and in-car routers)
- Network hardware (e.g., identity engines, switches)
- Commercial off the shelf (“COTS”) software
- Subscription and/or cloud-based software
- Firewalls
- Services related to the above

All Products shall be provided in new condition. City of Charlotte-specific standards for the above items, where applicable, are included as Exhibit B. Where no standards are included, the City does not have specific standards for those Products at this time.

This Project does **not** include the following items:

- Dell products and services
- Cisco products and services
- Motorola products and services
- Oracle products and services
- Cabling Services
- Microsoft products and services

3.3. Technology Services.

3.3.1. Product-Related Services.

Participating Public Agencies may require Services directly related to the Products listed in Section 3.1 including, but not limited to, implementation, customization, installation, basic maintenance and repair, consulting, project management and applicable software licenses.

Section 3 Scope of Services

- 3.3.2. Other Services.
Participating Public Agencies may require other Services from time to time including, but not limited to, commercial off the shelf (COTS) software related maintenance and support.

Some Services may require a unique scope of work, pricing and specific terms.

3.4. Quantities.

Participating Public Agencies reserve the right to purchase according to actual need and do not guarantee quantities. Multiple orders will be placed on an as needed basis during the term of the Contract.

3.5. Reporting Requirements.

3.5.1. CCPA Quarterly Reports.

The Company shall provide quarterly usage reports in Excel format to City Procurement by the 30th of January, April, July, and October. Reports must be designed in such a manner that the information captured on the purchase request shall also be reflected in the quarterly report. The reports must include but not limited to the City department, Participating Public Agency name, category, product/service description, product number, unit of measure, quantity, applicable percentage discount/list price, fixed unit price, and extended price for each item. The City and Participating Public Agency reserves the right to request additional information.

3.5.2. Environmental Reports.

The Company shall provide quarterly reports on all Products and Services purchased by the City or any other requesting Participating Public Agency on any item with an environmental element as described below.

3.6. Environmental Purchasing Requirements.

The following are applicable items covered by the City's Sustainable Purchasing Policy that must be accommodated by the Company:

Product or Service	Examples	Environmental Attributes
Electronics	Computers, phones, radios, printers, televisions, multifunction machines	Energy efficiency, lifecycle management
Records Management	Digital storage	End of life management

Companies are required to provide information with their Proposals regarding the environmental attributes in Section 6, Form 12.

Section 4

Proposal Content and Format

4. PROPOSAL CONTENT AND FORMAT.

The City desires all Proposals to be identical in format in order to facilitate comparison. While the City's format may represent departure from the Company's preference, the City requires strict adherence to the format. The Proposal will be in the format described below:

- A. Cover letter;
- B. Proposed Solution;
- C. The "Addenda Receipt Confirmation" set forth in Section 6, Form 2;
- D. The "Proposal Submission" set forth in Section 6, Form 3;
- E. The "Pricing Worksheet" set forth in Section 6, Form 4;
- F. The "MWSBE Utilization" form set forth in Section 6, Form 5;
- G. The "Company's Background Response" form set forth in Section 6, Form 6;
- H. The "References" set forth in Section 6, Form 7;
- I. The "Additional Company Questions" set forth in Section 6, Form 8;
- J. The "Certification Regarding Debarment, Suspension and Other Responsibility Matters" set forth in Section 7, Form 9;
- K. The "Byrd Anti-Lobbying Certification" set forth in Section 7, Form 10;
- L. The "CCPA Plan" set forth in Section 6, Form 11;
- M. The "Environmental Purchasing Responses" set forth in Section 6, Form 12 and
- N. Exceptions to the Remainder of the RFP, including the Sample Contract in Section 7.

The City encourages Proposals to be compatible with the City's waste reduction goals and policies. Therefore, it is desired that all responses meet the following requirements:

- All Proposals be printed 8 1/2" x 11" format with all standard text no smaller than eleven (11) points;
- All copies be printed double-sided;
- All copies be printed on recycled paper (at least 30% post-consumer recovered material and at least 30% total recovered material);
- Unless necessary, all Proposal originals and copies should minimize or eliminate use of non-recyclable or non-reusable materials such as 3- ring binders, plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Glued materials, paper clips, and staples are acceptable; and
- Materials be submitted in a format that allows for easy removal and recycling.

Proposals must also include a CD or flash drive including the entire Proposal in a searchable format such as MS Word or Adobe Acrobat.

Companies are required to organize the information requested in this RFP in accordance with the format and instructions outlined above and detailed below. Failure to do so may result in the City, at its sole discretion, deeming the Proposal non-responsive. The Company, however, may reduce the repetition of identical information within several sections of the Proposal by making the appropriate cross-references to other sections of the Proposal. Appendices for certain technical or financial information may be used to facilitate Proposal preparation.

4.1. Proposal Content.

4.1.1. Cover Letter.

The Proposal must include a letter of transmittal attesting to its accuracy, signed by an individual authorized to execute binding legal documents. The cover letter shall provide the name, address, telephone and facsimile numbers of the Company along with the name, title, address, email address, telephone and facsimile numbers of the executive that has the authority to contract with the City. The cover letter shall

Section 4

Proposal Content and Format

present the Company's understanding of the Project and a summary of the approach to perform the Services.

4.1.2. Proposed Solution.

Given the purpose of this Project and the City's goals as stated in this RFP, provide a creative solution to meet such goals. **For each component of the Project described in Section 3, state whether and how your Proposed Solution complies as well as any additional information requested.** If you wish to add supplemental information, it shall be labeled "Supplemental Information."

4.1.3. Required Forms.

To be deemed responsive to this RFP, Companies must complete, in detail, all Proposal Forms listed in this Section 4, items numbered C through M.

4.1.4. Exceptions to the RFP.

Exceptions must be submitted in accordance with Section 1.6.12 of this RFP. If exceptions are not identified in your Proposal they may not be considered during Contract negotiation and could result in Proposal being rejected from further consideration. If legal counsel needs to review the Sample Contract prior to signature, reviews must be completed before your Proposal is submitted.

The City intends to enter into a City-drafted Contract with the successful Company that contains the terms and conditions set forth in Section 7 ("Sample Terms"). The number and extent of any exceptions and proposed additions to the Sample Terms will be one of the City's evaluation criteria.

Accordingly, each Company must state specifically in its Proposal any exceptions to the Sample Terms, or any such exceptions will be waived. Any Company-proposed additional terms or conditions must also be included in the Proposal, and the City reserves the right to refuse consideration of any terms not so included. Any proposed changes to the Sample Terms after tentative contract award may constitute a material change to the Company's Proposal and be grounds for revoking the award.

Notwithstanding the foregoing, the City reserves the right to modify the Sample Terms prior to or during contract negotiations if it is in the City's best interest to do so.

Section 5

Evaluation Criteria

5. PROPOSAL EVALUATION CRITERIA.

Proposals will be evaluated based on the Company's ability to meet the performance requirements of this RFP. This section provides a description of the evaluation criteria that will be used to evaluate the Proposals. To be deemed responsive, it is important for the Company to provide appropriate detail to demonstrate satisfaction of each criterion and compliance with the performance provisions outlined in this RFP. The Company's Proposal will be the primary source of information used in the evaluation process. Proposals must contain information specifically related to the proposed Services and requested herein. Failure of any Company to submit information requested may result in the elimination of the Proposal from further evaluation.

Proposals will be assessed to determine the most comprehensive, competitive and best value solution for the City based on, but not limited to, the criteria below. The City reserves the right to modify the evaluation criteria or waive portions thereof. Proposals will be evaluated on the following major categories:

- a. Qualifications and Experience;
- b. Project Approach and Proposed Solution;
- c. Cost Effectiveness and Value;
- d. CCPA Plan; and
- e. Acceptance of the Terms of the Contract.

5.1. Qualifications and Experience.

Companies will be evaluated on the background and experience information provided in Section 6, Form 6.

5.2. Project Approach / Proposed Solution.

Companies will be evaluated based upon their understanding, experience and qualifications in performing the same or substantially similar Services, as reflected by its experience in performing such Services. The evaluation will include references regarding work for organizations with needs similar to the City's, and the feasibility of the Company's approach for the provision of the Services.

5.3. Cost Effectiveness and Value.

Under this criterion, Proposals will be compared in terms of the most reasonable and effective pricing options. The Evaluation Committee will also take into consideration any indirect costs associated with the Services and administration of the Contract.

5.4. CCPA Plan.

The City is committed to supporting the CCPA and making high quality contract opportunities available to Participating Public Agencies. Companies will be evaluated on the information provided in Section 6, Form 11 regarding their CCPA plan.

5.5. Acceptance of the Terms of the Contract.

The City will evaluate the Proposals for compliance with the terms, conditions, requirements, and specifications stated in this RFP including the sample contract language provided in Section 7. Regardless of exceptions taken, Companies shall provide pricing based on the requirements and terms set forth in this RFP. Exceptions shall be identified in accordance with Sections 1.6.12 and 4.1.4 of this RFP.

REQUIRED FORM 1 – REQUEST FOR PROPOSALS ACKNOWLEDGEMENT

RFP # 269-2019-117

Technology Products and Related Services

The Company hereby certifies receipt of the Request for Proposals for the City of Charlotte, North Carolina RFP # 269-2019-117, Technology Products and Related Services. This form should be completed upon receipt of the City's Request for Proposals and faxed or emailed in time for the City to receive it by or before **AUGUST 28, 2019**. Failure to submit this form by the designated date shall not preclude the Company from submitting a proposal. Please fax or email the completed Request for Proposals Acknowledgement Form to the attention of:

Judson P. Cross
Department of General Services – City Procurement
Fax: 704.632.8584
Email: Judson.Cross@CharlotteNC.gov

Date: _____

Authorized Signature: _____

Title: _____

Company Name: _____

Contact Name: _____

Contact E-mail address: _____

Please check the appropriate space below and provide the requested information:

_____ **We plan to attend the Pre-Proposal Conference and plan on submitting a Proposal**

Indicate number of attendees: In-Person _____ Via Teleconference _____

_____ **We do not plan to attend the Pre-Proposal Conference but plan on submitting a Proposal**

Reason: _____

_____ **We do not plan to attend the Pre-Proposal Conference and do not plan on submitting a Proposal**

Reason: _____

REQUIRED FORM 2 – ADDENDA RECEIPT CONFIRMATION

RFP # 269-2019-117

Technology Products and Related Services

Please acknowledge receipt of all addenda by including this form with your Proposal. All addenda will be posted to the NC IPS website at www.ips.state.nc.us and the City's Contract Opportunities Site at <http://charlottenc.gov/DoingBusiness/Pages/ContractOpportunities.aspx>.

