

**REQUEST FOR QUALIFICATIONS**

**FOR**

**PROFESSIONAL ENGINEERING SERVICES  
FOR THE  
LONG CREEK WASTEWATER TREATMENT PLANT  
PRELIMINARY ENGINEERING REPORT**

**RFQ #20160902**



**CITY OF CHARLOTTE, NORTH CAROLINA**

**SEPTEMBER 2, 2016**

**REQUEST FOR QUALIFICATIONS  
FOR  
PROFESSIONAL ENGINEERING SERVICES FOR THE  
LONG CREEK WASTEWATER TREATMENT PLANT  
PRELIMINARY ENGINEERING REPORT**

September 2, 2016

Charlotte Water is requesting submittals from qualified firms interested in providing Professional Engineering Services for the Long Creek Wastewater Treatment Plant Preliminary Engineering Report (Project). The requirements for submitting a Statement of Qualifications (SOQ) are stated in the attached Request for Qualifications (RFQ). Please review them carefully.

Submittals are due no later than **2:00 P.M. local time on October 4, 2016**. One originally signed, bound SOQ and eight copies, in addition to one electronic copy in pdf format (provided on CD or flash drive), are to be submitted per the instructions outlined on page 12 of the RFQ. Attached, as Exhibit 7, is the City of Charlotte's standard professional services agreement. Please review prior to submitting your SOQ.

The full RFQ document, addenda, clarifications, and all other related information will be posted on Charlotte Water's Vendor and Contractor Opportunities website at [cmucontracts.charmeck.org](http://cmucontracts.charmeck.org). Each Firm is responsible for checking the Charlotte Water website to obtain the latest information.

The City of Charlotte appreciates your interest in providing professional services for this project.

Sincerely,

Abby Dolan  
Procurement Manager  
[adolan@charlottenc.gov](mailto:adolan@charlottenc.gov)

Attachments:

- Exhibit 1: Lake Wylie TMDL Document
- Exhibit 2: NC DEQ Speculative Limit Letter
- Exhibit 3: Memorandums of Agreement with the Cities of Belmont and Mount Holly
- Exhibit 4: Site Map
- Exhibit 5: Commercial Non-Discrimination Certification
- Exhibit 6: E-Verify Certification
- Exhibit 7: Sample Agreement

# REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL ENGINEERING SERVICES FOR THE LONG CREEK WASTEWATER TREATMENT PLANT PRELIMINARY ENGINEERING REPORT

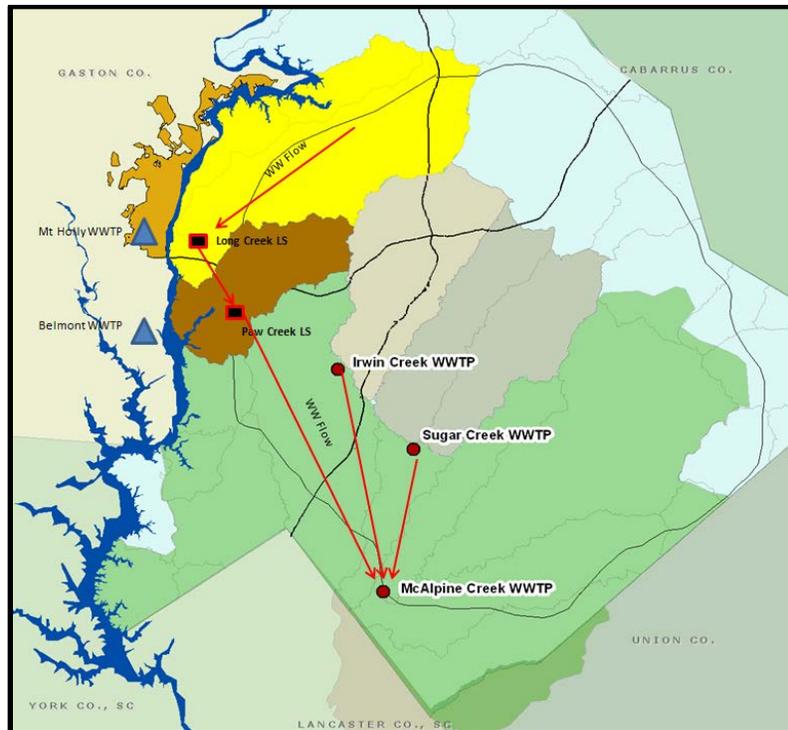
## DESCRIPTION OF PROJECT

Charlotte Water is soliciting Statements of Qualifications (SOQ) from qualified engineering firms (Firm) for the Long Creek Wastewater Treatment Plant Preliminary Engineering Report (PER) (Project). The goal of this project is to accommodate projected growth in western Mecklenburg and eastern Gaston counties while implementing the 1995 Lake Wylie Total Maximum Daily Loads (TMDL) by consolidating an industrial and 2 existing municipal wastewater treatment plants and eliminating extensive wastewater collection system pumping currently in use. This will be accomplished through the construction of a regional wastewater treatment plant capable of meeting the desired water quality and TMDL nutrient removal goals.

## BACKGROUND

In 2007, Charlotte Water completed a wastewater master plan for the service area draining to the McAlpine, Sugar, and Irwin Creek Wastewater Treatment Plants (WWTP). The study included all of these drainage basins and plants since they are currently interconnected with the ability to bypass flow from the Sugar Creek and Irwin Creek plants to the McAlpine Creek plant. The map below is a schematic of the drainage basins and plant interconnects.

**Service Area and WWTP Interconnects**



At the conclusion of the master plan it was determined that the best option was to pursue a new treatment plant at the Long Creek Pump station location rather than continuing to pump wastewater such long distances. The option of continued pumping would also require replacing most of the gravity sewer lines between the Paw Creek Wastewater Pump station and the McAlpine or Irwin Creek WWTP and potentially a WWTP expansion with a cost that was similar to that of a new plant.

### **Project Initiation**

The kickoff for this project had two primary focuses:

1. To work with NC DEQ on the water quality modeling for a new wastewater treatment plant; and
2. To engage a large stakeholder group on the concept of a new wastewater plant in this area.

In the process of working with North Carolina Department of Environmental Quality (NC DEQ) on the water quality modeling for a NPDES speculative limit request it was determined that this section of Lake Wylie was under an EPA TMDL for phosphorus and nitrogen developed in 1995 and that the TMDL did not provide nutrient allocations for new discharges as noted in the TMDL excerpt below. The full Lake Wylie TMDL document is attached in Exhibit 1.

#### **New Discharges**

It is recommended that no new discharges should be allowed to the lake mainstem or its tributaries, unless an evaluation of engineering alternatives shows that it is the most environmentally sound alternative. For any new discharges that meet this requirement it is recommended that advanced treatment technology be required. It is further recommended that any new facility with a permitted design flow of greater than or equal to 1 MGD should be required to meet monthly average limits of 1.0 mg/l total phosphorus (TP) and 6.0 mg/l total nitrogen (TN), (nitrogen limits to apply for the months April through October only). For new facilities with a permitted design flow of less than 1 MGD but greater than 0.05 MGD (50,000 gallons per day) it is recommended that they meet a total phosphorus limit of 2.0 mg/l.

All industrial discharges will be handled on a case-by-case basis because attainable advanced removal technology cannot be clearly defined for them as a group. The Division will require the industries in the management area to control TP and TN to best available technology levels applicable to their industrial type.

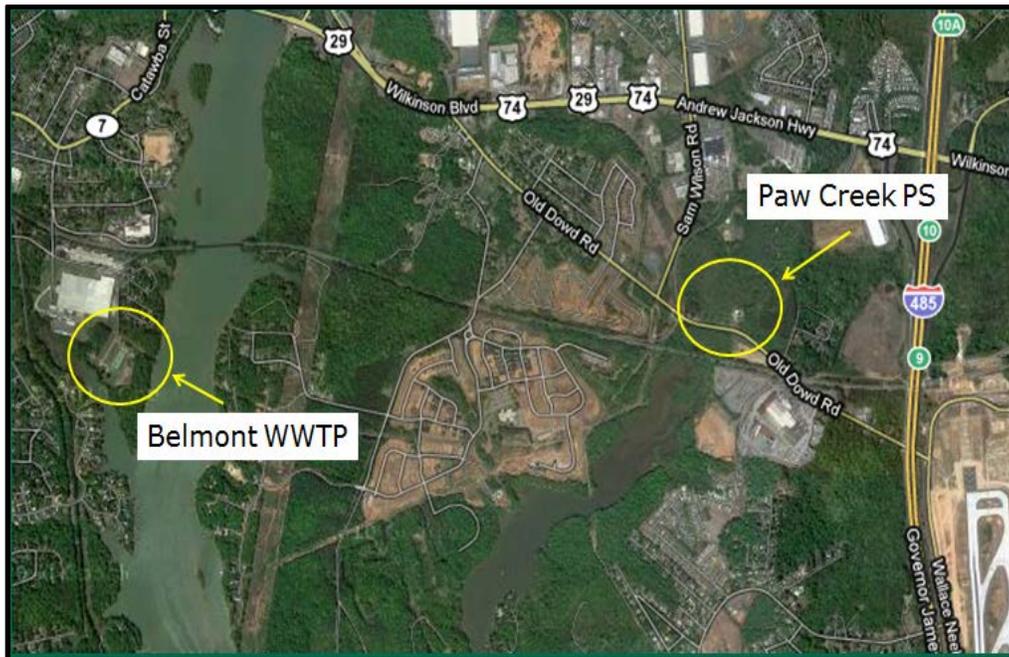
#### **Existing Discharges**

Existing discharges to the lake mainstem and tributaries should be encouraged to be removed when alternatives become available. Programs such as the Charlotte-Mecklenburg Utility Department (CMUD) sewer line extension project should continue to be supported.

Upon expansion or major modification, it is recommended that all existing discharges should be required to apply advanced nutrient removal technology. For all expanding facilities with a permitted design flow greater than or equal to 1 MGD, recommended monthly average limits are as follows: 1.0 mg/l TP and 6.0 mg/l TN, (nitrogen limits to apply for the months of April through October only). For expanding facilities with a permitted design flow less than 1 MGD but greater than or equal to 0.05 MGD, the recommended TP limit is 2.0 mg/l. No expansion should be allowed that increases the total nutrient load from the facility unless an evaluation of engineering alternatives shows that it is the most environmentally sound alternative.

*Lake Wylie TMDL 1995 – Page 6*

However the general location of the proposed plant contains 3 significant NPDES permits for existing wastewater treatment plants (City of Belmont, City of Mt Holly, and Clariant Corporation) and all are in close proximity to the proposed Long Creek regional plant and/or to Charlotte Water's existing Paw Creek Wastewater Pump station as shown in the aerial photos below.



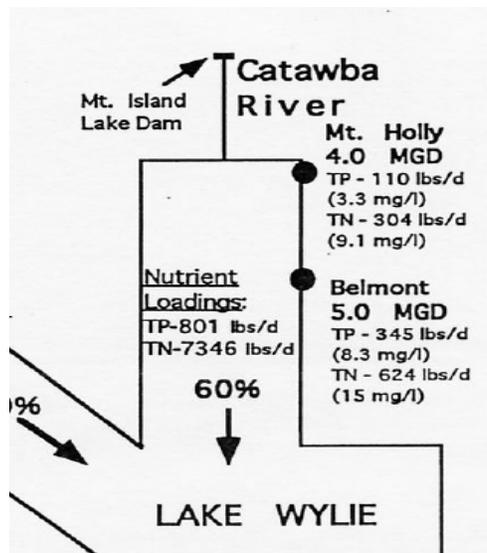
As noted above, a comprehensive stakeholder process was completed to ensure adequate review and discussion on the concept of a new regional wastewater treatment plant. The stakeholder group determined that the new plant provided several key environmental improvements to the area:

1. Allowed the discharges of 3 older wastewater treatment plants to be eliminated and consolidated into one new plant.

2. Provided for meeting the TMDL and additional growth in the regional without the need to upgrade/expand 3 existing plants (City of Belmont, City of Mt Holly, and Charlotte Water). (It should be noted that only Clariant had any nutrient limits at that time but NC DEQ was proposing them for Belmont and Mt Holly.)
3. Moves a significant volume of water currently being treated and discharged back to the stream near the South Carolina line back up in the Catawba River basin closer to the withdrawal point.

**Lake Wylie TMDL Implementation Plan**

The TMDL for this section of Lake Wylie provided for maximum nutrient loadings for Phosphorus and Nitrogen. The diagrams below are an excerpt from the TMDL plan showing the distribution of nutrient loadings among existing dischargers at that time (Figure 6.1) and the future allocations upon TMDL implementation (Figure 6.2).



● Major NPDES Discharger locations with facility name and predicted avg. daily nutrient loads for total nitrogen (TN) and phosphorus (TP) based on permitted flow and recommended nutrient concentrations.

☐ Nutrient sensitive lake areas.

Note: Daily nutrient loadings in the 4 lake arms are based on 89-90 measured background levels plus actual average 93-94 loadings from dischargers. Nutrient loading in the main lake is based on percentages of the lake arm loadings that are thought to reach the lake based on a field-calibrated in-lake nutrient transport model.

Figure 6.1 Schematic Diagram of Lake Wylie Showing Nutrient Loadings and Predicted Chlorophyll-a Concentrations in the 4 Major Arms and the Mainstem of the Lake Under the 1995 Lake Wylie Nutrient Management Strategy

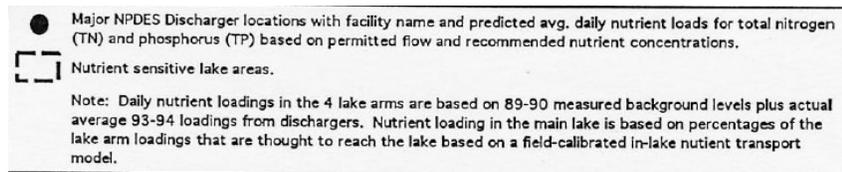
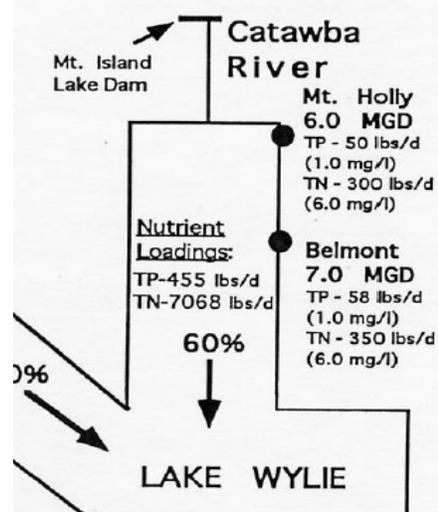


Figure 6.2 Schematic of Lake Wylie Showing Nutrient Loadings and Predicted Chlorophyll-a Concentrations in the 4 Major Arms and the Mainstem of the Lake Under the 1995 Lake Wylie Nutrient Management Strategy with Mt. Holly and Belmont Expanded by 2.0 MGD

The project proposes that Belmont and Mt Holly would close their wastewater plants and their nutrient allocations would be merged into the NPDES permit for the regional facility.

As noted in the TMDL, all industrial permits would be handled on a case by case basis and no nutrient allocation was given in the document. Based on the NPDES permit for Clariant, it was determined that their permit had a nitrogen allocation of 318.5 lbs/day and a phosphorus allocation of 40 lbs/day. Charlotte Water negotiated an agreement to purchase 90% of the nutrient allocation (287 lbs/day nitrogen and 36 lbs/day phosphorus) initially. This would allow Clariant to continue to provide some level of sanitary sewer service to their industrial site and continue with the groundwater remediation that has been ongoing for a number of years at the site.

Charlotte Water made a request for Speculative Limits from NC DEQ in 2013 for a new regional WWTP on Lake Wylie based on the plan to consolidate the 3 three discharges/permits described above and to accommodate the flows from the Charlotte Water Long Creek basin that are currently being pumped to the McAlpine Creek WWTP. The speculative limits for the regional plant were proposed by NC DEQ to meet the allocations within the TMDL as noted in the Speculative Limit letter excerpt below. The full NC DEQ Speculative Limit letter is attached in Exhibit 2.