ADDENDUM #:

**DATE ADDENDUM
DOWNLOADED FROM NC IPS:**

I certify that this proposal complies with the Specifications and conditions issued by the City except as clearly marked in the attached copy.

(Please Print Name)

Date

Authorized Signature

Title

Company Name

REQUIRED FORM 3 – PROPOSAL SUBMISSION FORM

RFP # 269-2019-117

Technology Products and Related Services

This Proposal is submitted by:

Company Name: _____

Representative (printed): _____

Address: _____

City/State/Zip: _____

Email address: _____

Telephone: _____

(Area Code) Telephone Number

Facsimile: _____

(Area Code) Fax Number

The representative signing above hereby certifies and agrees that the following information is correct:

1. In preparing its Proposal, the Company has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in or condoned prohibited discrimination.
2. For purposes of this Section, 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 provision of the solicitation for proposals on this project, 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 by the Company on this Project and to terminate any contract awarded based on such Proposal.
4. As a condition of contracting with the City, the Company agrees to maintain documentation sufficient to demonstrate that it has not discriminated in its solicitation or selection of subcontractors. The Company further 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. Failure to maintain or failure to provide such information constitutes grounds for the City to reject the bid submitted by the Company or terminate any contract awarded on such proposal.
5. As part of its Proposal, the Company shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against the Company in a legal or administrative proceeding alleging that the Company discriminated against its subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.

Section 6 Required Forms

6. The information contained in this Proposal or any part thereof, including its Exhibits, Schedules, and other documents and instruments delivered or to be delivered to the City, is true, accurate, and complete. This Proposal 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.
7. None of Company's or its subcontractors' owners, employees, directors, or contractors will be in violation of the City's Conflict of Interest Policy for City, Secondary and Other Employment Relationships (HR 13) if a Contract is awarded to the Company.
8. It is understood by the Company that the City reserves the right to reject any and all Proposals, to make awards on all items or on any items according to the best interest of the City, to waive formalities, technicalities, to recover and resolicit this RFP.
9. This Proposal is valid for one hundred and eighty (180) calendar days from the Proposal due date.

I, the undersigned, hereby acknowledge that my company was given the opportunity to provide exceptions to the Sample Contract as included herein as Section 7. As such, I have elected to do the following:

Include exceptions to the Sample Contract in the following section of my Proposal: _____

Not include any exceptions to the Sample Contract.

I, the undersigned, hereby acknowledge that my company was given the opportunity to indicate any Trade Secret materials or Personally Identifiable Information ("PII") as detailed in Section 1.6.2. I understand that the City is legally obligated to provide my Proposal documents, excluding any appropriately marked Trade Secret information and PII, upon request by any member of the public. As such, my company has elected as follows:

The following section(s) of the of the Proposal are marked as Trade Secret or PII: _____

No portion of the Proposal is marked as Trade Secret or PII.

Representative (signed): _____

REQUIRED FORM 4 – PRICING WORKSHEET

RFP # 269-2019-117

Technology Products and Related Services

Regardless of exceptions taken, Companies shall provide pricing based on the requirements and terms set forth in this RFP. Pricing must be all-inclusive and cover every aspect of the Project. Cost must be in United States dollars. **If there are additional costs associated with the Services, please add to this chart. Your Price Proposal must reflect all costs for which the City will be responsible.**

For purposes of this RFP, assume an initial term of three (3) years, with the City having an option to renew for two 2 additional consecutive one (1) year terms thereafter.

1. Technology Products.

Companies shall indicate below their offered discount off their then-current list cost on each Product category from Section 3.1 they provide and the URL where such current list costs can be found:

Category	Percentage off List Cost	URL
Desktop printers		
HP desktop printers		
Scanners		
Projectors		
Smartboards		
Plotters		
Tablet computers		
Microsoft Surface® tablets		
Ruggedized tablet and laptop computers		
Panasonic Toughbooks® and ToughPads®		
Basic video cameras and components		
Security cameras and components		
Wireless cameras and components		
Servers		
HP servers		
Computer peripherals		
Power protection		
Audio/visual equipment		

Section 6 Required Forms

Mobile and wireless communications equipment and peripherals		
Network hardware		
COTS software		

Companies shall indicate whether they are providing lower pricing on Products than in their North Carolina state contract, if applicable.

2. Technology Services.

Companies shall indicate below their offered discount off their then-current list cost on both Product-related and other Service category as described in Section 3.3 and the URL where such current list costs can be found (add lines as needed):

Service Description	Percentage off List Price	URL
Product-Related Services (Per Section 3.3.1)		
Other Services (Per Section 3.3.2)		

3. Administrative Fees.

The Company shall pay the City a minimum of one percent (1%) quarterly Administrative Fee based on overall CCPA Program spend by the City and Participating Public Agencies during the term of the Contract and will include a report as mutually agreed to by the parties outlining the CCPA spend. The Administrative Fee shall be paid no later than thirty (30) days after the end of each calendar quarter during the term of the contract. Companies shall indicate their Administrative Fee below:

%

Section 6 Required Forms

4. Pricing Incentives and Rebates.

The Company shall identify any incentives and rebates offered based on volume dollar amounts, core credits or other criteria below:

Rebate Description	Amount or Percentage



REQUIRED FORM 5 – M/W/SBE UTILIZATION

RFP # 269-2019-117

Technology Products and Related Services

The City maintains a strong commitment to the inclusion of MWSBEs in the City’s contracting and procurement process when there are viable subcontracting opportunities.

Companies must submit this form with their proposal outlining any supplies and/or services to be provided by each City certified Small Business Enterprise (SBE), and/or City registered Minority Business Enterprise (MBE) and Woman Business Enterprise (WBE) for the Contract. If the Company is a City-registered MWSBE, note that on this form.

The City recommends you exhaust all efforts when identifying potential MWSBEs to participate on this RFP.

Company Name:	
----------------------	--

Please indicate if **your company** is any of the following:

MBE WBE SBE None of the above

If your company has been certified with any of the agencies affiliated with the designations above, indicate which agency, the effective and expiration date of that certification below:

Agency Certifying: _____ Effective Date: _____ Expiration Date: _____

Identify outreach efforts that were employed by the firm to maximize inclusion of MWSBEs to be submitted with the firm’s proposal (attach additional sheets if needed):

Identify outreach efforts that will be employed by the firm to maximize inclusion during the contract period of the Project (attach additional sheets if needed):

[Form continues on next page]

Section 6 Required Forms

List below all **MWSBEs** that you intend to subcontract to while performing the Services:

Subcontractor Name	Description of work or materials	Indicate either "M", "S", and/or "W"	City Vendor #

Total MBE Utilization	%
Total WBE Utilization	%
Total SBE Utilization	%
Total MWSBE Utilization	%

Representative (signed): _____

Date

Representative Name

REQUIRED FORM 6 – COMPANY’S BACKGROUND RESPONSE

RFP # 269-2019-117

Technology Products and Related Services

Companies shall complete and submit the form below as part of their response to this RFP. Additional pages may be attached as needed to present the information requested.

Question	Response
Company’s legal name.	
Company Location (indicate corporate headquarters and location that will be providing the Services).	
How many years has your company been in business? How long has your company been providing the Services as described in Section 3?	
How many public sector (cities or counties) clients does your company have? How many are using the Services? Identify by name some of the clients similar to City (e.g., similar in size, complexity, location, type of organization).	
List any projects or services terminated by a government entity. Please disclose the government entity that terminated and explain the reason for the termination.	
List any litigation that your company has been involved with during the past two (2) years for Services similar to those in this RFP.	
Provide an overview and history of your company.	
If your company is a subsidiary, identify the number of employees in your company or division and the revenues of proposing company or division.	
Identify the percentage of revenue used for research and/or development by the proposing company or division.	
Identify any certifications held by your company if you are implementing or reselling another company's products or services. Include how long the partnership or certification has been effect.	
Describe your company’s complete corporate structure, including any parent companies, subsidiaries, affiliates and other related entities.	
Describe the ownership structure of your company, including any significant or controlling equity holders.	
Provide a management organization chart of your company’s overall organization, including director and officer positions and names and the reporting structure.	

Section 6 Required Forms

Describe the key individuals along with their qualifications, professional certifications and experience that would comprise your company's team for providing the Services.	
If the Proposal will be from a team composed of more than one (1) company or if any subcontractor will provide more than fifteen percent (15%) of the Services, please describe the relationship, to include the form of partnership, each team member's role, and the experience each company will bring to the relationship that qualifies it to fulfill its role. Provide descriptions and references for the projects on which team members have previously collaborated.	
Explain how your organization ensures that personnel performing the Services are qualified and proficient.	
Provide information regarding the level of staffing at your organization's facilities that will be providing the Services, as well as the level of staffing at subcontractors' facilities, if known or applicable.	
If your company has been the subject of a dispute or strike by organized labor within the last five (5) years, please describe the circumstances and the resolution of the dispute.	
Describe your security procedures to include physical plant, electronic data, hard copy information, and employee security. Explain your point of accountability for all components of the security process. Describe the results of any third party security audits in the last five (5) years.	

Section 6
Required Forms

REQUIRED FORM 7 – REFERENCES

RFP # 269-2019-117

Technology Products and Related Services

Companies shall complete the form below. The City’s preference is for references from organizations of similar size or where the Company is performing similar services to those described herein. If such references are not available, individuals or companies that can speak to the Company’s performance are adequate.

REFERENCE 1:

Name of Client: _____ **Main Phone:** _____

Address: _____

Primary Contact: _____ **Title:** _____

Contact Phone: _____ **Contact E-mail:** _____

Service Dates: _____

Summary & Scope of Project: _____

Contract Value: \$ _____ **Number of Client Employees:** _____

**Section 6
Required Forms**

REFERENCE 2:

Name of Client: _____ Main Phone: _____

Address: _____

Primary Contact: _____ Title: _____

Contact Phone: _____ Contact E-mail: _____

Service Dates: _____

Summary & Scope of Project: _____

Contract Value: \$ _____ Number of Client Employees: _____

REFERENCE 3:

Name of Client: _____ Main Phone: _____

Address: _____

Primary Contact: _____ Title: _____

Contact Phone: _____ Contact E-mail: _____

Service Dates: _____

Summary & Scope of Project: _____

Contract Value: \$ _____ Number of Client Employees: _____

**Section 6
Required Forms**

REFERENCE 4:

Name of Client: _____ Main Phone: _____

Address: _____

Primary Contact: _____ Title: _____

Contact Phone: _____ Contact E-mail: _____

Service Dates: _____

Summary & Scope of Project: _____

Contract Value: \$ _____ Number of Client Employees: _____

REFERENCE 5:

Name of Client: _____ Main Phone: _____

Address: _____

Primary Contact: _____ Title: _____

Contact Phone: _____ Contact E-mail: _____

Service Dates: _____

Summary & Scope of Project: _____

Contract Value: \$ _____ Number of Client Employees: _____

REQUIRED FORM 8 – ADDITIONAL COMPANY QUESTIONS

RFP # 269-2019-117

Technology Products and Related Services

Companies shall include responses to the additional questions posed below. Responses may be provided on a separate sheet provided that such response clearly includes the question reference numbers.

General

1. Identify any certifications held by your company if you are implementing or reselling another company's products or services. Include how long the partnership or certification has been in effect.

Online Shopping and Punch-out

2. Does your company have an online catalog of goods?
 - Does your company allow third party system access to the online catalog?
 - Does your online catalog allow users to obtain quotes directly?
3. The City utilizes the Tyler Technologies Munis financial system for requisition punch-out. Describe the process that the City's Munis system would use to access your online catalog.

Americans with Disabilities Act (ADA) Accommodations

4. Detail if any of your Products or Services have ADA-compliant opportunities. Include any Products you sell that may assist with ADA accommodations.

MWSBE Inclusiveness

5. Identify MWSBE vendors you propose to use on the project.
6. Identify outreach efforts that will be employed by the Company to maximize MWSBE inclusion throughout the life of the project.
7. Identify specific scopes of work to be performed by MWSBEs.
8. Describe your approach and past history utilizing MWSBEs (include a list of past projects and your MWSBE utilization on said projects).

**REQUIRED FORM 9 – CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND
OTHER RESPONSIBILITY MATTERS**

RFP # 269-2019-117

Technology Products and Related Services

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 the Contract, 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

REQUIRED FORM 10 – BYRD ANTI-LOBBYING CERTIFICATION

RFP # 269-2019-117

Technology Products and Related Services

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

REQUIRED FORM 11 – CCPA PLAN

RFP # 269-2019-117

Technology Products and Related Services

Pursuant to N.C. G.S. 160A-461 and 143-129(e)(3), the City of Charlotte, Finance Department - City Procurement has established the Charlotte Cooperative Purchasing Alliance (CCPA). The purpose of the CCPA is to allow other public agencies regionally and nationwide to use contracts competitively solicited and awarded by the City of Charlotte (herein “City”). Combining the volumes of government agencies achieves cost effective pricing and reduces the administrative and overhead costs of suppliers and public agencies alike. By providing a comprehensive and competitively solicited Contract through a single bid process, county, city, special district, local government, school district, private K-12 school, technical or vocational school, higher education institution (including community colleges, colleges and universities, both public and private), state, other government agency or nonprofit organization can utilize the subsequent contract(s) without the need for further solicitation. Companies should consider the potential volumes when responding to this RFP. Participation by other entities is strictly voluntary and no volumes are guaranteed. Participating Public Agencies are required to register to purchase products or services through the CCPA.

More information about the CCPA can be found on the CCPA website at: www.charlottealliance.org.

The objective of this RFP is to utilize participation among the City, as well as various other Participating Public Agencies, to provide low cost reliable Products and Services. The Company must agree to receive orders from the City and all Participating Public Agencies and to provide all Services ordered to a specified City and Participating Public Agency address.

Companies **shall** include in detail how they will serve all Participating Public Agencies as it relates to the CCPA. Currently the CCPA has approximately 380 registered Participating Public Agencies in Arizona, California, Connecticut, District of Columbia, Florida, Georgia, Illinois, Maryland, Massachusetts, Michigan, Missouri, New York, North Carolina, Ohio, South Carolina, Tennessee, Texas, Virginia, Washington, and West Virginia.

Please address the following:

1. Describe your company’s ability to provide Products/Services to any Participating Public Agencies in the contiguous 48 states; and the ability to deliver Products/Services in Alaska and Hawaii.
2. Address if your company has a national sales force, dealer network or distributor with the ability to serve Participating Public Agencies in all 50 U.S. states.
3. How will you monitor and report all spend by City/Participating Public Agencies to the City for auditing purposes?

The City will post all awarded contracts on the CCPA website, along with the respective vendor information. Please address the following accordingly:

1. Will your company allow the City to utilize their organization’s logo on the CCPA website?
2. Will your company be willing to advertise the CCPA logo and website on your organization’s website?
3. How do you plan to market the Contract(s) to other Participating Public Agencies?

REQUIRED FORM 12 – ENVIRONMENTAL PURCHASING RESPONSES

RFP # 269-2019-117

Technology Products and Related Services

Companies shall complete and submit the form below regarding the products or supplies required to perform the Services.

Question	Response
<p><u>Recycled Content.</u> Products must contain a certain percentage of recycled content. Please include the amount of recycled content, both pre- and post-consumer, included in your product.</p>	
<p><u>Recyclability.</u> Please include the types of materials included in your product, and if they are considered recyclable in typical municipal recycling streams.</p>	
<p><u>Biodegradability.</u> Products must be capable of decomposing under natural conditions. Please state whether each Product offered in your proposal is biodegradable.</p>	
<p><u>Compostability.</u> Products must be capable of composting at a commercial composting facility. Please state whether each product offered in your proposal is compostable.</p>	
<p><u>Energy Consumption.</u> Please include the total amount of energy consumed for product or service manufacture, use and disposal. Different sources of energy are associated with different environmental impacts.</p>	
<p><u>Energy Efficiency.</u> Products must meet or exceed the Department of Energy (DOE) and Environmental Protection Agency criteria for use of the ENERGY STAR trademark label; or is in the upper 25% of efficiency for all similar products as designated by the U.S. Department of Energy’s Federal Energy Management Program.</p>	
<p><u>Water Efficiency.</u> Eligible products must meet or exceed the Environmental Protection Agency’s WaterSense program or be water-efficient or low-flow fixtures.</p>	
<p><u>Low VOCs.</u> Products should contain low or no volatile organic compounds (VOCs). Please indicate any VOC content in each applicable product offered in your proposal.</p>	

Section 6 Required Forms

<p><u>Reduced Packaging.</u> Please include any efforts made to reduce the packaging of the products included in this proposal.</p>	
<p><u>Pollution Prevention.</u> Please state your company's policy on source reduction. The Pollution Prevention Act defines source reduction to mean any practice that: (1) Reduces the amount of any hazardous substance, pollutant or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment or disposal, and (2) Reduces the hazards to public health and the environment associated with the release of such substances, pollutants or contaminants. The term includes: equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training or inventory control.</p>	
<p><u>Life Cycle Management.</u> Please state how many times your product may be reused. (Since reusable products generally require more upfront costs than disposable products, they are often subjected to a cost/benefit analysis in order to determine the life cycle cost).</p>	
<p><u>End of Life Management.</u> Will the manufacturer or designee accept the product back at the end-of-life? (who pays for the transportation of the product may be situation-specific).</p>	

SAMPLE CONTRACT

As used in this Section of the RFP, the term "Contract" shall refer to the agreement entered into between the City and the Company, and the term "Company" shall refer to the vendor that has been awarded a contract.

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

**AGREEMENT TO PROVIDE
TECHNOLOGY PRODUCTS AND RELATED SERVICES**

THIS PROFESSIONAL SERVICES CONTRACT (the "Contract") is made and entered into as of this _____ day of _____ 201_ (the "Effective Date"), by and between _____, a corporation doing business in North Carolina (the "Company"), and the City of Charlotte, a North Carolina municipal corporation (the "City").