Nutrients. The nutrient loading for the three partner dischargers was combined to determine the total nutrient allocation for the proposed CMU Regional WWTP. The entire allocation for Mount Holly and Belmont will be included in the Regional facility. While the Clariant facility has a total nitrogen (TN) allocation of 318.5 lb/day, only 90 % or 287 lb/day will be allocated to the CMU Regional WWTP. The same percentage of total phosphorus (TP) will be allocated; therefore 36 lb/day of total phosphorus of 40 lb/day will be allocated. The nutrient limitations are consistent with the Lake Wylie nutrient TMDL allocations and the contributed nutrient allocation for the three dischargers is below :

Discharger	TN Allocation	TP Allocation	Basis
Mount Holly	300 lb/day	50 lb/day	TMDL
Belmont	350 lb/day	58 lb/day	TMDL
Clariant	287 lb/day	36 lb/day	TMDL, (Nonpoint) BAT
<b>Total</b>	<b>937 lb/day</b>	<b>144 lb/day</b>	
	<b>200,518 lb/summer</b>	<b>52,560 lb/year</b>	
	<b>141,487 lb/winter</b>		

*NC DEQ Letter, Tom Belnick, June 2013*

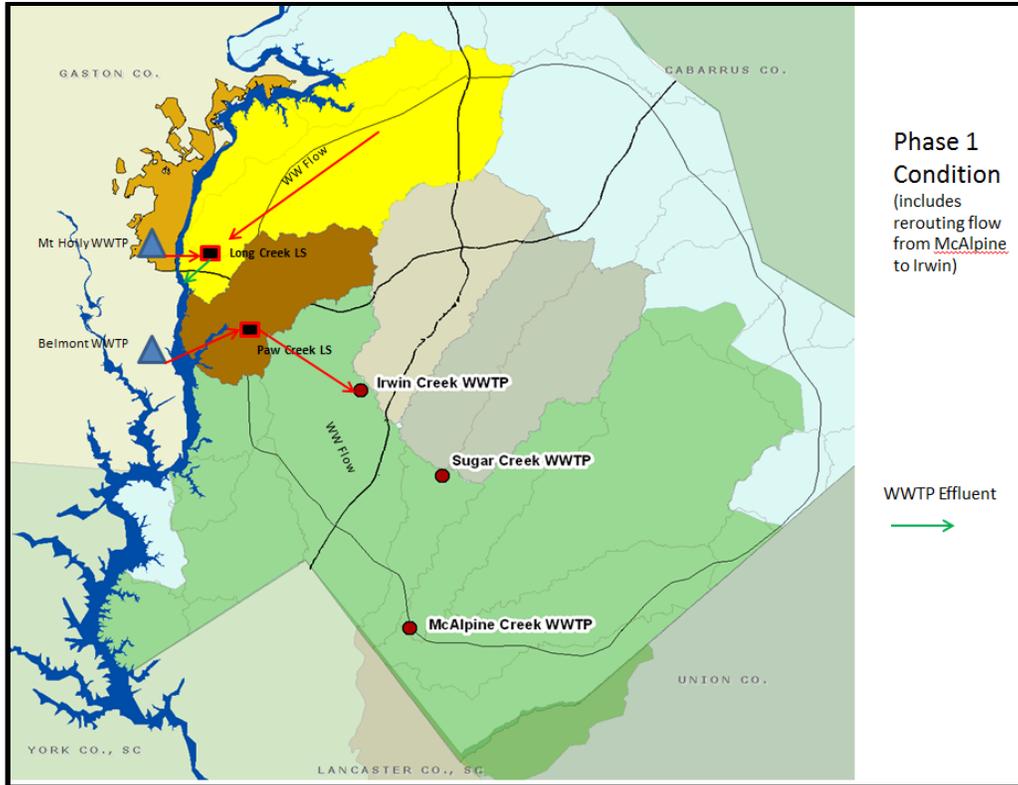
Charlotte Water has completed the purchase of 90% of the nitrogen (287 lbs) and phosphorus (36 lbs) allocations from the Clariant NPDES permit. Currently that allocation is stored in the Clariant permit but it is being proposed to be transferred to the Belmont and Mt Holly permits temporarily since Clariant has ceased most of its operations producing the wastewater volumes seen in the past years. With the addition of these nutrient allocations to their permits, Belmont will be able to continue meeting the TMDL requirements and Mt Holly will begin meeting them until such time as the Long Creek WWTP is constructed and their plants taken offline.

The proposed permit modification language for Belmont and Mt Holly would also include language to address the transfer of the nutrient allocation to the Long Creek Regional WWTP NPDES permit once the plant is completed.

**Schedule and Phasing of the Long Creek Regional WWTP**

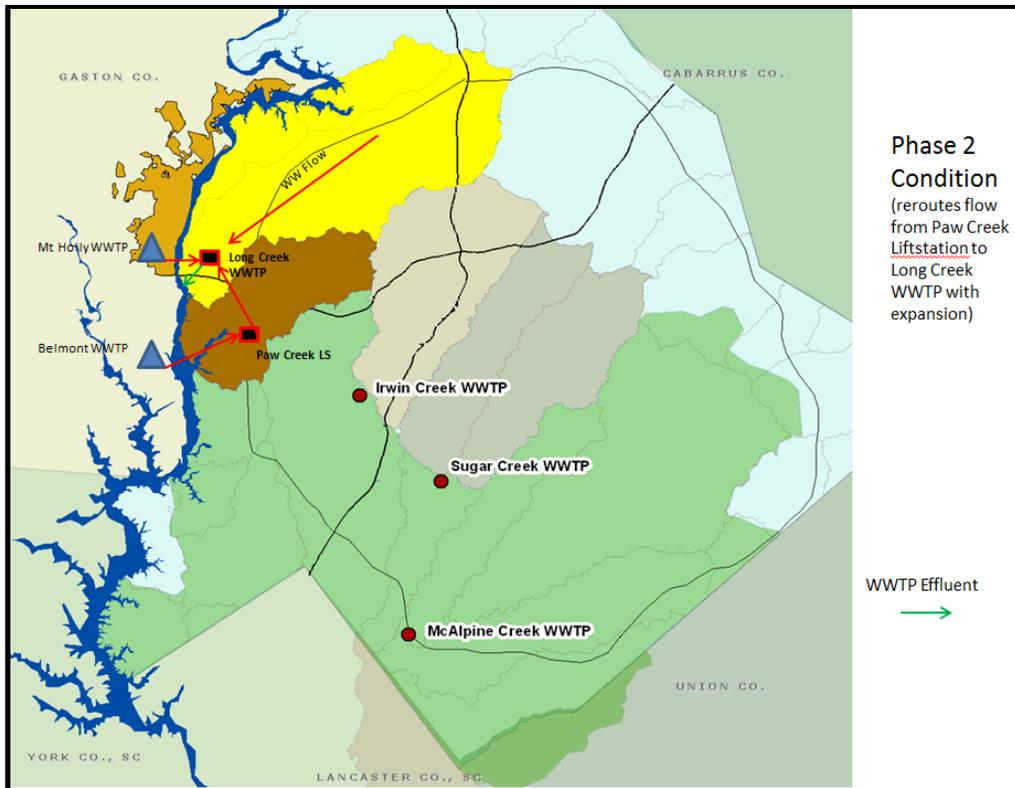
The original master plan for the project indicated additional wastewater treatment capacity would be needed to meet growth projections before 2016 but with the economic recession that schedule has been delayed. A review of the current growth trends with the improved economy and wastewater flows and loadings at the existing treatment plants indicates that the construction for the treatment plant will likely need to be initiated in the next few years.

**Phase 1** of the Long Creek WWTP the plant will treat flows from the Charlotte system that currently flow through the Long Creek Pump station and wastewater flows from Mt Holly. Wastewater flows from Belmont will be pumped to the Paw Creek Pump station which will pump to the Irwin Creek WWTP. The Paw Creek Pump station currently pumps to the McAlpine Creek WWTP but has the option of pumping some flow to the Irwin Creek WWTP. Capital projects are currently underway for a new forcemain and gravity sewer line to move the primary flow to the Irwin Creek WWTP. It is presumed that Phase 1 of the plant would be 12 mgd.



**Phase 2** of the Long Creek WWTP is a proposed expansion to 25 mgd with the timing of that expansion being triggered by one of two scenarios. The first scenario is that more capacity is required to serve Mt Holly or to serve areas which are upstream of the Long Creek WWTP (i.e. – the Long Creek basin) in Mecklenburg County. Under this scenario the Long Creek WWTP would be expanded but no changes would be made to the collection system layout.

The second scenario is that the Charlotte system downstream of the Long Creek WWTP, which could be either the Paw Creek collection system and/or the Irwin or McAlpine WWTP, needs additional capacity. Under this scenario the Paw Creek Pump Station force main would be rerouted up to the Long Creek WWTP as a part of the plant expansion project. The following graphic depicts this second scenario.



**Project Status**

As of May, 2016 the following key items have been completed:

1. Memorandums of Agreement approved and executed with City of Belmont and City of Mount Holly (Attached as Exhibit 3)
2. Purchase agreement for the treatment plant site and NPDES permit nutrient allocation completed with ReVenture (Clariant Corporation) – (Site map attached as Exhibit 4).
3. Record of Decision for the Environmental Impact Statement issued for the overall project including the Long Creek Regional WWTP, Belmont Pump station and Force main, and Mount Holly Pump station and Force main. (The EIS can be found at <http://cmucontracts.charmeck.org> beside the title of the RFQ.)

Next steps for the project are:

1. The completion of the application and review for an NPDES permit.
2. Completion of the detailed agreements with the City of Belmont and the City of Mt Holly.
3. The initiation of a Preliminary Engineering Report on the planning and design of the proposed facilities.
4. Completion of the NPDES permit modifications for Belmont and Mt Holly transferring the Clariant nutrient allocation (Proposed modification language attached).

## **SCOPE**

The following is a general description of the work to be performed under this Preliminary Engineering Report at a minimum. This is not intended to be all-inclusive, as a more defined Scope of Work will be developed with the selected firm.

1. Complete site layout for the proposed treatment plant based on a 12 mgd Phase 1 and a 25 mgd Phase 2 facility for 2 or 3 different types of treatment technologies to meet the speculative NPDES permit limit for the plant. The level of detail here would include locating major structures to verify space requirements can be met on the proposed site and a cursory review of the site topography relative to the plant hydraulic profile. Also includes identification of any site constraints relative to the plant construction such as easements or buffers.
2. Complete a planning level evaluation of the existing Long Creek Pump Station for its ultimate use as the influent pump station for the new wastewater treatment plant.
3. Complete the location and route layout of the Belmont and Mt Holly Force Mains. For the Belmont Force Main this may include up to 2 routes. Level of detail for this task will be negotiated after the selection.
4. Evaluate the existing Mt Holly and Belmont WWTP locations to determine requirements and site constraints for the pump station and flow equalization basins that will be required at each of these sites.
5. Permit Inventory - Perform a complete research of all necessary permits to complete the construction of the treatment plant, entrance road and bridge, and Belmont and Mt Holly Pump Stations and Force Mains. This includes, but not limited to, Zoning, FERC, Erosion Control, 404, SWIM buffers, and etc.
6. Geotechnical – Perform geotechnical borings for soil conditions on the proposed plant site, pump stations, river crossings and forcemain routes. Quantity and level of borings to be negotiated after selection.
7. Provide the services of a qualified professional land surveyor to:
  - Set horizontal and vertical controls and locate street, road, and utility rights-of-way and critical property corners and to provide additional records on rights-of-way and property information.
  - Aerial topography at 1-foot contours for a site area of up to 550 acres.
  - Other survey information required to complete civil site design.
8. Investigate the selected routes for the Belmont Force Main for potential risks such as ground water or soil contamination and construction encumbrances such as structures.
9. Perform cursory review of influent flow and nutrient loading trends and projections for Charlotte Water, Mt Holly, and Belmont to assist owner with overall project implementation schedule.
10. Create/update project costs. This would be a high level cost estimate primarily to allow for capital budget planning.
11. Develop design and construction schedules for all components for the projects to provide for an overall implementation schedule to meet projected growth demands.

This list includes most of the major tasks to be completed under the PER, however, the owner reserves the right to add or delete from this list during the final scope and fee negotiation as desired for the best outcome for the project planning.

**MILESTONES**

Contract negotiation is expected to begin shortly after selection. The following chart shows the schedule of key events to prepare your organization’s Qualification Package.

<i>DATE</i>	<i>EVENT</i>
September 2, 2016	Issuance of RFQ
September 16, 2016	Pre-proposal meeting, 11:00 a.m.  Charlotte Water 5100 Brookshire Boulevard 2 <sup>nd</sup> Floor Conference Room Charlotte, NC 28216  *Attendance is strongly encouraged but not mandatory.
September 27, 2016	Last day for questions
October 4, 2016	SOQ packages are due by 2:00 p.m. on this date

**STATEMENT OF QUALIFICATION PREPARATION**

If your firm would like to be considered for providing services to the City, please submit one originally signed, bound SOQ and eight copies, in addition to one electronic copy in pdf format (provided on CD or flash drive) to:

Charlotte Water  
Procurement Department, 2<sup>nd</sup> Floor  
ATTN: Abby Dolan, Procurement Manager  
5100 Brookshire Blvd.  
Charlotte, NC 28216

SOQs may be mailed, or placed in the designated locked Procurement box in the 2<sup>nd</sup> Floor Lobby at the above address. SOQs must be submitted in a sealed envelope or box with the following information clearly notated on the face of it:

SOQ ENCLOSED  
RFQ #20160902  
Long Creek WWTP PER  
Name of Proposer  
Address of Proposer

**If submitted via mail (by a third party vendor):** the outside sealed SOQ envelope or box must contain the aforementioned information clearly notated on the face of it.

**If hand delivered via depositing in the designated box,** the SOQ envelope must be placed inside the white box designated for SERVICES located in the 2<sup>nd</sup> Floor Lobby. Packages must be the following dimensions or smaller: 12”W x 8.25”H x 11.5”D. If the package is larger, it must be separated into smaller packages with the outside of the package clearly marked “PACKAGE

X OF X". Proposers shall allow enough time to sign in at the reception desk and obtain a visitor badge in order to access the 2<sup>nd</sup> floor.

No responsibility will be attached to the City for prematurely opening a SOQ not properly addressed or identified.

Each Firm is solely responsible for the timely delivery of their SOQ. Firms accept all risks of late delivery regardless of fault. Any SOQs received after the date and time specified, regardless of the mode of delivery, shall not be considered. The Procurement Officer will confirm receipt of SOQs to all Firms via email within 24 hours of the SOQ deadline.

The SOQ Package should consist of the information described below. Due to demands on the time of the Selection Committee members, please limit your submittal to ten (10) double-sided pages (or twenty (20) single-sided pages). Type size should be no smaller than 11 points for narrative sections, but may be reduced for captions, footnotes, etc. as required while still maintaining legibility. Front and back covers, dividers, and required Exhibit forms will not count toward the page limit. Statements consisting of more than the previously stated page limit may be rejected. Promotional literature, brochures, and the cover letter will be considered as part of the page limit.

#### Cover Letter

Cover letter should be signed by a person empowered to commit the firm to a contractual arrangement with the City of Charlotte. The cover letter should also provide contact information including phone number, **email address**, and mailing address. If proposal contains trade secret / proprietary / confidential information, state this in cover letter.

#### Section One:

1. Identify the legal entity that would enter into the contract with the City and include location of company headquarters, local office location, type of business (sole proprietorship, partnership, or corporation), state of incorporation or organization.
2. Provide an organizational chart identifying members of the team, including subconsultants who would be assigned to this project. The chart should clearly delineate roles and responsibilities of the various team members.
3. For proposed subconsultants, please provide the name of each firm, the office location, contact name and telephone number, and the services to be provided.
4. Indicate if any member of your team has been certified as a Minority or Small Business Enterprise (M/SBE) by the City of Charlotte.
5. State any conflicts of interest your firm or any key individual may have with these projects.
6. List any unresolved claims or disputes with the City of Charlotte.

#### Section Two:

1. Provide brief bios for the team members listed on the organizational chart. Particular emphasis should be placed on the project manager, his/her length of time with the firm, and his/her relevant experience for this project. Background information for all team members should include professional registrations/certifications listing applicable state(s).

2. Provide project examples completed within the past ten (10) years by your firm that were similar in size or type to this project. Projects should demonstrate the firm's experience in planning and permitting major new treatment plants (water or wastewater) and experience with wastewater treatment processes for nutrient removal through new treatment plants or plant expansions greater than 5 mgd.
3. Describe the general tasks required to fulfill project requirements and your firm's approach to completing those tasks.
4. Summarize why your firm should be selected.

#### Required Forms

- Exhibit 5 – Commercial Non-Discrimination Certification
- Exhibit 6 – E-Verify Certification

#### **EVALUATION CRITERIA**

***This selection process is for the Preliminary Engineering Report only and not detailed design or any other phase of the treatment plant or other facilities.***

SOQ packages will be evaluated on the Firm's ability to meet the requirements of this RFQ. Factors will include the following:

- The firm's experience in providing similar services for similar projects. Specifically, CLTWater is seeking a firm that has experience with:
  - o planning, permitting, and design of wastewater treatment plants greater than 5 mgd
  - o all types of permitting relative to constructing new wastewater treatment plants
  - o pipeline river crossings
  - o designing wastewater plants or plant expansions using multiple treatment technologies in order to adequately complete site layout evaluations for various technologies
- Qualifications and abilities of key individuals identified in the Qualifications Package;
- Firm's approach;
- Proposed utilization of firms certified as Minority and Small Business Enterprises by the City who will be given realistic opportunities to perform under the scope of this contract; and
- References.

#### **ADDITIONAL INFORMATION ABOUT THIS RFQ**

##### **1. *Charlotte Business INClusion***

In 2013, Charlotte City Council adopted the Charlotte Business INClusion (CBI) Policy to promote diversity, inclusion, and local business opportunities in the City's contracting and procurement process for Minority, Women, and Small Business Enterprises headquartered in the Charlotte Combined Statistical Area (CSA). The CBI Policy is posted at [www.charlottebusinessinclusion.com](http://www.charlottebusinessinclusion.com).

The **Charlotte CSA consists of the following 13 counties**: In North Carolina: Anson, Cabarrus, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Union and Stanly. In South Carolina: Chester, Lancaster, and York.

The City will negotiate M/W/SBE Subcontracting Goals for the Project with the selected firm(s):

- **MBE Goal:** May be satisfied by an entity that qualifies as a Minority Business Enterprise under N.C. Gen. Stat. § 143-128, and that has been certified as a Historically Underutilized Business by the State of North Carolina with the business headquarters in the Charlotte Combined Statistical Area. Please note, when identifying MBEs for inclusion towards the MBE Goal, only HUB-certified MBEs **headquartered in the Charlotte Combined Statistical Area** will be counted towards the MBE Goal.
- **WBE Goal:** May be satisfied by an entity that qualifies as a Women-owned Business Enterprise under N.C. Gen. Stat. § 143-128, and that has been certified as a Historically Underutilized Business by the State of North Carolina with the business headquarters in the Charlotte Combined Statistical Area. Please note, when identifying WBEs for inclusion towards the WBE Goal, only HUB-certified WBEs **headquartered in the Charlotte Combined Statistical Area** will be counted towards the WBE Goal.
- **SBE Goal:** May be satisfied by an entity that is certified by the City of Charlotte under Part E of the CBI Policy as meeting all of the requirements for SBE certification.
- **Aggregate M/W/SBE Goal (Project Goal):** The total work performed by MBEs, WBEs or SBEs in the aggregate for this Project. The City will negotiate a Project Goal for individual projects/contracts with the selected firm(s).

**Entities Certified In Multiple Categories.** In measuring Goal attainment, a subconsultant that is certified in multiple categories may be counted toward the individual Goal of such category, but the subconsultant may only be counted once towards the Project Goal. For example, a subconsultant that is certified as both an SBE by the City and an MBE by the State shall be counted towards both the SBE Goal and the MBE Goal. However, the M/W/SBE firm will only be counted once towards the Project Goal.

Firms are highly encouraged to consider any and all possibilities for M/W/SBE participation. A complete list of City certified SBEs is available at [www.charlottebusinessinclusion.com](http://www.charlottebusinessinclusion.com). A list of State of North Carolina HUB certified MBEs and WBEs is available at <http://www.doa.nc.gov/hub/searchhub.aspx>.

In evaluating the firm's proposal, the City may take into account: (1) the firm's past performance in meeting MBE, WBE and SBE goals; (2) the firm's Participation Plan; and (3) the Participation Plan submitted by other firms in comparison to the firm's Participation Plan.

## 2. **Vendor Registration**

In order to measure the effectiveness of the City's CBI Program, all prime consultants and first-tier subconsultants and suppliers must be registered in the City's Vendor Registration System. Consultants and subconsultants not registered cannot receive payment for services and/or supplies provided under any City contract.

**3. Selection Process**

CLTWater will conduct a fair and impartial evaluation of all submittals that are received in accordance with the provisions of this RFQ. CLTWater will appoint a selection committee to perform the evaluation. Interviews with firms are not anticipated, but may be held at the option of the selection committee. CLTWater reserves the right to obtain clarification of any point in a firm's/team's Qualification Package or to obtain additional information. All firms/teams who submit Qualification Packages will be notified of the selection committee's choice. Final approval of any selected firm/team is subject to the action of City Council or appropriate City officials.

**4. Public Records**

Upon receipt by the City, each Qualifications Package becomes the property of the City and is considered a public record except for material that qualifies as "Trade Secret" information under North Carolina General Statute 66-152 et seq. Qualifications Packages will be reviewed by the City's Selection Committee, as well as other City staff and members of the general public who submit public record requests after a selection result has been announced to the public. To properly designate material as a trade secret under these circumstances, each firm must take the following precautions: (a) any trade secrets submitted by a firm should be submitted in a separate, sealed envelope marked "Trade Secret - Confidential and Proprietary Information - Do Not Disclose Except for the Purpose of Evaluating this Qualifications Package," and (b) the same trade secret/confidentiality designation should be stamped on each page of the trade secret materials contained in the envelope.

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

**5. Commercial Non-Discrimination Ordinance**

The following provisions are incorporated into any contract that may result from this solicitation:

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, marital status, familial status, sexual orientation, gender identity, gender expression, 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, Company agrees to: (a) promptly provide to 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 Company has used on City contracts in the past five years, including the total dollar amount paid by Company on each subcontract or supply contract. 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.

Company agrees to provide to the City from time to time on the City's request, payment affidavits detailing the amounts paid by 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.

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 Company from participating in City contracts and other sanctions.

**7. E-Verify**

As a condition for payment under this Contract, Company shall: (i) comply with the E-Verify requirements set forth in Article 2 of Chapter 64 of the North Carolina General Statutes (the "E-Verify Requirements"); and (ii) cause each subcontractor under this Contract to comply with such E-Verify Requirements as well. Company will indemnify and save harmless the City from all losses, damages, costs, expenses (including reasonable attorneys' fees), obligations, duties, fines, penalties, interest charges and other liabilities (including settlement amounts) incurred on account of any failure by Company or any subcontractor to comply with the E-Verify Requirements.

**8. Conditions and Reservations**

The City plans to select one firm, but reserves the right to request substitutions of subconsultants. The City reserves the right to contact any firm/team to negotiate if such is deemed desirable by the City. The City reserves the right to reject any or all responses to the RFQ, to advertise for new RFQ responses, or to accept any RFQ response deemed to be in the best interest of the City. The City reserves the right to waive technicalities and informalities.

A response to this RFQ should not be construed as a contract, nor indicate a commitment of any kind. The RFQ does not commit the City to pay for costs incurred in the submission of a response to this RFQ or for any cost incurred prior to the execution of a final contract. No recommendations or conclusions from this RFQ process concerning any firm 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. No binding contract, obligation to negotiate, or any other obligation shall be created on the part of the City unless the City and a firm jointly execute a contract.

**9. Communication Guidelines**

Firms and their staff are prohibited from communicating with elected City officials and City employees regarding the RFQ or submittals from the time the RFQ has been released until all respondents have been notified and the selection results have been publicly announced. These restrictions extend to “thank you” letters, phone calls, and emails and any contact that results in the direct or indirect discussion of the RFQ and/or the Qualification Package submitted by the firm/team. Violation of this provision by the firm/team and/or its agents may lead to disqualification of the firm’s/team’s submittal from consideration. Exceptions to the restrictions on communications with City employees are as follows:

- Firms may submit written questions concerning this RFQ to the Contact Person for receipt no later than 5:00 PM local time on **September 27, 2016**. Questions may be submitted to Abby Dolan via email to [adolan@charlottenc.gov](mailto:adolan@charlottenc.gov). Questions received after the stated deadline will not be answered. No oral statement of any person shall modify or otherwise change or affect the terms, conditions, or specifications stated in the RFQ, and changes to the RFQ, if any, shall be made in writing only and issued in the form of an Addendum to the RFQ. Clarifications will be posted on our website at [cmucontracts.charmeck.org](http://cmucontracts.charmeck.org).
- Firms are encouraged to contact the Charlotte Business INclusion (CBI) Liaison for assistance or clarification with issues specifically related to the City’s CBI Program. The point of contact is Frederica Love, who may be reached via email at [flove@charlottenc.gov](mailto:flove@charlottenc.gov).

**10. Iran Divestment Act**

The proposer warrants and certifies that it is not identified on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 143-6A-4. The person signing this proposal certifies that he or she is authorized by the proposing firm to make the foregoing certification. Proposer further agrees that it will not utilize on this Contract, if awarded, any subcontractor that is identified on the Final Divestment List.

**EXHIBIT 1**  
**LAKE WYLIE TMDL DOCUMENT**

Lake Wylie TMDL  
1995  
Catawba River Basinwide  
Water Quality Management Plan

#### 6.4 MANAGEMENT STRATEGIES FOR NUTRIENTS

Control of nutrients is necessary to limit algal growth potential, to assure protection of the instream chlorophyll *a* standard, and to avoid the development of nuisance conditions in the state's waterways. Point source controls are typically NPDES permit limitations on total phosphorus (TP) and total nitrogen (TN). Nonpoint controls of nutrients generally include best management practices (BMPs) to control nutrient loading from areas such as agricultural land and urban areas.

Assimilative capacity for nutrients vary greatly in the Catawba Basin as the waters flow from stream to lake to stream. A 1992 report by DEM and South Carolina Department of Health and Environmental Control (92-04) described the assimilative capacity of Lake Wylie as exhausted. Rhodhiss Lake and Lake Hickory are eutrophic lakes, but their short retention time mitigates the effect by somewhat controlling algal growth. Ongoing and planned studies will further detail the assimilative capacity for nutrients of Lake James, Rhodhiss Lake, Lake Hickory, Lookout Shoals Lake, and Mountain Island Lake.

### 6.4.1 Lake Wylie Management Strategy

The 1992 Lake Wylie Report (92-04) documented eutrophic conditions in Lake Wylie and several of its major tributaries. To address eutrophication in Lake Wylie, the state developed a point and non-point nutrient control strategy for the Lake Wylie watershed. For point sources, it required state-of-the-art nutrient removal for all new or expanding wastewater discharges in the vicinity of the lake. In addition, the nutrient management strategy required existing facilities on tributaries to the three most highly eutrophic arms of the lake (South Fork Catawba River, Catawba Creek and Crowders Creek) to meet stringent nutrient removal requirements. For nonpoint sources, this strategy included targeting of funds from the state's Agricultural Cost Share Program for the Reduction of Nonpoint Source Pollution for implementation of best management practices on agricultural lands to highly impacted watersheds of Lake Wylie.

In conjunction with the Catawba River basinwide planning effort, the existing Lake Wylie management strategy was reexamined using current water quality data to assess the strategy's consistency with the State's stated goal of managing problem pollutants while accommodating reasonable economic growth. The Lake Wylie nutrient management strategy presented below is designed to reduce and eventually prevent the occurrence of eutrophication-related water quality standard violations in Lake Wylie and is consistent with the general results and conclusions of the 1992 Lake Wylie report.

#### The Lake Wylie Nutrient Management Area

In order to control nutrient loading in Lake Wylie and its major tributaries, both point and non-point source controls need to be implemented. For the purposes of this document, the Lake Wylie Nutrient Management Area is considered to be Lake Wylie and its tributaries including the Catawba River and its tributaries below Mountain Island Dam and the South Fork Catawba River below its confluence with Long Creek. The upper watersheds of the Catawba River, above Mountain Island Lake Dam, and the South Fork Catawba River, above Long Creek, are not included in the management area due to both the distance of these waters from Lake Wylie and the presence of impoundments which trap some nutrients. Because distance from the lake and the presence of impoundments may somewhat mitigate the effects of nutrients released into the upper Lake Wylie watersheds, nutrient management will be focused within the study area as defined above.

Future study will be conducted to reevaluate the extent of the defined management area. Point and non-point sources on the South Fork Catawba River upstream of Long Creek will be further assessed to determine what effect additional control of nutrients in the upper South Fork Catawba River basin may have upon eutrophication in Lake Wylie. Results of this study will be considered during the development of the next Catawba River Basin Plan.

#### Recommended Point Source Nutrient Reduction Strategies

To reduce nutrient enrichment of Lake Wylie, the following recommendations are made for point source discharges within the Lake Wylie Nutrient Management Area. These recommendations are summarized and compared with those from the 1992 Lake Wylie Report in Table 6.2, below.

Reference is also made to Figures 6.1 and 6.2, below, and Figure 3.4 in Chapter 3. Figures 6.1 and 6.2 depict the average daily nutrient loading and predicted chlorophyll *a* concentrations in the four major tributary arms and the mainstem of Lake Wylie based on the nutrient management strategy described below. The key differences between Figures 6.1 and 6.2 pertain to nutrient loadings in the Catawba River arm and the lake mainstem resulting from possible future expansions and upgrading of the Mt. Holly and Belmont municipal wastewater treatment plants (WWTPs). In Figure 6.1, the nutrient loadings to the lake mainstem area, which are shown enclosed by a dashed box in the figure, would be 1077 lbs/day for total phosphorus (TP) and 9289 lbs/day for total nitrogen (TN). The predicted average chlorophyll *a* concentration would be 17.2

ug/l (compared to the state standard of 40 ug/l). Figure 6.2 shows conditions in which the Mt. Holly and Belmont WWTPs are enlarged. Even though their respective flows would increase by 2.0 MGD, their actual nutrient loadings are reduced because nutrient limits would apply to the plants upon expansion. As a result, the TP and TN loads and the predicted chlorophyll *a* concentrations in the mainstem of the lake are lower in Figure 6.2 than in 6.1.

Finally, a comparison can be made between present and permitted nutrient loadings and chlorophyll *a* concentrations by comparing Figures 6.1 and 6.2 with Figure 3.4 in Chapter 3. Major nutrient loading reductions and predicted chlorophyll *a* concentrations can be seen in the Catawba Creek and Crowders Creeks arms when comparing existing conditions (Figure 3.4) and the recommended permitting strategies contained herein. The reductions in nutrient loadings and chlorophyll *a* in the two other lake arms and the lake mainstem are less dramatic but significant.

#### **New Discharges**

It is recommended that no new discharges should be allowed to the lake mainstem or its tributaries, unless an evaluation of engineering alternatives shows that it is the most environmentally sound alternative. For any new discharges that meet this requirement it is recommended that advanced treatment technology be required. It is further recommended that any new facility with a permitted design flow of greater than or equal to 1 MGD should be required to meet monthly average limits of 1.0 mg/l total phosphorus (TP) and 6.0 mg/l total nitrogen (TN), (nitrogen limits to apply for the months April through October only). For new facilities with a permitted design flow of less than 1 MGD but greater than 0.05 MGD (50,000 gallons per day) it is recommended that they meet a total phosphorus limit of 2.0 mg/l.

All industrial discharges will be handled on a case-by-case basis because attainable advanced removal technology cannot be clearly defined for them as a group. The Division will require the industries in the management area to control TP and TN to best available technology levels applicable to their industrial type.

#### **Existing Discharges**

Existing discharges to the lake mainstem and tributaries should be encouraged to be removed when alternatives become available. Programs such as the Charlotte-Mecklenburg Utility Department (CMUD) sewer line extension project should continue to be supported.

Upon expansion or major modification, it is recommended that all existing discharges should be required to apply advanced nutrient removal technology. For all expanding facilities with a permitted design flow greater than or equal to 1 MGD, recommended monthly average limits are as follows: 1.0 mg/l TP and 6.0 mg/l TN, (nitrogen limits to apply for the months of April through October only). For expanding facilities with a permitted design flow less than 1 MGD but greater than or equal to 0.05 MGD, the recommended TP limit is 2.0 mg/l. No expansion should be allowed that increases the total nutrient load from the facility unless an evaluation of engineering alternatives shows that it is the most environmentally sound alternative.

All existing industrial discharges will be handled on a case-by-case basis because attainable advanced removal technology can not be clearly defined for them as a group. DEM will require the industries in the management area to reduce TP and TN to best available technology levels.

To reduce nutrient enrichment in the two most eutrophic arms of Lake Wylie, additional recommendations are made for point source discharges to the Catawba Creek and Crowders Creek watersheds. In both watersheds, incentives should be established to encourage the privately owned facilities to tie on to larger municipal WWTPs which have a greater resource base to draw on in order to consistently operate the state-of-art treatment facilities required to protect water quality in the above listed sensitive areas. In addition, specific nutrient management recommendations are presented below.

Table 6.2 Comparison of 1992 and 1995 Point Source Phosphorus Reduction Strategies for Lake Wylie

**1992 STRATEGY**

**1995 STRATEGY**

NEW/EXPANDING DISCHARGES TO LAKE WYLIE\*

Upon expansion, all facilities must meet BAT limits (defined as 0.5 mg/l TP, 4 mg/l summertime TN and 8 mg/l wintertime TN)

NEW/EXPANDING DISCHARGES TO LAKE WYLIE\*

≥ 1 MGD, all new and expanding facilities must meet limits of 1 mg/l (TP) and 6 mg/l (TN - summer only).

<1 MGD, but >0.05 MGD, all new and expanding facilities must meet a 2 mg/l TP limit.

INDUSTRIAL DISCHARGES

All industrial discharges will be handled on a case-by-case basis because best available technology (BAT) is not clearly defined for them. The Division will require the industries in the management area to reduce TP and TN to BAT levels.

INDUSTRIAL DISCHARGES

No change

DISCHARGES TO CATAWBA CREEK (>0.05 MGD)

By 1998, all facilities must meet BAT limits (defined as 0.5 mg/l TP, 4 mg/l summertime TN and 8 mg/l wintertime TN)

DISCHARGES TO CATAWBA CREEK (>0.05 MGD)

By 2001, all facilities must meet a 1 mg/l TP limit and 6 mg/l summertime TN limit. By 2006, all facilities must meet a 0.5 mg/l TP limit and TN limits of 4 mg/l in the summertime and 8 mg/l in the wintertime.

DISCHARGES TO CROWDERS CREEK (>1 MGD)

By 1998, all facilities must meet BAT limits (defined as 0.5 mg/l TP, 4 mg/l summertime TN and 8 mg/l wintertime TN)

DISCHARGES TO CROWDERS CREEK (>1 MGD)

By 2001, all facilities must meet limits of 1 mg/l (TP) and 6 mg/l (TN - summer only).

DISCHARGES TO SOUTH FORK CATAWBA RIVER DOWNSTREAM OF LONG CREEK

By 1998, all facilities must meet BAT limits (defined as 0.5 mg/l TP, 4 mg/l summertime TN and 8 mg/l wintertime TN)

DISCHARGES TO SOUTH FORK CATAWBA RIVER DOWNSTREAM OF LONG CREEK

≥ 1 MGD, all new and expanding facilities must meet limits of 1 mg/l (TP) and 6 mg/l (TN - summer only).

<1 MGD, but >0.05 MGD, all new and expanding facilities must meet a 2 mg/l TP limit.

\*Defined as the Catawba River and its tributaries (unless otherwise noted) from the Mountain Island Lake dam to the Lake Wylie dam.