RECITALS

WHEREAS, the City on behalf of itself, South Carolina entities to include Beaufort County, Buffalo-Mt. Pisgah Fire Department, Burton Fire District, Cherokee Springs Fire Department, City of Charleston, City of Greenville, City of Greer, City of Marion, City of Mullins, City of Myrtle Beach, City of North Myrtle Beach, City of Spartanburg, City of West Columbia, County of Lexington, Darlington County, Duncan Fire Department, Florence County, Georgetown County, Horry County, Lancaster County, Oconee County, Richland County School District One, Rock Hill School District Three, Surfside Beach Fire Department, Town of Aynor, Town of Pamplico, and Ware Shoals Fire Department, and all local government agencies and non-federal government agencies within Arizona, California, Connecticut, District of Columbia, Florida, Georgia, Illinois, Maryland, Massachusetts, Michigan, Missouri, New York, North Carolina, Ohio, Tennessee, Texas, Virginia, Washington, and West Virginia, any city, county, local government, school district, private K-12 school, technical or vocational school, higher education institution (including community colleges, colleges and universities, both private and public), other government agencies or nonprofit organizations that elect to access the Contract (herein "Participating Public Agency") through the Charlotte Cooperative Purchasing Alliance (CCPA) issued a Request For Proposals (RFP # 269-2019-117) for Technology Products and Related Services dated August 21, 2019. This Request for Proposals together with all attachments and addenda, is referred to herein as the "RFP"; and

WHEREAS, the City desires that the Company provide certain Technology Products and Related Services ("Services"), and the Company desires to provide such Services; and

WHEREAS, the City and the Company have negotiated and agreed regarding the above-referenced Services and desire to reduce the terms and conditions of their agreement to this written form.

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

CONTRACT

- 1. EXHIBITS.** The Exhibits below are hereby incorporated into and made a part of this Contract. With the exception of Exhibit C (Federal Contract Terms and Conditions), any conflict between language in an Exhibit or Appendix to this Contract and the main body of this Contract shall be resolved in favor of the main body of this Contract and any inconsistency between the Exhibits will be resolved in the order in which the Exhibits appear below. Notwithstanding anything contained in this Contract or any Exhibit to the contrary, in the event of a conflict between the language of Exhibit C and the main body of this Contract or any other Exhibit to this Contract, the language of Exhibit C shall prevail. Each reference to COMPANY NAME in the Exhibits and Appendices shall be deemed to mean the

Company. The parties agree that the Exhibit D will apply to all orders placed by the Aviation department. For all other orders, Exhibit C will apply.

EXHIBIT A: PRICE SCHEDULE

EXHIBIT B: SCOPE OF WORK

EXHIBIT C: FEDERAL CONTRACT TERMS AND CONDITIONS

EXHIBIT D: FEDERAL AVIATION ADMINISTRATION TERMS

2. DEFINITIONS. This section may include, but not be limited to, terms defined in Section 1 of the RFP.

3. DESCRIPTION OF SERVICES.

The Company shall be responsible for providing the Services described in Exhibit B attached to this Contract and incorporated herein by reference. Without limiting the foregoing, the Company will perform the Services and meet the requirements as set forth in Exhibit B. However, the Company shall not be responsible for tasks specifically assigned to the City in this Contract or in Exhibit B.

4. COMPENSATION.

4.1. **TOTAL FEES AND CHARGES.** The City agrees to pay the Company on a time and materials basis. The City agrees to pay the Company for the Services at the rates set forth in Exhibit A, which shall remain firm for the duration of the Contract, and shall not exceed a pre-determined amount (the "Payment Cap"). The Payment Cap constitutes the maximum total fees and charges payable to the Company under this Contract including Expenses and will not be increased except by a written instrument duly executed by both parties.

4.2. **NO EXPENSES CHARGEABLE.** The Company shall not be entitled to charge the City for any travel, mileage, meals, materials or other costs or expenses associated with this Contract.

4.3. **EMPLOYMENT TAXES AND EMPLOYEE BENEFITS.** The Company represents and warrants that the employees provided by the Company to perform the Services are actual employees of the Company, and that the Company shall be responsible for providing all salary and other applicable benefits to each Company employee. The Company further represents, warrants and covenants that it will pay all withholding tax, social security, Medicare, unemployment tax, worker's compensation and other payments and deductions that are required by law for each Company employee. The Company agrees that the Company employees are not employees of the City.

4.4. **INVOICES.** Each invoice sent by the Company shall detail all Services performed and delivered which are necessary to entitle the Company to the requested payment under the terms of this Contract. All invoices must include an invoice number and the City purchase order number for purchases made under this Contract. Purchase order numbers will be provided by the City. Invoices must be submitted with lines matching those on the City-provided purchase order.

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

4.5. **DUE DATE OF INVOICES.** Payment of invoices shall be due within thirty (30) days after receipt of an accurate, undisputed properly submitted invoice by the City.

4.6. **PRE-CONTRACT COSTS.** The City shall not be charged for any Services or other work performed by the Company prior to the Effective Date of this Contract.

4.7. **ADMINISTRATIVE FEE.** The Company shall pay the City a quarterly administrative fee in the amount of X% of all CCPA Program Spend by the City and Participating Public Agencies during the term of the Contract. The Administrative Fee shall be paid no later than thirty (30) days after both parties mutually agree to the quarterly report outlining the CCPA spend.

4.8. **AUDIT.** During the term of this Contract and for a period of one (1) year after termination of this Contract, the City shall have the right to audit, either itself or through an independent

auditor, all books and records and facilities of the Company necessary to evaluate Company's compliance with the terms and conditions of this Contract or the City's payment obligations. The City shall pay its own expenses, relating to such audits, but shall not have to pay any expenses or additional costs of the Company. However, if non-compliance is found that would have cost the City in excess of \$10,000 but for the audit, then the Company shall be required to reimburse the City for the cost of the audit.

- 5. RECORDS.** The Company shall be responsible for keeping a record that accurately states the type of Service performed and Products provided. The City shall have the right to audit the Company's invoices, expense reports and other documents relating to the Services performed under this Contract, and shall not be required to pay for Services which did not occur, or which occurred in breach of this Contract. The Company shall make such documents available for inspection and copying by the City in Charlotte, North Carolina between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, whenever requested by the City.
- 6. TIME IS OF THE ESSENCE.** Time is of the essence in having the Company perform all Services and deliver all Deliverables within the time frames provided by this Contract and Exhibit B, including all completion dates, response times and resolution times (the "Completion Dates"). Except as specifically stated in this Contract, there shall be no extensions of the Completion Dates. All references to days in this Contract (including the Exhibits) shall refer to calendar days rather than business days, unless this Contract provides otherwise for a specific situation.
- 7. NON-APPROPRIATION OF FUNDS.** If the Charlotte City Council does not appropriate the funding needed by the City to make payments under this Contract 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 Company of the non-appropriation and this Contract 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 Contract.
- 8. COMPANY PROJECT MANAGER.** The duties of the Company Project Manager include, but are not limited to:

 - 8.1. Acting as the Company's point of contact for all aspects of contract administration, including invoicing for Services, and status reporting;
 - 8.2. Facilitation of review meetings and conferences between the City and the Company's executives when scheduled or requested by the City;
 - 8.3. Communication among and between the City and the Company's staff;
 - 8.4. Promptly responding to the City Project Manager when consulted in writing or by E-mail with respect to Project deviations and necessary documentation;
 - 8.5. Identifying and providing the City with timely written notice of all issues that may threaten the Company's Services in the manner contemplated by the Contract (with "timely" meaning immediately after the Company becomes aware of them); and
 - 8.6. Ensuring that adequate quality assurance procedures are in place throughout the Contract.
- 9. CITY PROJECT MANAGER.** The duties of the City Project Manager are to (i) ensure that the Company delivers all requirements and specifications in the Contract; (ii) coordinate the City's resource assignment as required to fulfill the City's obligations pursuant to the Contract; (iii) promptly respond to the Company Project Manager when consulted in writing or by E-mail with respect to project issues; and (iv) act as the City's point of contact for all aspects of the Services including contract administration and coordination of communication with the City's staff. The City shall be allowed to change staffing for the City Project Manager position on one (1) business day's notice to the Company.
- 10. DUTY OF COMPANY TO IDENTIFY AND REQUEST INFORMATION, PERSONNEL AND**

FACILITIES. The Company shall identify and request in writing from the City in a timely manner: (i) all information reasonably required by the Company to perform each task comprising the Services, (ii) the City's personnel whose presence or assistance reasonably may be required by the Company to perform each task comprising the Services, and (iii) any other equipment, facility or resource reasonably required by the Company to perform the Services. Notwithstanding the foregoing, the Company shall not be entitled to request that the City provide information, personnel or facilities other than those that Exhibit B specifically requires the City to provide, unless the City can do so at no significant cost. The Company shall not be relieved of any failure to perform under this Contract by virtue of the City's failure to provide any information, personnel, equipment, facilities or resources: (i) that the Company failed to identify and request in writing from the City pursuant to this Section; or (ii) that the City is not required to provide pursuant to this Contract. In the event the City fails to provide any information, personnel, facility or resource that it is required to provide under this Section, the Company shall notify the City in writing immediately in accordance with the notice provision of this Contract. Failure to do so shall constitute a waiver by Company of any claim or defense it may otherwise have based on the City's failure to provide such information, personnel, facility or resource.

11. COMPANY PERSONNEL REMOVAL, REPLACEMENT, PROMOTION, ETC.

The City will have the right to require the removal and replacement of any personnel of the Company or the Company's subcontractors who are assigned to provide Services to the City based on experience, qualifications, performance, conduct, compatibility, and violation of City policy or any other reasonable grounds. The addition or promotion of any personnel to key positions within the Project must be approved by the City in writing. The Company will replace any personnel that leave the Project, with persons having at least equivalent qualifications who are approved by the City in writing. As used in this Contract, the "personnel" includes all staff provided by the Company or its subcontractors.

12. BACKGROUND CHECKS. Prior to starting work under this Contract, the Company is required to conduct a background check on each Company employee assigned to work under this Contract, and shall require its subcontractors (if any) to perform a background check on each of their employees assigned to work under this Contract (collectively, the "Background Checks"). Each Background Check must include: (i) the person's criminal conviction record from the states and counties where the person lives or has lived in the past seven (7) years; and (ii) a reference check.