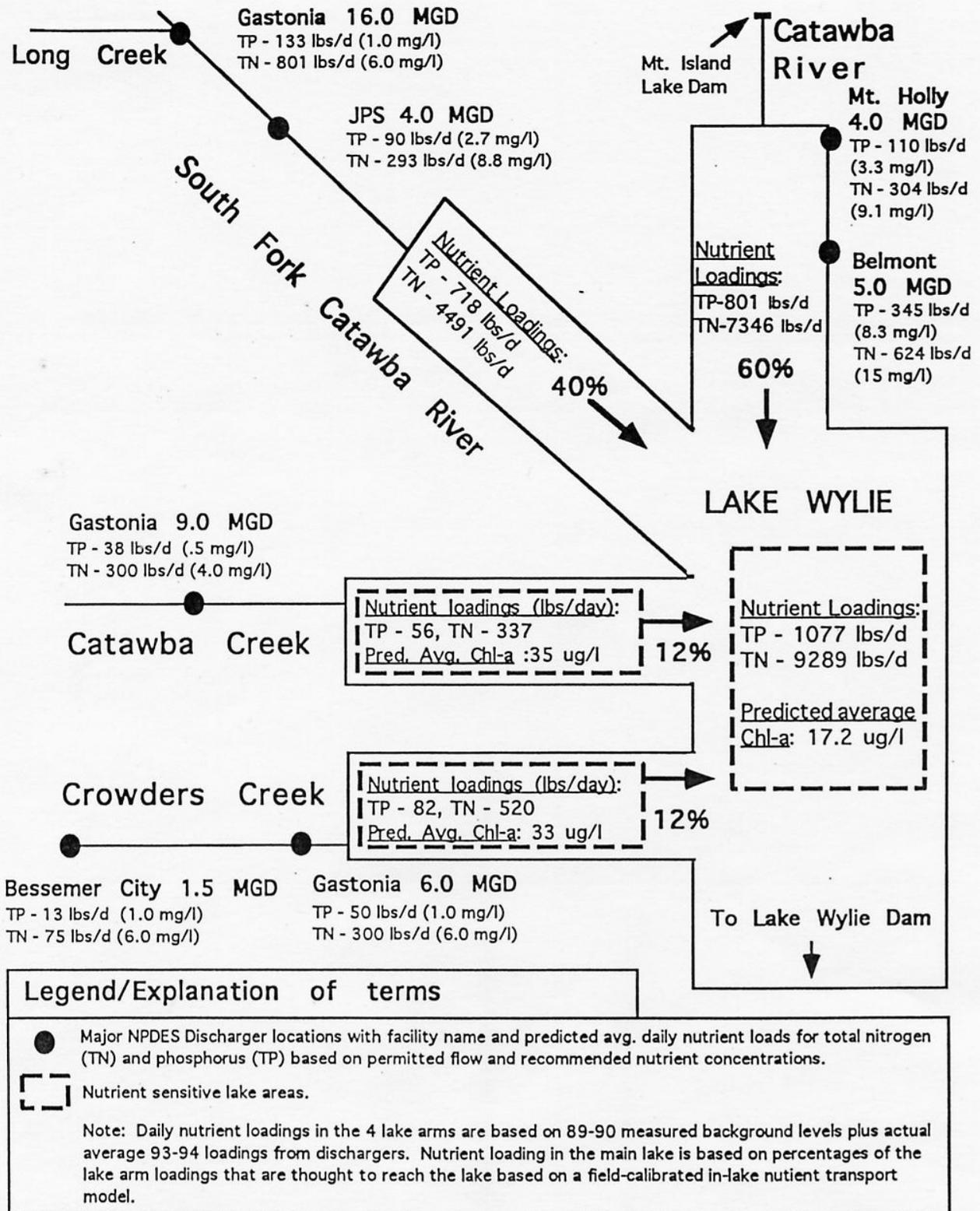


Figure 6.1 Schematic Diagram of Lake Wylie Showing Nutrient Loadings and Predicted Chlorophyll-a Concentrations in the 4 Major Arms and the Mainstem of the Lake Under the 1995 Lake Wylie Nutrient Management Strategy

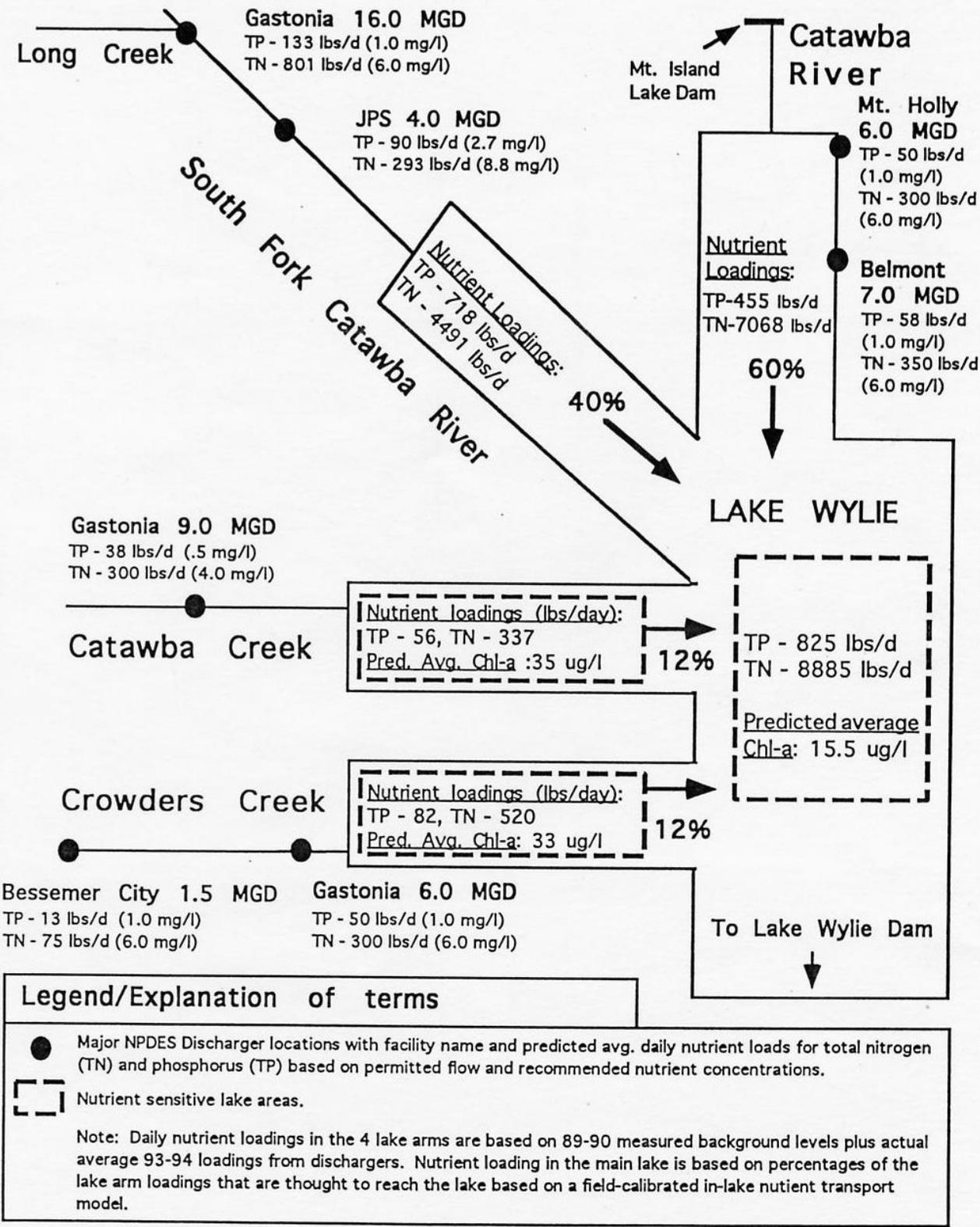


Figure 6.2 Schematic of Lake Wylie Showing Nutrient Loadings and Predicted Chlorophyll-a Concentrations in the 4 Major Arms and the Mainstem of the Lake Under the 1995 Lake Wylie Nutrient Management Strategy with Mt. Holly and Belmont Expanded by 2.0 MGD

### **Catawba Creek**

All existing surface water discharges in these watersheds with a permitted design flow of greater than or equal to 0.05 MGD should be required to apply state-of-art nutrient removal technology. Existing facilities have been notified of this strategy and will be required to meet permit limits of 0.5 mg/l TP and TN limits of 4 mg/l in the summer and 8 mg/l in the winter by 2006. Interim limits of 1.0 mg/l TP and 6.0 mg/l TN (summer) will become effective January 1, 2001. Based on a comparison between Figure 3.4, in Chapter 3, and Figure 6.1, it can be seen that these recommendations would result in reducing the predicted chlorophyll *a* concentration in Catawba creek from 74 ug/l (Figure 3.4) to 35 ug/l (Figure 6.1).

### **Crowders Creek**

By January 1, 2000, it is recommended that all facilities with a permitted design flow of greater than or equal to 1 MGD will be required to meet limits of 1.0 mg/l TP and 6.0 mg/l TN. The nitrogen limits would apply for the months of April through October only. Based on a comparison between Figure 3.4, in Chapter 3, and Figure 6.1, it can be seen that these recommendations would result in reducing the predicted chlorophyll *a* concentration in the creek from 43 ug/l to 33 ug/l.

### **Non point sources**

All tributaries to Lake Wylie should be targeted by the NC Division of Soil and Water Conservation for cost share funds for use in implementation of best management practices (BMPs). When possible, resources should be targeted toward implementation of BMPs in the Catawba Creek, Crowders Creek, and the South Fork Catawba River watersheds since a significant amount of the nutrients reaching these streams is from non-point sources. Since the South Fork Catawba River provides by far the largest nutrient load of any tributary to Lake Wylie, the South Fork should be considered the highest priority for implementation of BMPs.

**EXHIBIT 2**

**NC DEQ SPECULATIVE LIMIT LETTER**



North Carolina Department of Environment and Natural Resources

Division of Water Quality

Pat McCrory  
Governor

Thomas A. Reeder  
Acting Director

John E. Skvarla, III  
Secretary

June 28, 2013

Mr. Barry Shearin, Chief Engineer  
Charlotte Mecklenburg Utilities  
5100 Brookshire Blvd.  
Charlotte, North Carolina 28216

Subject: Speculative Effluent Limits  
Proposed CMU Regional WWTP  
Mecklenburg County

Dear Mr. Shearin:

This letter is in response to your request for revised speculative effluent limits for the proposed Charlotte Mecklenburg Utilities (CMU) Regional WWTP. Speculative limits in September 2009 included the City of Mount Holly Wastewater Treatment Plant in partnership with CMU for the proposed CMU Regional WWTP at the wasteflows of 17 MGD and 25 MGD. In January 2010, speculative limits included Mount Holly and Clariant WWTP in partnership for the proposed CMU Regional Plant at 17 MGD and 25 MGD.

This latest speculative limits request now includes the City of Belmont, the City of Mount Holly, and Clariant as partners in the CMU Regional WWTP. Limits are requested for wasteflows of 12 MGD and 25 MGD. It should be understood by all entities that these speculative limits are only applicable if the nutrient allocations from Belmont, Mount Holly, and Clariant are included in the proposed project. There is no capacity in Lake Wylie for a Charlotte Mecklenburg Utilities discharge facility on its own, based on the EPA approved 1996 Lake Wylie nutrient total maximum daily load (TMDL) allocation. In addition, Mount Holly, Belmont, and Clariant must all submit formal permit modifications to confirm the transfers of flow and nutrient loading to the proposed CMU Regional WWTP. **Please recognize that speculative limits may change based on future water quality initiatives, and it is highly recommended that the applicant verify the speculative limits with the Division's NPDES Unit prior to any engineering design work.**

Receiving Stream. Lake Wylie has a stream classification of WS-IV CA. Waters with this designation are a source of drinking water supply, culinary or food processing purposes in

addition to the standard uses for waters with a C classification. This segment of the Catawba River (Lake Wylie) is listed on the North Carolina 2012 Impaired Streams list for low pH.

Based upon a review of information available from the North Carolina Natural Heritage Program Online Map Viewer, there are not any Federally Listed threatened or endangered aquatic species identified within a 5 mile radius of the discharge location. If there are any identified threatened/endangered species, it is recommended that the applicant discuss the proposed project with the US Fish and Wildlife Service to determine whether the proposed discharge might impact such species.

Speculative Limits. The speculative limits were developed based on Division staff recommendation and consideration of the Lake Wylie TMDL allocation. Based on available information, speculative effluent limits for the proposed discharge of 12 and 25 MGD to Lake Wylie are presented in Tables 1 and 2. A complete evaluation of these limits and monitoring requirements for metals and other toxicants will be addressed upon receipt of a formal NPDES permit application.

CBOD5/NH3 Limits. The limits for CBOD5 and NH3 are based on best professional judgment for the protection of instream dissolved oxygen through the assignment of tertiary treatment limits. The CBOD limits of 4.2 mg/L in the summer and 8.3 mg/L in the winter are effectively equivalent to BOD5 limits of 5 mg/L (summer) and 10 mg/L (winter). The year-round NH3 limit of 1 mg/L is assigned based on instream protection against ammonia toxicity.

Dissolved Oxygen. The dissolved oxygen (D.O.) effluent limit of 7 mg/L was based on the minimum D.O. level used as model input to predict acceptable downstream D.O. levels.

Nutrients. The nutrient loading for the three partner dischargers was combined to determine the total nutrient allocation for the proposed CMU Regional WWTP. The entire allocation for Mount Holly and Belmont will be included in the Regional facility. While the Clariant facility has a total nitrogen (TN) allocation of 318.5 lb/day, only 90 % or 287 lb/day will be allocated to the CMU Regional WWTP. The same percentage of total phosphorus (TP) will be allocated; therefore 36 lb/day of total phosphorus of 40 lb/day will be allocated. The nutrient limitations are consistent with the Lake Wylie nutrient TMDL allocations and the contributed nutrient allocation for the three dischargers is below :

Discharger	TN Allocation	TP Allocation	Basis
Mount Holly	300 lb/day	50 lb/day	TMDL
Belmont	350 lb/day	58 lb/day	TMDL
Clariant	287 lb/day	36 lb/day	TMDL, (Nonpoint) BAT
<b>Total</b>	<b>937 lb/day</b>	<b>144 lb/day</b>	
	<b>200,518 lb/summer</b>	<b>52,560 lb/year</b>	
	<b>141,487 lb/winter</b>		

**TABLE 1. Speculative Limits for CMU Regional WWTP, Proposed flow of 12.0 MGD**

Effluent Characteristic	Effluent Limitations		
	Monthly Average	Weekly Average	Daily Maximum
Flow	12.0 MGD		
CBOD5, Summer	4.2 mg/L	6.3 mg/L	
CBOD5, Winter	8.3 mg/L	12.5 mg/L	
TSS	30 mg/L	45 mg/L	
NH3 as N	1.0 mg/L	3.0 mg/L	
Dissolved Oxygen (minimum)	7.0 mg/L		
Total Residual Chlorine			17 ug/L
Fecal coliform (geometric mean)	200/100 mL	400/100 mL	
Total Nitrogen (summer) <sup>1</sup>	200,518 lbs/summer		
Total Nitrogen (winter) <sup>1</sup>	141,487 lbs/winter		
Total Phosphorus <sup>2</sup>	52,560 lbs/year		
Chronic Toxicity Pass/Fail (Quarterly test)	90%		

1. The total nitrogen limit is equivalent to a 9.4 mg/L annual average.
2. The total phosphorus limit is equivalent to a 1.4 mg/L annual average.

**TABLE 2. Speculative Limits for CMU Regional WWTP, Proposed flow of 25.0 MGD**

Effluent Characteristic	Effluent Limitations		
	Monthly Average	Weekly Average	Daily Maximum
Flow	25.0 MGD		
CBOD5, Summer	4.2 mg/L	6.3 mg/L	
CBOD5, Winter	8.3 mg/L	12.5 mg/L	
TSS	30 mg/L	45 mg/L	
NH3 as N	1.0 mg/L	3.0 mg/L	
Dissolved Oxygen (minimum)	7.0 mg/L		
Total Residual Chlorine			17 ug/L
Fecal coliform (geometric mean)	200/100 mL	400/100 mL	
Total Nitrogen (summer) <sup>1</sup>	200,518 lbs/summer		
Total Nitrogen (winter) <sup>1</sup>	141,487 lbs/winter		
Total Phosphorus <sup>2</sup>	52,560 lbs/year		
Chronic Toxicity Pass/Fail (Quarterly test)	90%		

1. The total nitrogen limit is equivalent to a 4.5 mg/L annual average.
2. The total phosphorus limit is equivalent to a 0.69 mg/L annual average.

Monitoring in Lake Wylie will also be required to ensure that the water quality model predictions were accurate, and to ensure the discharge does not create adverse conditions in the Lake in the future. CMU will be required to monitor upstream and downstream of the outfall. The following parameters should be included in sampling: dissolved oxygen, temperature, conductivity, pH, total phosphorus, total nitrogen and chlorophyll a. Instream monitoring will be required three times per week during the months of June, July, August and September and once per week during the rest of the year.

Engineering Alternatives Analysis (EAA). Please note that the Division cannot guarantee that an NPDES permit for discharge of up to 25.0 MGD will be issued with these speculative limits. Final decisions can only be made after the Division receives and evaluates a formal permit application for the proposed discharge. In accordance with the North Carolina General Statutes, the practicable wastewater treatment and disposal alternative with the least adverse impact on the environment is required to be implemented.

Therefore, as a component of all NPDES permit applications for new or expanding flow, a detailed engineering alternatives analysis (EAA) must be prepared. The EAA must justify requested flows, and provide an analysis of potential wastewater treatment alternatives. Alternatives to a surface water discharge, such as a spray/drip irrigation or wastewater reuse are considered to be environmentally preferable. A copy of the EAA requirements is attached to this letter. Permit applications for new or expanding flow will be returned if all EAA requirements are not adequately addressed.

State Environmental Policy Act (SEPA) EA/EIS Requirements. A SEPA EA/EIS document must be prepared for all projects that: 1) need a permit; 2) use public money or affect public lands; and 3) might have a potential to significantly impact the environment. For new wastewater discharges, significant impact is defined as a proposed discharge of >500,000 gpd or producing an instream waste concentration of > 33% based on summer 7Q10 streamflow conditions. Since CMU's facility is proposing a discharge of >500,000 gpd flow, the CMU facility must prepare a SEPA document that evaluates the potential for impacting the quality of the environment. **The NPDES Unit will not accept an NPDES permit application for the proposed discharge until the Division has approved the SEPA document and sent a Finding of No Significant Impact (FONSI) to the State Clearinghouse for review and comment.**

A SEPA Environmental Assessment (EA) should contain a clear justification for the proposed project. If the SEPA EA demonstrates that the project may result in a significant adverse effect on the quality of the environment, you must then prepare a SEPA EIS (Environmental Impact Statement). Since your proposed discharge is subject to SEPA, the EAA requirements discussed above will need to be folded into the SEPA document. The SEPA process will be delayed if all EAA requirements are not adequately addressed. If you have any questions regarding SEPA EA/EIS requirements, please contact Hannah Headrick with the DWQ Planning Branch at (919) 807-6434.