After starting work under this Contract, the Company is required to perform a Background Check for each new Company employee assigned to work under this Contract during that year, and shall require its subcontractors (if any) to do the same for each of their employees. If the Company undertakes a new project under this Contract, then prior to commencing performance of the project the Company shall perform a Background Check for each Company 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 this Contract fall within the categories described below, the Background Checks that the Company will be required to perform (and to have its subcontractors perform) shall also include the following additional investigation:

- If the job duties require driving: A motor vehicle records check.
- If the job duties include responsibility for initiating or affecting financial transactions: A credit history check.

The Company 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 Company 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 Company 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.

- 13. ACCEPTANCE OF TASKS AND DELIVERABLES.** Within a reasonable time after a particular Deliverable has been completed (or such specific time as may be set forth in Exhibit B), the Company shall submit a written notice to the City's Project Manager stating the Deliverable(s) that have been met. This notice shall include a signature page for sign-off by the City Project Manager indicating acceptance of such Deliverable(s).

If the City Project Manager is not satisfied that the Deliverable(s) has been met, a notice of rejection (a "Rejection Notice") shall be submitted to the Company by the City Project Manager that specifies the nature and scope of the deficiencies that the City wants corrected. Upon receipt of a Rejection Notice, the Company shall: (i) act diligently and promptly to correct all deficiencies identified in the Rejection Notice, and (ii) immediately upon completing such corrections give the City a written, dated certification that all deficiencies have been corrected (the "Certification"). In the event the Company fails to correct all deficiencies identified in the Rejection Notice and provide a Certification within thirty (30) days after receipt of the Rejection Notice, the City shall be entitled to terminate this Contract for default without further obligation to the Company 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 Company 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 Contract for default if the Company does not meet this time frame).

- 14. NON-EXCLUSIVITY.** The Company 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 Company for any particular project.

- 15. EACH PARTY TO BEAR ITS OWN NEGOTIATION COSTS.** Each party shall bear its own cost of negotiating this Contract and developing the exhibits. The City shall not be charged for any Services or other work performed by the Company prior to the Effective Date.

16. REPRESENTATIONS AND WARRANTIES OF COMPANY.

16.1. GENERAL WARRANTIES.

- 16.1.1. The Services shall satisfy all requirements set forth in this Contract, including but not limited to the attached Exhibits;
- 16.1.2. The Company has taken and will continue to take sufficient precautions to ensure that it will not be prevented from performing all or part of its obligations under this Contract by virtue of interruptions in the computer systems used by the Company;
- 16.1.3. All Services performed by the Company and/or its subcontractors pursuant to this Contract shall meet the highest industry standards and shall be performed in a professional and workmanlike manner by staff with the necessary skills, experience and knowledge;
- 16.1.4. Neither the Services nor any Deliverables provided by the Company under this Contract will infringe or misappropriate any patent, copyright, trademark or trade secret rights of any third party;
- 16.1.5. The Company and each Company employee provided by the Company to the City shall have the qualifications, skills and experience necessary to perform the Services described or referenced in Exhibit B;
- 16.1.6. All information provided by the Company about each Company employee is accurate;

and

16.1.7. Each Company employee is an employee of the Company, and the Company shall make all payments and withholdings required for by law for the Company for such employees.

16.2. **ADDITIONAL WARRANTIES.** The Company further represents and warrants that:

16.2.1. 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;

16.2.2. It has all the requisite corporate power and authority to execute, deliver and perform its obligations under this Contract;

16.2.3. The execution, delivery, and performance of this Contract have been duly authorized by the Company;

16.2.4. 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 Contract;

16.2.5. In connection with its obligations under this Contract, it shall comply with all applicable federal, state and local laws and regulations and shall obtain all applicable permits and licenses; and

16.2.6. The performance of this Contract by the Company and each Company employee provided by the Company 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).

17. OTHER OBLIGATIONS OF THE COMPANY.

17.1. **WORK ON CITY'S PREMISES.** The Company and all its employees will, whenever on the City's premises, obey all instructions and City policies that are provided with respect to performing Services on the City's premises.

17.2. **RESPECTFUL AND COURTEOUS BEHAVIOR.** The Company shall assure that its employees interact with City employees and the public in a courteous, helpful and impartial manner. All employees of the Company 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 Company.

17.3. **REPAIR OR REPLACEMENT OF DAMAGED EQUIPMENT OR FACILITIES.** In the event that the Company causes damage to the City's equipment or facilities, the Company 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 Company's action.

17.4. **REGENERATION OF LOST OR DAMAGED DATA.** With respect to any data that the Company or any Company employees have negligently lost or negligently damaged, the Company shall, at its own expense, promptly replace or regenerate such data from the City's machine-readable supporting material, or obtain, at the Company's own expense, a new machine-readable copy of lost or damaged data from the City's data sources.

17.5. **NC E-VERIFY REQUIREMENT.** The Company shall comply with the 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.

17.6. **NC PROHIBITION ON CONTRACTS WITH COMPANIES THAT INVEST IN IRAN OR BOYCOTT ISRAEL.** Company 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 Company 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 Company appearing on the Treasurer’s IDA List or the Treasurer’s IB List at any time before or during the term of this Contract.

18. REMEDIES.

- 18.1. **RIGHT TO COVER.** If the Company fails to meet any completion date or resolution time set forth in this Contract (including the Exhibits) or the Project Plan, the City may take any of the following actions with or without terminating this Contract, 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 Company is again able to resume performance under this Contract; 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 the Company and, should the City’s cost of obtaining or performing the services exceed the amount due the Company, collect the amount due from the Company.
- 18.2. **RIGHT TO WITHHOLD PAYMENT.** If the Company breaches any provision of this Contract, the City shall have a right to withhold all payments due to the Company until such breach has been fully cured.
- 18.3. **SPECIFIC PERFORMANCE AND INJUNCTIVE RELIEF.** The Company agrees that monetary damages are not an adequate remedy for the Company’s failure to provide the Services or Deliverables as required by this Contract, nor could monetary damages be the equivalent of the performance of such obligation. Accordingly, the Company hereby consents to an order granting specific performance of such obligations of the Company in a court of competent jurisdiction within the State of North Carolina. The Company further consents to the City obtaining injunctive relief (including a temporary restraining order) to assure performance in the event the Company breaches this Contract.
- 18.4. **SETOFF.** Each party shall be entitled to setoff and deduct from any amounts owed to the other party pursuant to this Contract all damages and expenses incurred or reasonably anticipated as a result of the other party’s breach of this Contract.
- 18.5. **OTHER REMEDIES.** Upon breach of this Contract, 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.

19. TERM AND TERMINATION OF CONTRACT.

- 19.1. **TERM.** This Contract shall commence on the Effective Date and shall continue in effect for Three (3) years with the City having the unilateral right to renew for two (2) consecutive one (1) year terms.
- 19.2. **TERMINATION FOR CONVENIENCE.** The City may terminate this Contract at any time without cause by giving thirty (30) days prior written notice to the Company. As soon as practicable after receipt of a written notice of termination without cause, the Company shall submit a statement to the City showing in detail the Services performed under this Contract through the date of termination. The foregoing payment obligation is contingent upon: (i) the

Company having fully complied with Section 20.8; and (ii) the Company having provided the City with written documentation reasonably adequate to verify the number of hours of Services rendered through the termination date and the percentage of completion of each task.

- 19.3. **TERMINATION FOR DEFAULT BY EITHER PARTY.** By giving written notice to the other party, either party may terminate this Contract upon the occurrence of one or more of the following events:
- a. The other party violates or fails to perform any covenant, provision, obligation, term or condition contained in this Contract, provided that, unless otherwise stated in this Contract, 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 thirty (30) days of receipt of written notice of default from the non-defaulting party; or
 - b. The other party attempts to assign, terminate or cancel this Contract contrary to the terms hereof; or
 - c. The other party 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 Contract shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of other party's assets or properties.

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

Notwithstanding anything contained herein to the contrary, upon termination of this Contract by the Company for default, the Company shall continue to perform the Services required by this Contract for the lesser of: (i) six (6) months after the date the City receives the Company's written termination notice; or (ii) the date on which the City completes its transition to a new Company.

- 19.4. **ADDITIONAL GROUNDS FOR DEFAULT TERMINATION BY THE CITY.** By giving written notice to the Company, the City may also terminate this Contract upon the occurrence of one or more of the following events (which shall each constitute separate grounds for termination without a cure period and without the occurrence of any of the other events of default previously listed):
- a. Failure of the Company to complete a particular task by the completion date set forth in this Contract;
 - b. The Company makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this Contract, the Company's Proposal, or any covenant, agreement, obligation, term or condition contained in this Contract; or
 - c. The Company takes or fails to take any action which constitutes grounds for immediate termination under the terms of this Contract, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by this Contract, or failure to provide the proof of insurance as required by this Contract.
- 19.5. **NO SUSPENSION.** In the event that the City disputes in good faith an allegation of default by the Company, notwithstanding anything to the contrary in this Contract, the Company agrees that it will not terminate this Contract or suspend or limit the Services or any warranties or repossess, disable or render unusable any software supplied by the Company, unless (i) the parties agree in writing, or (ii) an order of a court of competent jurisdiction determines

otherwise.