Mr. Barry Shearin  
June 28, 2013  
Page 5 of 5

Should you have any questions about these speculative limits or NPDES permitting requirements, please feel free to contact Jackie Nowell at (919) 807- 6386.

Respectfully,



Tom Belnick  
Supervisor, Complex Permitting Unit

Attachment: EAA Guidance Document

Hardcopy:

Central Files  
NPDES Permit File  
Barry Gullet, CMUD Director 5100 Brookshire Blvd. Charlotte NC 28216  
Brent M. Reuss/ Black & Veatch 8520 Cliff Cameron Drive Suite 210 Charlotte, N.C. 28269  
Jeff Debessonet/SCDHEC 2600 Bull Street Columbia, S.C. 29201

Electronic Copy:

NC WRC, Inland Fisheries, shannon.deaton@ncwildlife.org  
US Fish and Wildlife Service, Sara\_Ward@fws.gov  
DWQ/SWPS Mooresville Regional Office  
DWQ/SEPA, Hannah Headrick  
DWQ/Modeling TMDL Unit, Kathy Stecker  
DWQ/Basinwide Planning, Jeff Manning  
NPDES Server>Specs

**EXHIBIT 3**

**MEMORANDUMS OF AGREEMENT WITH  
THE CITIES OF BELMONT AND MOUNT HOLLY**

## Memorandum of Agreement

### Between City of Belmont and City of Charlotte through Charlotte-Mecklenburg Utilities

The City of Belmont (Belmont) and the City of Charlotte (acting through Charlotte-Mecklenburg Utilities) (Charlotte) each provide wastewater collection and treatment services to their customers and residents. Belmont has been notified by the N.C. Department of Environment and Natural Resources (DENR) that substantial improvements will soon be required to the existing Belmont wastewater treatment plant. Belmont has considered a number of alternatives as to how they may best achieve the objectives of the new requirements, including decommissioning their existing wastewater treatment plant and contracting with other wastewater utilities to provide on-going services to their residents. In light of those considerations, Belmont wishes to enter into an agreement with Charlotte to participate in a regional wastewater treatment program.

The elements of the proposed regional treatment program would consist of:

- Portions of wastewater from Belmont would be treated at Cramerton's existing wastewater plant (per existing agreements) and at Charlotte's existing plant(s)
- To create capacity to accommodate Belmont's flows in the Charlotte wastewater system, Charlotte proposes to construct a new, advanced wastewater treatment plant near Long Creek in Mecklenburg County
- The new plant at Long Creek is proposed to treat wastewater that is currently treated at Charlotte's Irwin Creek and/or McAlpine Creek wastewater plants, thereby creating capacity for flows from Belmont in Charlotte's Irwin Creek and/or McAlpine Creek plants
- The regional wastewater treatment program will provide additional environmental protection by providing advanced treatment for Belmont's wastewater while satisfying nutrient TMDL allocation goals for Lake Wylie

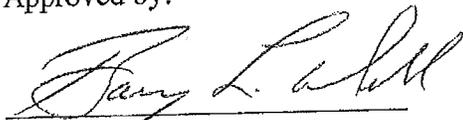
This Memorandum of Agreement authorizes Belmont and Charlotte to continue negotiations leading to implementation of this regional wastewater treatment program and confirms each party's commitment to negotiate in good faith. This memorandum of agreement will be the basis of a formal interlocal agreement (Agreement) to be developed jointly by the parties.

Implementation will include the following steps and actions:

1. Charlotte will work with DENR to obtain environmental approvals for the project(s) at Charlotte's expense
2. Belmont agrees to transfer NPDES wasteload allocations specified in the Lake Wylie TMDL to Charlotte through a mutually agreed upon process and to decommission their existing treatment plant upon completion of the necessary infrastructure required to convey those flows to Charlotte
3. Decommissioning and abandonment of the Belmont treatment plant will be at Belmont's expense
4. Belmont will construct, own, and operate flow equalization and pumping station systems in Belmont at Belmont's expense that will transfer wastewater to Charlotte's Paw Creek basin/lift station

5. Charlotte will construct, own, and operate a force main from the Belmont pumping station to the Charlotte wastewater system at Charlotte's expense
6. Charlotte will treat up to 2 mgd of wastewater (measured as the average daily flow in the maximum month of each year) from Belmont at one or more of the Charlotte treatment plants at no capital cost to Belmont
7. Belmont will pay Charlotte for treatment services for the first 2 mgd based on the actual average cost per 1,000 gallons treated of operations and maintenance at Charlotte's wastewater treatment plants.
8. Upon proper notice, Belmont may increase the amount of treatment capacity it is allowed to use in Charlotte's system from 2 mgd up to 5 mgd by doing either of the following:
  - a. Paying Charlotte a negotiated rate per 1,000 gallons for wastewater treatment in excess of 2 mgd, said negotiated rate to be based on O&M costs plus a reasonable amount to cover Charlotte's capital cost; or,
  - b. Participating proportionally in the capital cost of existing, new, or expanded treatment capacity and paying a treatment rate as described in item 7 (above).
9. Future expansion of capacity in Charlotte's system available to Belmont beyond the initial capacity may be initiated by either Belmont or Charlotte individually, or may be initiated jointly by both parties.
10. Based on state and federal regulations, Belmont and Charlotte agree that regulation of discharges to the sewer system are necessary and will be provided through sewer use ordinances adopted and enforced separately by both parties.
11. Based on design criteria, state, and federal regulations, Belmont and Charlotte agree to limit industrial waste discharges to appropriate standards.
12. Belmont will be solely responsible for regulating industrial discharges originating within their collection system or within collection systems that discharge into Belmont's collection system according to terms and conditions to be included in the Agreement.
13. Charlotte will be solely responsible for regulating industrial discharges originating within their collection system or within collection systems that discharge into Charlotte-Mecklenburg Utilities' collection system according to terms and conditions to be included in the Agreement.
14. Charlotte will provide periodic reports to Belmont about wastewater system performance and compliance, operating costs, and anticipated future capital costs (if any).
15. Belmont will provide periodic and timely reports to Charlotte about Belmont's collection system expansion, any collection system performance issues that could impact Charlotte's system, significant changes related to industrial discharges, and any other information that is relevant to the quantity or characteristics of the wastewater discharged by Belmont
16. Belmont and Charlotte agree that other terms and conditions should be included in the Agreement and may agree during continued negotiations that the Agreement should provide terms and conditions different from those proposed within this MOA.

Approved by:

  
\_\_\_\_\_  
City of Belmont

  
\_\_\_\_\_  
City of Charlotte

**Memorandum of Agreement**  
**Between City of Mount Holly and City of Charlotte**  
**Through Charlotte-Mecklenburg Utilities**  
January 14, 2013.

The City of Mount Holly ("Mount Holly") and the City of Charlotte (acting through Charlotte-Mecklenburg Utilities) ("Charlotte") each provide wastewater collection and treatment services to their customers and residents, and both cities forecast the need for additional wastewater treatment capacity. Mount Holly has been notified by the N.C. Department of Environment and Natural Resources (DENR) that substantial improvements will soon be required to the existing Mount Holly wastewater treatment plant.

A high-level feasibility study in 2006 compared six alternative ways that Mount Holly and Charlotte could meet their additional capacity needs individually or jointly. The study concluded that construction of a regional treatment plant provided the most environmental and economic benefit.

Subsequent to the 2006 Feasibility Study, Mount Holly and Charlotte continued joint and separate consideration of a number of alternatives as to how to best achieve the new requirements and provide the needed increase in capacity. Those considerations included expanding and upgrading Mount Holly's existing wastewater treatment plant, decommissioning Mount Holly's existing wastewater treatment plant to facilitate a regional wastewater treatment approach involving Charlotte and/or Gastonia, and broadening a regional approach by including the City of Belmont and/or an existing industrial wastewater treatment plant in the planning process. In light of those considerations and the need to continue more detailed planning, Mount Holly and Charlotte seek to enter into an agreement to participate in a regional wastewater treatment program.

The elements of the proposed regional treatment program would consist of:

- Wastewater from Mount Holly would be pumped to Charlotte via a new pump station and force main across the Catawba River/Lake Wylie.
- Charlotte proposes to construct a new, advanced regional wastewater treatment plant near Long Creek in Mecklenburg County that would treat wastewater from the region.
- Charlotte proposes to replace the existing 4 mgd Mount Holly wastewater treatment plant with 4 mgd of upgraded capacity in the new Long Creek plant in exchange for the nutrient discharge allocation into Lake Wylie currently assigned to Mount Holly.
- The new plant at Long Creek is anticipated to be connected to other existing wastewater treatment plants in Mecklenburg County whereby additional and/or reserve capacity could be provided.
- Charlotte proposes to acquire phosphorus and nitrogen allocations from the City of Belmont and from the existing Clariant/ReVenture industrial wastewater treatment plant which can be used to facilitate overall achievement of TMDL goals for Lake Wylie.
- The regional wastewater treatment program will provide additional environmental protection by providing advanced treatment for Mount Holly's wastewater, satisfying nutrient TMDL allocation goals for Lake Wylie, reducing the risk of

sewer overflows by reducing the need to transport wastewater long distances, and providing other benefits from a regional system.

This Memorandum of Agreement (MOA) authorizes Mount Holly and Charlotte staff to continue negotiations and work leading to implementation of this regional wastewater treatment program and confirms each party's commitment to negotiate in good faith. This MOA will be the basis of a formal interlocal agreement ("Agreement") to be developed jointly by the parties.

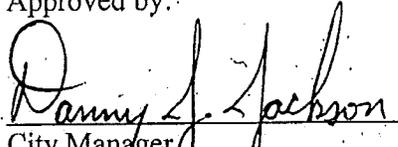
Implementation will include the following steps and actions:

1. Charlotte will work with DENR to obtain environmental approvals for the project(s) at Charlotte's expense. Mount Holly agrees to provide information and support in this effort as needed.
2. Mount Holly agrees to transfer NPDES wasteload allocations specified in the Lake Wylie TMDL to Charlotte through a mutually agreed upon process and to decommission their existing treatment plant upon completion of the necessary infrastructure required to convey those flows to Charlotte.
3. Decommissioning and abandonment of the Mount Holly treatment plant will be at Mount Holly's expense.
4. Mount Holly will pay, at its expense of up to a maximum of \$14 million (based on actual costs), for a pumping station, force main, and flow equalization facility to transfer flow to Charlotte at or near the site of Mount Holly's existing wastewater treatment. Mount Holly will provide the land required for this facility, the cost or value of which is not included in the \$14 million ceiling.
  - a. The pumping station, force main, and flow equalization facility are expected to be owned, operated, and financed by Charlotte as set forth in the Agreement and will be designed according to design and performance criteria agreed upon by both Charlotte and Mount Holly.
  - b. Should the actual cost exceed \$14M, Charlotte and Mount Holly agree to review the scope and design of the facility to attempt to reduce the cost. If the cost still exceeds \$14M, Charlotte may elect to pay the overage or to withdraw from the Agreement.
  - c. Mount Holly's payment to Charlotte for the pumping station, force main, and flow equalization costs will be based on an amount equal to the annual debt service of the actual construction amount (amortized over a 30 year period) and payments will begin upon completion of the construction of those facilities. This debt service payment will be in addition to other costs described in this MOA.
  - d. Alternatively, Mount Holly may elect to reimburse Charlotte via lump sum payment for the actual cost instead of relying on Charlotte financing.
  - e. All financing and payment arrangements are subject to approval by bond counsel and the NC Local Government Commission as necessary.
  - f. Mount Holly and Charlotte agree that construction of the pumping station, force main, and flow equalization facility may precede the construction of the proposed wastewater treatment plant. In that case, Mount Holly may continue to operate its existing wastewater treatment plant up to its permitted and reasonable capacity and to send additional flows to the Charlotte system generally per the other terms of this MOA and per the terms of the Agreement and subject to all required regulatory approvals.

5. Mount Holly will pay Charlotte for the actual operating and maintenance costs of the proposed pump station, flow equalization facility, and force main. Ownership and operation of these facilities remains open for consideration and will be determined in the Agreement.
6. Charlotte will allocate 4 mgd of wastewater treatment capacity (measured as the average daily flow in each billing period, said billing periods anticipated to be monthly) from Mount Holly at one or more of the Charlotte treatment plants at no capital cost to Mount Holly in exchange for the nutrient allocation currently held by Mount Holly in the existing TMDL (50 lb/day total phosphorous and 300 lb/day total nitrogen).
7. Mount Holly will pay Charlotte for treatment services for up to 4 mgd based on the actual flow received each month at a treatment fee rate based on the average cost per 1,000 gallons treated of operations and maintenance at all of Charlotte's wastewater treatment plants. This fee is subject to re-calculation by Charlotte for each fiscal year.
8. Charlotte will allocate 1 mgd of wastewater planning capacity to Mount Holly to allow Mount Holly to plan and permit growth of their customer base. This planning capacity is in addition to the 4 mgd of wastewater treatment capacity described in Paragraph 6. Mount Holly will be required to increase its treatment capacity pursuant to Paragraph 9 when Mount Holly's wastewater discharge frequently or consistently exceeds its 4 mgd wastewater capacity. Specific triggers that would require such an increase will be defined in the Agreement.
9. Upon proper notice and subject to issuance of all required permits and authorizations, Mount Holly may increase the amount of treatment capacity it is allowed to use in Charlotte's system from 4 mgd up to 6 mgd by doing either of the following:
  - a. Paying Charlotte a negotiated rate per 1,000 gallons for wastewater treatment in excess of 4 mgd, said negotiated rate to be based on O&M costs plus a reasonable amount to cover Charlotte's capital costs; or,
  - b. Participating proportionally in the capital cost of existing, new, or expanded treatment capacity and paying a treatment rate as described in item 7 (above).
    - i. Mount Holly may increase its purchased allocation from 4 mgd up to 6 mgd in single or multiple increments of 500,000 gal/day.
    - ii. If Mount Holly chooses to increase its purchased allocation prior to January 1, 2025, the cost of each increment will be based proportionally on the actual cost to design and construct the initial phase of the Long Creek wastewater treatment plant.
    - iii. After January 1, 2025, the cost of each increment will be based on the actual cost (or agreed upon estimate if no construction is required at that time) cost to design and construct an expansion of the Long Creek wastewater treatment plant.
10. Future expansion of treatment or planning capacity in Charlotte's system available to Mount Holly beyond the initial capacities may be initiated and implemented by either Mount Holly or Charlotte individually, or may be initiated and implemented jointly by both parties. Future expansions are subject to issuance of all required permits and authorizations.
11. Based on state and federal regulations, Mount Holly and Charlotte agree that regulation of discharges to the sewer system are necessary and will be provided through sewer use ordinances adopted and enforced separately by both parties.

12. Based on design criteria, state, and federal regulations, Mount Holly and Charlotte agree to limit industrial waste discharges to appropriate standards.
13. Mount Holly will be solely responsible for regulating industrial discharges into Mount Holly's collection system according to terms and conditions to be included in the Agreement.
14. Charlotte will be solely responsible for regulating industrial discharges into Charlotte-Mecklenburg Utilities' collection system according to terms and conditions to be included in the Agreement.
15. Charlotte will provide periodic reports to Mount Holly about wastewater system performance and compliance, operating costs, and anticipated future capital costs (if any).
16. Mount Holly will provide periodic and timely reports to Charlotte about Mount Holly's collection system expansion, any collection system performance issues that could impact Charlotte's system, significant changes related to industrial discharges, and any other information that is relevant to the quantity or characteristics of the wastewater discharged by Mount Holly.
17. If Charlotte acquires the phosphorus and nitrogen loading allocations from the City of Belmont and/or Clariant/ReVenture's existing industrial wastewater treatment plant(s) Charlotte agrees to allow Mount Holly to use these allocations to comply with NPDES permit requirements until the proposed Long Creek WWTP is completed, subject to NC DENR approval.
18. In the event Long Creek WWTP is not constructed due to findings of the Environmental Impact Statement or other unforeseen circumstances, Mount Holly agrees to purchase phosphorus and nitrogen allocations from Charlotte. The purchase price will be the same amount Charlotte paid to Clariant/ReVenture and to Belmont to acquire these allocations. Mount Holly and Charlotte agree that it may be necessary to develop a separate agreement to enact this provision, and if so, agree to cooperate in a timely manner to obtain necessary approvals.
19. Charlotte and Mount Holly will cooperatively work with NC DENR to obtain NPDES permit modifications to ensure nutrient allocations can be used, applied and/or transferred as described in this MOA.
20. Mount Holly and Charlotte agree that other terms and conditions should be included in the Agreement and may agree during continued negotiations that the Agreement should provide terms and conditions different from those proposed within this MOA.
21. Notwithstanding any provision herein to the contrary this MOA is not intended to be a contract, and the Elements set forth in this MOA are subject to continued additions, revisions, and modifications, without prejudice to either Party, as the Parties continue negotiations toward an Interlocal Agreement.

Approved by:

  
City Manager  
City of Mount Holly

  
Deputy City Manager  
City of Charlotte

**EXHIBIT 4**

**SITE MAP**



**EXHIBIT 5**

**COMMERCIAL NON-DISCRIMINATION CERTIFICATION**

Project: Long Creek Wastewater Treatment Plant Preliminary Engineering Report

Proposer: \_\_\_\_\_

All requests for proposals issued for City contracts shall include a certification to be completed by the proposer in substantially the following form:

The undersigned Bidder or Proposer hereby certifies and agrees that the following information is correct:

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

\_\_\_\_\_  
NAME OF COMPANY

BY: \_\_\_\_\_  
SIGNATURE OF AUTHORIZED OFFICIAL

DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_

**EXHIBIT 6**

**E-VERIFY CERTIFICATION**

This E-Verify Certification is provided to the City of Charlotte (the "City") by the company signing below ("Company") as a prerequisite to the City considering Company for award of a City contract (the "Contract").

1. Company understands that:

- a. E-Verify is the federal program operated by the United States Department of Homeland Security and other federal agencies to enable employers to verify the work authorization of newly hired employees pursuant to federal law, as modified from time to time.
- b. Article 2 of Chapter 64 of the North Carolina General Statutes requires employers that transact business in this state and employ 25 or more employees in this state to: (i) verify the work authorization of newly hired employees who will be performing work in North Carolina through E-Verify; and (ii) maintain records of such verification (the "E-Verify Requirements"). Section 126-7.1 of the North Carolina General Statutes requires state agencies to verify their employees' work statuses through E-Verify.
- c. North Carolina General Statute 160A-20.1(b) prohibits the City from entering into contracts unless the contractor and all subcontractors comply with the E-Verify Requirements.

2. As a condition of being considered for the Contract, Company certifies that:

- a. If Company has 25 or more employees working in North Carolina (whether now or at any time during the term of the Contract), Company has complied and will comply with the E-Verify Requirements with respect to Company employees working in North Carolina; and
- b. Regardless of how many employees Company has working in North Carolina; Company will take appropriate steps to ensure that each subcontractor performing work on the Contract that has 25 or more employees working in North Carolina complies with the E-Verify Requirements.

3. Company acknowledges that the City will be relying on this Certification in entering into the Contract, and that the City may incur expenses and damages if the City enters into the Contract with Company and Company or any subcontractor fails to comply with the E-Verify Requirements. Only in the manner and to the extent permitted by the North Carolina Tort Claims Act, N.C.G.S. § 143-291, et seq., and without waiver of its sovereign immunity, company agrees to indemnify and save the City harmless from and against all losses, damages, costs, expenses obligations, duties, fines and penalties (collectively "Losses") arising directly or indirectly from violation of the E-Verify Requirements by Company or any of its subcontractors, including without limitation any Losses incurred as a result of the Contract being deemed void.

\_\_\_\_\_  
Signature of Company's Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name and Title

**EXHIBIT 7**  
**SAMPLE AGREEMENT**

CONTRACT NUMBER \_\_\_\_\_



**AGREEMENT FOR  
PROFESSIONAL SERVICES**

**PROJECT:**

---

**OWNER:**

City of Charlotte  
Charlotte Water  
5100 Brookshire Boulevard  
Charlotte, North Carolina 28216

**CONTRACTOR:**

---

**AGREEMENT FOR PROFESSIONAL SERVICES  
BETWEEN THE CITY OF CHARLOTTE AND**

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**EXHIBITS**

<b>EXHIBIT 1</b>	Scope of Services
<b>EXHIBIT 2</b>	Hourly Rate / Compensation Schedule
<b>EXHIBIT 3</b>	Schedule
<b>EXHIBIT 4</b>	Project Team
<b>EXHIBIT 5</b>	Commercial Non-Discrimination Certification
<b>EXHIBIT 6</b>	E-Verify Certification
<b>EXHIBIT 7</b>	Insurance Certificate
<b>EXHIBIT 8</b>	Charlotte Business INClusion Program

**AGREEMENT FOR PROFESSIONAL SERVICES  
BETWEEN THE CITY OF CHARLOTTE AND**

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**THIS AGREEMENT**, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 201\_\_ (“Effective Date”), by and between the **CITY OF CHARLOTTE**, a North Carolina municipal corporation, hereinafter referred to as the “City”, and \_\_\_\_\_, a professional corporation doing business in North Carolina, hereinafter referred to as the “Engineer”.

**GENERAL RECITALS**

**WHEREAS**, the City issued a Request for Qualifications (RFQ # \_\_\_\_\_) for \_\_\_\_\_ dated \_\_\_\_\_;

**WHEREAS**, the City desires to engage the Engineer to provide professional services as outlined hereinafter upon the terms and conditions as set out herein;

**WHEREAS**, the City is authorized by the \_\_\_\_\_ to enter into an Agreement for performance of such services;

**NOW THEREFORE**, the City and the Engineer, for consideration hereinafter stipulated, mutually agree that the Engineer shall perform the services provided under this Agreement and shall do, perform and carry out in a satisfactory manner, as determined by the City, the following:

**AGREEMENT**

**ARTICLE 1 – DESCRIPTION; SCOPE OF SERVICES**

The Engineer has been retained by the City to provide \_\_\_\_\_ services. A detailed description and scope of services is included in **Exhibit 1** of the Agreement.

**ARTICLE 2 - ENGINEER’S RESPONSIBILITIES**

Upon receipt of a written Notice to Proceed, Engineer shall:

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

### **ARTICLE 3 - TIME OF BEGINNING AND COMPLETION**

This Agreement shall commence on the Effective Date and shall continue in full force until all contract monies have been expensed, unless sooner terminated or extended in accordance with the provisions of this Agreement. Time is of the essence and the Engineer shall begin work immediately following issuance of written Notice to Proceed. All services shall be completed in accordance with the schedule in Exhibit 3.

### **ARTICLE 4 - PERSONNEL**

The key personnel listed in the Engineer's organizational chart (Exhibit 4) shall be assigned to the Project until completion. No changes in Engineer's key personnel shall be made without prior written approval of the City.

#### ***4.1 Addition, Removal and Replacement of Personnel***

The City has the right to require any additional personnel that the City deems necessary to maintain the Project schedule. The City also has the right to require removal and replacement of any personnel deemed unsatisfactory by the City.

#### ***4.2 Commercial Non-Discrimination Ordinance***

As a condition of entering into this Contract, the Engineer 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 Engineer shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, age, marital status, familial status, sexual orientation, gender identity, gender expression, 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 Engineer retaliate against any person or entity for reporting instances of such discrimination. The Engineer 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 Engineer 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 Engineer from participating in City contracts or other sanctions.

As a condition of entering into this Contract, Engineer agrees to: (a) promptly provide to 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 Engineer has used on City contracts in the past five years, including the total dollar amount paid by Engineer on each subcontract or supply contract. Engineer 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.

Engineer agrees to provide to the City from time to time on the City's request, payment affidavits detailing the

amounts paid by Engineer 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.

Engineer 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 and disqualification of Engineer from participating in City contracts and other sanctions.

4.3 ***Subconsultant Employees***

For purposes of this section, Engineer's "employees" shall include employees of any subconsultant. The Engineers' employees who normally and regularly come in direct contact with the public shall be clearly identifiable by name badges, nametags, or identification cards. The Engineer shall assure that its employees serve the public in a courteous, helpful, and impartial manner. All employees of the Engineer in both field and office shall refrain from belligerent behavior and/or profanity. Correction of any such behavior or language shall be the responsibility of the Engineer. The Engineer 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 shall be subject to termination.

**ARTICLE 5 - POINTS OF CONTACT; NOTIFICATION**

5.1 ***City's Point of Contact***

The City will designate a Project Manager who is authorized to act in the City's behalf with respect to the Project, except as otherwise limited by this Agreement. The Project Manager will examine the documents submitted by the Engineer and will expedite decisions concerning the documents in order to avoid unreasonable delay in the progress of the Engineer's Services. The Project Manager will coordinate all communication between the Engineer and the City unless otherwise specified in writing. The Engineer shall contact the Project Manager prior to all meetings involving City personnel.

The City's Point of Contact and Project Manager is:

\_\_\_\_\_

5.2 ***Engineer's Point of Contact***

The duties of the Engineer's Point of Contact include, but are not limited to:

- Coordinating Services and the Engineer's resource assignments based on the City's requirements;
- Providing consultation and advice to the City on matters related to the Services and the Project and acting as a conduit to the Engineer's specialist resources that may be needed to supplement the Engineer's regular staff;
- Acting as the Engineer's point of contact for all aspects of contract administration, including invoicing for Services, and status reporting;
- Facilitating meetings and conferences between the City and the Engineer's staff when scheduled or requested by the City;
- Communicating among and between the City and the Engineer's staff;

- Promptly responding to the City’s Project Manager when consulted in writing with respect to Service deviation and necessary documentation;
- Identifying and providing the City with written notice immediately after the Engineer becomes aware of any issue that may threaten the delivery of Services in the manner contemplated by this Agreement; and
- Ensuring that adequate quality assurance procedures are in place for the performance of Services.

The Engineer’s Point of Contact is:

\_\_\_\_\_

5.3 **Legal Notices**

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

**For the City:**

Charlotte Water  
 5100 Brookshire Boulevard  
 Charlotte, NC 28216  
 Attn: Abby Dolan  
 Phone: 704-391-5097  
 Email: adolan@charlottenc.gov

City of Charlotte Attorney’s Office  
 600 E. Fourth Street, 15<sup>th</sup> Floor  
 Charlotte, NC 28202  
 Attn: Jude Starrett  
 Phone: 704-336-5801  
 Email: jstarrett@charlottenc.gov

**For the Engineer:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Attn: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Email: \_\_\_\_\_

Notice shall be effective upon the date of receipt by the intended recipient, provided that any notice that is sent by 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.

**ARTICLE 6 - COMPENSATION AND PAYMENTS**

6.1 **Lump Sum Fees**

The Engineer shall be compensated on a lump sum basis for the services listed in this Agreement using the fee schedule in Section 6.3, provided, however, that the total of payments to the Engineer shall not exceed \$\_\_\_\_\_.

6.2 **Hourly and Unit Price Basis Allowances**

The Engineer shall be compensated for actual work performed on an hourly and unit price basis for the services listed in this Agreement using the fee schedule in Section 6.3 and **Exhibit 2**; provided, however, that the total of payments to the Engineer for providing hourly and unit price basis services shall not exceed \$ \_\_\_\_\_ as shown in Section 6.3.

6.3 **Lump Sum or Unit Price Basis**

As complete compensation for the services described in the Agreement, the Engineer will be paid \_\_\_\_\_ basis as described below:

<b>Task</b>	<b>Description</b>	<b>LS Fee</b>	<b>Hourly NTE Limit</b>
1		\$	\$
2		\$	\$
3		\$	\$
4		\$	\$
5		\$	\$
6		\$	\$
		<b>Subtotal</b>	<b>\$</b>
		<b>TOTAL</b>	<b>\$</b>

The Engineer may receive compensation for coordination of professional services by subconsultant(s). The maximum fee for coordination is ten percent (10%) of the fee paid to the subconsultant. Such compensation shall be included within the applicable section of the scope of services. This fee is designed to cover general overhead the Engineer may incur on review and responsibility of the subconsultant’s work.

6.4 **Allowance for Additional Services**

Additional services shall be performed by the Engineer only after written instructions to do so are received from the City’s Project Manager. Compensation for additional services performed shall be in accordance with the hourly and unit price rates set forth in this Agreement and shall not exceed \$ \_\_\_\_\_.

6.5 **Reimbursable Expenses**

Reimbursable expenses shall be limited to the actual expenditures made by the Engineer during the performance of the work. The following items may be considered reimbursable expenses and will be compensated at cost:

6.5.1 Travel:

- a. Vehicular transportation at the rate established by the Internal Revenue Service current at the time the travel occurs. The rate effective as of January 1, 2016 is \$0.54 per mile;
- b. Parking fees;
- c. Airline tickets (with prior approval of the Project Manager); and
- d. Meals and lodging in connection with out-of-town travel (with prior approval of the Project Manager).

6.5.2 Permit fees

- a. Permit costs and fees paid for securing approval of authorities having jurisdiction over the Project.
- 6.5.3 Reprographics
  - a. Copying and binding expenses for drawings, specifications, reports and other Project documents;
  - b. Photography as approved by the City’s Project Manager; and
  - c. Renderings and models requested by the City if not specifically included in basic services.
- 6.5.4 Postage for sending project documents.

6.6 ***Summary of Fees and Allowances***

The maximum cumulative amount paid to the Engineer pursuant to this Agreement for all services performed and all reimbursable expenses shall not exceed the following:

<b>Lump Sum Fees</b>	<b>\$</b>
<b>Hourly and Unit Price Allowances</b>	<b>\$</b>
<b>Allowance for Additional Services</b>	<b>\$</b>
<b>TOTAL MAXIMUM FEES AND ALLOWANCES</b>	<b>\$</b>

6.7 ***Invoices***

Payment of the fees provided for under this Agreement will be made to the Engineer on a monthly basis upon submission of an invoice stating the nature and quantity of work performed and accompanied by proper supporting documentation as the City may require. Hourly basis fees and reimbursable expenses shall be itemized on each invoice, when applicable. Payments will be made within 30 calendar days of the date of receipt of a correct payment request. A correct payment request is defined as an invoice that indicates only those work items that have been satisfactorily completed and accepted by the City. The Engineer waives the right to payment for all services that are not invoiced to the City within 90 days after the date on which they have been completed. Final payment to the Engineer will not be made until Record Drawings for the Project have been completed, submitted and approved by the City.

6.8 ***Payment Affidavits***

To determine whether disparities exist in City contracting based on race, gender and other factors, and also to measure the effectiveness of the City’s Small Business Opportunity Program, the City tracks the utilization of subcontractors and suppliers on City contracts based on race, gender, small business status, and other factors. For analysis purposes, it is important that the City obtain this data not only for minority, female and small business suppliers and subcontractors, but also for other subcontractors and suppliers. As a condition to receiving payment under this Agreement, the Contractor agrees to provide to the City with each invoice for payment submitted under this Agreement, a written payment affidavit detailing the amounts paid by the Contractor to first tier subcontractors and suppliers in connection with this Agreement (“Payment Affidavits”). Payment Affidavits shall be in the format specified by the City from time to time, and shall include all payments made to first tier subcontractors and suppliers under this Agreement that are not included on a prior Payment Affidavit.

Failure to provide a properly completed version of each Payment Affidavit required by this Section shall constitute a default under this Agreement, and shall entitle the City to: (a) withhold payment of any amounts due

the Contractor (whether under this Agreement or otherwise), or (b) exercise any other remedies legally available for breach of this Agreement; or (c) impose any other sanctions permitted under the City's Small Business Opportunity Program. In order to have a properly completed Payment Affidavit, each prime contractor and first tier subcontractor identified must be registered in the City's Vendor Registration System.

6.9 ***Cost Overruns***

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

6.10 ***Accounting and Auditing***

The Engineer shall maintain complete and accurate records, using Generally Accepted Accounting Practices (GAAP), of all costs related to this Agreement. Such records shall be open to inspection and subject to audit and/or reproduction, during normal working hours, by the City's agent or authorized representative to the extent necessary to adequately permit evaluation and verification of any invoices, payments, or claims submitted by the Engineer or any of his payees in connection with this Agreement. Records subject to examination will include, but are not limited to, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. Except as otherwise expressly provided herein, records subject to examination do not include those pertaining solely to services compensated on a lump sum basis.

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

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

**ARTICLE 7 - ITEMS TO BE FURNISHED BY THE CITY**

At the request of the Engineer and in connection with providing the services, the City will furnish the following items and/or services either directly or indirectly to the Engineer at no cost:

- a. Access to facilities to perform any inspections required to perform the Scope of Services for the Project.
- b. Background information on the Project, including planning, programming, and budgeting documents. The City also will provide applicable City standard specifications, details and other materials listed herein on a timely basis. All such specifications are hereby incorporated into this Agreement by reference.

**ARTICLE 8 - INSURANCE**

The Engineer shall purchase and maintain during the life of this Agreement with an insurance company acceptable to the City and authorized to do business in the State of North Carolina the following insurance:

8.1 ***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 combined single limit each occurrence/aggregate.

8.2 ***Commercial General Liability***

Bodily injury and property damage liability as shall protect the Engineer and any subcontractor performing work under this Agreement from claims of bodily injury or property damage which arise from operation of this Agreement whether such operations are performed by Engineer, any subcontractor or any person directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/aggregate. This insurance shall include coverage for products/completed operation, personal and advertising injury liability and contractual liability assumed under the indemnity provision of this Agreement.

8.3 ***Workers' Compensation Insurance***

Meeting the statutory requirements of the State of North Carolina and Employers Liability - \$100,000 per accident limit, \$500,000 disease per policy limit, \$100,000 disease each employee limit, providing coverage for employees and owners.

8.4 ***Professional Liability Insurance***

In an amount of not less than \$1,000,000 each claim and \$1,000,000 aggregate.

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

The City of Charlotte shall be named as additional insured under the commercial general liability insurance for operations and services rendered under this Agreement. Certificates of all required insurance shall be furnished to the City and shall contain the provision that the City will be given 30 day written notice of any intent to reduce coverage in any manner or to any extent, or to terminate by either the insured or the insuring company.

If any part of the work under this Agreement is sublet, the subconsultant shall be required to meet all insurance requirements set forth in this Agreement. Nothing contained herein shall relieve the Engineer from meeting all insurance requirements or otherwise being responsible for the subconsultant.

**ARTICLE 9 - QUALITY CONTROL PROGRAM**

The Engineer shall establish and follow a quality control program throughout the Planning and Design process. The Quality Control Program will identify review personnel and describe the procedures to be used to verify, to independently check, and to review all drawings, reports, designs, specifications and other documentation prepared, as well as any function, activity, or task as part of this Agreement. The Quality Control Program will specify the manner for documenting the check and review processes, for recording required procedures, and for verifying work activities. It will provide for internal reviews and will detail the frequency and types of reviews to be conducted for the specific job to ensure compliance with quality standards. Within 30 days after receiving a notice to proceed, the Engineer shall submit a

written Quality Control Program, to address all quality assurance/quality control issues in connection with the Project, for review and approval by the City's Project Manager.

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

#### **ARTICLE 10 - OWNERSHIP AND USE OF WORK PRODUCTS**

The City shall own title to any and all intellectual property rights in and to all documents, reports, specifications, designs, developments, computations, and other materials prepared, obtained or delivered under the terms of this Agreement (collectively the "Deliverables"). The City may use, transfer, copy and distribute the Deliverables without restriction or limitation. The City accepts responsibility for any changes made by the City to these Deliverables after final submittal by the Engineer.

##### **10.1 *Ownership***

The City acknowledges that the Deliverables are instruments of professional service. The City acknowledges and agrees that the Engineer may retain one copy of each Deliverable and use the Deliverable solely for its internal general reference.