- 19.6. **CANCELLATION OF ORDERS AND SUBCONTRACTS.** In the event this Contract is terminated by the City for any reason prior to the end of the term, the Company shall, upon termination, immediately discontinue all service in connection with this Contract and promptly cancel all existing orders and subcontracts, which are chargeable to this Contract. As soon as practicable after receipt of notice of termination, the Company shall submit a statement to the City showing in detail the Services performed under this Contract to the date of termination.
- 19.7. **AUTHORITY TO TERMINATE.** The following persons are authorized to terminate this Contract on behalf of the City: (i) the City Manager, any Assistant City Manager, or any designee of the City Manager; or (ii) the Department Director of the City Department responsible for administering this Contract.
- 19.8. **OBLIGATIONS UPON EXPIRATION OR TERMINATION.** Upon expiration or termination of this Contract, the Company shall promptly return to the City (i) all computer programs, files, documentation, media, related material and any other material and equipment that are 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. The expiration or termination of this Contract shall not relieve either party of its obligations regarding “Confidential Information,” as defined in this Contract.
- 19.9. **NO EFFECT ON TAXES, FEES, CHARGES OR REPORTS.** Any termination of this Contract shall not relieve the Company of the obligation to pay any fees, taxes or other charges then due to the City, nor relieve the Company of the obligation to file any daily, monthly, quarterly or annual reports covering the period to termination nor relieve the Company from any claim for damages previously accrued or then accruing against the Company.
- 19.10. **OTHER REMEDIES.** The remedies set forth in this Section and Section 19 shall be deemed cumulative and not exclusive, and may be exercised successively or concurrently, in addition to any other remedies available under this Contract or at law or in equity.
- 20. TRANSITION SERVICES UPON TERMINATION.** Upon termination or expiration of this Contract, the Company shall cooperate with the City to assist with the orderly transfer of the Services provided by the Company to the City. Prior to termination or expiration of this Contract, the City may require the Company to perform and, if so required, the Company shall perform certain transition services necessary to shift the Services of the Company 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:
- Working with the City to jointly develop a mutually agreed upon Transition Services Plan to facilitate the termination of the Services;
 - Notifying all affected service providers and subcontractors of the Company;
 - Performing the Transition Services;
 - Answering questions regarding the Services on an as-needed basis; and
 - Providing such other reasonable services needed to effectuate an orderly transition to a new Company.
- 21. 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 by a written, dated agreement executed by both parties that expressly references and is attached to this Contract (a “Change Statement”). The Change Statement 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 Change Statement. If the receiving party does not accept the Change Statement in writing within ten (10) days, the receiving party shall be deemed to have rejected the Change Statement. If the parties cannot reach agreement on a proposed Change, the Company shall nevertheless continue to render performance under this Contract in accordance with its (unchanged) terms and conditions.

Changes that involve or increase in the amounts payable by the City may require execution by the City Manager or a designee depending on the amount. Some increases may also require approval by Charlotte City Council.

22. CITY OWNERSHIP OF WORK PRODUCT.

22.1. The parties agree that the City shall have exclusive ownership of all reports, documents, designs, ideas, materials, reports, concepts, plans, creative works, and other work product developed for or provided to the City in connection with this Contract, and all patent rights, copyrights, trade secret rights and other intellectual property rights relating thereto (collectively the "Intellectual Property"). The Company hereby assigns and transfers all rights in the Intellectual Property to the City. The Company 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 Company hereby appoints the City as attorney in fact to execute all such assignments and instruments and agree that its appointment of the City as an attorney in fact is coupled with an interest and is irrevocable.

22.2. The City grants the Company a royalty-free, non-exclusive license to use and copy the Intellectual Property to the extent necessary to perform this Contract. The Company shall not be entitled to use the Intellectual Property for other purposes without the City's prior written consent, and shall treat the Intellectual Property as "Confidential Information" pursuant to Section 26 of the Contract.

22.3. The Company will treat as Confidential Information under the Confidentiality and Non-Disclosure Contract all data in connection with the Contract. City data processed by the Company shall remain the exclusive property of the City. The Company will not reproduce, copy, duplicate, disclose, or in any way treat the data supplied by the City in any manner except that contemplated by the Contract.

23. RELATIONSHIP OF THE PARTIES. The relationship of the parties established by this Contract is solely that of independent contractors, and nothing contained in this Contract 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, joint venturers, co-owners or otherwise as participants in a joint or common undertaking; or (iii) make either party an agent of the other, or any Company employee an agent or employee of the City, for any purpose whatsoever. Neither party nor its agents or employees is the representative of the other for any purpose, and neither has power or authority to act as agent or employee to represent, to act for, bind, or otherwise create or assume any obligation on behalf of the other.

24. INDEMNIFICATION. To the fullest extent permitted by law, the Company 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 Company or its subcontractors in connection with this Contract; (iii) arising from the Company's failure to perform its obligations under this Contract, or from any act of negligence or willful misconduct by the Company 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 Company or an employee or subcontractor of the Company 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: (i) 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 Company); and (ii) 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 Company 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 Company 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 Company shall promptly refund to the City all amounts paid under this Contract.

This Section 24 shall remain in force despite termination of this Contract (whether by expiration of the term or otherwise).

25. SUBCONTRACTING. Should the Company choose to subcontract, the Company shall be the prime contractor and shall remain fully responsible for performance of all obligations that it is required to perform under the Contract. Any subcontract entered into by Company shall name the City as a third party beneficiary.

26. CONFIDENTIAL INFORMATION.

26.1. CONFIDENTIAL INFORMATION. Confidential Information includes any information, not generally known in the relevant trade or industry, obtained from the City or its vendors or licensors or which falls within any of the following general categories:

26.1.1. *Trade secrets.* For purposes of this Contract, trade secrets consist of *information* of the City or any of its suppliers, contractors or licensors: (a) that derives value from being secret; and (b) that the owner has taken reasonable steps to keep confidential. Examples of trade secrets include information relating to proprietary software, new technology, new products or services, flow charts or diagrams that show how things work, manuals that tell how things work and business processes and procedures.

26.1.2. *Information of the City or its suppliers, contractors or licensors marked "Confidential" or "Proprietary."*

26.1.3. *Information relating to criminal investigations conducted by the City, and records of criminal intelligence information compiled by the City.*

26.1.4. *Information contained in the City's personnel files, as defined by N.C. Gen. Stat. 160A-168.* This consists of all information gathered and/or maintained by the City about employees, except for that information which is a matter of public record under North Carolina law.

26.1.5. *Citizen or employee social security numbers collected by the City.*

26.1.6. *Computer security information of the City,* including all security features of electronic data processing, or information technology systems, telecommunications networks and electronic security systems. This encompasses but is not limited to passwords and

security standards, procedures, processes, configurations, software and codes.

- 26.1.7. *Local tax records of the City that contains information about a taxpayer's income or receipts.*
- 26.1.8. *Any attorney / City privileged information disclosed by either party.*
- 26.1.9. *Any data collected from a person applying for financial or other types of assistance, including but not limited to their income, bank accounts, savings accounts, etc.*
- 26.1.10. *The name or address of individual homeowners who, based on their income, have received a rehabilitation grant to repair their home.*
- 26.1.11. *Building plans of city-owned buildings or structures, as well as any detailed security plans.*
- 26.1.12. *Billing information of customers compiled and maintained in connection with the City providing utility services.*
- 26.1.13. *Other information that is exempt from disclosure under the North Carolina public records laws.*

Categories stated in Sections 27.1.3 through 27.1.13 above constitute "Highly Restricted Information," as well as Confidential Information. The Company acknowledges that certain Highly Restricted Information is subject to legal restrictions beyond those imposed by this Contract, and agrees that: (i) all provisions in this Contract applicable to Confidential Information shall apply to Highly Restricted Information; and (ii) the Company will also comply with any more restrictive instructions or written policies that may be provided by the City from time to time to protect the confidentiality of Highly Restricted Information.

The parties acknowledge that in addition to information disclosed or revealed after the date of this Contract, the Confidential Information shall include information disclosed or revealed within one (1) year prior to the date of this Contract.

- 26.2. RESTRICTIONS. The Company shall keep the Confidential Information in the strictest confidence, in the manner set forth below:

- 26.2.1. It shall not copy, modify, enhance, compile or assemble (or reverse compile or disassemble), or reverse engineer Confidential Information.
- 26.2.2. It shall not, directly or indirectly, disclose, divulge, reveal, report or transfer Confidential Information of the other to any third party or to any individual employed by the Company, other than an employee, agent, subcontractor or vendor of the City or Company who: (i) has a need to know such Confidential Information, and (ii) has executed a confidentiality agreement incorporating substantially the form of this Section of the Contract and containing all protections set forth herein.
- 26.2.3. It shall not use any Confidential Information of the City for its own benefit or for the benefit of a third party, except to the extent such use is authorized by this Contract or other written agreements between the parties hereto, or is for the purpose for which such Confidential Information is being disclosed.
- 26.2.4. It shall not remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information of the other.
- 26.2.5. The Company shall use its best efforts to enforce the proprietary rights of the City and the City's vendors, licensors and suppliers (including but not limited to seeking injunctive relief where reasonably necessary) against any person who has possession of or discloses Confidential Information in a manner not permitted by this Contract.
- 26.2.6. In the event that any demand is made in litigation, arbitration or any other proceeding

for disclosure of Confidential Information, the Company shall assert this Contract as a ground for refusing the demand and, if necessary, shall seek a protective order or other appropriate relief to prevent or restrict and protect any disclosure of Confidential Information.

- 26.2.7. All materials which constitute, reveal or derive from Confidential Information shall be kept confidential to the extent disclosure of such materials would reveal Confidential Information, and unless otherwise agreed, all such materials shall be returned to the City or destroyed upon satisfaction of the purpose of the disclosure of such information.
- 26.3. **EXCEPTIONS.** The parties agree that the Company shall have no obligation with respect to any Confidential Information which the Company can establish:
- 26.3.1. Was already known to the Company prior to being disclosed by the disclosing party;
- 26.3.2. Was or becomes publicly known through no wrongful act of the Company;
- 26.3.3. Was rightfully obtained by the Company from a third party without similar restriction and without breach hereof;
- 26.3.4. Was used or disclosed by the Company with the prior written authorization of the City;
- 26.3.5. Was disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, the Company shall first give to the City notice of such requirement or request;
- 26.3.6. Was disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued subpoena, provided that the Company shall take use its best efforts to obtain an agreement or protective order providing that, to the greatest possible extent possible, this Contract will be applicable to all disclosures under the court order or subpoena.
- 26.4. **UNINTENTIONAL DISCLOSURE.** Notwithstanding anything contained herein in to the contrary, in the event that the Company is unintentionally exposed to any Confidential Information of the City, the Company agrees that it shall not, directly or indirectly, disclose, divulge, reveal, report or transfer such Confidential Information to any person or entity or use such Confidential Information for any purpose whatsoever.
- 26.5. **REMEDIES.** The Company acknowledges that the unauthorized disclosure of the Confidential Information of the City will diminish the value of the proprietary interests therein. Accordingly, it is agreed that if the Company breaches its obligations hereunder, the City shall be entitled to equitable relief to protect its interests, including but not limited to injunctive relief, as well as monetary damages.