##### **10.2 *Modification or Reuse Risk***

Any modification or reuse of the Deliverables by the City without the involvement of the Engineer shall be at the sole risk of the City.

##### **10.3 *Other Items***

The Engineer shall cooperate with and provide reasonable assistance to the City as necessary to obtain or enforce any patents, copyrights or other proprietary rights in the Deliverables and to execute all Deliverables necessary to give the City full legal ownership of such Deliverables. The Engineer shall also take all necessary actions to ensure that all employees and approved subcontractors engaged by the Engineer in connection with the Agreement are bound by the terms of this Section. The Engineer shall, as required for the performance under this Agreement and otherwise upon the request of the City or upon expiration or termination of this Agreement, deliver to the City all Deliverables. At the City's option, Deliverables shall also be provided in electronic format. The deliverable shall be compatible with the City's current software applications packages, operating systems and computer hardware.

If there is a discrepancy between the electronic files and the hard copies, the hard copies shall govern.

#### **ARTICLE 11 - TERMINATION**

##### **11.1 *Termination for Convenience***

The City may terminate this Agreement for any reason or no reason by giving written notice of termination at least thirty (30) days before the date of termination. The notice shall specify the date upon which such termination becomes effective and the City shall pay the Engineer for Services rendered prior to the effective

date of termination.

11.2 ***Termination for Default***

By giving written notice, either party may terminate this Agreement upon the occurrence of one or more of the following events, each of which constitute a non-exclusive Event of Default under this Agreement:

- a. The other party violates or fails to perform any covenant, provision, obligation, term, or condition contained in this Agreement, provided that, unless otherwise provided in this Agreement, such failure or violation shall not be cause for termination if the defaulting party cures such default (if the default is susceptible to cure) within thirty (30) days of receipt of written notice of default from the other party.
- b. The Engineer takes or fails to take any action which constitutes grounds for immediate termination under the terms of this Agreement, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by this Agreement, or failure to provide the proof of insurance as required by this Agreement.

Any notice of default shall state the party's intent to terminate this Agreement if the default is not cured within the specified time period.

11.3 ***Additional Grounds for Termination by the City***

The City may terminate this Agreement immediately by written notice to the Engineer upon the occurrence of one or more of the following events each of which shall also constitute a non-exclusive Event of Default:

- a. The other party makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this Agreement, the Engineer's Proposal, or any covenant, agreement, obligation, term, or condition contained in this Agreement; or
- b. The Engineer 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 this Agreement shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of the other party's assets or properties.

11.4 ***Obligations Upon Expiration Or Termination***

Upon expiration or termination of the Agreement, the Engineer shall promptly provide or return to the City:

- a. All Deliverables, in whatever form;
- b. Documentation to evidence completion of matters covered by this Agreement and setting forth progress in developing the Deliverables to the date of termination; and

- c. All equipment, materials, documents, or data, whether in written, graphic, machine readable or other form, supplied by the City in connection with this Agreement, in as good condition as when delivered, reasonable wear and tear excepted.

Upon the request of the City, the Engineer agrees to provide reasonable assistance and cooperation to the City and City contractors for a period of up to twelve (12) months after expiration or termination of this Agreement at its then-current rates.

**11.5 *No Effect On Taxes, Fees, Charges Or Reports***

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

**11.6 *Substitute Performance***

In the event the Engineer fails to perform any part of the Scope of Services within the time frame set forth in this Agreement without good cause, then, without limiting any other remedies available to the City, the City may take either or both of the following actions:

- a. Employ such means as it may deem advisable and appropriate to continue work until the matter is resolved and the Engineer is again able to carry out operations under this Agreement; and
- b. Deduct any and all operating expenses incurred by the City from any money then due or to become due the Engineer and, should the City's cost of continuing the operation exceed the amount due the Engineer, collect the amount due from the Engineer.

**11.7 *Cancellation Of Orders And Subcontracts***

In the event this Agreement is terminated by the City for any reason, the Engineer shall upon the effective date of termination (unless the City's notice of termination directs otherwise), immediately discontinue all service in connection with this Agreement and promptly cancel all existing orders and subcontracts which are chargeable to this Agreement. As soon as reasonable after receipt of notice of termination, the Engineer shall submit a statement to the City showing in detail the services performed under this Agreement to the date of termination.

**11.8 *Other Remedies***

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

**11.9 *Authority to Terminate***

The Director of Charlotte Water will have authority, without the necessity of further action by City Council, to terminate this Agreement on behalf of the City.

**ARTICLE 12 - COVENANTS AND REPRESENTATIONS**

- 12.1 The Engineer covenants and represents that it shall exercise a customary degree of care and diligence in performing all services under this Agreement. The Engineer shall render services under this Agreement in accordance with the customary professional standards prevailing in the Mecklenburg County area.
- 12.2 The Engineer further covenants and represents that (i) the services performed by it under this Agreement do not violate any contracts with third parties or any third party rights in any patent, trademark, copyright, trade secret or similar right, (ii) that the services performed hereunder shall be performed in a professional manner and by qualified staff and shall satisfy the requirements set forth in this Agreement, and (iii) that it has sufficient expertise and resources to perform under this Agreement.
- 12.3 The Engineer further represents and covenants that:
- a. It is validly existing and in good standing under the laws of North Carolina;
  - b. It has all the requisite power and/or authority to execute, deliver and perform its obligations under this Agreement;
  - c. The execution, delivery, and performance of this Agreement have been duly authorized by the Engineer;
  - d. No approval, authorization, or consent of any governmental or regulatory authority is required to be obtained or made by it in order for it to enter into and perform its obligations under this Agreement; and
  - e. In connection with its obligations under this Agreement, it shall comply with all applicable federal, state and local laws and regulations and shall obtain all applicable permits and licenses.
- 12.4 Any defective designs, specifications, plats or surveys (BFF) furnished by the Engineer and any failure of any services performed by the Engineer to comply with any requirements set forth in this Agreement shall be promptly corrected by the Engineer at no cost to the City. The City's approval, acceptance, use of, or payment for all or any part of the Engineer's services or of the Project itself shall in no way alter the Engineer's obligations or the City's rights under this Agreement.

**ARTICLE 13 - INDEMNIFICATION**

To the fullest extent permitted by law, the Engineer shall indemnify, and hold harmless the City and the City's officers, agents and employees from and against any and all claims, losses, damages, obligations, liabilities and expenses (including reasonable attorneys' fees and costs of defense) that arise directly or indirectly from:

- 13.1 Any negligent act(s), error(s) or omission(s) or willful misconduct by the Engineer or any of its agents, employees or subcontractors (or any allegations of any of the foregoing), 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; or
- 13.2 Any claims by any persons or entities supplying labor or material to the Engineer in connection with the performance of the Engineer's obligations under this Agreement ("Labor and Material Claims").

#### **ARTICLE 14 - GENERAL COMPLIANCE WITH LAWS**

The Engineer shall comply with all Federal, State, and local laws, ordinances, and regulations applicable to the services provided herein. If, due to conflicts between two or more such ordinances, statutes, laws, rules, and regulations (the "Regulations") or due to conflicts in the interpretation or enforcement of such Regulations by courts or governing bodies having jurisdiction over the project, the Engineer is unable to comply with such Regulations, the Engineer shall exercise usual and customary professional care in the in complying with such conflicting Regulations.

The Engineer further agrees that it will at all times during the term of this Agreement be in compliance with all applicable Federal, State and/or local laws regarding employment practices. Such laws include, but shall not be limited to workers' compensation, the Fair Labor Standards Act (FSLA), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA), and all Occupational Safety and Health Administration (OSHA) regulations applicable to the work.

#### **ARTICLE 15 - MISCELLANEOUS CONDITIONS**

##### **15.1 *Relationship Of The Parties***

The relationship of the parties established by this Agreement is solely that of independent contractors, and nothing contained in this Agreement shall be construed to (i) give any party the power to direct or control the day-to-day 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 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, act for, bind, or otherwise create or assume any obligation on behalf of the other, unless expressly authorized in writing by the City for the performance of specific tasks by the Engineer.

##### **15.2 *Entire Agreement***

This Agreement is the entire agreement between the parties with respect to its subject matter, and there are no other representations, understandings, or agreements between the parties relative to such subject matter. This Agreement supersedes all prior agreements, negotiations, representations, and proposals (prior agreements), written or oral, except to the extent such prior agreements are incorporated by reference into this Agreement. In the event of conflict between the terms and conditions of this Agreement and the purchase orders associated with this Agreement, the terms and conditions of this Agreement shall govern.

##### **15.3 *Amendment***

No amendment or change to this Agreement shall be valid unless in writing and signed by both parties to this Agreement.

##### **15.4 *Governing Law and Jurisdiction***

The parties acknowledge that this Agreement is made and entered into in Charlotte, North Carolina. The parties further acknowledge and agree that North Carolina law shall govern all rights, obligations, duties, and liabilities of the parties to this Agreement, and that North Carolina law shall govern interpretation of this Agreement and any other matters relating to this Agreement (all without regard to North Carolina conflicts of laws principles).

The parties further agree that any and all legal actions or proceedings relating to this Agreement shall be brought in a state court sitting in Mecklenburg County, North Carolina. By execution of this Agreement, the parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all objections that they may have with respect to venue in any of the above courts.

15.5 ***Binding Nature and Assignment***

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

15.6 ***Delays and Extensions***

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

15.7 ***Force Majeure***

Neither party shall be liable for any failure or delay in the performance of its obligation pursuant to the Contracts, and such failure or delay shall not be deemed a default of the Contracts or grounds for termination hereunder if all of the following conditions are satisfied:

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

An event, which satisfies all of the conditions set forth above, shall be referred to as a "Force Majeure Event". Upon the occurrence of a Force Majeure Event, the affected party shall be excused from any further performance of those of its obligations, which are affected by the Force Majeure Event for as long as (a) such Force Majeure Event continues and (b) the affected party continues to use reasonable efforts to recommence performance whenever and to whatever extent possible.

Upon the occurrence of a Force Majeure Event, the affected party shall promptly notify the other by telephone (to be confirmed by written notice within five (5) 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 fifteen (15) days, Charlotte Water shall have the right to terminate the Contract(s) by written notice to the Company.

Notwithstanding anything contained herein to the contrary, strikes, slow-downs, walkouts, lockouts, and industrial disputes of the Company or its subcontractors shall not constitute "Force Majeure Events" and are not excused under this provision.

15.8 ***Severability***

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

provision is unenforceable, and this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

15.9 ***Approvals***

All approvals or consents required under this Agreement must be in writing. Electronic documents shall have the same validity as physical documents.

15.10 ***Waiver***

No delay or omission by either party to exercise any right or power it has under this Agreement 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 Agreement shall not 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 Agreement shall be effective unless in writing and signed by the party waiving the rights.

15.11 ***Interest of the Parties***

The Engineer covenants that its officers, employees, shareholders and subconsultants have no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement.

15.12 ***Taxes***

The Engineer shall pay all applicable Federal, State and local taxes that may be chargeable against the performance of the Services.

15.13 ***No Bribery or Lobby***

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

15.14 ***Change In Control***

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

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

15.15 ***Subcontracting***

Should the Engineer choose to subcontract, the Engineer shall remain fully responsible for performance of all

obligations that it is required to perform under this Agreement. Any subcontract entered into by the Engineer in connection with the Project shall name the City as a third party beneficiary.

15.16 ***City Not Liable for Delays***

Except as expressly provided in this Agreement, the City shall not be liable to the Engineer, its agents, representatives or subconsultants for or on account of any stoppages or delay in the performance of any obligations of the City or any other party hereunder.

15.17 ***Survival of Provisions***

All definitions and express representations and indemnifications included in this Agreement will survive its completion or termination. Those sections of this Agreement including Exhibits that by their nature would reasonably be expected to continue after the termination of this Agreement shall survive the termination of this Agreement.

15.18 ***Endorsement of Documents***

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

15.19 ***Reliance on City-Furnished Information***

In response to reasonable requests by the Engineer, the City will endeavor to provide to the Engineer all information in the possession of Charlotte Water reasonably related to the Scope of Services. Except as otherwise expressly stated herein, the Engineer may reasonably rely upon the accuracy, timeliness and completeness of such information provided by the City, unless the Engineer knew or should have known that such information was not accurate or complete.

15.20 ***Access to Facilities***

The City will make its facilities reasonably accessible to the Engineer as required for the Engineer's performance of its services under this Agreement. Except as otherwise expressly stated herein, the City will perform at no cost to the Engineer such tests of equipment, machinery, pipelines, and other components of the City's facilities as may be reasonably required in connection with the Engineer's services under this Agreement.

15.21 ***Advertisements, Permits and Access***

Except as expressly stated herein, the City will obtain, arrange, and pay for all advertisements for bids, permits and licenses required by applicable law, and all land, easements and access thereto necessary for the Engineer to perform its services under this Agreement.

15.22 ***Opinions and Estimates***

The Engineer's opinions, estimates, projections, or other forecast of future costs or revenues shall be made on the basis of available information and the Engineer's expertise and qualifications as a professional. The Engineer does not warrant or guarantee that its opinions, estimates, projections or other forecasts of future costs or revenues will not vary from the actual costs or revenues



15.23 ***Construction Procedures***

Engineer's observation or monitoring portions of the work performed under construction contracts shall not relieve the contractor from its responsibility for performing work in accordance with applicable contract documents. Engineer shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the work and shall not manage, supervise, control or have charge of construction. Further, Engineer shall not be responsible for the acts or omissions of the contractor or other parties on the project.

15.24 ***Litigation Support***

In the event Engineer is required to respond to a subpoena, government inquiry or other legal process related to the services in connection with a legal or dispute resolution proceeding to which Engineer is not a party, City shall reimburse Engineer for reasonable costs in responding and compensate Engineer at its then standard rates for reasonable time incurred in gathering information and documents and attending depositions, hearings, and trial.

15.25 ***Utility Location***

If underground sampling/testing is to be performed, Engineer shall contact a local utility locating service to make arrangements for all utilities to determine the location of all underground utilities. In addition, City shall notify Engineer of the presence and location of any underground objects and City facilities known to Charlotte Water and located on the City's property which are not the responsibility of private/public utilities. Engineer shall take reasonable precautions to avoid damaging underground utilities and objects that are properly marked. The City agrees to waive any claim against Engineer arising from or caused by Engineer's damaging of City property, which the City failed to identify prior to beginning the underground sampling/testing.

15.26 ***Hazardous Materials***

City represents that, to the best of its knowledge and belief, it has disclosed to Engineer the existence of hazardous materials known to Charlotte Water, including but not limited to asbestos, PCB's, petroleum, hazardous waste, hazardous biological matter or radioactive material located at or near the project site, including type, quantity and location of such hazardous materials. As a result of entering into this agreement, Engineer is not and shall not be considered (i) the owner of material, substances, or wastes noted in the Scope of Work; (ii) the operator of a waste management facility; (iii) the generator, storer, or disposer of hazardous or solid waste; (iv) to have arranged for the transportation or disposal of any wastes, pollutants, or contaminants by virtue of the performance of Engineer's services under this Agreement or anything contained herein, as those terms are used in the Resource Conservation and Recovery Act ("RCRA"), as amended, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA"), as amended, or any other federal, state statute or regulation governing the treatment, transportation, storage, or disposal of substances, materials or wastes. If Engineer's services hereunder cannot be performed because of the existence of undisclosed hazardous materials, Engineer shall be entitled to terminate this Agreement for cause on 7 days written notice.

**ARTICLE 16 - PUBLICITY AND STATEMENTS TO THE PRESS**

Advertising, sales promotion or other materials of the Engineer or its agents or representatives shall limit the identification or reference to this Agreement to the general physical description and location of the approved final

design/product of the Project. Descriptions of conceptual or alternative designs/products considered for the Project shall not be included in advertising, sales or other materials. As a condition of entering into this Agreement, the Engineer further agrees to refrain from the following, absent the City's prior written approval: (1) making any statement to the media or public regarding the subject matter of this Agreement or the City's position on any issue relating to this Agreement; or (2) making any statement to the media or public on any issue which is in the City's judgment likely to cast doubt on the competence or integrity of the City or Engineer. Failure to comply with this Article by the Engineer shall constitute a material breach and, without limiting any other remedies the City may have, shall entitle the City to terminate this Agreement for default.

#### **ARTICLE 17 - CHARLOTTE BUSINESS INCLUSION PROGRAM**

The Charlotte City Council has declared that a race and gender neutral and race and gender conscious program employing goals and good faith efforts to promote the utilization of small and minority businesses in City contracts will benefit the City by promoting competition in City contracting and by promoting economic growth and development in the Charlotte CSA.

In August 2002, the North Carolina State Legislature ratified Session Law 2002-91 authorizing the City to establish a Small Business Enterprise program to enhance opportunities for small businesses to participate in City contracts. In April 2013, the Charlotte City Council adopted the Charlotte Business INclusion (CBI) Program that utilizes both race and gender neutral measures and race and gender conscious measures. The City's Charlotte Business INclusion Program (CBI Program) applies to all aspects of the City's contracting and procurement programs and its provisions are incorporated in their entirety into this Agreement by reference. Forms and instructions for complying with the CBI Program are included in **Exhibit 8**, attached hereto and incorporated herein by reference.

#### **ARTICLE 18 - SENSITIVE DOCUMENTS**

All or substantial portions of the following documents may not be considered to be public records pursuant to applicable provisions of North Carolina law: Engineer's work product under this Agreement; and all plans, drawings and other documents containing security plans and arrangements and/or detailed plans and drawings of any facility of the City.