27. INSURANCE.

- 27.1. **TYPES OF INSURANCE.** The Company shall obtain and maintain during the life of this Contract, with an insurance company rated not less than "A" by A.M. Best, authorized to do business in the State of North Carolina, acceptable to the Charlotte-Mecklenburg, Risk Management Division the following insurance:
- 27.1.1. 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.
- 27.1.2. Commercial General Liability - Bodily injury and property damage liability as shall protect the Company and any subcontractor performing Services under this Contract, from claims of bodily injury or property damage which arise from performance of this Contract, whether such operations are performed by the Company, 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 and advertising injury, and contractual liability, assumed under the indemnity provision of this Contract.

- 27.1.3. Workers' Compensation and Employers Liability - meeting 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.

The Company shall not commence any Services in connection with this Contract until it has obtained all of the foregoing types of insurance and such insurance has been approved by the City. The Company shall not allow any subcontractor to commence Services on its subcontract until all similar insurance required of the subcontractor has been obtained and approved.

27.2. OTHER INSURANCE REQUIREMENTS.

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

27.2.2. The City of Charlotte shall be named as an additional insured for operations or services rendered under the general liability coverage. The Company'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 Company's operations under this agreement.

27.2.3. Certificates of such insurance will be furnished to the City and shall contain the provision that the City be given thirty (30) days' written notice of any intent to amend coverage reductions or material changes or terminate by either the insured or the insuring Company.

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

27.2.5. If any part of the Services under this Contract is sublet, the subcontractor shall be required to meet all insurance requirements as listed above. However, this will in no way relieve the Company from meeting all insurance requirements or otherwise being responsible for the subcontractor.

28. COMMERCIAL NON-DISCRIMINATION. As a condition of entering into this Contract, the Company 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 Company 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 Company retaliate against any person or entity for reporting instances of such discrimination. The Company 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 Company 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 Company from participating in City contracts or other sanctions.

Section 7 Sample Contract

As a condition of entering into this Contract, the Company agrees to: (i) 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 (ii) 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 the Company has used on City contracts in the past five years, including the total dollar amount paid by the Company on each subcontract or supply contract. The Company 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 Company agrees to provide to the City from time to time on the City's request, payment affidavits detailing the amounts paid by the Company 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 Company 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 Company from participating in City contracts and other sanctions.

29. NOTICES. Any notice, consent or other communication required or contemplated by this Contract 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. Notice shall be effective upon the date of receipt by the intended recipient; provided that any notice which 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.

Communications that relate to any breach, default, termination, delay in performance, prevention of performance, modification, extension, amendment, or waiver of any provision of this Contract shall be sent to:

For the Company:	For the City:
	Kay Elmore
	City of Charlotte
	City Procurement
	600 East Fourth Street, 9 th Floor
	Charlotte, NC 28202
Phone:	Phone: 704-336-2524
Fax:	Fax: 704-632-8252
E-mail:	E-mail: kelfmore@charlottenc.gov

With Copy To:	With Copy To:
	Adam Jones
	City of Charlotte
	City Attorney's Office
	600 East Fourth Street, 15 th Floor
	Charlotte, NC 28202
Phone:	Phone: 704-336-3012
E-mail:	E-mail: amjones@charlottenc.gov

All other notices shall be sent to the other party's Project Manager at the most recent address provided in writing by the other party.

30. MISCELLANEOUS.

- 30.1. **ENTIRE AGREEMENT.** This Contract 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 Contract supersedes all prior agreements, negotiations, representations and proposals, written or oral.
- 30.2. **AMENDMENT.** No amendment or change to this Contract shall be valid unless in writing and signed by both parties to this Contract.
- 30.3. **GOVERNING LAW AND JURISDICTION.** The parties acknowledge that this Contract is made and entered into in Charlotte, North Carolina, and will be performed in Charlotte, North Carolina. The parties further acknowledge and agree that North Carolina law shall govern all the rights, obligations, duties and liabilities of the parties under this Contract, and that North Carolina law shall govern interpretation and enforcement of this Contract and any other matters relating to this Contract (all without regard to North Carolina conflicts of law principles). The parties further agree that any and all legal actions or proceedings relating to this Contract shall be brought in a state or federal court sitting in Mecklenburg County, North Carolina. By the execution of this Contract, the parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all objections, which they may have with respect to venue in any court sitting in Mecklenburg County, North Carolina.
- 30.4. **BINDING NATURE AND ASSIGNMENT.** This Contract shall bind the parties and their successors and permitted assigns. Neither party may assign any of the rights and obligations thereunder without the prior written consent of the other. Any assignment attempted without the written consent of the other party shall be void.
- 30.5. **CITY NOT LIABLE FOR DELAYS.** It is agreed that the City shall not be liable to the Company, 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 party hereunder caused by injunction or other legal or equitable proceedings or on account of any other delay for any cause beyond the City's reasonable control. The City shall not be liable under any circumstances for lost profits or any other consequential, special or indirect damages.
- 30.6. **FORCE MAJEURE.**
- 30.6.1. The Company shall be not liable for any failure or delay in the performance of its obligations pursuant to this Contract (and such failure or delay shall not be deemed a default of this Contract or grounds for termination hereunder if all of the following conditions are satisfied: (i) if such failure or delay: (a) could not have been prevented by reasonable precaution, and (b) cannot reasonably be circumvented by the non-performing party through the use of alternate sources, work-around plans, or other means; and (ii) if and to the extent such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, hurricane, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions or revolutions, or court order.
- 30.6.2. Upon the occurrence of an event which satisfies all of the conditions set forth above (a "Force Majeure Event") the Company shall be excused from any further performance of those of its obligations pursuant to this Contract affected by the Force Majeure Event for as long as (i) such Force Majeure Event continues; and (ii) the Company continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.
- 30.6.3. Upon the occurrence of a Force Majeure Event, the Company shall immediately notify the City by telephone (to be confirmed by written notice within two (2) days of the inception of the failure or delay) of the occurrence of a Force Majeure Event and shall describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event prevents the Company from performing its obligations for more than five (5) days, the City may terminate this Contract.

- 30.6.4. Strikes, slow-downs, walkouts, lockouts, and individual disputes are not excused under this provision.
- 30.7. **SEVERABILITY.** The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Contract shall not affect the validity of the remaining portion of the Contract so long as the material purposes of the Contract can be determined and effectuated. If any provision of this Contract 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 Contract shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.
- 30.8. **NO PUBLICITY.** No advertising, sales promotion or other materials of the Company or its agents or representations may identify or reference this Contract or the City in any manner absent the written consent of the City.
- 30.9. **APPROVALS.** All approvals or consents required under this Contract must be in writing.
- 30.10. **WAIVER.** No delay or omission by either party to exercise any right or power it has under this Contract shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach of this Contract shall not be constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant. No waiver of any provision of this Contract shall be effective unless in writing and signed by the party waiving the rights.
- 30.11. **SURVIVAL OF PROVISIONS.** The following sections of this Contract shall survive the termination hereof:
- Section 4.3 “Employment Taxes and Employee Benefits”
 - Section 16 “Representations and Warranties of Company”
 - Section 19 “Term and Termination of Contract”
 - Section 22 “City Ownership of Work Product”
 - Section 24 “Indemnification”
 - Section 26 “Confidential Information”
 - Section 27 “Insurance”
 - Section 29 “Notices and Principal Contacts”
 - Section 30 “Miscellaneous”
- 30.12. **CHANGE IN CONTROL.** In the event of a change in “Control” of the Company (as defined below), the City shall have the option of terminating this Contract by written notice to the Company. The Company shall notify the City within ten (10) days of the occurrence of a change in control. As used in this Contract, the term “Control” shall mean the possession, direct or indirect, of either (i) 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 Company or (ii) the power to direct or cause the direction of the management and policies of the Company whether through the ownership of voting securities, by contract or otherwise.
- 30.13. **DRAFTER’S PROTECTION.** Each of the Parties has agreed to the use of the particular language of the provisions of this Contract 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.
- 30.14. **FAMILIARITY AND COMPLIANCE WITH LAWS AND ORDINANCES.** The Company 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 Company further agrees that it will at all times during the term of this Contract 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 Services.