Such work product, security arrangements, and/or detailed plans and drawings are herein referenced as *Sensitive Document(s)*. Without limiting the foregoing, it is expressly understood and agreed that *Sensitive Document(s)* is not limited to documents related to this Agreement and includes any and all documents herein described concerning any facility of the City regardless of the type of facility and regardless of the manner in which the Engineer acquired possession of such documents. The City retains sole authority and discretion to determine whether all or any portion of any Sensitive Document is a public record pursuant to applicable provisions of North Carolina law. Under no circumstances will the Engineer provide the original or copy of any portion of any Sensitive Document (without regard to the status of such Sensitive Document as in preliminary, draft or final form) to any person or entity unless directed by the City or unless reasonably necessary to satisfy Engineer's obligations pursuant to this Agreement. The Engineer will maintain and implement such rules and procedures governing the conduct of its officers, employees, agents and subcontractors and the maintenance, handling and use of Sensitive Documents as may be reasonably necessary to prevent the release of any Sensitive Document in violation of this provision. Such rules and procedures will be subject to review by the City and such changes as the City determines to be reasonably necessary, including without limitation maintaining a log identifying any Sensitive Document provided to any person or entity that includes at a minimum, identification of

the Sensitive Document provided, name of person releasing the Sensitive Document, name of person receiving the Sensitive Document, State Driver's License number of person receiving Sensitive Document, reason for releasing Sensitive Document, and date Sensitive Document released. Without exception, every person or entity receiving a Sensitive Document must agree not to copy or release such Sensitive Document to any other person or entity, unless otherwise approved by the City in writing. Such log need not include the release of any document to an officer or employee of the Engineer or to any employee of the City. A violation of any provision of this section is a serious violation of this Agreement and will be the basis for immediate termination of this Agreement for cause, notwithstanding any other provision of this Agreement to the contrary.

**ARTICLE 19 – E-VERIFY**

Engineer shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Furthermore, if Engineer utilizes a subconsultant, Engineer shall require the subconsultant to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

**ARTICLE 20 – IRAN DIVESTMENT ACT**

Company warrants and certifies that as of the Effective Date, Company is not identified on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 143-6A-4. The person signing this Contract certifies that he or she is authorized by Company to make the foregoing certification. Company further agrees that it will not utilize on this Contract any subcontractor that is identified on the Final Divestment List.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**THIS AGREEMENT**, entered into as of the day and year first written above for Professional Services for \_\_\_\_\_ in an amount not to exceed \$\_\_\_\_\_.

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ATTEST**  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**CITY OF CHARLOTTE**  
By: \_\_\_\_\_  
**Charlotte Water Director**  
Date: \_\_\_\_\_

**ATTEST**  
\_\_\_\_\_  
**Charlotte Water Contracts Officer**  
Date: \_\_\_\_\_

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

\_\_\_\_\_  
**Finance Officer**

\_\_\_\_\_  
**Risk Management Division**

**EXHIBIT 1**

**SCOPE OF SERVICES**

**EXHIBIT 2**

**HOURLY RATE / COMPENSATION SCHEDULE**

**EXHIBIT 3**

**SCHEDULE**

**EXHIBIT 4**

**PROJECT TEAM**

**EXHIBIT 5**

**COMMERCIAL NON-DISCRIMINATION CERTIFICATION**

Project: \_\_\_\_\_

Engineer: \_\_\_\_\_

All requests for proposals issued for City contracts shall include a certification to be completed by the proposer in substantially the following form:

The undersigned Bidder or Proposer hereby certifies and agrees that the following information is correct:

1. In preparing its enclosed Bid or proposal, the Bidder or Proposer has considered all bids and proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in discrimination as defined in Section 2.
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, religion, national origin, marital status, familial status, sexual orientation, gender identity, gender expression or disability or any otherwise unlawful form of discrimination. Without limiting the foregoing, *discrimination* also includes retaliating against any person or other entity for reporting any incident of *discrimination*.
3. Without limiting any other remedies that the City may have for a false certification, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the City to reject the Bid or proposal submitted with this certification, and terminate any contract awarded based on such Bid or proposal. It shall also constitute a violation of the City's Commercial Non-Discrimination Ordinance and shall subject the Bidder or Proposer to any remedies allowed thereunder, including possible disqualification from participating in City contracts or Bid processes for up to two years.
4. As a condition of contracting with the City, the Bidder or Proposer 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 suppliers and subcontractors in connection with this solicitation process. Failure to maintain or failure to provide such information shall constitute grounds for the City to reject the Bid or proposal and to any contract awarded on such Bid or proposal. It shall also constitute a violation of the City's Commercial Non-Discrimination Ordinance, and shall subject the Bidder or Proposer to any remedies that are allowed thereunder.
5. As part of its bid or proposal, the Bidder or Proposer shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against Bidder or Proposer in a legal or administrative proceeding alleging that Bidder or Proposer discriminated against its subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.
6. As a condition of submitting a Bid or proposal to the City, the Bidder or Proposer agrees to comply with the City's Commercial Non-Discrimination Policy as described in Chapter 2, Article V of the Charlotte City Code, and consents to be bound by the award of any arbitration conducted thereunder.

\_\_\_\_\_  
NAME OF COMPANY

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

SIGNATURE OF AUTHORIZED OFFICIAL

NAME & TITLE: \_\_\_\_\_

**EXHIBIT 6**  
**E-VERIFY CERTIFICATION**

This E-Verify Certification is provided to the City of Charlotte (the “City”) by the company signing below (“Company”) as a prerequisite to the City considering Company for award of a City contract (the “Contract”).

1. Company understands that:
  - a. E-Verify is the federal program operated by the United States Department of Homeland Security and other federal agencies to enable employers to verify the work authorization of newly hired employees pursuant to federal law, as modified from time to time.
  - b. Article 2 of Chapter 64 of the North Carolina General Statutes requires employers that transact business in this state and employ 25 or more employees in this state to: (i) verify the work authorization of newly hired employees who will be performing work in North Carolina through E-Verify; and (ii) maintain records of such verification (the “E-Verify Requirements”). Section 126-7.1 of the North Carolina General Statutes requires state agencies to verify their employees’ work statuses through E-Verify.
  - c. North Carolina General Statute 160A-20.1(b) prohibits the City from entering into contracts unless the contractor and all subcontractors comply with the E-Verify Requirements.
  
2. As a condition of being considered for the Contract, Company certifies that:
  - a. If Company has 25 or more employees working in North Carolina (whether now or at any time during the term of the Contract), Company has complied and will comply with the E-Verify Requirements with respect to Company employees working in North Carolina; and
  - b. Regardless of how many employees Company has working in North Carolina; Company will take appropriate steps to ensure that each subcontractor performing work on the Contract that has 25 or more employees working in North Carolina complies with the E-Verify Requirements.
  
3. Company acknowledges that the City will be relying on this Certification in entering into the Contract, and that the City may incur expenses and damages if the City enters into the Contract with Company and Company or any subcontractor fails to comply with the E-Verify Requirements. Only in the manner and to the extent permitted by the North Carolina Tort Claims Act, N.C.G.S. § 143-291, et seq., and without waiver of its sovereign immunity, company agrees to indemnify and save the City harmless from and against all losses, damages, costs, expenses obligations, duties, fines and penalties (collectively “Losses”) arising directly or indirectly from violation of the E-Verify Requirements by Company or any of its subcontractors, including without limitation any Losses incurred as a result of the Contract being deemed void.

\_\_\_\_\_  
Signature of Company’s Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name and Title

**EXHIBIT 7**

**(Attach Insurance Certificate Here)**

**EXHIBIT 8**  
**CHARLOTTE BUSINESS INCLUSION PROGRAM**

**REQUIREMENTS FOR PROFESSIONAL SERVICE CONTRACTS**

The City's Charlotte Business INclusion Program (CBI Program) applies to all aspects of the City's contracting and procurement programs and its provisions are incorporated in their entirety into this Agreement by reference. In order to comply with the CBI Program, the Engineer will need to complete **Exhibits 8-A** through **8-C** at appropriate times during the term of the Agreement.

**The SBE Utilization Goal for this contract is \_\_\_\_\_%.**

**Exhibit 8-A - Subconsultant/Supplier Utilization Commitment (CBI Form #3)**

Once all subcontracts have been finalized, and prior to the finalization of the Agreement, the Engineer will complete **Exhibit 8-A** and submit it for inclusion in the Agreement. This will constitute the Engineer's formal commitment to utilize the specified SBE and non-SBE firms as subconsultants or suppliers in the performance of the Agreement.

**Exhibit 8-B – Small Business Enterprise Letter of Intent (CBI Form #4)**

For each SBE firm listed on **Exhibit 8-A**, the Engineer will complete a Letter of Intent in the form of **Exhibit 8-B**. A copy of each Letter of Intent, properly signed by the Engineer, will become part of the Agreement. A copy of each Letter of Intent, signed by both the Engineer and the SBE, will be provided to the Charlotte Water SBE Liaison Officer and kept in the contract file as an official record.

**Exhibit 8-C – Payment Affidavit–Subcontractor/Supplier Utilization (CBI Form #6)**

The Engineer must submit a completed **Exhibit 8-C** with each invoice or payment request. All payments made by the Engineer to any SBE in any amount must be listed on this form.

## EXHIBIT 8A

### CBI FORM 3: Subcontractor / Supplier Utilization Commitment (page 1 of 2)

This form **MUST** be submitted at the time of Bid Opening. *Copy this CBI Form 3 as needed.*

Failure to properly complete and submit Form 3 with the Bid constitutes grounds for rejection of the Bid.

Per Part B, Section 3.5 of the CBI Policy, the Subcontractor/Supplier Utilization Commitment (**CBI Form 3**), captures information regarding the MSBEs and other subcontractors and suppliers that the Bidder intends to use on the Contract **FOR ALL TIERS**.

<b>Bidder Name:</b>			
<b>Project Name:</b>			
<b>Project Number:</b>		<b>Established SBE Goal:</b>	
		<b>Established MBE Goal:</b>	

List below all **MSBEs (Non-Hauling Services)** that you intend to use on this contract. **NOTE: You will only receive credit for SBEs that are currently certified with the City as of the Bid Opening Date. Furthermore, you will only receive credit for MBEs that are registered with the City as of Bid Opening Date and who have an ethnic designation of African American, Hispanic, or Native American.**

MSBE Vendor Name (Non-Hauling Services)	Mark X for each Certification		Description of work / materials	NIGP Code	Vendor #	Total Projected Utilization (\$)
	SBE	MBE				

List below all MSBEs that you intend to use for **hauling services** on this contract and the Total Projected Utilization (\$) for all hauling services for the contract. **If the project has both MBE and SBE subcontracting goals established and the Bidder utilizes a hauling vendor that is both a MBE and a SBE, the Bidder must designate the specific dollar amount to be committed to that hauling vendor. The Bidder will still indicate the total utilization for haulers that are only SBE certified.**

MSBE Vendor Name (Hauling Services)	Mark X for each Certification		Description of work / materials	NIGP Code	Vendor #	Utilization (\$)
	SBE	MBE				
	<b>X</b>					Input Total SBE Hauling Utilization
	<b>X</b>					
	<b>X</b>					
	<b>X</b>					
	<b>X</b>	<b>X</b>				
	<b>X</b>	<b>X</b>				



**CBI FORM 3: Subcontractor / Supplier Utilization Commitment (page 2 of 2)**

Total SBE Utilization	\$ _____
Total MBE Utilization	\$ _____
Total Bid Amount (including Contingency and excluding Allowance Amount)	\$ _____
Percent SBE Utilization* (Total SBE Utilization <i>divided by</i> Total Bid Amount)	_____ %
Percent MBE Utilization* (Total MBE Utilization <i>divided by</i> Total Bid Amount)	_____ %

\*THE MSBE Utilization percentage stated **MUST** be rounded to two (2) decimal places

**CBI FORM 3: Subcontractor / Supplier Utilization Commitment (page 2 of 2)**

List below all **non-MSBEs subcontractors and suppliers** that you intend to use on this contract:

Vendor Name	Description of work / materials	NIGP Code	Vendor #	Projected Utilization (if known) (\$)

**Letters of Intent submitted upon notice from the City**

Per Part B, Section 3.6 of the CBI Policy, within three (3) Business Days after receiving a request from the City (or within such longer time as may be communicated by the City in writing), Bidders must submit a separate Letter of Intent (**CBI Form 4**) for each MSBE listed on **CBI Form 3** and for any additional MSBEs for which the Bidder seeks credit under the last sentence of Part B, Section 3.5. Each Letter of Intent must be executed by both the MSBE and the Bidder. The City shall not count proposed MSBE utilization for which it has not received a Letter of Intent by this deadline. Per Part B, Section 3.3, a Regular Dealer as defined in the CBI Policy shall only count 60% of all expenditures towards the established Subcontracting Goal(s). In addition, a Hauler, Broker, or Packager shall only count fees or commissions charged by the established Subcontracting Goal(s). The Bidder is still obligated to pay the MSBE the full amount listed on the Contract with the MSBE regardless of what percentage is actually counted towards the established Subcontracting Goal(s).

**Adding subcontractors or suppliers after submitting this form**

Nothing in this certification shall be deemed to preclude you from entering into subcontracting arrangements after submission of this form. However, per Part D of the CBI Policy, you must comply with the following:

- You must maintain the level of MSBE participation proposed on this **CBI Form 3** (and **CBI Form 3A**, if applicable) throughout the duration of the Contract, except as specifically allowed in Part D.
- If you need to terminate or replace a MSBE, you must comply with Part D, Section 5.
- If the scope of work on the Contract increases, or if you elect to subcontract any portion of work not identified on this form as being subcontracted, then you must comply with Part D, Section 6.
- A Letter of Intent (**CBI Form 4**) must also be submitted for each MSBE you add subsequent to contract award.

**All Subcontractors and Suppliers must be registered with the City of Charlotte.**

Pursuant to the City’s Vendor Registration Policy, each subcontractor or supplier (non-MSBEs and MSBEs) that you use on this contract must be registered in the City’s vendor database. You will need to provide the vendor number for each subcontractor or supplier used on this contract as a condition for receiving payment on this Contract.

**Signature**

Your signature below indicates that the undersigned firm certifies and agrees that:

- (a) It has complied with all provisions of the CBI Policy; and,
- (b) Failure to properly document such compliance in the manner and within the time periods established by the CBI Policy shall constitute grounds for rejection of your bid.

\_\_\_\_\_  
Signature of Authorized Official      Printed Name      Title      Submittal Date

(Remainder of Page Left Blank)

**EXHIBIT 8B**

**CBI FORM 4: Letter of Intent**

Per Part B, Section 2.2 of the CBI Policy, within (3) Business Days after receiving a request from the City (or within such longer time as may be communicated by the City in writing), Primes must submit a separate Letter of Intent for each MSBE listed on CBI Form 3 and CBI Form 3A (if applicable).

<b>Project Name:</b>	
<b>Project Number:</b>	

<b>To be completed by the Prime</b>	
Name of Prime: _____	Vendor #: _____
Address: _____	
Contact Person: _____	Email: _____
Telephone: _____	Fax: _____

If the Prime has entered into a Quick Pay Agreement, in association with this Letter of Intent and as defined in the CBI Policy, please attach a copy of the executed Agreement with the undersigned MSBE.

Identify in complete detail the scope of work to be performed or item(s) to be supplied by the MSBE.

\_\_\_\_\_

\_\_\_\_\_

**NOTE: If the MSBE will provide hauling services, the Prime will be required to contact and utilize each of the MSBE haulers listed on this form on a rotating basis throughout the life of the project.**

**Cost of work to be performed by the MSBE:** \_\_\_\_\_ \$ \_\_\_\_\_

<b>To be completed by the MSBE</b>	
Name of MSBE: _____	Vendor#: _____
Address: _____	
Contact Person: _____	Email: _____
Telephone: _____	Fax: _____

Upon execution of a Contract with the City for the above referenced project, the Prime certifies that it intends to utilize the MSBE listed above, and that the description, cost and percentage of work to be performed by the MSBE as described above is accurate. The MSBE Firm certifies that it has agreed to provide such work/supplies for the amount stated above.

Prime: _____	Date: _____
Signature and Title	
MSBE Firm: _____	Date: _____
Signature and Title	

## EXHIBIT 8C

### CBI FORM 6: Payment Affidavit - Subcontractor / Supplier Utilization (page 1 of 2)

To be submitted with each request for payment from the City of Charlotte showing work that has been paid for all subcontractors, suppliers, manufacturers, brokers, and / or members of a joint venture in connection with the contract. Copy this form as needed. The Prime is responsible for collecting and submitting CBI Form 6 from all subsequent lower tiers.

Project Name: \_\_\_\_\_

Contractor Name: \_\_\_\_\_ Payment / Invoice # \_\_\_\_\_

Contract Number: \_\_\_\_\_ Invoice Amount: \$ \_\_\_\_\_

Payment Period: From \_\_\_\_\_ To \_\_\_\_\_ City Department: \_\_\_\_\_

FINAL PAYMENT  Check this box only when submitting Final Pay request.

**Section 1: Payments to SUBCONTRACTORS (MSBEs and Non-MSBEs)**

Complete the chart below for all subcontractors used on the Project/Contract regardless of dollar amount. All subcontractors must be registered in the City's Vendor Management System.

Subcontractor's Name	Mark X for each Certification		Description of Work Performed	NIGP Code	Vendor #	Payments this Period	Cumulative Payments
	SBE	MBE					

**Section 2: Payments to SUPPLIERS**

All suppliers providing goods under City contracts must be listed on the Sales Tax Statement submitted with each pay request. The City may request on a case-by-case basis that the Contractor require certain suppliers to be registered in the City's Vendor System and may withhold payment of any amounts due the Contractor in the event the Contractor fails to comply with such request.

The undersigned Company certifies the preceding chart is a true and accurate statement of all payments that have been made to subcontractors on this Project/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

<u>To be completed by City for FINAL PAYMENT</u>		SBE Goal:	%	MBE Goal:	%
Total Paid to Contractor:	\$	SBE Goal Commitment:	%	MBE Goal Commitment:	%
Total Paid to SBEs:	\$	SBE Goal Attainment:	%	MBE Goal Attainment:	%
Total Paid to MBEs:	\$				

(Remainder of Page Left Blank)