- 30.15. **CONFLICT OF INTEREST.** The Company covenants that its officers, employees and shareholders have no interest and shall not acquire any interest, direct or indirect that would conflict in any manner or degree with the performance of Services required to be performed under the Contract.
- 30.16. **NO BRIBERY.** The Company certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the foregoing has bribed or attempted to bribe an officer or employee of the City in connection with the Contract.
- 30.17. **HARASSMENT.** The Company agrees to make itself aware of and comply with the City's Harassment Policy. The City will not tolerate or condone acts of harassment based upon race, sex, religion, national origin, color, age, or disability. Violators of this policy will be subject to termination.
- 30.18. **TRAVEL UPGRADES.** The City has no obligation to reimburse the Company for any travel or other expenses incurred in connection with this Contract.
- 30.19. **TAXES.** Except as specifically stated elsewhere in this Contract, the Company shall collect all applicable federal, state and local taxes which may be chargeable against the performance of the Services, and remit such taxes to the relevant taxing authority. The Company consents to and authorizes the City to collect any and all delinquent taxes and related interest, fines, or penalties of the Company by reducing any payment, whether monthly, quarterly, semi-annually, annually, or otherwise, made by the City to the Company pursuant to this Contract for an amount equal to any and all taxes and related interest, fines, or penalties owed by the Company to the City. The Company 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 Company from filing an appeal of the assessment of the delinquent tax if such appeal is within the time prescribed by law.
- 30.20. **COUNTERPARTS.** This Contract may be executed in any number of counterparts, all of which taken together shall constitute one single agreement between the parties.
- 30.21. **PRE-AUDIT.** No pre-audit certificate is required under N.C. Gen. Stat. 159-28(a) because this Contract is for an indefinite quantity with no minimum purchase requirement. Notwithstanding anything contained herein to the contrary, this Contract 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 Contract nor any implied duty of good faith and fair dealing. The City has no financial obligation under this Contract absent the City's execution of a valid and binding purchase order or contract addendum containing a pre-audit certificate.”

[Signature Page Follows]

Section 7
Sample Contract

IN WITNESS WHEREOF, and in acknowledgement that the parties hereto have read and understood each and every provision hereof, the parties have caused this Contract to be executed as of the date first written above.

[INSERT COMPANY NAME]

BY: _____
(signature)

PRINT NAME: _____

TITLE: _____

DATE: _____

CITY OF CHARLOTTE:
CITY MANAGER'S OFFICE/OFFICE/DEPARTMENT/DIVISION

BY: _____
(signature)

PRINT NAME: _____

TITLE: _____

DATE: _____

EXHIBIT A – PRICING SHEET

INTENTIONALLY LEFT BLANK FOR SAMPLE CONTRACT

EXHIBIT B – SCOPE OF SERVICES

INTENTIONALLY LEFT BLANK FOR SAMPLE CONTRACT

EXHIBIT C – FEDERAL CONTRACT TERMS AND CONDITIONS

This Exhibit is attached and incorporated into the _____ [EXACT CAPTION OF CONTRACT] (the “Contract”) between the City of Charlotte and [COMPANY NAME] (the “Company”). 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.

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 Company’s completed Form 9 – Vendor Debarment Certification is incorporated herein as Form C.1 below.
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. **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.
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).
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).
6. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** The Company certifies that:
 - 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.

Section 7

Sample Contract

- 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—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. 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.
- 6.4. The Company's completed Form 10 – Byrd Anti-Lobbying Certification is incorporated herein as Form C.2 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, 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.
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.** 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.
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.

EXHIBIT D – FEDERAL AVIATION ADMINISTRATION TERMS

1. GENERAL CIVIL RIGHTS PROVISIONS

The Company agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the companies from the solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; structures or improvements thereon.

In these cases the provision obligates the party or any transferee for the longer of the following periods:

- (a) the period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property.

2. CIVIL RIGHTS – TITLE VI ASSURANCES

During the performance of this contract, the Company, for itself, its assignees, and successors in interest (hereinafter referred to as the “Company”) agrees as follows:

1. **Compliance with Regulations:** The Company (hereinafter includes consultants) will comply with the **Title VI List of Pertinent Nondiscrimination Statutes and Authorities**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The Company, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Company will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Company for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Company of the Company’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The Company will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books,

records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Company is in the exclusive possession of another who fails or refuses to furnish the information, the Company will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a Company's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Company under the contract until the Company complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The Company will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Company will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Company becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Company may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Company may request the United States to enter into the litigation to protect the interests of the United States.

3. Title VI List of Pertinent Nondiscrimination Authorities

During the performance of this contract, the Company, for itself, its assignees, and successors in interest (hereinafter referred to as the "Company") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems,

places of public accommodation, and certain testing entities (42 U.S.C. § 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

3. CITY NON-DISCRIMINATION

As a condition of entering into this agreement, the Company 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 Company 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 Company retaliate against any person or entity for reporting instances of such discrimination. The Company 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 Company understands and agrees that a violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of the Company from participating in City contracts or other sanctions.

As a condition of entering into this Contract, the Company 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 the Company has used on City contracts in the past five years, including the total dollar amount paid by the Company on each subcontract or supply contract. The Company 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 Company agrees to provide to the City from time to time on the City’s request, payment affidavits detailing the amounts paid by the Company 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 Company 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 Company from participating in City contracts and other sanctions.

4. E-VERIFY.

Unless otherwise exempted, Company shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if Company utilizes a subcontractor, Company shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes.

5. NC PROHIBITIONS ON CONTRACTS WITH COMPANIES THAT INVEST IN IRAN OR BOYCOTT ISRAEL.

Company 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 to appear on the Treasurer's IDA List or the Treasurer's IB List during the term of this Contract. In signing this Contract, Company 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 Company appearing on The Treasurer's IDA List or the Treasurer's IB List at any time before or during the term of this Contract.

Section 7 Sample Contract



CBI FORM 4 - Letter of Intent

Contract Goods or Services:	
------------------------------------	--

To be completed by the Prime Company:	
Name of Prime Company: _____	Vendor #: _____
Address: _____	
Contact Person: _____	Email: _____
Telephone: _____	Fax: _____

Identify in complete details the goods or services to be provided by the MWSBE Subcontractor:

Value of the goods or services committed to be purchased from the MWSBE Subcontractor: \$ _____

To be completed by MWSBE Subcontractor:	
Name of MWSBE: _____	Vendor #: _____
Address: _____	
Contact Person: _____	Email: _____
Telephone: _____	Fax: _____

Upon execution of a Contract with the City for the above referenced goods or services, the Prime Company certifies that it intends to utilize the MWSBE listed above, and that the description and value of work to be performed by the MWSBE Subcontractor described above is accurate. The MWSBE Subcontractor certifies that it has agreed to provide such goods or services for the amount stated above.

Prime Contractor: _____	Date: _____
Signature and Title	
MWSBE Subcontractor: _____	Date: _____
Signature and Title	

Section 7 Sample Contract



CBI FORM 6: Payment Affidavit of Subcontractor Utilization

The Company shall submit this form quarterly detailing aggregate payments to MWSBE Subcontractors.

Prime Company Name: _____ Contract #: _____

Contract Goods or Services: _____

Payment Period: _____ to _____

City Department(s): _____

Subcontractor	Certification (MBE, WBE, and/or SBE)	Vendor #	Description of Work Performed	# of Payments this Period	Payment Total

Please indicate the total amount invoiced to the City during this period: \$ _____

The undersigned Company certifies the preceding chart is a true and accurate statement of all payments that have been made to MWSBE subcontractors on this Contract, and that all Suppliers providing goods under this contract have been listed in the Sales Tax Statements submitted to the City in connection with this Payment Affidavit. If no subcontractors or suppliers are listed on the preceding chart or Sales Tax Statements, the Company certifies that no subcontractors or suppliers were used in performing the Project/Contract for the payment period indicated. Failure to provide accurate and truthful information is a violation of the Charlotte Business INCLUSION Policy and may result in the sanctions prescribed therein.

This _____ day of _____ 20 _____

Signature

Print Name and Title

To be completed by City:

Total Paid to Prime Company: \$ _____

Total Paid to MWSBEs: \$ _____

Overall MWSBE Goal: _____ %

Overall MWSBE Commitment: _____ %

MWSBE Goal Attainment this period: _____ %

APPENDIX A – MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT

This Charlotte Cooperative Purchasing Alliance (CCPA) Master Intergovernmental Cooperative Purchasing Agreement will allow a Participating Public Agency to purchase commodities and/or services from any and all CCPA Contracts, under the same terms, conditions and prices as stated in each contract competitively solicited and awarded by the City of Charlotte, North Carolina (“Contracting Agent”) on behalf of itself and all other public agencies. It is hereby agreed to by CCPA and the Participating Public Agency (Participants) that:

1. CCPA has followed procurement procedures for products and/or services offered by this Agreement in accordance with CCPAs governing procurement statutes and regulations.
2. The cooperative use of bids obtained by a party to this agreement shall be in accordance with the terms and conditions of the bid, except as modification of those terms and conditions is otherwise allowed or required by applicable law.
3. It is the sole responsibility of each Participating Public Agency to follow their state procurement statutes as it pertains to cooperative purchasing, and the rules and regulations that govern each Participant’s procurement practices.
4. CCPA cooperative purchasing contracts are available to Participating Public Agencies “as is,” and CCPA is under no obligation to revise the terms, conditions, scope, price, and/or other conditions of the contract for the benefit of the Participants.
5. It is the sole responsibility of the Participating Public Agency to accept delivery of products and/or services, and the Participants hereby agree to make timely payments to each Company for products and/or services received pursuant to this Agreement. Any dispute which may arise between the Participating Public Agency and the Company are to be resolved between the Participating Public Agency and the Company.
6. The City of Charlotte shall not be held liable for any costs, damages, expenses, fees, or liabilities incurred by any other Participating Public Agency as a result of any contract or other arrangement entered into between that Participant and the Company.
7. The procuring party shall not use this agreement as a method for obtaining additional concessions or reduced prices for similar products or services.
8. This Agreement incorporates all Contracts, covenants and understandings between CCPA and the Participating Public Agency. No prior Agreement or understanding, verbal or otherwise, by the parties or their agents, shall be valid or enforceable unless embodied in this Agreement. This Agreement shall not be altered, changed, or amended except by written revision or addendum executed by both parties.
9. This agreement is non-exclusive and shall not in any way preclude Participating Public Agencies from entering into similar agreements and/or arrangements with other Cooperative Purchasing Programs, or from acquiring similar goods and services from other sources.
10. This agreement shall take effect after the Participating Public Agency submits the competed electronic CCPA registration and shall remain in effect until termination by a party giving 30 days written notice to the other party.